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**The British Columbia Indian land question :
historical paper**

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THE BRITISH COLUMBIA INDIAN LAND QUESTION

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Treaties,
July, 1970.

THE BRITISH COLUMBIA LAND QUESTION

A - The Period of Discovery

1) European Exploration:

The exact date when the first Europeans reached the shores of British Columbia still remains in doubt. In the White and Bob Case Mr. Justice Norris suggested that Sir Francis Drake had reached Vancouver Island in 1579. However, it seems unlikely that Drake actually journeyed that far north.

The Spaniards who had conquered Mexico in the sixteenth century claimed that they had made a voyage north from Gil Blas in 1774 or 1775 landing at three points along the western coast. The most northerly point mentioned in the accounts of the voyage was 57° 18' (the latitude of Sitka); the next was 47° 21' which is south of the Straits of Juan de Fuca. According to these records the Spanish did not land on any of the present coast of British Columbia. Nevertheless, the Spanish laid claim to the sovereignty of the entire west coast of America from Cape Horn to the sixtieth degree of north latitude, which was the assumed limit of Russian occupation on the American continent.¹

Europe had only heard vague rumours that the Russians had made discoveries to the east of Siberia. In actual fact Vitus Bering, a Dane in the service of the Tsar, had reached the shores of Alaska in 1741. Russian maps of the period indicate only a cursory knowledge of the panhandle coast of Alaska. John Rocque's map of North America (1761) shows the west coast as unknown between 45° and 55° north latitude. The Russian discoveries are labeled "Lands discovered by the Russians in 1741 But as they did not go on Shore its not know whither they are Isles or Continent." (this between 55° and 60° north latitude). A French map of 1775 shows the Straits of Juan de Fuca leading into a "Mer ou Baye de L'ouest", which is now the mainland of British Columbia and the Province of Alberta.²

The credit for the discovery and exploration of the British Columbia coast obviously does not belong to any particular European nation. Indeed some scholars claim that the Chinese Buddhist monk Hwei-shin reached America in 499 A.D. Accounts of such a voyage are recorded in the annals of the Chinese Empire.³

1. Burg, A. History of British Columbia.
Toronto, William Briggs, 1894. p. 8.

2. Scholefield, E.O.S. British Columbia. (Vol. 1)
Vancouver, S.J. Clarke Publishing Co. p. 16.

3. I.B.I.D. p. 13.

Captain James Cook's expedition in 1778 gave the earliest authentic record of the discovery of present-day Vancouver Island. Captain James Hanna is regarded as the second British navigator to land at Nootka, Cook being first. Hanna had set sail from China in 1785 with the following instructions:

"... to seek the distant coast of America; to explore its coast, and to open such an inter-course with the inhabitants as might tend to a future commercial establishment with them."⁴

Captain John Meares arrived at Nootka from China in 1788. He formed a small settlement and built a vessel.⁵ A Spanish warship arrived and took possession of the harbor, seizing Meares' ship and settlement. Meares made representations to the British Government for support in upholding the honour of the British flag and protecting her citizens.

Captain George Vancouver was ordered to Nootka by the British Admiralty to survey the losses suffered by Meares. Subsequently, a confrontation between Spanish and British naval vessels occurred making war between the two countries an imminent possibility.

II) The Nootka Convention:

The Nootka Sound Incident is important to this study not because of the material interest involved, but because it occasioned a decisive conflict between British and Spanish theories of colonial sovereignty. Spain based her claim to the whole of the north-west coast of America by reason of a Papal Bull issued in 1493, and subsequent visits paid by her explorers to the region (which according to Spain amounted to acts of formal possession). Great Britain took the view that rights of sovereignty could be obtained only through continuous trade and establishment of permanent colonies.

The Spanish soon realized their weak military position at Nootka and consequently signed a Convention on 28 October, 1790. The third clause of the agreement acknowledged that each nation should be free to navigate and fish in coastal waters off the west coast and to land at unoccupied places to trade and build settlements. In retrospect, the Nootka Convention marked the beginning of Spain's withdrawal from colonial competition in North America. A comprehensive account of

4. Boss, A. History of British Columbia.
p. 8.

5. I.B.I.D. p. 9.

this incident can be found in an article entitled, "The Real Significance of the Nootka Sound Incident," by Lennox Mills, the Canadian Historical Review; June, 1925.

Although the Spanish held the fort at Nootka until 1795, she permitted British subjects equal rights to trade and settlement north of 38° north latitude, thus withdrawing for the first time her claim to exclusive sovereignty on the west coast.

III) Early contacts with the Indian inhabitants:

It is difficult to determine the exact aboriginal population and its distribution when the white man landed on the British Columbia coast. The best estimates are those of James Mooney, who attempted to establish the population of all North American Indian tribes in 1780; his estimates for British Columbia present a total of 86,000.⁶ Early journals and native traditions indicate large smallpox attacks in the 1770's and 1780's which further reduced the population by many thousands.

From 1774 to 1849 the white men who ventured to this remote region of America were primarily interested in the fur trade. For most of this period they came only as visitors seldom stepping ashore. They established few settlements and were not interested in converting the Indian inhabitants to white man's civilization. Even after the establishment of the North West Company forts in the interior, beginning with Fort McLeod (1805), and the Hudson's Bay Co. settlement at Fort Langley (1827), the whites were concerned primarily with their own safety and commerce. There was no local civil administration and only the beginnings of missionary activity.

In the interior, the Indians felt the effects of the white man's presence before they actually saw him. Horses, guns and other trade items passed quickly from tribe to tribe from the south and east in advance of the first explorers.

IV) Indian land holding practices:

According to the Legal Committee of the Indian-Eskimo Association, English law would recognize native land rights only if the territory in question was occupied in some regular way. As the Committee noted in Native Rights in Canada:

"The colonial powers found North America occupied by numerous aboriginal tribes, whose internal political structures varied and whose use of land and ideas of land-holding varied."⁷

6. Duff, W. The Indian History of British Columbia. (Vol. 1), No. 5, (1964). Provincial Museum of B.C., Victoria. p. 39.

7. Native Rights in Canada. Indian-Eskimo Association. p. 7.

The least politically developed were the primitive migratory tribes, the Algonkians of the eastern woodlands; the Athapaskans of the MacKenzie Basin and the Eskimo. Among these groups there were no tribal organizations, only local bands.

In contrast to these tribes were those of the Pacific Coast who dwelt in semi-permanent villages and possessed certain ideas in landholding, due mainly to the ready access of stable food resources. In the case of White and Bob (1964), Professor Wilson Duff described the tribal territory of the Nanaimo Indians, a Salish tribe on Vancouver Island:

"These territories would be definitely used by them and would be recognized by other tribes as belonging to them." 8

In the Nishga Case (1969), Professor Duff gave evidence that the most highly developed concepts of landholding in British Columbia were held by the Nishga tribe on the north west coast:

"It was characteristic of the Tsimshian, as of other northwest coast tribes that exclusive rights to exploit resource districts, were claimed by kin. Lineages of Tsimshian were the owners of rights to hunt, fish, pick berries or gather raw materials from geographically defined territories." 9

Generally speaking land was held communally by the Indian band with the sale of land outside the band unit unknown.

B - B.C. in the Fur Trade Period 1774 - 1849

1) British and American claims:

Actual trade with the Indians had begun as early as 1774 when the Spanish navigator Juan Perez sailed from Mexico to explore the coast lying to the north. The next ships to drop anchor and seek trade were the "Resolution" and "Discovery" commanded by Captain Cook. Cook managed to obtain a number of luxuriant sea otter furs which he was later able to sell in China for a top price.

An increasing number of traders began to visit the west coast lured on by the promise of great profit from the sale of furs. For the most part these traders were English, but an increasing number were American. Between 1800 and 1812,

8. I.B.I.D. p. 8.

9. I.B.I.D. p. 8.

to the present day. The policies which evolved in response to the unique west coast colonial situation were markedly different from the rest of Canada. The long and troublesome resolution of these differences has complicated the relationship between the Indians and government ever since.

By the time it entered the Pacific Northwest, the Hudson's Bay Co. had gained considerable experience in dealing with frontier situations. Many of its staff were men of careful thinking and mature judgement with enough foresight to realize that if they made mistakes in dealing with the Indian population, it was their own interest that would suffer. It is not surprising then that official policy leant heavily on the side of humanity and fair dealing where Indian interests were involved.

The Company had been granted rights to Crown land for settlement only insofar as the Crown held those rights. According to Professor Wilson Duff:

"Douglas took the usual British view that although the absolute title to the land was vested in the Crown, the Indians did own some proprietary rights to it which should be extinguished by making treaties and paying compensation." 14

It should be remarked at this point that the paying of compensation and the signing of treaties was a colonial policy, not a legal necessity. More will be said on this later.

III) The Vancouver Island Treaties 1850 - 1854.

Between 1850 and 1854, Douglas acted as agent for the Hudson Bay Co. and signed fourteen treaties with the Indian tribes around Victoria, Nanaimo and Fort Rupert. In brief, these agreements called for the land outside the Indian village sites to become "the entire property of the white people forever." The village sites and enclosed fields were reserved for Indian use (though absolute title to these sites was retained by the Crown). Each tribe received compensation and it was understood that the Indians were to retain their right to hunt over unoccupied lands and to carry on their fisheries as before.

The philosophy behind the policy of signing treaties was explained in a letter of 25 March, 1861, which Douglas addressed to the Duke of Newcastle, the Colonial Secretary:

14. Duff, W. The Indian History of British Columbia. p. 61.

- "2. As the native population of Vancouver Island have distinct ideas of property in land, and mutually recognize their several exclusive possessory rights in certain districts, they would not fail to regard the occupation of such portions of the Colony by white settlers unless with the full consent of the proprietary tribes, as national wrongs; and the sense of injury might produce a feeling of irritation against the settlers, and perhaps ... endanger the peace of the country.
3. Knowing their feelings on that subject, I made it a practice up to the year 1859, to purchase the native rights in the lands ... but since that time in consequence of the termination of the Hudson's Bay Co. Charter and the want of funds, it has not been in my power to continue it." 15

The reply from the Colonial Secretary came on 18 October, 1861, and is important as it reveals the position of the British Government in the matter:

"I am fully sensible of the great importance of purchasing without loss of time the native soil of Vancouver Island; but the acquisition of the title is a truly colonial interest, and the Legislative must not entertain any expectation that the British taxpayer will be burdened to supply the funds by British credit pledged to that purpose."

Newcastle went on to add these vital words:

".... Her Majesty's government cannot undertake to supply the money requisite for an object which whilst it is essential to the interest of the people of Vancouver Island, is at the same time purely colonial in its character, and trifling in the charge that it would entail." 16

From the passages above it is interesting to note the terms used by the Colonial Secretary to describe the acquisition of "the native rights in land" (undefined)* - "a truly colonial interest" "purely colonial in its character, and trifling in the charge that it would entail." It is also interesting to note that Douglas regarded the signing of treaties and paying compensation as "a practice", in other words a policy of expediency, not one based on Crown recognition of an aboriginal title.

15. B.C. Papers connected with the Indian Land Question. p. 19.

16. Nishga Appeal Case. B.C. Court of Appeal. 7 May, 1970. Mr. Justice Tysoe at p. 28.

* bracket and enclosed comment are mine.

American maritime traders gained the ascendancy in the fur trade, due mainly to British preoccupation with Napoleon. The usual practice of these entrepreneurs was to load their vessels with such trade goods as iron, copper, brass, muskets, cloth and rum, sail around Cape Horn and up the northwest coast, trade with the Indians for furs, then sail to China to obtain spices, silk, tea, ginger and porcelain. While on the coast they made no attempt to annex territory or convert the native population. ¹⁰

Penetration to the west coast from the east was first accomplished by Alexander Mackenzie in 1793. In 1808 and 1811 respectively, Simon Fraser and David Thompson reached the Pacific. Beginning in 1805 the North West Co. founded trading posts in the northern interior, then known as New Caledonia. In 1824, Fort Vancouver was established as headquarters for the Hudson's Bay Co. coastal trade.* Other trading posts were set up at Fort Simpson (1831); Fort McLoughlin (1833); Fort Durham (1840); Fort Victoria (1843) and Fort Rupert in 1849.

To the south John Jacob Astor and his fur traders had reached the lower Columbia River where in 1820 he established his main settlement, Astoria. American traders continued to work the Oregon Territory (with no definite northern boundary), and in 1849, after the Americans had established their claim to the lower Columbia River, the Hudson's Bay Co. moved its coastal headquarters to Fort Victoria.

In the year 1821 the North West Co. had amalgamated with the Hudson Bay Co. in order to reduce inter-company rivalry and make trade more profitable. The merging of the two companies served to strengthen the British position beyond the Rocky Mountains.

In 1818, a Convention of Commerce between Britain and the U.S. declared the west coast trade "open for the term of ten years." This provision was extended indefinitely in 1827. In 1824 and 1825, the United States and Britain, respectively, signed Conventions with Russia giving definition to the boundary between their claims. In 1837, the Hudson Bay Co. was able to obtain a strip of Alaskan coast from the Russian-American Fur Co. The land obtained was subsequently thrown in to dispute with the result that in 1839, the Hudson Bay Co. obtained a strip of

10. Duff, W. The Indian History of British Columbia. p. 55.

* after the union of the North West Co. and the Hudson Bay Co. in 1821.

Russian territory from Cape Spencer to 54° 40'. In return Britain promised to supply Russian outposts with food.

II) The Oregon Treaty:

The boundary between New Caledonia and the Oregon Territory had yet to be decided upon. In 1827 an attempt had been made to settle the issue, however, the delegates were unable to reach a decision. The influx of settlers to the Oregon Territory and miners to California soon made the troubled situation acute. In the Presidential election of 1844, Democratic candidate James Polk made the slogan "54° 40' or Fight" his rallying cry. With the Americans claiming all of present-day British Columbia to the Alaska Panhandle, and the British most of northern Oregon, resolution of the respective claims was imperative.

The necessity for the British to strengthen their claim to British Columbia was thus dictated by pressures of advancing settlement in the U.S. At first, British interests lead by James Douglas, Chief Factor of the Hudson's Bay Co., tried to counter the American presence by moving his headquarters to "Camosun," later Fort Victoria.

Soon British and American negotiations to settle the dispute were begun and on 15 June, 1846, the Oregon Treaty was signed. Polk was reluctant to give immediate sanction to the treaty and it was Congress which accepted its provisions in 1849.

In the meantime, Douglas had been pressing London for permission to establish a colony on the west coast under the auspices of the Hudson Bay Co. On 13 January, 1849, Vancouver Island was granted to the Company on condition that a colony of British subjects was to be established on the island within five years. In addition, the fifth provision of the grant stated:

"That all minerals wherever found shall belong to the Company compensation being paid to the owner of the soil for any injury done to the surface." 11

A further clause stipulated in broad terms that:

11. Begg, A. History of British Columbia. p. 187.

"The Legislative thus constituted will have full power to impose taxes and to regulate the affairs of the Island, and to modify its institutions subject to the usual control of the Crown." 12

III) The Hudson Bay Co. and the Indians:

The American historian H.H. Bancroft has stated that the Hudson Bay Co. had far more success with the Indians than their American counterparts in Oregon. According to him:

"The reason is plain. In the latter instance (the British) the natives are treated as human beings, and their rights in some measure are respected. Being amenable to law they are protected by the law. Of crimes among themselves, of their wars and atrocities, the fur companies did not feel called upon to take special notice, though without direct interference they used their influence to prevent barbarities and maintain the peace, for the men could not hunt while fighting. By preventing the coalition of neighbouring nations; by fostering petty jealousies; by refusing arms and ammunition for purposes of war; by dividing clans; by setting up one chief and deposing another; by weakening the strong and strengthening the weak - the fur companies held the balance of power." 13

C - The Colonial Period 1849 - 1871

I) Introduction:

In 1849, Richard Blanchard was appointed Governor of the new Colony of Vancouver Island. He held this post until 1851 when he resigned and was replaced by James Douglas. When the Crown colony of British Columbia was created in 1858, Douglas became Governor of yet a second British Colony on the west coast of America. It was in 1858 that Douglas gave up his position with the Hudson Bay Co. to become a Crown official, until his retirement in 1864. In 1866, the two colonies of Vancouver Island and British Columbia united and five years later entered Confederation.

II) The Indian Policy of James Douglas:

It was during the two important decades of the 1850's and 1860's that the basic features of British Columbia Indian administration were established. The fact that Vancouver Island and the mainland Colony were British colonies quite separate from those in eastern Canada has left its mark on Indian policies even

12. I.B.I.D. p. 185

13. I.B.I.D. p. 120

In 1941 Mr. Justice Douglas of the United States Supreme Court state in the U.S. v. Santa Fe Pacific Railroad Co. 314 U.S. at p. 347.

"Extinguishment of Indian title based on aboriginal possession is of course a different matter. The power of Congress in that regard is supreme. The manner, method and time of such extinguishment raise political, not justiciable issues."

IV) The Colony of British Columbia 1858 - 1866:

The discovery of gold on the Fraser River in 1858, started a gold rush which the authorities thought would be similar in size and intensity to that experienced in California. With the influx of miners and settlers and the impetus provided by the impending formation of Oregon as a state (1859), the need to provide a civil administration to the area known as New Caledonia became imperative. On 2 August, 1858, the British Parliament passed an act setting up the Crown Colony of British Columbia. With the passing of this act administration of the mainland passed from the Hudson Bay Co. to Crown officials among whose number was James Douglas.

The administration of the mainland colony was different from Vancouver Island, for in the absence of an assembly (until 1863) Douglas ruled by proclamation.

For the moment the problem of formulating an Indian policy was not imperative. Settlers were few in number, miners remained closed to the shores of the rivers and the Indian population was in a drastic decline. However by 1861 the pressure of advancing civilization was being felt by the native people of the interior. On 12 February, 1861, Mr. Cox, Assistant Commissioner of Lands, wrote the Chief Commissioner of Lands and Works, reporting that:

"... some disputes (for the present amicably arranged) having lately arisen between the natives and white men, concerning grounds previously occupied by the former near the northern extremity of Okanagan Lake, on its eastern bank, where some miners and farmers now are." 17

Mr. R.C. Moody, Chief Commissioner of Lands and Works, replied to Cox on 6 March, 1861:

"... I have received instructions from His Excellency the Governor to communicate with you on the subject and to request that you

17. B.C. Papers connected with the Indian Land Question. p. 20.

will mark out distinctly all the Indian Reserves in your District, and define their extent as they may be severally pointed out by the Indians themselves. I would at the same time, beg of you to be particular in scrutinizing the claims of the Indians, as I have every reason to believe that others (white persons) have in some instances, influenced the natives in asserting claims which they would not otherwise have made, the object of such persons being prospective personal advantages previously covertly arranged with the Indians." 18

The policy which Douglas followed on Vancouver Island and later in the Colony of British Columbia was not unknown in the British colonial experience. Governor George Gray of South Africa used a similar policy to settle the "Kaffirs" in villages, leaving the remainder of the country open to settlement. Douglas, in reply to Sir E.B. Lytton on 14 March, 1859, approved of the latter's plans for the Indians of the west coast:

"I have the honour to acknowledge the receipt of your ... instructions directing me to inform you if I think it would be feasible to settle those tribes permanently in villages; suggesting in reference to the measure, that with such settlement, civilization would at once begin; that law and religion would become naturally introduced among them, and contribute to their security against the aggressions of immigrants; that through indirect taxation on the additional articles they would purchase, they would contribute to the Colonial Revenue, and with their own consent some light and simple form of taxation might be imposed, the proceeds of which would be expended strictly and solely on their own wants and improvements.

I have much pleasure in adding with unhesitating confidence, that I conceive the proposed plan to be at once feasible, and also the only plan which promises to result in the moral elevation of the native Indian races, in rescuing them from degradation and protecting them from oppression and rapid decay.

It will at the same time, have the effect of saving the Colony from the numberless evils which naturally in the train of every course of national injustice, and from having the native Indian tribes arrayed in vindictive warfare against the white settlements." 19

18. I.B.I.D. p. 21.

19. I.B.I.D. p. 16.

As in Vancouver Island, so on the mainland Douglas did not exercise the Crown prerogative by recognizing an "aboriginal title". As proof one can cite the statement of Mr. Joseph Trutch, Commissioner of Lands and Works and Surveyor-General of B.C., and later Lieutenant-Governor of the Province. Mr. Trutch's statement was enclosed in a dispatch of 29 January, 1870, to the Colonial Secretary from Governor Musgrave, and in part read:

"... in all cases where it has been desirable for the interest of the Indians, set apart such portions of the Crown lands as were deemed proportionate to, and amply sufficient for, the requirements of each tribe, and these Indian Reserves are held by Government, in trust, for the exclusive use and benefit of the Indians resident thereon.

But the title of the Indians in the fee of the public lands, or of any portion thereof, has never been acknowledged by Government, but, on the contrary is distinctly denied." 20

It is of interest to speculate why Douglas did not continue his policy of signing treaties with the Indians of the mainland Colony as he had done on Vancouver Island. The reasons appear fairly clear:

- i) Douglas was now a Crown official and appears to have been given instructions on Indian policy from Sir E.B. Lytton. It was to these "instructions" that Douglas replied on 14 March, 1859.
- ii) Colonial funds were not available to purchase the Indian interest in the land.
- iii) The Indian population declined rapidly in the 1860's (see chart in Appendix). Thus Douglas was dealing with a rapidly declining minority whose imminent extinction was expected.

In light of these facts it is not surprising to learn that between 1858 - 1866, the proclamations issued by Douglas and the acts passed by the assembly (after 1863) on the mainland.

"... reveal a unity of intention to exercise, and the legislative exercising of absolute sovereignty over all the lands of British Columbia, a sovereignty inconsistent with any conflicting interest, including one as to "aboriginal title, otherwise known as Indian title" ... 21

20. Hishga Appeal Case. Mr. Justice Tysco at p. 43.

21. Hishga judgement. B.C. Supreme Court. 17 October 1969. Mr. Justice Gould at p. 39.

I. December 2, 1858:

" PROCLAMATION, having the Force of Law to enable the Governor of British Columbia to convey Crown Lands Sold within the said Colony.

...

Now, therefore, I, JAMES DOUGLAS, Governor of British Columbia, by virtue of the authority aforesaid, do proclaim, ordain and enact, that on and after the day of the date of this proclamation, it shall be lawful for the Governor, for the time being of the said Colony, by any instrument in print or in writing, or partly in print and partly in writing, under his hand and seal to grant to any person or persons any land belonging to the Crown in the said Colony; and every such Instrument shall be valid as against Her Majesty, Her Heirs and Successors for all the estate and interest expressed to be conveyed by such instrument in the lands therein described."

II. February 14, 1859:

" PROCLAMATION.

...

WHEREAS, it is expedient to publish for general information, the method to be pursued with respect to the alienation and possession of agricultural lands, and of lands proposed for the sites of towns in British Columbia, and with reference also to the places for levying shipping and customs duties, and for establishing a capital and port of entry in the said Colony.

...

1. - All the lands in British Columbia, and all the Mines and Minerals therein, belong to the Crown in fee.

2. - The price of lands, not being intended for the sites of Towns, and not being reputed to be Mineral lands, shall be ten shillings per acre, payable one half in cash at the time of the sale, and the other half at the end of two years from such sale. Provided, that under special circumstances some other price, or some other terms of payment may from time to time be specially announced for particular localities.

3. - It shall also be competent to the Executive at any time to reserve such portions of the unoccupied Crown Lands, and for such purposes as the Executive shall deem advisable.

4. - Except as aforesaid, all the land in British Columbia will be exposed in lots for sale, by public competition, at the upset price above mentioned, as soon as the same shall have been surveyed and made ready for sale. Due notice will

By His Excellency JAMES DOUGLAS, Companion of the Most Honorable Order of the Bath, Governor and Commander-in-Chief of British Columbia.

...

And whereas I have been empowered by Her Majesty's Government to lower the price of Country Lands in British Columbia, in all cases, to the sum of four shillings and two pence (4s. 2d.) per acre.

Now, therefore, I do hereby declare, proclaim, and enact as follows:-

I: So much of the said Proclamation of the 20th day of January, 1860, as fixed the price of surveyed agricultural land at ten shillings per acre is hereby repealed.

II. The price of all unsurveyed country land in British Columbia, whether acquired by pre-emption or purchase under the Proclamation dated the 4th day of January, 1860, shall be four shillings and two pence (4s. 2d.) per acre."

VII. May 28, 1861:

" PROCLAMATION.
No. 6, A.D. 1861.

By His Excellency JAMES DOUGLAS, Companion of the Most Honorable Order of the Bath, Governor and Commander-in-Chief of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c.

...

Whereas it is inexpedient that any person other than a bona fide settler should take up land under the said Proclamation, and without the occupation and improvement necessary under the said Proclamation to complete his Title as a Pre-emptor.

...

No person shall be entitled to hold by Pre-emption more than 160 acres under the said Proclamation, or any of them, at one time."

VIII August 27, 1861:

" PROCLAMATION
No. 9, A.D. 1861.

By His Excellency, JAMES DOUGLAS, Companion of the Most Honorable Order of the Bath, Governor and Commander-in-Chief of British Columbia, and its Dependencies, Vice-Admiral of the same, &c., &c.

...

And whereas it is expedient to amend and consolidate the laws affecting the settlement of unsurveyed Crown Lands in British Columbia;

...

III. That from and after the date hereof, British subjects and aliens who shall take the Oath of Allegiance to Her Majesty and Her Successors, may acquire the right to hold and purchase in fee simple, unoccupied and unsurveyed and unreserved Crown Lands in British Columbia, not being the site of an existent or proposed Town, or auriferous land available for mining purposes, or an Indian Reserve or Settlement, (the emphasis is mine) under the following conditions.

...

XXV. Nothing herein contained shall be construed as giving a right to any claimant to exclude free miners from searching for any of the precious minerals or working the same, upon the conditions aforesaid."

IX. May 27, 1863:

" PROCLAMATION
No. 7, A.D. 1863.

By His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia and its Dependencies, Vice-Admiral of the same; &c. &c.

...

And whereas it is desirable for the protection of Miners, and others searching for the precious metals, to retain in possession of the Crown power to prevent such Miners or other persons from being obstructed or hindered by the Claims, and exactions of persons holding land under the provisions of the Pre-emption Consolidation Act passed on the 27th day of August, 1861;

Now, therefore, I do hereby declare, proclaim, and enact as follows:

I. It shall be lawful for the Governor, for the time being of British Columbia from time to time, and at any time hereafter by any writing under his hand, published in the Government Gazette; to erect any portion of the Colony into a Mining District, and to give to such District a distinguishing name, and to define the limits and boundaries thereof, and also again to abolish or reconstruct any such District, and from time to time to alter and vary such limits and boundaries."

X April 11, 1865:

" No. 27. An Ordinance for regulating the acquisition of land in British Columbia.

...

3. All the lands in British Columbia, and all the mines and minerals therein, not otherwise lawfully appropriated belong to the Crown in fee.

4. The upset price of surveyed lands not being reserved for the sites of towns or the suburbs thereof, and not being reputed to be mineral lands, shall be four shillings and two pence per acre.

5. The Governor shall at any time, and for such purposes as he may deem advisable, reserve any lands that may not have been either sold or legally pre-empted.

6. Except as aforesaid, all the land in British Columbia will be exposed in lots for sale, by public competition, at the upset price above mentioned, after the same shall have been surveyed and made ready for sale. Due notice shall be given of all such sales; notice at the same time shall be given of the upset price and terms of payment when they vary from those above stated, and also of the rights specially reserved (if any) for public convenience.

...

9. Unless otherwise specially announced at the time of sale, the conveyance of the land shall include all trees and all mines, and minerals within and under the same (except mines of gold and silver).

...

12. From and after the date hereof British subjects, and aliens who shall take the oath of allegiance to Her Majesty, Her heirs and successors, may acquire the right to pre-empt and hold in fee simple unoccupied and unsurveyed and unreserved Crown Lands not being the site of an existent or proposed town, or auriferous land available for gold or silver mining purposes, or an Indian reserve or settlement, (my emphasis) under the following conditions:

...

51. Leases of any extent of unoccupied and unsurveyed land may be granted for pastoral purposes, by the Governor or any Officer duly authorized by him in that behalf, to any person or persons whomsoever, being bona fide pre-emptors or purchasers of land, at such rent as such Governor or Officer shall deem expedient. But every such lease of pastoral lands shall, among other things contain a condition making such land liable to pre-emption, reserve, and purchase by any persons whomsoever, at any time during

the term thereof, without compensation, save by a proportionate deduction of rent. And to a further condition that the lessee shall, within six months stock the property demised in such proportion of animals to the one hundred acres, as shall be specified by the Stipendiary Magistrate in that behalf.

Assented to, in Her Majesty's name, this eleventh day of April, 1865.

FREDERICK SEYMOUR,
Governor. "

XI. March 31, 1866:

" - BRITISH COLUMBIA
Anno Vicesimo Nono
VICTORIAE REGINAE

No. 13.

An Ordinance further to define the law regulating the acquisition of Land in British Columbia.

...

Be it enacted by the Governor of British Columbia, by and with the advice and consent of the Legislative Council thereof, as follows:

I. The right conferred under Clause 12 of the Land Ordinance, 1865, on British Subjects, or aliens who shall take the oath of allegiance, of pre-empting and holding in fee simple unoccupied and unsurveyed and unreserved Crown Lands in British Columbia, shall not (without the special permission thereto of the Governor first had in writing) extend to or be deemed to have been conferred on Companies whether Chartered, Incorporated, or otherwise, or without the permission aforesaid, to or on any of the Aborigines of this Colony or the Territories neighbouring thereto. (my emphasis)¹¹

XII. March 10, 1869:

" ...

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:-

I. The purchase money for Pre-emption Claims, and the balance of purchase money upon Pre-emption Purchase Claims, held under any of the Laws heretofore, or for the time being, regulating the acquisition and tenure of Pre-emption Claims in that part of the Colony formerly known as the Colony of British Columbia and its Dependencies, shall be, and be deemed to have been, and to be due and payable to Her Majesty, Her Heirs and Successors, as part of the General Revenue of the Colony, as and from

be given of all such sales. Notice at the same time will be given of the upset price and terms of payment when they vary from those above stated, and also of the rights reserved (if any) for public convenience."

III. January 4, 1860:

...

WHEREAS, by virtue of an Act of Parliament made and passed in the 21st and 22nd years of the Reign of Her Most Gracious Majesty the Queen, and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, in conformity therewith I, JAMES DOUGLAS, Governor of the Colony of British Columbia, have been authorized by Proclamation issued under the Public Seal of the said Colony, to make laws, institutions, and ordinances, for the peace and good government of the same, and

WHEREAS, it is expedient, pending the operation of the survey of agricultural lands in British Columbia, to provide means whereby unsurveyed agricultural lands may be lawfully acquired by pre-emption in British Columbia by British subjects, and in certain cases to provide for the sale of unsurveyed agricultural land in British Columbia by private contract;

Now, therefore, I, James Douglas, Governor of British Columbia, by virtue of the authority aforesaid, do proclaim, order and enact.

1. That from and after the date hereof, British subjects and aliens who shall take the oath of allegiance to Her Majesty and Her successors, may acquire unoccupied and unreserved, and unsurveyed Crown land in British Columbia (not being the site of an existent or proposed town, or auriferous land available for mining purposes or an Indian Reserve or settlement) in fee simple, under the following conditions:

...

3. Whenever the Government survey shall extend to the land claimed, the claimant who has recorded his claim as aforesaid, or his heirs or in case of the grant of certificate of improvement hereinafter mentioned, the assigns of such claimant shall, if he or they shall have been in continuous occupation of the same land from the date of the record aforesaid, be entitled to purchase the land so pre-empted at such rate as may for the time being be fixed by the Government of British Columbia, not exceeding the sum of 10s. per acre.

...

13. Whenever a person in occupation at the time of record aforesaid, shall have recorded as aforesaid, and he, his heirs or assigns, shall have continued in permanent occupation of land

pre-empted, or of land purchased as aforesaid, he or they may, save as hereinafter mentioned, bring ejectment or trespass against any intruder upon the land so pre-empted or purchased, to the same extent as if he or they were seized of the legal estate in possession in the land so pre-empted or purchased.

14. Nothing herein contained shall be construed as giving a right to any claimant to exclude free miners from searching for any of the precious mineral, or working the same upon the conditions aforesaid."

IV. January 20, 1860:

" PROCLAMATION.

...

And Whereas, it is expedient that town lots, suburban lots, and surveyed agricultural lands in British Columbia, which have been, or which hereafter may be offered for sale, at public auction, and remain unsold, should be sold by private contract;

Now therefore, I, James Douglas, Governor of British Columbia, by virtue of the authority aforesaid do proclaim, order, and enact, as follows:-

The Chief Commissioner of Lands and Works for the time being, for British Columbia, and all Magistrates, Gold Commissioners, and Assistant Gold Commissioners, by the said Chief Commissioner authorized in writing in that behalf, may sell by private contract any of the lots and lands, hereinafter mentioned, at the prices, and on the terms hereinafter respectively stated- viz.

a. Town and suburban lots which have been, or hereafter may be offered for sale at public auction, and remain unsold, at the upset price, and on the terms at and on which the same were offered for sale at such auction.

b. Agricultural lands surveyed by the Government Surveyor, which may, or shall have been offered for sale at public auction, and remain unsold, at ten shillings per acre, payable one half in cash at the time of sale, and the other half at the expiration of two years from such sale."

V. January 19, 1861, a proclamation of Governor Douglas amending the proclamation of January 4, 1860 (supra), in the main legislating the methods of land pre-emption in expanded detail.

VI. January 19, 1861:

" PROCLAMATION.

No. 2, A.D. 1861.

the date of the service of an application, signed by the Chief Commissioner of Lands and Works and Surveyor General, upon the person or persons to be affected thereby, and notifying the completion of the Government Survey of the Land specified in such application, and calling upon such person or persons for the payment of the amount for the time being due and payable as aforesaid in respect of such Land.

...

Assented to, on behalf of Her Majesty, this 10th day of March, 1869.

FREDERICK SEYMOUR,
Governor."

XIII. June 1, 1870:

"An Ordinance to amend and consolidate the Laws affecting Crown Lands in British Columbia.

(1st June, 1870)

WHEREAS it is expedient to amend and consolidate the Laws affecting Crown Lands in British Columbia:

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:-

...

2. The following Acts, Ordinances, and Proclamations relating to the disposal and regulation of the Crown Lands of the Colony are hereby repealed:-

An Act dated February 14th, 1859:
An Act dated January 4th, 1860:
An Act dated January 20th, 1860:
The "Pre-emption Amendment Act, 1861:"
The "Country Land Act, 1861:"
The "Pre-emption Purchase Act, 1861:"
The "Pre-emption Consolidation Act, 1861:"
The "Mining District Act, 1863:"
The "Land Ordinance, 1865:"
The "Pre-emption Ordinance, 1866:"
The "Pre-emption Payment Ordinance, 1869:" and
The "Vancouver Island Land Proclamation, 1862:"

Such repeal shall not prejudice or affect any rights acquired or payments due, or forfeitures or penalties incurred prior to the passing of this Ordinance in respect of any land in this Colony.

PRE-EMPTION.

3. From and after the date of the proclamation in this Colony of Her Majesty's assent to this Ordinance, any male person being a British Subject, of the age of eighteen years or over, may acquire the right to pre-empt any tract of unoccupied, unsurveyed, and unreserved Crown Lands (not being an Indian settlement) not exceeding three hundred and twenty acres in extent in that portion of the

Colony situate to the northward and eastward of the Cascade or Coast Range of Mountains, and one hundred and sixty acres in extent in the rest of the Colony. Provided that such right of pre-emption shall not be held to extend to any of the Aborigines of this Continent, except to such as shall have obtained the Governor's special permission in writing to that effect. (my emphasis)

...

42. The Governor shall at any time, and for such purposes as he may deem advisable, reserve, by notice published in the Government Gazette, or in any newspaper of the Colony, any lands that may not have been either sold or legally pre-empted."

The preceding proclamations and legislative acts are available in the Supreme Court Library.

Mr. Justice Tysoe of the B.C. Appeal Court stated on 7 May, 1970, that:

"It is true, as the appellants have submitted, that nowhere can one find express words extinguishing Indian title but "actions speak louder than words" and in my opinion the policy of the Governor and Executive Council of British Columbia and the execution of that policy was such that, if Indian title existed extinguishment was affected by it. Reserves of land for the Indians were set up generally at places where the Indians had their villages and cultivated lands and where they caught their fish - their main food the remainder of the unoccupied lands were thrown open for settlement. Thus complete dominion over the whole of the lands in the Colony of British Columbia adverse to any tenure of Indians under Indian title was exercised. The fact is that the white settlement of the lands which was the object of the Crown was inconsistent with the maintenance of whatever rights the Indians thought they had." 22

D - Did the Royal Proclamation of 1763 apply to Vancouver Island and mainland B.C.?

The native population of British Columbia has always claimed that the Royal Proclamation of 7 October, 1763, affords them a foundation for their claim to compensation for extinguishment of their "aboriginal title". Until recent judicial consideration of this perennial B.C. problem, such claims were always a central theme in British Columbia Indian affairs. Indeed, this particular problem lies at the very heart of this paper, for if the Proclamation did apply then serious doubts on the validity of Douglas' subsequent policies could be raised.

In the case of White and Bob (B.C. Court of Appeal, 15 December, 1964) the Proclamation of 1763 was held not to apply to Vancouver Island for the following reasons:

- (a) The Indian tribes inhabiting the Island were not known to the British Crown in 1763 (1778 Cook landed at Nootka; 1792 Captain Vancouver circumnavigated Vancouver Island). 23
- (b) In 1763 the British Crown had no lands on Vancouver Island to which the Proclamation could apply as lands "reserved to the said Indians, or any of them". The Proclamation dealt with Crown lands upon which Indian rights were a burden, but in 1763 the Crown had no "present proprietary estate" on Vancouver Island. 24

22. Hisba Appeal Case. B.C. Court of Appeal. 7 May, 1970. Mr. Justice Tysoe at p. 40.

23. Regina v. White and Bob. 50 D.L.R. (2d). p. 620.

24. I.R.L.D. p. 621.

As for the mainland of British Columbia, maps in the Public Archives of Canada indicate B.C. was unknown in 1763.

- (a) John Rocque's map of America (1761) shows doubt whether B.C. was land or water. A French map of 1775 has the B.C. mainland and Western Canada designated as "Mer ou Baye de L'Ouest." 25
- (b) It was not until after the Oregon Treaty (1846) that Britain finally established her exclusive sovereignty over the mainland. A map entitled "Territorial Evolution of Canada" shown this area as disputed country up to the year 1846.

Despite native claims that the Proclamation came into force in B.C. when the territory came under British jurisdiction, Mr. Justice Maclean of the British Columbia Appeal Court held that the Proclamation could not be interpreted as automatically applying to this territory. 26

In response to the Nishga claim for a declaration that an "aboriginal title" exists in British Columbia, the Chief Justice of the B.C. Court of Appeal made these concluding remarks on 7 May, 1970:

" there is no such principle embodied in our law. In each case it must be shown that the aboriginal rights were ensured by prerogative or legislative act, or that a course of dealing has been proved from which that can be inferred.

Whether aboriginal rights ought to be confirmed or recognized depends entirely upon the Crown's or Legislature's view of the policy required to deal properly with each situation." 27

25. Scholefield, E. British Columbia. p. 16

26. Nishga Appeal Case. B.C. Court of Appeal. 7 May, 1970 at p. 13.

27. I.B.I.D. The Chief Justice at p. 5.

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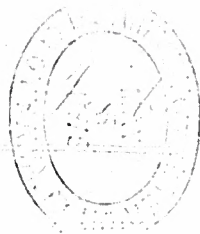
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Kosampson



Know all Men, We the Chiefs and people
 of the Kosampson Tribe, who have signed our
 names and made our marks, to this deed
 on the Thirtieth day of April one thousand
 eight hundred and Fifty, do consent, to
 surrender entirely and for ever to James
 Douglas the Agent of the Hudson's Bay
 Company in Vancouver's Island that is to
 say, for the Governor, Deputy Governor and
 Committee of the same the whole of the
 lands situate and lying between the
 Island of the Dead in the Arm or Inlet
 of Camosun and the head of said
 Inlet, embracing the lands, on the west
 side and north of that line to Esquimaux,
 beyond the Inlet three miles of the Coolquits
 Valley, and the land on the east side of
 the Arm, enclosing Christmas Hill and
 Lake and the lands west of those objects.

The condition of, or understanding
 of this Sale is this, that our Village sites,
 and enclosed Fields are to be kept for our
 own use, for the use of our children, and
 for those who may follow after us; and
 the lands shall be properly surveyed here
 after, it is understood however that the
 land itself, with these small exceptions
 becomes the entire property of the White
 people for ever, it is also understood,
 that we are at liberty to hunt over the
 unoccupied lands, and to carry on our
 fisheries as formerly. We have received

payments, fifty two pounds ten shillings
 being. In token whereof we have
 signed our names, and made our marks,
 at Port Victoria on the Thirtieth day of
 April, one thousand, eight hundred and
 fifty.

Signed

Their marks		Their Marks	
Too-keo-witz	x	12 Hoogwasiv	x
Ho-y-a-packy-man	x	13 See-eth-lack	x
Uaa-quolluck	x	14 Sua-kulloo	x
Seea-till-too	x	15 Pay-whoseb	x
Say-sinaka	x	16 Say-see-youw	x
Tat-sRayum	x	17 Show-oue	x
Hoquoyunt	x	18 Kulquaylung	x
Spa-yeeth	x	19 Whay-och	x
Ape-quith	x	20 Haa-sut	x
Uth-pay-mib	x	21 Cat-hay-mat	x
I. suck-hoo	x		

Done in presence of

1st Alfred Roberts Bousay M. R. C. S. L.
 2^d Joseph William McKay

Port Victoria
 30th April 1850.

170
Surrendering Tribes

Know all Men, We the Chiefs and People of the Family of Swoogahung who have signed our names, and made our mark on this deed on the Thirtieth day of April one Thousand, eight hundred and fifty, do consent to surrender entirely and forever to James Douglas the Agent of the Hudson Bay Company in Vancouver's Island that is to say, for the Governor Deputy Governor and Committee of the same the whole of the Lands situate and lying between the Island of the Dead in the Arm or Inlet of Camosun, where the Kosampson lands terminate extending east to the Mountain ridge, and following it to its termination on the Straits of De Fuca, in the Bay immediately east of Clover Point, including all the Country between that line and the Inlet of Camosun.

The condition of or understanding of this Sale is this, that our Village Sites and enclosed Fields are to be kept for our own use, for the use of our children and for those who may follow after us; and the Lands shall be properly surveyed hereafter; it is understood however that the land itself, with these small exceptions becomes the entire property of the White People for ever, it is also understood that we are at liberty to hunt over the unoccupied lands, and to carry on our fisheries as formerly.

We have received as payment, twenty five pounds Sterling. In token whereof we have signed our names, and made our marks at Port Victoria on the thirtieth day of April, one thousand eight hundred and fifty.

		Signed	
	Their Marks		Their Marks
1 Suamuck	x	16 Quitayuctum	x
2 Kewhâuca	x	17 What-saymowitch	x
3 KusRayum	x	18 Mistayuiltb	x
4 Seejess	x	19 Ooksayumb	x
5 Hawn	x	20 La-lact-tion	x
6 Squolultlemb	x	21 Woyanna	x
7 Quoth-layud	x	22 KoloRsin	x
8 Kaky-pâak	x	23 Silawutschin	x
9 Iye-âas	x	24 Thuch-lay-haluc	x
10 La-wlicht-tum	x	25 Wa-qualucR	x
11 Homayits	x	26 WhutoRo	x
12 Cut-sôos	x	27 Holholtum	x
13 Châtuck	x	28 Fa-such-tew	x
14 Kacumquâ by his son châtuck	x	29 Sougch-miltb	x
15 Uustum	x	30 Whis-eyooR.	x

Done before us at Port Victoria
 this 30th day of April 1850.

Attest
 Alfred Robert Bunsow, M. R. C. S. L.
 Joseph William McKay.

monthly. We have received no payments

Signed

	Their Marks		Their Marks
1. Wul-stun	x	31. Hraoughtun	x
2. H-hay-uock	x	32. Wul ah Ruusib	x
3. Chie-ānaquun	x	33. Wulayheo	x
4. To-ā-whuluck	x	34. Kāntun	x
5. Ish-laying	x	35. Ho-yough	x
6. Whul-ā-whouitok	x	36. Sawhils	x
7. Ish-Kay-mut	x	37. Shwaymut	x
8. Hay-lum	x	38. Le-sep-wou	x
9. Chee-th-lack	x	39. Saps-wul-tun	x
10. Quo-tay-lum	x	40. Whoyansib	x
11. Ish-osay	x	41. Haysaluck	x
12. Wetsolawough	x	42. Kulsaymut	x
13. Quotwitok	x	43. Chay-chill	x
14. Wul-quay-mulleb	x	44. Suānilset	x
15. Whomuch-tun	x	45. Whum-quay-lum	x
16. Hūm-quayum	x	46. Luda-yoo	x
17. Sha-sha-luck	x	47. Kul-kālachū	x
18. Mullaquut	x	48. Silakun	x
19. Takā-tun	x	49. Chayenik	x
20. Kul-Ray-tun	x		
21. Kool-Ray-much-tun	x	1. Ish-ha-tun	x
22. Quay-miac	x	2. Wul-ha-luckun	x
23. Say-huk	x	3. Chee-theyay	x
24. Wamuchalawutok	x	4. Sha-stil-tun	x
25. Lick-setun	x	5. Sil-a-malhe	x
26. Witsay-lum	x	6. See-eth-lack	x
27. Wā-sicut	x	7. Soowā-um	x
28. Ho-p-pugh	x	8. Sha-hung	x
29. Wun-tun	x	9. Wun-ast	x
30. Wap-ho-um	x	10. Kā-toc	x

- 11 Michik
- 12 Munghamasack
- 13 Chulchunng
- 14 Meiquang
- 15 Namahue
- 16 Delagh
- 17 Pa sayum
- 18 Sechand
- 19 Malaculoo
- 20 Howalacup
- 21 Hoka
- 22 Secho
- 23 Chawitecot
- 24 Quotichasut
- 25 Katchymulto
- 26 Makamulto
- 27 Se Rayum
- 28 Kolanough
- 29 Whulaystatak
- 30 Nawkuluk
- 31 See a Kotan

- 1 Huytache
- 2 Saylichtaw
- 3 Woha-whyoo
- 4 Quotachtan
- 5 Whycheery
- 6 Suatughum
- 7 Alquachee
- 8 Kam humsaw
- 9 Kapowitch
- 10 Sayee K
- 11 Luthaylum
- 12 Souaisie
- 13 Chawusich

- 14 Mela base
- 15 Saquaytsung
- 16 Lataw K
- 17 Wucham
- 18 See Ktan
- 19 Sougaa K
- 20 Tulsut
- 21 Haleshuna
- 22 Kâpool
- 23 Seethlanugh
- 24 Quisichâlich
- 25 Kathalachun
- 26 Whasaymil
- 27 Quatu
- 28 Ahulink
- 29 Chulquâsis
- 30 Kalich
- 31 Quosaylanough
- 32 S Kalroot
- 33 Nuctiou
- 34 Kalalowah
- 35 Phlaythla Ktung
- 36 Phukwatchie
- 37 Silsilus

Witness to Signatures

St Joseph William M. Kay
clerk Hudson's B. Co. Store

St R. G. Hodge clerk

Lucanhar Tribe

know all Men, We, the Chiefs and People of the Tribe called Lucanhar's who have signed our names and made our marks to this Deed on the eighth day of February one thousand eight hundred and fifty one do consent to ^{voluntarily and forever} surrender to James Douglas the Agent of the Hudson's Bay Company, on Vancouver's Island that is to say for the Governor, Deputy Governor, and Committee of the same the whole of the Lands situate and lying between Mac Mill's Harbor and Hardy Bay inclusive of those Ports, and extending two miles into the Interior of the Island. The condition of or understanding of this sale is this, that our Village Sites and enclosed Fields are to be kept for our own use, for the use of our children and for those who may follow after us and the land shall be properly surveyed hereafter. It is understood however that the land itself with these small exceptions becomes the entire property of the white People for ever, it is also understood that we are at liberty to hunt over the unoccupied lands and to carry on our Fisheries as formerly. We have received as payment, £64 Sterling. In token whereof we have signed our names and made our marks at Port Rupert Beaver Harbor on the eight day of February one thousand eight hundred and fifty one.

Witness marks

Tali	0
Koolish	0
Taa Kiu	0
MaKa Koloqless	0
MaLa Kiatka	0
Kooi tu	0
Maamish	0
Maagouglass	0
Maomaa	0
Koohlalass	0
Omio Kuis	0
Koomaioo R	0

Witness

- J^d William Henry McMill C. G. H. B. C. 57
- J^d Charles Todd master Steamer Beaver
- J^d George Blackman clerk H. B. C. 67

Quakwilt's Tribe

Know all Men, We, the Chiefs and People of the Tribe called Quakwilt's who have signed our names and made our marks to this Deed on the eighth day of February one thousand eight hundred and fifty one do consent, to surrender entirely and forever to James Douglas the Agent of the Hudson's Bay Company on Vancouver's Island that is to say for the Governor, Deputy Governor and Committee of the same the whole of the lands situate and laying between Mac Mill's Harbor and Hardy Bay inclusive of these Ports, and extending two miles into the Interior of the Island.

The condition of, or understanding of this sale is this, that our Village Sites and enclosed Fields are to be kept for our own use, for the use of our children, and for those who may follow after us and the land shall be properly surveyed hereafter. It is understood however that the Land itself with these small exceptions becomes the entire Property of the White People forever, it is also understood that we are at liberty to hunt over the unoccupied lands, and to carry on our Fisheries as formerly. We have received as payment £86 Sterling. In token whereof we have signed our names and made our marks at Fort Rupert Beaver Harbor on the eighth day of February one thousand eight hundred and fifty one.

Sealed

Shin Mark

au a Hee	0
re Blanc	0
de Pipes	0
re	0
me	0
wash	0
vanouck	0
laagouglass	0
aiguop	0
thee tee	0
na Reetish	0
re Kheetie	0
unday	0
ait latic	0
thlamass	0
rouvick R.	0

Witness

id William Henry McMill C. J. S. B. Co.
id Charles Dodd master Steamer Beaver
id George Blenkinsop clerk S. B. Co.

A/c of sundries paid for Trade purchased
 from the Quakwilt and Quachan Indians
 at Fort Rupert, Bessie Harbor 8th July 1851.

108 ea	3 1/2 ft	Red Bai	Blankets	10/7	37	3	0
57 "	3 "	" "	do	4/2	17	11	6
32 "	2 1/2 "	" "	do	3/3	13	13	0
42 "	2 "	" "	do	4/3	8	18	6
2 "	2 "	Blue " best	do	4/6	0	9	0
3 "	1 1/2 "	Red "	do	3/7	0	10	9
11 "	4 1/2 "	Scarlet	Baize	2/10	1	11	2
16 "	"	Red	do	2/2	1	14	8
9 pcs	"	Printed	Cotton	18/8	8	8	0
30 ea	"	Com cotton	Hand Rf	8	1	1	0
1 "	3 1/2 ft	Indian	Gun	"	1	9	11
8 lb.	"	G. P. F.	Gunpowder	9	"	6	0
28 "	"	a. a. a	Shot	3	"	7	0
14 "	"	"	Ball	"	"	3	6
164 "	"	com red	Shrouds	2/1	24	12	1
25 "	"	green	do	2/10	3	10	10
13 "	"	blue	do	3/2	2	1	2
45 ea	"	Com cotton	Shirts	2/3	3	1	3
50 lb.	"	leaf	Tobacco	7	1	9	2
1 doz	"	best black	Gunflints	"	"	"	2
				L	156	1	0

Anawitson x
 Anstaban x
 Anselbear x
 Behouit x
 Schaulsib x
 Sewaquath x
 Thekshatun x
 Mar Kon x
 Manartlock x
 Marleshowtsoo x
 Sewasut x
 Schultson x
 Cutswailun x
 Soissequetsib x
 Manamuck x
 Quiriquoiluck x
 Karlarpetto x
 Summas x
 Vickschechos x
 Skontin x
 Quorpaluck x
 Milpose x
 Lampton x
 Silsartletson x
 Seamuth x
 Witsman x

 Howslock Chief x
 Soilool-Kon x
 Whilskib x
 Worch x
 Papkark x
 Ueckmetsie x

 Youmuth Chief x

Anoniquit x
 Quiatsston x
 Hartsekon x
 Lause x
 Comeyer x
 Thametsou Chief x
 Waielston x
 Howstoun x
 Shilquailun x
 Ales x
 Seamethuck x
 Semuni x
 Thiss x
 Kitlewhick x
 Selwhoson x
 Silwhorun x
 Seampston x
 Sukarlakon x
 Silcharun x
 Pitarnock x
 Kallalun x
 Quinston x
 Wilark x
 Lockquyer x
 Waisul x
 Quoreker x
 Quuilp x
 Silsus x
 Quamun x
 Falsellie x
 Kithorse x
 Shilquailun x
 Petkollth x
 Schilchakun x
 Wamuth x

	Ami		Ami
Wahuanartough	x	Sarolock	x
Calcutts	x	Dumlanough	x
Soooy	x	Hotshus	x
Sarttheche	x	Shilakalum	x
Ayarké	x	Harlemilesson	x
Sesaylatska	x	Kahoyee	x
Kaytelthu	x	Teiloklou	x
Clark Polock	x	Sayaton	x
Duuma	x	Sarsquisson	x
Seawell	x	Ploquisek	x
Sactowas	x	Parsack	x
Stimough	x	Wunwicheon	x
Sartlin Chief	x	Calculatska	x
Teleiston	x	Clouthalam	x
Kaip Kammud	x		

Done at Fort Vancouver in Colville Town
 this 23rd day of December in the year of our
 Lord 1854, in presence of us who in the
 presence of each other, have here affixed
 our names

J^d Charles Edward Stuart, N.B.C. in chg of Ft. Vancouver
 J^d Richard Colledge Hudson's Bay Co's Service
 J^d George Robinson Manager of the Vancouver Co's

J^d James Douglas Governor Vancouver's Isl^{ds}

"I have to add that as it appears uncertain if the vessels, the *North-West America*, an American vessel, and the *Iphigenia*, had truly a right to enjoy the protection of the British flag, the King will with pleasure consent that an examination of the question, as well as that relative to the just amount of the losses sustained by his subjects, may be left to the determination of the commissioners to be named by the two courts.

"Having thus recapitulated to your Excellency the heads of what I observed to you in conversation, I flatter myself you will weigh the whole in your mind with that spirit of equity and moderation which characterizes you, that I may be in a condition of sending to my court, as soon as possible, a satisfactory answer as to the point contained in the official paper sent to Mr. Merry on the 4th of this month, and which for the reasons I have mentioned cannot be regarded by his Britannic Majesty as fulfilling his just expectations. I have the honour to be, etc.,

"ALLEYNE FITZHERBERT."

III

DECLARATION AND COUNTER DECLARATION, NOOTKA SOUND AFFAIR

DECLARATION.

His Britannic Majesty having complained of the capture of certain vessels belonging to his subjects, in the port of Nootka, situated on the Northwest Coast of America, by an officer in the service of His Catholic Majesty, the undersigned counsellor and principal secretary of state to His Majesty, being thereto duly authorized, declares in the name and by the order of His Majesty, that he is willing to give satisfaction to His Britannic Majesty for the injury of which he has complained, fully persuaded that His said Britannic Majesty would act in the same manner toward His Catholic Majesty under similar circumstances; and His Majesty further engages to make full restitution of all the British vessels which were captured at Nootka, and to indemnify the parties interested in those vessels for the losses which they may have sustained, as soon as the amount thereof shall have been ascertained. It being understood that this declaration is not to prejudice the ulterior discussion of any right which His Catholic Majesty claims to form an exclusive establishment at Nootka.

In witness whereof I have signed this declaration and sealed it with the seal of my arms at Madrid the 24th of July, 1790.

COUNT FLORIDABLANCA.

COUNTER DECLARATION.

His Catholic Majesty having declared that he was willing to give satisfaction for the injury done to the King by the capture of certain vessels belonging to his subjects in the Bay of Nootka; and Count Floridablanca having signed, in the name and by the order of His Catholic Majesty, a declaration to this effect, and by which His said Majesty likewise engages to make full restitution of the vessels so captured and to indemnify the parties interested in those vessels for the losses which they shall have sustained, the undersigned ambassador extraordinary and plenipotentiary of His Majesty to the Catholic King, being thereto duly and expressly authorized, accepts the said declaration in the name of the King; and declares that His Majesty will consider this declaration, with the performance of the engagements contained therein, as a full and entire satisfaction for the injury of which His Majesty has complained.

The undersigned declares at the same time that it is to be understood that neither the said declaration signed by Count Floridablanca nor the acceptance thereof by the undersigned, in the name of the King, is to preclude or prejudice, in any respect, the rights which His Majesty may claim to any establishment which his subjects may have formed, or may desire to form in the future, at the said Bay of Nootka.

In witness whereof I have signed this counter declaration and sealed it with the seal of my arms at Madrid the 24th of July, 1790.

ALLEYNE FITZHERBERT.

IV

THE NOOTKA SOUND CONVENTION

Their Britannic and Catholic Majesties being desirous of terminating, by a speedy and solid agreement, the differences which have lately arisen between the two Crowns, have considered

that the best way of attaining this salutary object would be that of an amicable arrangement which, setting aside all retrospective discussions of the rights and pretensions of the two parties, should regulate their respective positions for the future on bases which would be conformable to their true interests as well as to the mutual desires with which Their said Majesties are animated, of establishing with each other, in everything and in all places, the most perfect friendship, harmony, and good correspondence. With this in view they have named and constituted for their plenipotentiaries, to wit, on the part of His Britannic Majesty, Alleyne Fitzherbert, of the privy council of His said Majesty in Great Britain and Ireland, and his ambassador extraordinary and minister plenipotentiary to His Catholic Majesty; and on the part of His Catholic Majesty, Don Joseph Moñino Count of Floridablanca, Knight Grand Cross of the Royal Spanish Order of Charles III., counsellor of state to His said Majesty, and his principal secretary of state and of the cabinet, who, after having communicated to each other their full powers, have agreed on the following articles:

ARTICLE I

It is agreed that the buildings and tracts of land situated on the Northwest Coast of the continent of North America, or on islands adjacent to that continent, of which the subjects of His Britannic Majesty were dispossessed about the month of April, 1789, by a Spanish officer, shall be restored to the said British subjects.

ARTICLE II

Further, a just reparation shall be made, according to the nature of the case, for every act of violence or hostility which may have been committed since the said month of April, 1789, by the subjects of either of the contending parties against the subjects of the other; and in case any of the respective subjects shall, since the same period, have been forcibly dispossessed of their lands, buildings, vessels, merchandise, or any other objects of property on the said continent or on the seas or islands adjacent, they shall be replaced in possession of them or a just compensation shall be made to them for the losses which they have sustained.

ARTICLE III

And in order to strengthen the bonds of friendship and to preserve in the future a perfect harmony and good understanding between the two contracting parties, it is agreed that their respective subjects shall not be disturbed or molested either in navigating or carrying on their fisheries in the Pacific Ocean or in the South Seas, or in landing on the coasts of those seas in places not already occupied, for the purpose of carrying on their commerce with the natives of the country or of making establishments there; the whole subject, nevertheless, to the restrictions and provisions which shall be specified in the three following articles.

ARTICLE IV

His Britannic Majesty engages to employ the most effective measures to prevent the navigation and fishery of his subjects in the Pacific Ocean or in the South Seas from being made a pretext for illicit trade with the Spanish settlements; and with this in view it is moreover expressly stipulated that British subjects shall not navigate nor carry on their fishery in the said seas within the distance of ten maritime leagues from any part of the coast already occupied by Spain.

ARTICLE V

It is agreed that as well in the places which are to be restored to British subjects by virtue of the first article as in all other parts of the Northwest Coast of North America or of the islands adjacent, situated to the north of the parts of the said coast already occupied by Spain, wherever the subjects of either of the two powers shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of the other shall have free access and shall carry on their commerce without disturbance or molestation.

APPENDIX

ARTICLE VI

It is further agreed with respect to the eastern and western coasts of South America and the islands adjacent, that the respective subjects shall not form in the future any establishment on the parts of the coast situated to the south of the parts of the same coast and of the islands adjacent already occupied by Spain; it being understood that the said respective subjects shall retain the liberty of landing on the coasts and islands so situated for objects connected with their fishery and of erecting thereon huts and other temporary structures serving only those objects.

ARTICLE VII

In all cases of complaint or infraction of the articles of the present convention the officers of either party without previously permitting themselves to commit any act of violence or assault shall be bound to make an exact report of the affair and of its circumstances to their respective Courts, who will terminate the differences in an amicable manner.

ARTICLE VIII

The present convention shall be ratified and confirmed within the space of six weeks, to be counted from the day of its signature, or sooner if possible.

In witness whereof we, the undersigned plenipotentiaries of Their Britannic and Catholic Majesties, have, in their names and by virtue of our full powers, signed the present convention, and have affixed thereto the seals of our arms.

Done at the palace of San Lorenzo the 28th of October, 1790.

ALLEYNE FITZHERBERT.

THE COUNT OF FLORIDABLANCA.

SECRET ARTICLE

Since by article 6 of the present convention it has been stipulated, respecting the eastern and western coasts of South America, that the respective subjects shall not in the future form any establishment on the parts of these coasts situated to the south of the parts of the said coasts actually occupied by Spain, it is agreed and declared by the present article that this stipulation shall remain in force only so long as no establishment shall have been formed by the subjects of any other power on the coasts in question. This secret article shall have the same force as if it were inserted in the convention.

In witness whereof, etc.

Ratifications were exchanged by Floridablanca and Fitzherbert on November 22.

V

NOOTKA CLAIMS CONVENTION

In virtue of the declarations exchanged at Madrid on the 24th of July, 1790, and of the convention signed at the Escorial on the 18th (28th) of the following October, Their Catholic and Britannic Majesties, desiring to regulate and determine definitely everything regarding the restitution of the British ships seized at Nootka, as well as the indemnification of the parties interested in the ships, have named for this purpose and constituted as their commissioners and plenipotentiaries, to wit, on the part of His Catholic Majesty, Don Manuel de Las Heras, commissary in His said Majesty's armies, and his agent and consul-general in the Kingdoms of Great Britain and Ireland; and on the part of His Britannic Majesty, Mr. Ralph Woodford, Knight Baronet of Great Britain; who, after having communicated their full powers, have agreed upon the following articles:

ARTICLE I

His Catholic Majesty, besides having restored the ship *Argonaut*, the restoration of which took place in the port of San Blas in the year 1791 (1790), agrees to pay as indemnity to the

APPENDIX

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parties interested in it the amount of two hundred and ten thousand hard dollars in specie, it being understood that this sum is to serve a compensation and complete indemnification for all their losses, whatever they may be, without any exception, and without leaving the possibility of a future remonstrance or any pretext or motive.

ARTICLE II

Said payment shall be made on the day on which the present convention shall be signed by the commissioner of His Catholic Majesty in the presence of the commissioner of His Britannic Majesty, which later shall give at the same time an acknowledgment of payment consistent with the terms enunciated in the former article and signed by the said commissioner for himself and in the name and by the order of His Britannic Majesty and of the said interested parties. And there shall be attached to the present convention a copy of the said acknowledgment of payment, executed in the proper form, and likewise of the respective full powers and of the authorizations of the said interested parties.

ARTICLE III

The ratifications of the present convention shall be exchanged in this city of London within a period of six weeks from the date of its signature, or before if possible.

In witness whereof we, the undersigned commissioners and plenipotentiaries of Their Catholic and Britannic Majesties, have signed the present convention in their names and in virtue of our respective full powers, affixing to it the seals of our arms.

Done at Whitehall, February 12, 1793.

MANUEL DE LAS HERAS.
R. WOODFORD.

VI

CONVENTION FOR THE MUTUAL ABANDONMENT OF NOOTKA

Their Catholic and Britannic Majesties desiring to remove and obviate all doubt and difficulty relative to the execution of article I of the convention concluded between Their said Majesties on the 28th of October, 1790, have resolved and agreed to order that new instructions be sent to the officials who have been respectively commissioned to carry out the said article, the tenor of which instructions shall be as follows:

That within the shortest time that may be possible after the arrival of the said officials at Nootka they shall meet in the place, or near, where the buildings stood which were formerly occupied by the subjects of His Britannic Majesty, at which time and in which place they shall exchange mutually the following declaration and counter declaration:

DECLARATION

"I, N—— N——, in the name and by the order of His Catholic Majesty, by means of these presents restore to N—— N—— the buildings and districts of land situated on the Northwest Coast of the continent of North America, or the islands adjacent to that continent, of which the subjects of His Britannic Majesty were dispossessed by a Spanish officer toward the month of April, 1789. In witness whereof I have signed the present declaration, sealing it with the seal of my arms. Done at Nootka on the —— day of ——, 179——."

COUNTER DECLARATION

"I, N—— N——, in the name and by the order of His Britannic Majesty, by means of these presents declare that the buildings and tracts of land on the Northwest Coast of the continent of North America, or on the islands adjacent to that continent, of which the subjects of His Britannic Majesty were dispossessed by a Spanish officer toward the month of April, 1789, have been restored to me by N—— N——, which restoration I declare to be full and satisfactory. In witness whereof I have signed the present counter declaration, sealing it with the seal of my arms. Done at Nootka on the —— day of ——, 179——."

Chilcawitch Tribe

Know all Men, We the Chiefs and People of the Family of Chilcawitch, who have signed our names, and made our marks to this Deed on the Thirtieth day of April one Thousand, eight hundred and fifty, do consent to surrender entirely and give over to James Douglas the Agent of the Hudson's Bay Company in Vancouver's Island that is to say, for the Governor, Deputy Governor and Committee of the same, the whole of the lands situate and lying between the Sandy Bay east of Clover Point, at the termination of the Sokeingwhing line to Point Gonzales, and thence north to a line of equal extent, passing through the north side of Minnie's Plain.

The condition of, or understanding of this sale is this, that our Village sites and enclosed Fields are to be kept for our own use, for the use of our children, and for those who may follow after us, and the lands shall be properly surveyed hereafter; it is understood however that the land itself, with these small exceptions becomes the entire property of the white people for ever; it is also understood that we are at liberty to hunt over the unoccupied lands, and to carry on our fisheries as formerly.

We have received, as payment, Thirty pounds Sterling. In token whereof we have signed our names, and made our marks at Port Victoria on the Thirtieth

31st April one thousand eight hundred
and fifty.

Squid

	Shi marks		Shi marks
Luasane	x	7 My-ay-kes-hui	x
Shi-mal-th	x	8 Why-yea-hus	x
My-la-cha	x	9 tleh-pay-mult	x
Shi-eh-um	x	10 Tellaan	x
Shi-lamptu	x	11 Quati-sa-uhus	x
Shi-quoy-mitch-tu	x	12 Kapy-el-h	x

Done in the presence of
 J^d Alfred Robert Benson M. R. C. S. L.
 J^d Joseph William McKay.

Fort Victoria
 31st April 1850.

MEMO

No. 4797 Red

ACTION.

DEPARTMENT OF THE INTERIOR,
INDIAN BRANCH.

1875

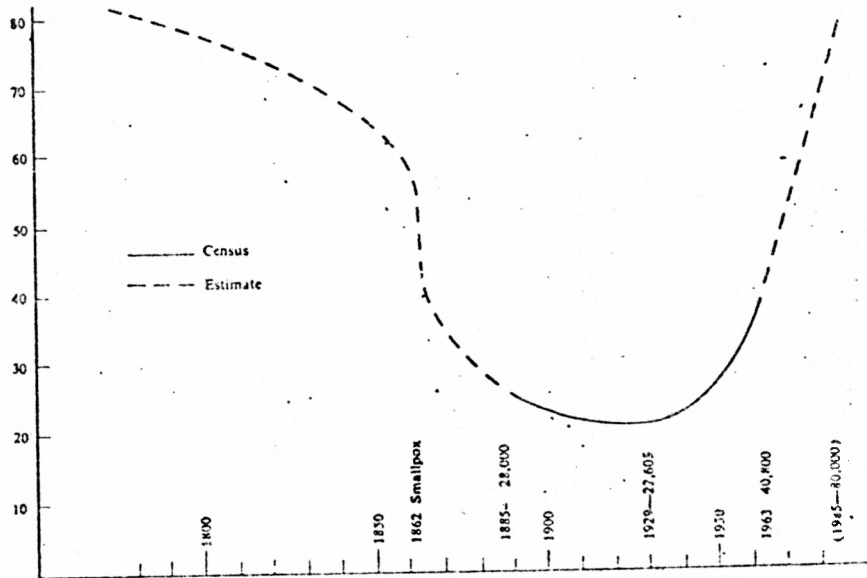
The accompanying paper
contains interesting details
for the S. A. Lytton, a
Sergeant of the 1st U.S. Cavalry,
who while on duty at
Fort Vancouver, has
been in contact with the
Indians.

J. W. Powell
Indian Comd:
Victoria
B.C.
16/2/75
5/9/75

Transmitting Copy
of the Treaties made
between Mr Douglas (now
Sir James Douglas K.C.B.)
and various Tribes of
Indians on Vancouver
Island in 1850.

22/5/75
28/5/75
29/5/75
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The chart reproduced below was taken from page 44, "The Indian History of British Columbia", by Wilson Duff. It is quite clear from the graph that the Indian population declined rapidly between 1862 and 1885.



Indian Population Trend, 1835-1963

Indians of British Columbia, Population Trend, 1835-1963, with projection to 1985.

E.O.S. Scholefield. British Columbia. (Vol. I).

APPENDIX

I

MEMORIAL OF LIEUTENANT JOHN MEARES, RESPECTING SEIZURE OF VESSELS
BY THE SPANIARDS AT NOOTKA SOUND, IN 1789

"The memorial of John Meares, Lieutenant in his Majesty's navy, most humbly sheweth:

"That early in the year 1786, certain merchants residing in the East Indies, and under the immediate protection of the Company, desirous of opening a trade with the north-west coast of America, for supplying the Chinese market with furs and ginseng, communicated such design to Sir John MacPherson, the Governor-General of India, who not only approved of the plan, but joined in the subscription for its execution; and two vessels were accordingly purchased and placed under the orders and command of your memorialist.

"That in the month of March, your memorialist despatched one of the said vessels, which he named the *Sea-otter*, under the command of Mr. Tipping, to Prince William's Sound, and followed her on the other ship, which he named the *Nootka*.

"That on your memorialist's arrival in Prince William's Sound, in the month of September, he found the *Sea-otter* had left that place a few days before; and from intelligence he has since received, the ship was soon after unfortunately lost off the coast of Kamschatka.

"That your memorialist remained in Prince William's Sound the whole of the winter, in the course of which time he opened an extensive trade with the natives; and having collected a cargo of furs, he proceeded to China in the autumn of 1787.

"That in the month of January, 1788, your memorialist having disposed of the *Nootka*, he, in conjunction with several British merchants residing in India, purchased and fitted out two other vessels, named the *Felice* and *Iphigenia*; the former your memorialist commanded, and the latter he put under the direction of Mr. William Douglas. That your memorialist proceeded from China to the port of Nootka, or King George's Sound, which he reached in the month of May, and the *Iphigenia* arrived in Cook's River in the month of June.

"That your memorialist, immediately on his arrival in Nootka Sound, purchased from Maquilla, the chief of the district contiguous to and surrounding that place, a spot of ground whereon he built a house for his occasional residence, as well as for the more convenient pursuit of his trade with the natives, and hoisted the British colours thereon; that he also erected a breast-work which surrounded the house, and mounted one 3-pounder in the front; that having so done, your memorialist proceeded to trade on the coast, the *Felice* taking her route to the southward, and the *Iphigenia* to the northward, confining themselves within the limits of 60° and 45° 30' north, and returned to Nootka Sound in the month of September; that on your memorialist's arrival there, his people, whom he had left behind, had nearly completed a vessel, which, previous to his departure, he had laid down; and that the said vessel was soon after launched by your memorialist, and called the *North-West America*, measuring about forty tons, and was equipped with all expedition to assist him in his enterprizes.

"That during the absence of your memorialist from Nootka Sound, he obtained from Wicamanish, the chief of the district surrounding Port Cox and Port Ellingham, situated in the latitudes 48° and 49°, in consequence of considerable presents the promise of a free and exclusive trade with the natives of the district, and also his permission to build any storehouses or other edifices which he might judge necessary; that he also acquired the same privilege of exclusive trade from Tatouche, the chief of the country bordering on the Straits of Juan de Fuca, and purchased from him a tract of land within the said strait, which one of your memorialist's officers took possession of in the King's name, calling the same Tatouche, in honour of the chief.

"That the *Iphigenia*, in her progress to the southward, also visited several ports, and in consequence of presents to the chiefs of the country, her commander had assurances given to him of not only a free access, but of an exclusive trade upon that coast, no other European vessel having been there before her.

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Kakyaakoo Tribe

Know all Men, we the Chiefs of the Family of Kakyaakoo, acting for and with the consent of our People, who being here present have individually and collectively, conferred and ratified this our act; now know that we who have signed our names and made our marks to this Deed on the first day of May our thousand eight hundred and fifty do consent, to surrender to James Douglas the Agent of the Hudson's Bay Company in Vancouver's Island that is to say, for the Governor, Deputy Governor and Committee of the same the whole of the lands situate and lying between South Albert and the Inlet of Whoyung on the Straits of Juan de Fuca and the snow covered mountains in the interior of the Island so as to embrace the whole tract or district of Mitchosin from the Coast to the said mountains.

The condition of, or understanding of this Sale, is this, that our Village Sites and enclosed Fields are to be kept for our own use, for the use of our Children, and for those who may follow after us; and the lands shall be properly surveyed hereafter; it is understood however that the land itself, with these small exceptions becomes the entire property of the white people forever, it is also understood that we are at liberty to hunt over the unoccupied lands.

and to carry on our Fisheries as formerly.
We have received as payment
Twenty-three pounds six shillings and
eight pence.

In token whereof we have
signed our names and made our marks
at Port Victoria on the first day of May,
one thousand eight hundred and fifty.

Signed

Their Marks

Quete-to-Raymond
Aya-hund

x Descendants of the Chiefs
x ancient possessors of this
district, and their only sur-
viving heirs about 20 in number.

1st Alfred Robert Benson M. R. C. S. L.
1st Joseph William McKay.

"That your memorialist, on the 23d of September, having collected a cargo of furs, proceeded in the *Felice* to China, leaving the *Iphigenia* and the *North-West America* in Nootka Sound, with orders to winter at the Sandwich Islands and to return to the coast in the spring. That your memorialist arrived in China early in the month of December, where he sold his cargo and also the ship *Felice*.

"That a few days after your memorialist's arrival in China, the ships *Prince of Wales* and *Princess Royal*, fitted out from the port of London by Messrs. John and Cadman Etches & Co. came to Canton from a trading voyage on the north-west coast of America; and your memorialist, finding that they had embarked in this commerce under licenses granted to them by the East India and South Sea Companies, which would not expire until the year 1799, and apprehending at the same time that the trade would suffer by a competition, he and his partners associated themselves with the said Messrs. Etches & Co., and a formal agreement was executed in consequence between your memorialist and Mr. John Etches, then Supra Cargo of the two ships, making a joint stock of all the vessels and property employed in that trade; and under that firm they purchased a ship, which had been built at Calcutta, and called her the *Argonaut*.

"That the *Prince of Wales*, having been chartered to load teas for the East India Company, soon after returned to England; and the *Princess Royal* and *Argonaut* were ordered by your memorialist to sail for the coast of America, under the command of Mr. James Colnett, to whom the charge of all the concerns of the Company on the coast had been committed.

"Mr. Colnett was directed to fix his residence at Nootka Sound, and, with that view, to erect a substantial house on the spot which your memorialist had purchased in the preceding year, as will appear by a copy of his instructions hereunto annexed.

"That the *Princess Royal* and *Argonaut*, loaded with stores and provisions of all descriptions, with articles estimated to be sufficient for the trade for three years, and a vessel on board in frame, of about thirty tons burthen, left China accordingly in the months of April and May, 1789. They had also on board, in addition to their crews, several artificers of different professions, and near seventy Chinese, who intended to become settlers on the American coast, in the service and under the protection of the associated Company.

"That on the 24th April, 1789, the *Iphigenia* returned to Nootka Sound, and that the *North-West America* reached that place a few days after; that they found on their arrival in that port, two American vessels which had wintered there; one of them was called the *Columbia*, the other the *Washington*; that on the 29th of the same month the *North-West America* was despatched to the northward to trade, and also to explore the archipelago of St. Lazarus.

"That on the 6th of May, the *Iphigenia* being then at anchor in Nootka Sound, a Spanish ship of war, called the *Princessa*, commanded by Don Estevan Joseph Martinez, mounting twenty-six guns, which had sailed from the port of San Blas in the Province of Mexico, anchored in Nootka Sound, and was joined on the 13th by a Spanish Snow of sixteen guns, called the *San Carlos*, which vessel had also sailed from the port of San Blas, loaded with cannon and other warlike stores.

"That from the time of the arrival of the *Princessa* until the 14th of May, mutual civilities passed between Captain Douglas and the Spanish officers, and even supplies were obtained from Don Martinez for the use of the ship; but on that day he, (Captain Douglas) was ordered on board the *Princessa*, and, to his great surprise, was informed by Don Martinez that he had the king's orders to seize all ships and vessels he might find upon that coast, and that he, (the commander of the *Iphigenia*) was then his prisoner; that Don Martinez thereupon instructed his officers to take possession of the *Iphigenia*, which they accordingly did, in the name of his Catholic Majesty, and the officers and crew of that ship were immediately conveyed as prisoners on board the Spanish ships, where they were put in irons and otherwise ill-treated.

"That as soon as the *Iphigenia* had been seized, Don Martinez took possession of the lands belonging to your memorialist, on which his temporary habitation before mentioned had been erected, hoisting thereupon the standard of Spain and performing such ceremonies as your memorialist understands are usual on such occasions; declaring at the same time that all the lands comprised between Cape Horn and the sixtieth degree of north latitude did belong to his Catholic Majesty; he then proceeded to build batteries, storehouses, etc., in the execution of which he forcibly employed some of the crew of the *Iphigenia*, and many of them who attempted to resist were very severely punished.

"That during the time the commander of the *Iphigenia* remained in captivity, he had frequently been urged by Don Martinez to sign an instrument, purporting, as he was informed (not understanding himself the Spanish language) that Don Martinez had found him at anchor in Nootka Sound, that he was at that time in great distress; that he had furnished him with everything necessary for his passage to the Sandwich Islands, and that his navigation had in no respect been molested or interrupted; but which paper, on inspection of a copy thereof delivered to Mr. Douglas, and hereunto annexed (No. 2) appears to be an obligation from him and Mr. Vinania, the second captain, on the part of their owners, to pay on demand the valuation of that vessel, her cargo, etc., in case the viceroy of New Spain should adjudge her to be lawful prize for entering the port of Nootka without the permission of his Catholic Majesty; that Captain Douglas, conceiving that the Port of Nootka, did not belong to his Catholic Majesty, did frequently refuse to accede to this proposal; but that Don Martinez, partly by threats, and partly by promises of restoring him to his command and of furnishing him with such supplies of stores and provisions as he might stand in need of, ultimately carried his point; and having so done, he, on the 26th of the same month, was restored to the command of the *Iphigenia*, but restrained from proceeding to sea until the return of the *North-West America*, insisting that he should then dispose of her for four hundred dollars, the price which one of the American captains had set upon her.

"That during the time the Spaniards held possession of the *Iphigenia*, she was stripped of all the merchandise which had been provided for trading, as also of her stores, provisions, nautical instruments, charts, etc., and, in short, every other article (excepting twelve bars of iron) which they could conveniently carry away, even to the extent of the master's watch and articles of cloathing.

"That the Commander of the *Iphigenia*, finding himself thus distressed, applied for relief, and after much solicitation obtained a trifling supply of stores and provisions, for which he was called upon to give bills on his owners. The articles so supplied were charged at a most exorbitant price, and very unequal in quality or quantity to those which had been taken from him.

"That notwithstanding what had been insisted on by Don Martinez, respecting the sale of the *North-West America*, he had constantly refused to dispose of that vessel on any ground, alleging that, as she did not belong to him, he had no right to dispose of her; that the *North-West America* not returning so soon as was expected, he, (Captain Douglas) was told by Don Martinez, that on his ordering that vessel to be delivered to him for the use of his Catholic Majesty, he should have liberty to depart with the *Iphigenia*; that he accordingly on the 1st of June, wrote a letter to the master of the *North-West America*, but cautiously avoided any directions to the effect desired, and availing himself of Don Martinez's ignorance of the English language, he instantly sailed from Nootka Sound, though in a very unfit condition to proceed on such a voyage, leaving behind him the two American vessels which had been suffered to continue there unmolested by the Spaniards from the time of their first arrival; that the *Iphigenia* proceeded from thence to the Sandwich Islands, and after obtaining there such supplies as they were able to procure with the iron before mentioned, returned to China and anchored there in the month of October, 1789.

"Your memorialist thinks it necessary upon this occasion to explain, that in order to evade the excessive high port charges demanded by the Chinese from all other European nations excepting the Portuguese, that he and his associates had obtained the name of Juan Cavalho to their firm, though he had no actual concern in their stock; that Cavalho, though by birth a Portuguese, had been naturalized at Bombay, and had resided there for many years under the protection of the East India Company, and had carried on an extensive trade from thence to their several settlements in that part of the world.

"That the intimacy subsisting between Cavalho and the Governor of Macao, had been the principal cause of their forming this nominal connection, and that Cavalho had in consequence obtained his permission that the two ships above mentioned, in case it should be found convenient so to do, should be allowed to navigate under, or claim any advantages granted to the Portuguese flag.

"That this permission had answered the purpose of your memorialist, so far as respected the port charges of the Chinese, until the return of the *Iphigenia*; but the Portuguese governor dying soon after her departure, and Cavalho becoming a bankrupt, his creditors demanded his interest in that ship; that your memorialist having resisted their claim, an application was made by them

to the succeeding governor for possession of the ship; that the governor had, in consequence, investigated the transaction, and finding that Cawalho had no actual concern or interest in the property, obliged her to quit the port; that this proceeding had subjected the *Iphigenia* at once to the increased port charges which were instantly demanded by and paid to the Chinese.

"Your memorialist has stated this transaction thus fully, in order to show, that the *Iphigenia* and her cargo were actually and bona fide British property, as well as to explain the occasion of the orders which were given to her commander extracts of which accompany this, and are referred to in the journal of that ship, having been under the inspection of Don Martinez.

"Your memorialist further begs leave to state that after the departure of the *Iphigenia*, Don Martinez became apprized of the purport of the letter with which he had been furnished, and that on the return of the *North-West America* off the port of Nootka, on the 9th of June, she was boarded and seized by boats manned and equipped for war, commanded by Don Martinez; that he did tow and convey the said vessel into the sound, and anchoring her close to the Spanish ships of war, did then take possession of her in the name of his Catholic Majesty as good and lawful prize; that the above mentioned vessel was soon after hauled alongside of the Spanish frigate; and that the officers and men, together with the skins which had been collected, amounting to 215, of the best quality, and also her stores, tackle and furniture, articles of trade, etc., were removed on board the Spanish frigate; that the commander of the *North-West America*, his officers and men, were accordingly made prisoners, and Mr. Thomas Barnett, one of the officers of that vessel, and some of her men, were, as appears by the affidavit of William Graham, one of the seamen belonging to that vessel hereunto annexed (No. 4) afterwards put in irons.

"That the *Princess Royal* arriving a few days after the seizure of the *North-West America*, and being allowed by Don Martinez to depart, the skins collected by the last mentioned vessel (excepting twelve of the best quality, which Don Martinez thought fit to retain) were returned to the master, and, with the permission of Don Martinez, were shipped on board the *Princess Royal* for the benefit of the owners; and that ship, as appears by her journal, put to sea on the 2nd of July to pursue the trade upon the coast.

"That Don Martinez, after seizing the *North-West America* in the manner and under the circumstances above stated, employed her on a trading voyage, from which she returned after an absence of about twenty days, with seventy-five skins, obtained by British merchandize which had either been found in that vessel at the time of her capture, or had been taken from the *Iphigenia*; and that the value of the furs so collected cannot, upon a moderate calculation, be estimated at less than \$7,500, and which Don Martinez had applied to his own advantage.

"That the *Argonaut* arrived off the port of Nootka on or about the 3rd of July, 1789; that Don Martinez on observing her in the offing, boarded her in his launch, and with expressions of civility, promised Mr. Colnett, her commander, every assistance in his power; that before the *Argonaut* entered the sound, Mr. Thomas Barnett (who had belonged to the *North-West America*, and was then a prisoner) came off in a canoe and informed Mr. Colnett of the proceedings which had taken place, and of the danger to which he was exposed; but that under the assurances given by Don Martinez that the *Argonaut* should remain unmolested, and being in want of refreshments for the crew, Mr. Colnett proceeded into Nootka Sound.

"That, notwithstanding the assurances given by Don Martinez, he, on the next day, sent the lieutenant of the *Princessa* with a military force to take possession of the *Argonaut*; and that ship was accordingly seized in the name of his Catholic Majesty; the British flag was hauled down and the Spanish flag was hoisted in its stead.

"That on the seizure of the *Argonaut*, her officers and men were made prisoners, and Mr. Colnett was threatened to be hanged at the yard-arm in case of his refusing compliance with any directions which might be given to him.

"That on the 13th of July, the *Princess Royal*, as is stated in her journal, again appeared off the port of Nootka; that her commander approaching the sound in his boat in expectation of finding there the commander of the expedition (from whom he was desirous of receiving instructions for his future proceedings), was seized and made prisoner by Don Martinez, and, under threats of hanging him at the yard-arm, forced him to send orders to his officers to deliver up the *Princess Royal* without contest.

"That a Spanish officer was despatched into the offing with these orders; and that the vessel was accordingly seized in the name of his Catholic Majesty and brought into port; that her crew were in consequence made prisoners, and that her cargo, consisting of 473 skins, including

203 which had been put on board her from the *North-West America*, (as appears by the inclosed receipt, No. 5) was seized.

"That Mr. Colnett, from the circumstances of his capture, became so deranged that he attempted frequently to destroy himself; and that, according to the last accounts received, the state of his mind was such as to render him unfit for the management of any business which might have been entrusted to his care; that in this melancholy situation, however, Don Martinez, (notwithstanding the vessel and cargo had before been formally seized) attempted to procure from him the sale of the copper, of which a principal part of the cargo of the *Princess Royal* had been composed, and that such sale would actually have taken place, had not the other officers of that vessel, seeing Colnett's insanity, prevented it.

"Your memorialist further begs leave to represent that the American ship *Columbia*, intending to proceed to China, the crew of the *North-West America* were ordered by Don Martinez on board her, principally, as your memorialist understands, for the purpose of assisting her in her navigation to China; the greater part of her own crew, as well as of her provisions, having been previously put on board the *Washington* in order that she might be enabled to continue on the coast.

"That the *Columbia* having reduced her provisions considerably from the supplies she had spared to her consort, was furnished from the *Argonaut* by order of Don Martinez with what was necessary for her voyage, said to be intended, however, for the supply of the crew of the *North-West America*; that previous to the departure of the *Columbia*, ninety-six skins were also put on board her as appears by the paper hereunto annexed No. 6, to defray the wages of the officers and crew of the *North-West America*, under a supposition that their late employers would be unable to liquidate their demands, first deducting, however, thirty per cent from the sales, which Don Martinez had agreed should be paid for the freight on the said skins to the American commanders.

"That the *Columbia* thus supplied, left Nootka Sound accordingly, and proceeded to the southward; that a few days after she entered Port Cox, where she was joined by her consort, the *Washington*, from whom she received a considerable number of skins, conceived to be the whole (excepting the ninety-six before mentioned) which had been collected by the Americans and Spaniards, as well as by the British traders, and with which, after sparing a further quantity of provisions to the *Washington*, the *Columbia* proceeded to China, where she arrived on the 2nd of November, and landed the crew of the *North-West America*.

"That the crew of the *North-West America* previous to their leaving Nootka Sound in the *Columbia*, saw the *Argonaut* proceed as a prize to San Blas; that her officers and men, who were Europeans, were put on board her as prisoners; and that the *Princess Royal* was shortly to follow with her crew in confinement in the same manner. The *Washington*, on joining the *Columbia* in Port Cox, gave information that the *Princess Royal* had also sailed for San Blas.

"That Don Martinez had thought fit, however, to detain the Chinese and had compelled them to enter into the service of Spain; and that on the departure of the *Columbia* they were employed in the mines, which had then been opened on the lands which your memorialist had purchased.

"Your memorialist begs leave to annex a deposition of the officers and crew of the *N. W. America*, together with an extract of the journal of the *Iphigenia*, and also some letters which he has received from Mr. Duffin, second officer of the *Argonaut*, which papers will serve to throw considerable lights on the several transactions alluded to in this memorial: He also has subjoined a statement of the actual as well as the probable losses which he and his associates have sustained from the unwarrantable and unjustifiable proceedings of Don Martinez, in open violation of the treaty of peace subsisting between this country and the Court of Spain, and at times and in situations where, according to the common laws of hospitality, they might have expected a different conduct.

"Your memorialist therefore most humbly begs leave to submit the case of himself and his associates to the consideration of Government, in full confidence that the proper and necessary measures will be taken to obtain that redress, which he and his associates have, as British subjects, a right to expect.

"(Signed) JOHN MEARES.

"London, 30th April, 1790."

Message from King George III.—"George R. His Majesty has received information that two vessels belonging to his Majesty's subjects, and navigated under the British flag, and two

others, of which the description is not hitherto sufficiently ascertained, have been captured at Nootka Sound, on the north-western coast of America, by an officer commanding two Spanish ships of war; that the cargoes of the British vessels have been seized, and their officers and crews have been sent as prisoners to a Spanish port.

"The capture of one of these vessels had before been notified by the ambassador of his Catholic Majesty, by order of his court, who at the same time desired that measures might be taken for preventing his Majesty's subjects from frequenting these coasts, which were alleged to have been previously occupied and frequented by the subjects of Spain. Complaints were already made of the fisheries carried on by his Majesty's subjects in the seas adjoining to the Spanish continent, as being contrary to the rights of the crown of Spain. In consequence of this communication, a demand was immediately made by his Majesty's order, for adequate satisfaction, and for the restitution of the vessel, previous to any other discussion.

"By answer from the Court of Spain it appears that this vessel and her crew had been set at liberty by the viceroy of Mexico; but this is represented to have been done by him on the supposition that nothing but the ignorance of the rights of Spain encouraged the individuals of other nations to come to these coasts for the purpose of making establishments, or carrying on trade, and in conformity to his previous instructions, requiring him to show all possible regard to the British nation. No satisfaction is made or offered, and a direct claim is asserted by the Court of Spain to the exclusive rights of sovereignty, navigation and commerce in the territories, coasts and seas in that part of the world.

"His Majesty has now directed his minister at Madrid to make a fresh representation on this subject, and to claim such full and adequate satisfaction as the nature of the case evidently requires. And under these circumstances his Majesty, having also received information that considerable armaments are carrying on in the ports of Spain, has judged it indispensably necessary to give orders for making such preparations as may put it in his Majesty's power to act with vigour and effect in support of the honour of his crown and the interests of his people. And his Majesty commends it to his faithful Commons, on whose zeal and public spirit he has the most perfect reliance, to enable him to take such measures and to make such augmentation of his forces, as may be eventually necessary for this purpose.

"It is his Majesty's earnest wish that the justice of his Majesty's demands may ensure from the wisdom and equity of his Catholic Majesty the satisfaction which is so unquestionably due; and that this affair may be terminated in such manner as may prevent any grounds of misunderstanding in future, and to continue and confirm that harmony and friendship which has so happily subsisted between the two courts, and which his Majesty will always endeavour to maintain and improve by all such means as are consistent with the dignity of his Majesty's crown and the essential interests of his subjects.

G. R."

The House of Lords Approved the King's Message.—On the 26th May an "humble address of the Right Honourable the Lords Spiritual and Temporal, in parliament assembled," was passed, approving of his Majesty's message.

II

MEMORIAL OF THE COURT OF SPAIN, DELIVERED JUNE 13TH, 1790, TO MR. FITZ-HERBERT, THE BRITISH AMBASSADOR AT MADRID.

"By every treaty upon record betwixt Spain and the other nations of Europe, for upwards of two centuries, an exclusive right of property, navigation and commerce to the Spanish West Indies has been universally secured to Spain, England having always stood forth in a particular manner in support of such right.

"By Article 8th of the Treaty of Utrecht (a treaty in which all the European nations may be said to have taken part), Spain and England profess to establish it as a fundamental principle of agreement, that the navigation and commerce of the West Indies, under the dominion of Spain, shall remain in the precise situation in which they stood in the reign of his Catholic Majesty Charles II, and that rule shall be invariably adhered to, and be incapable of infringement.

"After this maxim, the two powers stipulated that Spain should never grant liberty or permission to any nation to trade or introduce their merchandise into Spanish American dominions, nor to sell, cede, or give up to any other nation, its lands, dominions or territories, or any part

thereof. On the contrary, and in order that its territories should be preserved whole and entire, England offers to aid and assist the Spaniards in re-establishing the limits of their American dominions, and placing them in the exact situation they stood in the time of his said Catholic Majesty Charles II., if by accident it shall be discovered that they have undergone any alteration to the prejudice of Spain, in whatever manner or pretext such alteration may have been brought about.

"The vast extent of the Spanish territories, navigation and dominion on the Continent of America, isles and seas contiguous to the South Sea, are clearly laid down and authenticated by a variety of documents, laws and formal acts of possession in the reign of King Charles II. It is also clearly ascertained, that notwithstanding the repeated attempts made by adventurers and pirates on the Spanish coasts of the South Sea and adjacent islands, Spain has still preserved her possession entire, and opposed with success those usurpations by constantly sending her ships and vessels to take possession of such settlements. By these measures and reiterated acts of possession, Spain has preserved the dominion, which she has extended to the borders of the Russian establishments in that part of the world.

"The viceroys of Peru and New Spain having been informed that these seas had been, for some years past, more frequented than formerly; that smuggling had increased; that several usurpations prejudicial to Spain and the general tranquillity had been suffered to be made, they have orders that the western coasts of Spanish America, and islands and seas adjacent should be more frequently navigated and explored.

"They were also informed that several Russian vessels were upon the point of making commercial establishments upon that coast. At the time that Spain demonstrated to Russia the inconveniences attendant upon such encroachments, she entered upon the negotiation with Russia upon the supposition that the Russian navigators of the Pacific Ocean had no orders to make establishments within the limits of Spanish America, of which the Spaniards were the first possessors (limits situated within Prince William's Sound), purposely to avoid all dissensions, and in order to maintain the harmony and amity which Spain wished to preserve.

"The Court of Russia replied, that it had already given orders that its subjects should make no settlement in places belonging to other powers; and that if those orders had been violated, and had been made in Spanish America; they desired the king would put a stop to them in a friendly manner. To this pacific language on the part of Russia, Spain observed that she could not be answerable for what her officers might do at that distance, whose general orders and instructions were not to permit any settlements to be made by other nations on the Continent of Spanish America.

"Though trespasses had been made by the English on some of the islands of those coasts, which had given rise to similar complaints having been made to the Court of London, Spain did not know that the English had endeavoured to make any settlements on the northern part of the Southern Ocean, till the commander of a Spanish ship, in the usual tour of the coasts of California, found two American vessels in St. Lawrence, or Nootka Harbour, where he was going for provisions and stores. These vessels he permitted to proceed on their voyage, it appearing from their papers that they were driven there by distress, and only came in to refit.

"He also found there the *Iphigenia* from Macao, under Portuguese colours, which had a passport from the governor; and though he came manifestly with a view to trade there, yet the Spanish admiral, when he saw his instructions, gave him leave to depart upon his signing an engagement to pay the value of the vessel, should the Government of Mexico declare it a lawful prize.

"With this vessel there came a second, which the admiral detained, and a few days after, a third, named the *Argonaut*, from the above mentioned place. The captain of this latter was an Englishman. He came not only to trade, but brought everything with him proper to form a settlement there and to fortify it. This, notwithstanding the remonstrances of the Spanish admiral, he persevered in, and was detained, together with his vessel.

"After him came a fourth English vessel, named the *Princess Royal*, and evidently for the same purposes. She likewise was detained and sent to Port San Blas, where the pilot of the *Argonaut* made away with himself.

"The viceroy, on being informed of these particulars, gave orders that the captain and vessels should be released, and that they should have leave to refit, without declaring them a lawful prize; and this he did, on account of the ignorance of the proprietors, and the friendship which subsisted between the Courts of London and Madrid.

"He also gave them leave to return to Macao with their cargo, after capitulating with them in the same manner as with the Portuguese captain, and leaving the affair to be finally determined by the Count de Revillagigedo, his successor, who also gave them their liberty.

"As soon as the Court of Madrid had received an account of the detention of the first English vessel at Nootka Sound, and before that of the second arrived, it ordered its ambassador at London to make a report thereof to the English minister, which he did on the 10th of February last, and to require that the parties who had planned these expeditions should be punished, in order to deter others from making settlements on territories occupied and frequented by the Spaniards for a number of years.

"In the ambassador's memorial, mention was only made of the Spanish admiral that commanded the present armament, having visited Nootka Sound in 1774, though that harbour had been frequently visited both before and since, with the usual forms of taking possession. These forms were repeated more particularly in the years 1755 and 1779, all along the coasts, as far as Prince William's Sound, and it was these acts that gave occasion to the memorial made by the Court of Russia as has been already noticed.

"The Spanish ambassador at London did not represent in this memorial at that time, that the right of Spain to these coasts was conformable to ancient boundaries which had been guaranteed by England at the Treaty of Utrecht, in the reign of Charles II., deeming it to be unnecessary; as orders had been given and vessels had actually been seized on those coasts as far back as 1692.

"The answer that the English ministry gave, on the 26th of February, was, that they had not as yet been informed of the facts stated by the ambassador, and that the act of *violence*, mentioned in his memorial, necessarily suspended any discussion of the claims therein, till an adequate atonement had been made for a proceeding so injurious to Great Britain.

"In addition to this haughty language of the British minister, he further added, that the ship must in the first place be restored; and that with respect to any further stipulations, it would be necessary to wait for a fuller detail of all the circumstances of this affair.

"The harsh and laconic style in which this answer was given, made the Court of Madrid suspect that the King of Great Britain's ministers were forming other plans; and they were the more induced to think so, as there were reports that they were going to fit out two fleets, one for the Mediterranean and the other for the Baltic. This of course obliged Spain to increase the small squadron she was getting ready to exercise her marine.

"The Court of Spain then ordered her ambassador at London to present a memorial to the British ministry, setting forth that though the Crown of Spain has an indubitable right to the continent, islands, harbours and coasts in that part of the world, founded on treaties and immemorial possession, yet the viceroy of Mexico had released the vessels that were detained, the king looked upon the affair as concluded, without entering into any disputes or discussions on the undoubted rights of Spain; and desiring to give a proof of his friendship for Great Britain, he should rest satisfied if she ordered that her subjects in future respected those rights.

"As if Spain, in this answer, had laid claim to the empire of that ocean, though she only spoke of what belonged to her by treaties, and as if it had been so grievous an offence to terminate this affair by restitution of the only vessel which was then known to have been taken, it excited such clamour and agitation in the parliament of England that the most vigorous preparations for war had been commenced; and those powers disinclined to peace, charge Spain with designs contrary to her known principles of honour and probity as well as to the tranquillity of Europe, which the Spanish monarch had in view.

"While England was employed in making the greatest armaments and preparations, that court made answer to the Spanish ambassador (upon the 5th of May) that the acts of violence committed against the British flag 'rendered it necessary for the sovereign to charge his minister at Madrid to renew the remonstrances (being the answer of England already mentioned), and to require that satisfaction which his Majesty thought he had an indisputable right to demand.'

"To this was added a declaration not to enter formally into the matter until a satisfactory answer was obtained; and at the same time the memorial of Spain should not include in it the question of right, which formed a most essential part of the discussion.

"The British administration offer, in the same answer, to take the most effectual and pacific measures that the English subjects shall not act 'against the just and acknowledged rights of Spain, but that they cannot at present accede to the pretensions of absolute sovereignty, com-

merce and navigation which appeared to be the principal object of the memorial of the ambassador, and that the King of England considers it as a duty incumbent upon him to protect his subjects in the enjoyment of the right of continuing their fishery in the Pacific Ocean.

"If this pretension is found to trespass upon the ancient boundaries laid down in the reign of King Charles II. and guaranteed by England in the Treaty of Utrecht, as Spain believes, it appears that that court will have good reason for disputing and opposing this claim; and it is to be hoped that the equity of the British administration will suspend and restrict it accordingly.

"In consequence of the foregoing answer, the *chargé d'affaires* from the Court of London at Madrid insisted, in a memorial of the 16th of May, on restitution of the vessel detained at Nootka and the property therein contained; of an indemnification for the losses sustained, and on a reparation proportioned to the injury done to the English subjects trading under the British flag, and that they have an indisputable right to the enjoyment of a free and uninterrupted navigation, commerce and fishery; and to the possession of such establishments as they should form with the consent of the natives of the country not previously occupied by any of the European nations.

"An explicit and prompt answer was desired upon this head, in such terms as might tend to calm the anxieties and to maintain the friendship subsisting between the two courts.

"The *chargé d'affaires*, having observed that a suspension of the Spanish armaments would contribute to tranquillity upon the terms to be communicated by the British administration, as answer was made by the Spanish administration that the king was sincerely inclined to disarm upon the principles of reciprocity, and proportioned to the circumstances of the two courts, adding that the Court of Spain was actuated by the most pacific intentions and a desire to give every satisfaction and indemnification, if justice was not on their side, provided England did as much if she was found to be in the wrong.

"This answer must convince all the courts of Europe, that the conduct of the king and his administrators is consonant to the invariable principles of justice, truth and peace.

"(Signed) EL CONDE DE FLORIDABLANCA."

Mr. Fitzherbert replied as follows:

"Sir,—In compliance with your Excellency's desire, I have now the honour to communicate to you in writing what I observed to you in the conversation we had the day before yesterday. The substance of these observations are briefly these:

"The Court of London is animated with the most sincere desire of terminating the difference that at present subsists between it and the court of Madrid, relative to the port of Nootka and the adjacent latitudes, by a friendly negotiation; but it is evident, upon the clearest principles of justice and reason, that an equal negotiation cannot be opened till matters are put in their original state; and as certain acts have been committed in the latitudes in question belonging to the royal marine of Spain, against several British vessels, without any reprisals having been made, of any sort, on the part of Britain, that power is perfectly in the right to insist, as a preliminary condition, upon a prompt and suitable reparation for those acts of violence; and in consequence of this principle the practice of nations has limited such right of reparation to three articles, viz., the restitution of the vessels, a full indemnification for the losses sustained by the parties injured, and, finally, satisfaction to the sovereign for the insult offered to his flag; so that it is evident that the actual demands of my court, far from containing anything to prejudice the rights or dignity of his Catholic Majesty, amount to no more, in fact, than what is constantly done by Great Britain herself, as well as every other maritime power, in similar circumstances.

"Finally, as to the nature of the satisfaction which the Court of London exacts upon this occasion and to which your Excellency appears to desire some explanation, I am authorized, sir, to assure you that if his Catholic Majesty consents to make a declaration in his name, bearing in substance that he had determined to offer to his Britannic Majesty a just and suitable satisfaction for the insult offered to his flag, such offer joined to a restitution of the vessels captured, and to indemnify the proprietors, under the conditions specified in the official letter of Mr. Merry on the 16th of May, will be regarded by his Britannic Majesty as constituting in itself the satisfaction demanded; and his said Majesty will accept of it as such by a counter declaration on his part.

Port Victoria on the Thirtieth day of
 April one thousand, eight hundred
 and fifty.

Signed

	Their marks		Their marks
1 Kooptlum	x	16 Mwaaloyok	x
2 Mahayim	x	17 Sul-hay-mulleh	x
3 Chee-at-thue	x	18 Kol-ko-lacha	x
4 Kequaymitshew	x	19 Similawoch	x
5 Skull-Kow	x	20 Shlum tee au ha	x
6 Shehesuw	x	21 Maylayuw	x
7 Kequāamitchew	x	22 Soquallimth	x
8 SunK Raud	x	23 Niacca	x
9 Tagh	x	24 Saychutew	x
10 Silacha	x	25 Single mitth	x
11 Skool-tyeth	x	26 Ha-me-wee	x
12 Pulh-hoo	x	27 Ho-le-mitshew	x
13 Silahaleh	x	28 Isquoyass	x
14 Powhaymub by his son Silahaleh	x	29 Spichaw	x
15 Mulhaluchew	x	30 Kat-lāath	x

(Done before us at Port Victoria
 this 30th day of April 1850.

Alfred Robert Bousard M. R. C. S. L.
 Joseph William McKay.

21
Chilco-Ke-umine Tribe

Know all Men, We the Chiefs and People of the Tribe or family of Chilco-Ke-umine, who have signed our names, and made our marks to this Deed, on the Thirtieth day of April one thousand eight hundred and fifty do consent to surrender entirely and forever to James Douglas the Agent of the Hudson's Bay Company in Vancouver's Island, that is to say, for the Governor, Deputy Governor and Committee of the same the whole of the lands situate and lying between Point Gonzales and Mount Douglas following the boundary line of the Chilco-umitch and Kooampson families; the Canal de Haro and the Straits of Juan de Fuca, east of Point Gonzales. The condition of our understanding of this sale is this, - that our Village Sites and enclosed Fields are to be kept for our own use, for the use of our children, and for those who may follow after us; and the lands shall be properly surveyed hereafter; it is understood however that the land itself, with these small exceptions becomes the entire property of the white people forever; it is also understood that we are at liberty to hunt over the unoccupied lands, and to carry on our fisheries as formerly.

We have received as payment
Twenty Nine Pounds Ten shillings Sterling.

In token whereof we have signed
our names and made our marks at
over

to the above whose names we have signed our
 names and made our marks at Port
 Victoria on the Thirtieth day of April one
 thousand eight hundred and fifty.

		Signed	
	Their marks		Their marks
Yel-what-uts-tui	x	10 Pohayund	x
Sa-quolluk	x	11 Mu-haing-tund	x
Kay-Kay-mulleh	x	12 Tootá-wunt-suh	x
Tee-ay-quá-tisus	x	13 Sã-ãt-hum-ũ-tih	x
Wah-che-máck	x	14 Ohil-thlao	x
Sie-ãt-suh	x	15 Tsil-quay-kund	x
Sa-hoy-us	x	16 Cho-wá-ees	x
Sa-kos	x	17 Laythlun	x
Sa-pine	x	18 She-lum-tund.	x

Done before us this 30th day of
 April 1851 at Port Victoria

1st Alfred Robert Rouson. M. R. G. S. L.

1st Joseph William M Kay.

Whycumith Tribe

Know all Men, We the Chiefs and People of the family of Whycumith who have signed our names and made our marks to this Deed on the Thirtieth day of April one thousand eight hundred and fifty do consent to surrender entirely and forever to James Douglas the Agent of the Hudson's Bay Company in Vancouver's Island that is to say, for the Governor Deputy Governor and Committee of the same the whole of the lands situate and lying between the north west corner of Esquimaux, say from the Island, inclusive, at the mouth of the Saw Mill Stream and the mountains lying due west and north of that Point, this District being, on the one side bounded by the lands of the Tschamitsa and on the other by the lands of the Kocampow family.

The condition of our understanding of this Sale is this, that our Village sites and enclosed fields are to be kept for our own use, for the use of our children, and for those who may follow after us; and the lands shall be properly surveyed here after; it is understood however that the land itself, with these small exceptions becomes the entire property of the white people for ever; it is our understanding that we are at liberty to hunt over the unoccupied lands, and to carry on our fisheries as formerly. We have received as payment for the said lands the sum of

Tschamitsa Tribe

Know all Men, We the Chiefs and People of the "Tschamitsa" Tribe who have signed our names, and made our marks to this deed on the Twenty ninth day of April, one thousand eight hundred and fifty do consent to surrender entirely and forever to James Douglas the Agent of the Hudson's Bay Company in Vancouver's Island that is to say, for the Governor, Deputy Governor and Committee of the same the whole of the lands situate and lying between Esquimalt Harbor and Point Albert including the latter, on the Straits of Juan de Fuca and extending backward from thence to the range of mountains on the Sanitch Arm about ten miles distant.

The condition of, or understanding of this sale, is this, that our Village Sites and enclosed Fields are to be kept for our own use, for the use of our children, and for those who may follow after us; and the land itself shall be properly surveyed hereafter; it is understood however that the land itself, with these small exceptions becomes the property of the White people forever; it is also understood that we are at liberty to hunt over the unoccupied lands, and to carry on our fisheries as formerly.

We have received as payment
Twenty seven pounds Ten shillings Sterling.

The names whereof we have signed our names
 and made our marks at Port Victoria
 29th April 1851.

	Signed		
	Their marks		Their marks
Tei-sachawia	x	7 Chamutshu	x
Hay-hoy-hane	x	8 Pentultu	x
Tei-shaymooch	x	9 Hoquymilt	x
Kalsaymit	x	10 Kamsitchel	x
Hoohapis	x	11 Muiyiltou	x
Chlawie	x		

Done in the presence of
 J^d Roderick Guilaysow
 J^d Joseph William McKay

199

Chaihatson Tribe

Know all Men, We the Chiefs of the Tribes
of Chaihatson, acting for and on behalf
of our People, who being here present, have
individually and collectively, ratified and
confirmed this our act, now know that we
who have signed our names and made our
marks to this Deed on the First day of May,
one thousand, eight hundred and fifty do
consent to surrender entirely and for ever to
James Douglas the Agent of the Hudson's
Bay Company in Vancouver's Island that
is to say, for the Governor (Deputy Governor
and Committee of the said the whole of
the lands situate and lying between the
Inlet of Whoyung and the Bay of Synoung
known as Cook's Inlet, and the snow covered
mountains in the Interior of the Island.

The condition of, or understanding of this
Sale is this, that our Village sites and
enclosed fields are to be kept for our own use,
for the use of our children, and for those
who may follow after us; and the lands shall
be properly surveyed hereafter; it is understood
however that the land itself, with these small
exceptions becomes the entire property of the
white people for ever; it is also understood
that we are at liberty to hunt over the un-
occupied lands, and to carry on our fisheries
as formerly. We have received as payment
Forty five pounds Sterling. In token
whereof we have signed our names, and
made our marks at Fort Victoria on the

First day of May one thousand eight
hundred and fifty.

Signed
their marks

Ch-chay-wook

x Chief and representatives

U-tā-woogk

x of the family of Choo haytsun

hā-nis-Rayun

x who collectively have ratified
the sale, about 36 in number

The witness see following

270
Soke Sube

Know all Men, We the Chiefs of the family of Soke acting for and in behalf of our People, who being here present, have individually and collectively, ratified, and confirmed this our Act. Now know, that we who have signed our names and made our marks to this deed, on the first day of May one thousand, eight hundred, and fifty, do consent to surrender entirely and for ever to James Douglas the Agent of the Hudson's Bay Company in Vancouver's Island that is to say, for the Governor, Deputy Governor and Committee of the same, the whole of the lands situate and lying between the Bay of Squamish or Soke Sube, to the three rivers beyond "Thloweck" or Point Sherringham on the Straits of Juan de Fuca and the Snow covered mountains in the Interior of Vancouver's Island.

The condition of, or understanding of this sale, is this, that our Village Sites and enclosed Fields are to be kept for our own use, for the use of our children, and for those who may follow after us; and the lands shall be properly surveyed hereafter; it is understood however that the land itself, with these small exceptions becomes the entire property of the white people for ever; it is also understood that we are at liberty to hunt, over the unoccupied lands, and to carry on our

received as formerly.

We have received as payment
Eighty eight pounds six shillings and
eight pence;

As to the whereof we have
signed our names and made our marks
at Port Victoria on the first day of May,
one thousand eight hundred and fifty

Signed

Their Marks

Wauwau	x	Chief commissioned
Wauwau	x	by and representing the
Wauwau	x	to the Tribe here assembled.
Wauwau	x	

Port Victoria
10th May 1850.

Sawitoh Tribe

Know All Men, that we the Chiefs and People of the Sawitoh Tribe who have signed our names and made our marks to this Deed on the 6th day of February 1852 do consent to surrender entirely and for ever, to James Douglas the Agent of the Hudson's Bay Company, in Vancouver's Island that is to say for the Governor, Deputy Governor and Committee of the same, the whole of the lands situate and lying between Mount Douglas and Cowichan Head (Thumā-latchin) in the Canal de Arco and extending thence to the line running through the centre of Vancouver's Island North and South.

The condition of, or understanding of this sale, is this, that our Village Sites and enclosed fields, are to be kept for our own use, for the use of our children, and for those who may follow after us, and the lands shall be properly surveyed hereafter; it is understood however that the land itself with these small exceptions, becomes the entire property of the white People for ever, it is also understood that we are at liberty to hunt over the unoccupied lands, and to carry on our fisheries as formerly. We have received as payment, Forty one pounds, thirteen shillings and four pence. In token whereof we have signed our names, and made our marks at Port Victoria on the sixth day of February, one thousand eight hundred

and petty law.

Signed

Their Marks.

Wah-see-mullet	+	Chief
Wah-see	+	
Wah-see-latchie	+	
Wah-see-latchie	+	
Wah-see-latchie	+	
Wah-see-latchie	+	
Wah-see-latchie	+	
Wah-see-latchie	+	
Wah-see-latchie	+	
Wah-see-latchie	+	

Witness to Signatures

- 1st Joseph William McKay
Clerk. U.S. Co^{rs} Service
- 1st Richard G. Ledge Clerk.

100
Sauitch Tribe

Know all men, that we Chiefs and People of the Sauitch Tribe, who have signed our names and made our marks to this Deed, on the 11th day of February 1832, do consent to surrender entirely and for ever, to James Douglas the Agent of the Hudson's Bay Company in Vancouver's Island, that is to say for the Governor, Deputy Governor and Committee of the same, the whole of the lands situate and lying as follows viz; commencing at Cowichan Head and following the coast of the Canal de Arro north west nearly to Sauitch Point or Quā-nā-sung, from thence following the course of the Sauitch Arm to the point where it terminates, and from thence by a straight line across country to said Cowichan Head the point of commencement; so as to include all the country and lands, with the exceptions hereafter named within those boundaries.

The condition of, or understanding of this sale, is this, that our Village Sites and enclosed fields are to be kept for our own use, for the use of our Children and for those who may follow after us, and the lands shall be properly surveyed hereafter; it is understood however that the land itself with these small exceptions becomes the entire property of the White people for ever, it is also understood that we are at liberty to hunt over the unoccupied lands; and to carry on our fisheries as

That then the British official shall unfurl the British flag over the land so restored in sign of possession. And that after these formalities the officials of the two Crowns shall withdraw, respectively, their people from the said port of Nootka.

Further, Their said Majesties have agreed that the subjects of both nations shall have the liberty of frequenting the said port whenever they wish and of constructing there temporary buildings to accommodate them during their residence on such occasions. But neither of the said parties shall form any permanent establishment in the said port or claim any right of sovereignty or territorial dominion there to the exclusion of the other. And Their said Majesties will mutually aid each other to maintain for their subjects free access to the port of Nootka against any other nation which may attempt to establish there any sovereignty or dominion.

In witness whereof we, the undersigned first secretary of state and of the Cabinet of His Catholic Majesty, and the ambassador and plenipotentiary of His Britannic Majesty, in the name and by the express order of our respective sovereigns, have signed the present agreement, sealing it with the seals of our arms.

Done at Madrid, January 11, 1794.

THE DUKE OF ALCUDIA.
ST. HELENS.

VII

THIRD ARTICLE, CONVENTION OF OCTOBER 20TH, 1818, BETWEEN GREAT
BRITAIN AND THE UNITED STATES

It is agreed, that any country that may be claimed by either party on the northwest coast of America, westward of the Stony Mountains, shall together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from date of the signature of the present convention, to the vessels, citizens, and subjects of the two Powers: it being well understood, that this agreement is not to be construed to the prejudice of any claim, which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves.

VIII

FIFTH ARTICLE, CONVENTION OF OCTOBER 20TH, 1818, BETWEEN GREAT
BRITAIN AND THE UNITED STATES

WHEREAS, it was agreed by the first Article of the treaty of Ghent, that "all territory, places, and possessions whatsoever taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay; and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property;" and whereas under the aforesaid article the United States claim for their citizens, and as their private property, the restitution of, or full compensation for all slaves who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions whatsoever directed by the said treaty to be restored to the United States, but then still occupied by the British forces, whether such slaves were, at the date aforesaid, on shore, or on board any British vessel lying in waters within the territory or jurisdiction of the United States; and whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the treaty of Ghent, the United States are entitled to the restitution of, or full compensation for all or any slaves as above described, the high contracting parties hereby agree to refer the said differences to some friendly Sovereign or State to be named for that purpose; and the high contracting parties further engage to consider the decision of such friendly Sovereign or State, to be final and conclusive on all the matters referred.

E.O.S. Scholefield. British Columbia. (Vol 2)

APPENDIX

I

AN ACT TO PROVIDE FOR THE GOVERNMENT OF BRITISH COLUMBIA

(2nd August, 1858)

WHEREAS divers of Her Majesty's Subjects and others have, by the license and consent of Her Majesty, resorted to and settled on certain wild and unoccupied territories on the North-west Coast of North America, commonly known by the designation of New Caledonia, and from and after the passing of this Act to be named British Columbia, and the Islands adjacent, for mining and other purposes; and it is desirable to make some temporary provision for the Civil Government of such territories, until permanent settlements shall be thereupon established, and the number of colonists increased: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. British Columbia shall, for the purposes of this Act, be held to comprise all such territories within the dominions of Her Majesty as are bounded 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 shall include Queen Charlotte's Island and all the other Islands adjacent to the said territories, except as hereinafter excepted.

2. It shall be lawful for Her Majesty, by any order or orders to be by Her from time to time made, with the advice of Her Privy Council, to make, ordain and establish, and (subject to such conditions or restrictions as to Her shall seem meet) to authorize and empower such officer as She may from time to time appoint as Governor of British Columbia, to make provision for the administration of justice therein, and generally to make, ordain, and establish all such laws, institutions, and ordinances as may be necessary for the peace, order, and good government of Her Majesty's subjects and others therein; provided that all such Orders in Council, and all Laws and Ordinances so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

3. Provided always, that it shall be lawful for Her Majesty, so soon as She may deem it convenient, by any such Order in Council as aforesaid, to constitute or to authorize and empower such officer to constitute a Legislature to make laws for the peace, order, and good government of British Columbia, such Legislature to consist of the Governor and a Council, or Council and Assembly, to be composed of such and so many persons, and to be appointed or elected in such manner and for such periods, and subject to such regulations as to Her Majesty may seem expedient.

4. And whereas an Act was passed in the forty-third year of 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 the certain parts of North America adjoining to the said Provinces:" And whereas by an Act passed in the second year of 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," it was enacted that from and after the passing of that Act the Courts of Judicature then existing or which might be thereafter established in the Province of Upper Canada should have the same civil jurisdiction, power, and authority within the Indian territories and other parts of America, not within the limits of either of the Provinces of Lower or Upper Canada, or of any Civil Government of the United States, as the said Courts

had or were invested with within the limits of the said Provinces of Lower or Upper Canada respectively, and that every contract, agreement, debt, liability, and demand made, entered into, incurred, or arising within the said Indian territories and other parts of America, and every wrong and injury to the person or to property committed or done within the same, should be and be deemed to be of the same nature, and be cognizable and be tried in the same manner, and subject to the same consequences in all respects, as if the same had been made, entered into, incurred, arisen, committed, or done within the said Province of Upper Canada; and in the same Act are contained provisions for giving force, authority, and effect within the said Indian territories and other parts of America to the process and acts of the said Courts of Upper Canada; and it was thereby also enacted, that it should be lawful for His Majesty, if He should deem it convenient so to do, to issue a commission or commissions to any person or persons to be and act as Justices of the Peace within such parts of America as aforesaid, as well within any territories theretofore granted to the Company of Adventurers of England trading to Hudson's Bay, as within the Indian territories of such other parts of America as aforesaid; and it was further enacted, that it should be lawful for His Majesty from time to time by any commission under the great seal to authorize and empower any such persons so appointed Justices of the Peace as aforesaid, to sit and hold Courts of Record for the trial of criminal offences and misdemeanours, and also of civil causes, and it should be lawful for His Majesty to order, direct, and authorize the appointment of proper officers to act in aid of such Courts and Justices within the jurisdiction assigned to such Courts and Justices in any such commission, provided that such Courts should not try any offender upon any charge or indictment for any felony made the subject of capital punishment, or for any offence or passing sentence affecting the life of any offender, or adjudge or cause any offender to suffer capital punishment or transportation, or take cognizance of or try any civil action or suit in which the cause of such suit or action should exceed in value the amount or sum of two hundred pounds, and in every case of any offence subjecting the person committing the same to capital punishment or transportation, the Court, or any Judge of any such Court, or any Justice or Justices of the Peace before whom any such offender should be brought, should commit such offender to safe custody, and cause such offender to be sent in such custody for trial in the Court of the Province of Upper Canada.

From and after the proclamation of this Act in British Columbia the said Act of the forty-third year of King George the Third, and the said recited provisions of the said Act of the second year of King George the Fourth, and the provisions contained in such Act for giving force, authority, and effect within the Indian territories and other parts of America to the process and acts of the said Courts of Upper Canada, shall cease to have force in and to be applicable to British Columbia.

5. Provided always, that all judgments given in any civil suit in British Columbia shall be subject to appeal to Her Majesty in Council, in the manner and subject to the regulations in and subject to which appeals are now brought from the Civil Courts of Canada, and to such further or other regulations as Her Majesty, with the advice of Her Privy Council, shall from time to time appoint.

6. No part of the Colony of Vancouver Island, as at present established, shall be comprised within British Columbia for the purpose of this Act; but it shall be lawful for Her Majesty, Her heirs and successors, on receiving at any time during the continuance of this Act, a joint Address from the two Houses of the Legislature of Vancouver Island, praying for the Incorporation of that Island with British Columbia by order to be made as aforesaid, with the advice of Her Privy Council, to annex the said Island to British Columbia, subject to such conditions and regulations as to Her Majesty shall seem expedient; and thereupon and from the date of the publication of such order in the said Island, or such other date as may be fixed in such order, the provisions of this Act shall be held to apply to Vancouver Island.

7. In the construction of this Act the term "Governor" shall mean the person for the time being lawfully administering the Government of British Columbia.

8. This Act shall continue in force until the thirty-first day of December, One thousand eight hundred and sixty-two, and thenceforth to the end of the next Session of Parliament: Provided always, that the expiration of this Act shall not affect the boundaries hereby defined, or the right of appeal hereby given, or any act done or right or title acquired under or by virtue of this Act, nor shall the expiration of this Act revive the Acts or parts of Acts hereby repealed.

II

AN ACT TO DEFINE THE BOUNDARIES OF THE COLONY OF BRITISH COLUMBIA,
AND TO CONTINUE AN ACT TO PROVIDE FOR THE GOVERNMENT OF THE
SAID COLONY.

(28th July, 1863)

WHEREAS it is desirable to amend and continue an Act passed in the Twenty-first and Twenty-second Year of Her Majesty, Chapter Ninety-nine, intituled, "An Act to provide for the Government of British Columbia": Be It Therefore enacted by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The first section of the aforesaid Act is repealed.
2. The remaining sections of the said Act shall continue in force till the thirty-first day of December One thousand eight hundred and sixty-three, and no longer, provided that the expiration of the said Act shall not invalidate any Order in Council or other Instrument issued under authority of the said Act, nor any act done or right or title acquired by virtue of the said Act, nor affect the right of appeal thereby given, nor revive any Acts or parts of Acts of Parliament thereby repealed.
3. British Columbia shall for the purposes of the said Act, and for all other purposes, be held to comprise all such territories within the Dominions of Her Majesty as are bounded to the South by the Territories of the United States of America, to the West by the Pacific Ocean and the Frontier of the Russian Territories in North America, to the North by the sixtieth Parallel of North Latitude, and to the East, from the Boundary of the United States Northwards by the Rocky Mountains and the One hundred and twentieth Meridian of West Longitude, and shall include Queen Charlotte's Island and all other Islands adjacent to the said Territories, except Vancouver's Island and the Islands adjacent thereto.

III

AN ACT FOR THE UNION OF THE COLONY OF VANCOUVER ISLAND WITH THE
COLONY OF BRITISH COLUMBIA

(6th August, 1866)

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:—

1. This Act may be cited as "The British Columbia Act, 1866."
2. In this Act the term "Governor" means any officer for the time being lawfully administering the Government.
3. From and immediately after the Proclamation of this Act by the Governor of British Columbia, the Colony of Vancouver Island shall be and the same is hereby united with the Colony of British Columbia, and thenceforth those two Colonies shall form and be one Colony, with the name of British Columbia (which Union is in this Act referred to as the Union.).
4. On the Union taking effect, the form of Government existing in Vancouver Island as a separate Colony shall cease, and the power and authority of the Executive Government and of the Legislature existing in British Columbia shall extend to and over Vancouver Island; but in order that provision may be made for the representation of Vancouver Island in the Legislature of British Columbia after the Union, the maximum number of Councillors in the Legislative Council of British Columbia after the Union shall, until it is otherwise provided by lawful authority, be twenty-three instead of fifteen.
5. After and notwithstanding the Union the Laws in force in the separate Colonies of British Columbia and Vancouver Island respectively at the time of the Union taking effect shall, until it is otherwise provided by lawful authority, remain in force as if this Act had not

been passed or proclaimed; save only that the laws relative to the Revenue of Customs in force in British Columbia at the time of the Union taking effect shall, until it is otherwise provided by lawful authority, extend and apply to Vancouver Island; and until it is otherwise provided by lawful authority, the Governor of British Columbia shall have, in relation to the territory for the time being under his Government, all the powers and authorities for the time being vested, in relation to the United Kingdom, in the Commissioners of Her Majesty's Treasury or in the Commissioners of Customs, with respect to the appointment of Warehousing Ports, and the approval and appointment of warehouses or places of security in such ports, and everything consequent thereon or relative thereto.

6. Nothing in this Act shall take away or restrict the authority of the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, to make laws for the peace, order, and good Government of British Columbia either before or after the Union; nor shall anything in this Act interfere with the exercise of any power that would have been exercisable by Her Majesty in Council if this Act had not been passed.

7. Until the Union British Columbia shall comprise all such Territories within the Dominions of Her Majesty as are bounded to the South by the Territories of the United States of America, to the West by the Pacific Ocean and the Frontier of the Russian Territories in North America, to the North by the Sixtieth Parallel of North Latitude, and to the East from the Boundary of the United States Northwards by the Rocky Mountains and the one hundred and twentieth Meridian of West Longitude, and shall include Queen Charlotte's Island and all other Islands adjacent to the said Territories, except Vancouver Island and the Islands adjacent thereto.

8. After the Union, British Columbia shall comprise all the Territories and Islands aforesaid, and Vancouver Island and the Islands adjacent thereto.

9. The Acts described in the Schedule to this Act are hereby repealed; but this repeal shall not invalidate any Order in Council or other Instrument issued under the authority of those Acts or either of them, or any act done or right or title acquired by virtue of those Acts or either of them, or of any such order or instrument.

SCHEDULE

Acts Repealed

21 & 22 Vict., c. 99.—An Act to provide for the Government of British Columbia.

26 & 27 Vict., c. 83.—An Act to define the Boundaries of the Colony of British Columbia, and to continue an Act to provide for the Government of the said Colony.

PROCLAMATION

By Proclamation bearing date 17th November, 1866, and intituled "Union Proclamation, 1866," the above Act was proclaimed by His Excellency Frederick Seymour, Governor of the Colony of British Columbia.

IV

THE RE-CONVEYANCE 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 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, 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 "Dutnell's" Farm, all which said excepted lands (save the lands comprised under 17, and 20, containing in the whole fifty acres, more or less, recently selected by 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 hereinafore 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,
 8 Park Street, Westminster. Clerk at the Government Emigration Board.

V

AN ACT TO MAKE FURTHER PROVISION FOR THE GOVERNMENT OF BRITISH COLUMBIA

(9th August, 1870)

WHEREAS in pursuance of the powers vested in Her Majesty by an Act passed in the session holden in the twenty-first and twenty-second years of Her Majesty's reign, intituled "An Act to provide for the Government of British Columbia," Her Majesty did, by an Order in Council bearing date the eleventh day of June, one thousand eight hundred and sixty-three, constitute a Legislature consisting of the Governor and a Legislative Council in the said colony of British Columbia:

And whereas by the "British Columbia Act of 1866," Vancouver Island was united to British Columbia and made subject to the said Legislature, and the number of the Legislative Council was increased so as to provide for the representation of Vancouver Island:

And whereas it is expedient to alter the constitution of the said Legislature:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "British Columbia Government Act, 1870."
2. For the purposes of this Act the term "Governor" shall mean the officer for the time being administering the Government of British Columbia.
3. Her Majesty may, by any Order or Orders in Council, revoke the said recited Order in Council, and may from time to time make, and when made revoke or alter, Orders in Council for constituting a Legislature consisting of the Governor and a Legislative Council for the said Colony, and may by any such Order make such provisions and regulations respecting the constitution, powers and proceedings of the said Legislature or either branch thereof, the number, the appointment and election of the members of the Legislative Council, their tenure of office and generally in respect to such Legislature or either branch thereof, as may seem to her expedient.
4. Her Majesty may from time to time, by any such Order or Orders in Council, empower the Governor of the said colony, with or without any conditions or restrictions, by proclamations to determine the qualification of electors and of elective members of the Legislative Council and to make provision for the division of the said colony into convenient electoral districts; for the registration of persons qualified to vote, and the compilation and revision of lists of all such persons; for the appointment of returning officers; for the issuing, executing and returning the necessary writs for the election of members to the said Legislative Council; for taking the poll thereat, and determining the validity of all disputed returns; and generally for securing the orderly, effective and impartial conduct of such elections, and to revoke any proclamation previously made.

VI

THE TERMS OF UNION

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.
2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance, from the General Government, interest at the rate of five per cent per annum on the difference

between the actual amount of its indebtedness at the date of the Union and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance; such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication, between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services:—

- A. Salary of the Lieutenant-Governor;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;
- C. The charges in respect to the Department of Customs;
- D. The Postal and Telegraphic Services;
- E. Protection and encouragement of Fisheries;
- F. Provision for the Militia;
- G. Lighthouses, Buoys, and Beacons, Shipwrecked Crews, Quarantine and Marine Hospitals, including a Marine Hospital at Victoria;
- H. The Geological Survey;
- I. The Penitentiary.

And such further charges as may be incident to and connected with the services which, by the "British North America Act of 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing Customs Tariff and Excise Duties shall continue in force in British Columbia until the Railway from the Pacific Coast and the system of Railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the tariff and excise laws of Canada. When customs and excise duties are, at the time of the union of British Columbia with Canada, leviable on any goods, wares, or merchandises in British Columbia, or in the other Provinces of the Dominion, those goods, wares, and merchandises may, from and after the union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the customs or excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs or excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the tariff and excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia, in the same way and to the like intent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a Railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky

Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such Railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in the furtherance of the construction of the said Railway, a similar extent of public lands along the line of Railway, throughout its entire length in British Columbia, not to exceed, however, Twenty (20) Miles on each side of the said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the North-West Territories and the Province of Manitoba. Provided, that the quantity of lands which may be held under preemption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and, provided, further, that until the commencement within two years, as aforesaid, from the date of the Union, of the construction of the said Railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of preemption, requiring actual residence of the preemptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said Railway, the Dominion Government agree to pay to British Columbia, from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding 100,000 sterling, as may be required for the construction of a first class Graving Dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians, on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the Executive Authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of Responsible Government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty, by and with the advice of Her Most Honourable Privy Council, may appoint, on Addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada, in the terms of the 146th Section of the "British North America Act, 1867," and British Columbia may in its Address specify the Electoral Districts for which the first election of members to serve in the House of Commons shall take place.

VII

BRITISH NORTH AMERICA ACT

AN ACT FOR THE UNION OF CANADA, NOVA SCOTIA, AND NEW BRUNSWICK, AND THE GOVERNMENT THEREOF; AND FOR PURPOSES CONNECTED THEREWITH

(29th March, 1867)

WHEREAS the Provinces of Canada, Nova Scotia and New Brunswick, have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in principle to that of the United Kingdom:

E.O.S. Scholefield. British Columbia. (Vol. I).

APPENDIX

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IX

HUDSON'S BAY AND NORTH-WEST COMPANIES' LICENSE OF EXCLUSIVE
TRADE, 1821GEORGE R.
(L. S.)GEORGE THE FOURTH, BY THE GRACE OF GOD OF THE UNITED KINGDOM OF GREAT BRITAIN
AND IRELAND KING, DEFENDER OF THE FAITH.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING.

WHEREAS an Act passed in the second year of our reign, intituled, "An Act for regulating the Fur Trade, and for establishing a Criminal and Civil Jurisdiction within certain parts of North America;" wherein it is amongst other things enacted, that "from and after the passing of the said Act, it should be lawful for us, our heirs or successors, to make Grants or give our Royal License, under the hand and seal of one of our 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 heretofore granted to the Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of our provinces in North America, or of any lands or territories belonging to the United States of America, and that all such Grants and Licenses should be good, valid and effectual, for the purpose of securing to all such bodies corporate, or companies or persons, the sole and exclusive privilege of trading with the Indians in all such parts of North America (except as thereafter excepted) as should be specified in such Grants or Licenses, any thing contained in any Act or Acts of Parliament or any law to the contrary notwithstanding; and it was in the said Act further enacted, that no such Grant or License made or given by us, our heirs or successors, of any such exclusive privileges of trading with the Indians in such parts of North America as aforesaid should be made or given for any longer period than 21 years, and that no rent should be required or demanded for or in respect of any such Grant or License, or any privileges given thereby, under the provisions of the said Act, for the first period of 21 years; and it was further enacted, that from and after the passing of the said Act, the Governor and Company of Adventurers of England trading to Hudson's Bay, and every body corporate and company and person, to whom every such Grant or License should be made or given as aforesaid, should respectively keep accurate registers of all persons in their employ, in any parts of North America, and should once in each year return to our Principal Secretaries of State accurate duplicates of such registers, and should also enter into such security as should be required by us for the due execution of all criminal processes, and of any civil process in any suit where the matter in dispute shall exceed 200 £., and as well within the territories included in any such Grant as within those granted by Charter to the Governor and Company of Adventurers of England trading to Hudson's Bay, and for the producing and delivering into safe custody, for the purpose of trial, all persons in their employ, or acting under their authority, who should be charged with any criminal offence, and also for the due and faithful observance of all such rules, regulations and stipulations as should be contained in any such Grant or License, either for gradually diminishing and ultimately preventing the sale or distribution of spirituous liquors to the Indians, or for promoting their moral and religious improvement; or for any other object which we might deem necessary for the remedy or prevention of any other evils which have been hitherto found to exist: And whereas it was also in the said Act recited, that by a Convention entered into between his late Majesty and the United States of America, it was stipulated and agreed, that every country on the North-west coast of America to the westward of the Stoney Mountains should be free and open to the citizens and subjects of the two powers for the term of ten years from the date of the signature of that Convention; and it was therefore enacted, that nothing in the said Act contained should be deemed or construed to authorize any body corporate, company or person, to whom his Majesty might, under the provisions of the said Act, make or grant, or give a license of exclusive trade with the Indians, in such parts of North America as aforesaid, to claim or exercise any such exclusive trade within the limits specified in the said article, to the prejudice or exclusion of any citizens of the said United States of America who might be engaged in the said trade: Provided always, that no British subject should trade with the Indians within such limits without such Grant or License as was by the said Act required.

And whereas the said Governor and Company of Adventurers of England trading into Hudson's Bay, and certain Associations of persons trading under the name of the "North-west Company of Montreal," have respectively extended the fur trade over many parts of North America which had not been before explored: And whereas the competition in the said trade has been found for some years past to be productive of great inconvenience and loss, not only to the said Company and Associations, but to the said trade in general, and also of great injury to the native Indians, and of other persons our subjects: And whereas the said Governor and Company of Adventurers of England trading into Hudson's Bay, and William M'Gillivray, of Montreal, in the Province of Lower Canada, esquire, Simon M'Gillivray, of Suffolk-lane, in the City of London, merchant, and Edward Ellice, of Spring-gardens, in the County of Middlesex, esquire, have represented to us, that they have entered into an agreement, on the 26th day of March last, for putting an end to the said competition, and carrying on the said trade for 21 years, commencing with the outfit of 1827, and ending with the returns of 1847, to be carried on in the name of the said Governor and Company exclusively:

And whereas the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, have humbly besought us to make a Grant, and give our Royal License to them jointly, of and for the exclusive privilege of trading with the Indians in North America, under the restrictions and upon the terms and conditions specified in the said recited Act: Now know ye, That we, being desirous of encouraging the said trade and remedying the evils which have arisen from the competition which has heretofore existed therein, do grant and give our Royal License, under the hand and seal of one of our Principal Secretaries of State, to the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, 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 shall not form part of any 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; and we do by these presents give, grant and secure to the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice jointly, the sole and exclusive privilege, for the full period of 21 years from the date of this our Grant, of trading with the Indians in all such parts of North America as aforesaid (except as therein-after excepted); and we do hereby declare that no rent shall be required or demanded for or in respect of this our Grant and License, or any privileges given thereby, for the said period of 21 years, but that the said Governor and Company, and the said William M'Gillivray, Simon M'Gillivray and Edward Ellice shall, during the period of this our Grant and License, keep accurate registers of all persons in their employ in any parts of North America, and shall once in each year return to our Secretary of State accurate duplicates of such registers, and shall also enter into and give security to us, our heirs and successors, in the penal sum of 5,000 £. for ensuring, as far as in them may lie, the due execution of all criminal processes, and of any civil process in any suit where the matter in dispute shall exceed 200 £., by the officers and persons legally empowered to execute such processes within all the territories included in this our Grant, and for the producing and delivering into safe custody, for purposes of trial, any persons in their employ, or acting under their authority within the said territories, who may be charged with any criminal offence.

And we do also hereby require, that the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice shall, as soon as the same can be conveniently done, make and submit for our consideration and approval such rules and regulations for the management and carrying on the said fur trade with the Indians, and the conduct of the persons employed by them therein, as may appear to us to be effectual for gradually diminishing or ultimately preventing the sale or distribution of spirituous liquors to the Indians, and for promoting their moral and religious improvement.

And we do hereby declare, that nothing in this our Grant contained shall be deemed or construed to authorize the said Governor and Company, or William M'Gillivray, Simon M'Gillivray and Edward Ellice, or any person in their employ, to claim or exercise any trade with the Indians on the north-west coast of America to the westward of the Stony Mountains, to the prejudice or exclusion of any citizens of the United States of America, who may be engaged in the said trade: Provided always, that no British subjects other than and except the said Governor and Company, and the said William M'Gillivray, Simon M'Gillivray and Edward

Ellice, and the persons authorized to carry on exclusive trade by them on Grant, shall trade with the Indians within such limits during the period of this our Grant.

Given at our Court at Carlton-house the 5th day of December, 1821, in the second year of our reign.

By his Majesty's command.

(L. S.) BATHURST.

X

CONVENTION OF 1827 CONTINUING IN FORCE ARTICLE III, TREATY OF 1818

CONCLUDED AUGUST 6, 1827; RATIFICATION ADVISED BY THE SENATE FEBRUARY 5, 1828; RATIFIED BY THE PRESIDENT FEBRUARY 21, 1828; RATIFICATIONS EXCHANGED APRIL 2, 1828; PROCLAIMED MAY 15, 1828.

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, being equally desirous to prevent, as far as possible, all hazard of misunderstanding between the two nations, with respect to the territory on the north-west coast of America, west of the Stony or Rocky Mountains, after the expiration of the third article of the convention concluded between them on the twentieth of October, 1818; and also with a view to give further time for maturing measures which shall have for their object a more definite settlement of the claims of each party to the said territory, have respectively named their Plenipotentiaries to treat and agree concerning a temporary renewal of the said article, that is to say:

The President of the United States of America, Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to His Britannick Majesty; and His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honourable Charles Grant, a member of his said Majesty's Most Honourable Privy Council, a member of Parliament, and Vice-President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations; and Henry Unwin Addington, Esquire:

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE I

All the provisions of the third article of the convention concluded between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland on the twentieth of October, 1818, shall be, and they are hereby, further indefinitely extended and continued in force, in the same manner as if all the provisions of the said article were herein specifically recited.

ARTICLE II

It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the twentieth of October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly entirely annulled and abrogated, after the expiration of the said term of notice.

ARTICLE III

Nothing contained in this convention, or in the third article of the convention of the twentieth of October, 1818, hereby continued in force, shall be construed to impair, or in any manner affect, the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky Mountains.

ARTICLE IV

The present convention shall be ratified, and the ratifications shall be exchanged in nine months, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London the sixth day of August, in the year of our Lord one thousand eight hundred and twenty-seven.

(SEAL)
(SEAL)
(SEAL)

ALBERT GALLATIN;
CHAS. GRANT.
HENRY UNWIN ADDINGTON.

XI

CROWN GRANT OF THE HUDSON'S BAY COMPANY OF THE EXCLUSIVE TRADE WITH THE INDIANS IN CERTAIN PARTS OF NORTH AMERICA, FOR A FURTHER TERM OF TWENTY-ONE YEARS, AND UPON THE SURRENDER OF A FORMER GRANT.

VICTORIA R.

(L. S.)

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 an Act passed in the Session of Parliament holden in the first and second year 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," it was amongst other things enacted, that from and after the passing of the said Act, it should be lawful for his said Majesty, his heirs or successors, to make Grants, or give his or their Royal License, under the hand and seal of one of his or their 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 and territories theretofore granted to the Governor and Company of Adventurers of England trading to Hudson's Bay, and not being any part of any of our Provinces in North America, or of any lands or territories belonging to the United States of America, and that all such Grants and Licenses should be good, valid and effectual for the purpose of securing to all such bodies corporate, or companies or persons, the sole and exclusive privilege of trading with the Indians in all such parts of North America (except as thereafter excepted) as should be specified in such Grants or Licenses, anything contained in any Act or Acts of Parliament, or any law to the contrary notwithstanding; and it was further enacted, that no such Grant or License made or given by his said Majesty, his heirs or successors, of any such exclusive privileges of trading with the Indians in such parts of North America as aforesaid, should be made or given for any longer period than 21 years, and that no rent should be required or demanded for or in respect of any such Grant or License, or any privileges given thereby under the provisions of the said Act for the first period of 21 years; and it was further enacted, that from and after the passing of the said Act, the Governor and Company of Adventurers trading to Hudson's Bay, and every body corporate and company and person to whom any such Grant or License should be made or given as aforesaid, should respectively keep accurate registers of all persons in their employ in any parts of North America, and should once in each year return to the Principal Secretaries of State accurate duplicates of such registers, and should also enter into such security as should be required for the due execution of all processes criminal and civil, as well within the territories included within any such Grant, as within those granted by Charter to the Governor and Company of Adventurers of England trading to Hudson's Bay, and for the producing or delivering into safe custody, for the purpose of trial, all persons in their employ or acting under their authority, who should be charged with any criminal offence, and also for the due and faithful observance of all such rules, regulations and stipulations as should be contained in any such Grant or License, either for gradually diminishing and ultimately preventing the sale or distribution of spirituous liquors to the Indians, or for promoting their moral and religious improvement or for any other object which might be deemed necessary for the remedy or prevention of any other evils which had hitherto been found to exist: And whereas it was in the said Act recited, that by a convention entered into between his said late Majesty and the United States of America, it was stipulated and agreed, that every country on the North-west coasts of America to the westward of the Stoney Mountains should be

free and open to the citizens and subjects of the two powers for the term of ten years from the date of the signature of that convention; and it was therefore enacted, that nothing in the said Act contained should be deemed or construed to authorize any body corporate, company or person to whom his said Majesty might, under the provisions of the said Act, make or grant or give a License of exclusive trade with the Indians in such parts of North America as aforesaid, to claim or exercise any such exclusive trade within the limits specified in the said article, to the prejudice or exclusion of any citizens of the said United States of America who might be engaged in the said trade; with a proviso, that no British subject should trade with the Indians within such limits without such Grant or License as was by the said Act required:

And whereas by an instrument under the hand and seal of the Right Honourable Earl Bathurst, then one of his said late Majesty's Secretaries of State, and dated the 6th day of December 1821, after reciting therein, as or to the effect aforesaid, and also reciting that the said Governor and Company of Adventurers of England trading to Hudson's Bay, and certain Associations of persons trading under the name of "The North-west Company of Montreal," had respectively extended the fur trade over many parts of North America which had not been before explored, and that the competition in the said trade had been found, for some years then past, to be productive of great inconvenience and loss, not only to the said Company and Associations, but to the said trade in general, and also of great injury to the native Indians and of other persons his said Majesty's subjects; and that the said Governor and Company of Adventurers trading to Hudson's Bay; and William M'Gillivray of Montreal, in the Province of Lower Canada, esquire; Simon M'Gillivray, of Suffolk-lane, in the city of London, merchant; and Edward Ellice, of Spring-gardens, in the county of Middlesex, esquire; had represented to his said Majesty that they had entered into an agreement, on the 26th day of March last, for putting an end to the said competition, and carrying on the said trade for 21 years, commencing with the outfit of 1821, and ending with the returns of the outfit of 1841, to be carried on in the name of the said Governor and Company exclusively, and that the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice had humbly besought his said late Majesty to make a Grant and give his Royal License to them jointly of and for the exclusive privilege of trading with the Indians in North America, under the restrictions and upon the terms and conditions specified in the said recited Act; his said late Majesty, being desirous of encouraging the said trade, and remedying the evils which had arisen from the competition which had theretofore existed therein, did give and grant his Royal License, under the hand and seal of one of his Principal Secretaries of State, to the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, 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 said lands and territories belonging to the United States of America, as should not form part of any of his said Majesty's 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; and his said late Majesty did also give and grant and secure to the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, the sole and exclusive privilege, for the full period of 21 years from the date of that Grant, of trading with the Indians in all such parts of North America as aforesaid (except as thereafter excepted), and did thereby declare that no rent should be required or demanded for or in respect of that Grant and License, or any privileges given thereby for the said period of 21 years, but that the said Governor and Company of Adventurers trading to Hudson's Bay, and the said William M'Gillivray, Simon M'Gillivray and Edward Ellice, should, during the period of that Grant and License, keep accurate registers of all persons in their employ in any parts of North America, and should once in each year return to his said Majesty's Secretary of State accurate duplicates of such registers, and enter into and give security to his said Majesty, his heirs and successors, in the penal sum of 5,000 £., for ensuring, as far as in them might lay, or as they could by their authority over the servants and persons in their employ, the due execution of all criminal processes, and of every civil process in any suit where the matter in dispute shall exceed 200 £., by the officers and persons legally empowered to execute such processes within all the territories included in that Grant, and for the producing or delivering into custody for purposes of trial all persons in their employ or acting under their authority within the said territories, who should be charged with any criminal offence; and his said Majesty did thereby require that the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, should, as soon as the same could

be conveniently done, make and submit for his said Majesty's consideration and approval, such rules and regulations for the management and carrying on of the said fur trade with the Indians, and the conduct of the persons employed by them therein, as might appear to his said Majesty to be effectual for diminishing or preventing the sale or distribution of spirituous liquors to the Indians, and for promoting their moral and religious improvement; and his said Majesty did thereby declare, that nothing in that Grant contained should be deemed or construed to authorize the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, or any persons in their employ, to claim or exercise any trade with the Indians on the North-west coast of America to the westward of Stoney Mountains, to the prejudice or exclusion of any citizens of the United States of America who might be engaged in the said trade; and providing also by the now reciting Grant, that no British subjects other than and except the said Governor and Company, and the said William M'Gillivray, Simon M'Gillivray and Edward Ellice, and the persons authorized to carry on exclusive trade by them on Grant, should trade with the Indians within such limits during the period of that Grant:

And whereas the said Governor and Company have acquired to themselves all the rights and interests of the said William M'Gillivray, Simon M'Gillivray and Edward Ellice, under the said recited Grant, and the said Governor and Company having humbly besought us to accept a surrender of the said Grant, and in consideration thereof to make a Grant to them, and give to them our Royal License and authority of and for the like exclusive privilege of trading with the Indians in North America, for the like period and upon similar terms and conditions to those specified and referred to in the said recited Grant: Now know ye, That in consideration of the surrender made to us of the said recited Grant, and being desirous of encouraging the said trade, and of preventing as much as possible a recurrence of the evils mentioned or referred to in the said recited Grant; as also in consideration of the yearly rent hereinafter reserved to us, We do hereby grant and give our License, under the hand and seal of one of our Principal Secretaries of State, 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 to the westward of the lands and territories belonging to the United States of America, as shall not form part of any 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 hereinafter mentioned: And we do by these presents give, grant and secure to the said Governor and Company, and their successors, the sole and exclusive privilege, for the full period of 21 years from the date of this our Grant, of trading with the Indians in all such parts of North America as aforesaid (except as hereinafter mentioned): And we do hereby declare, that no rent shall be required or demanded for or in respect of this our Grant and License, or any privileges given thereby, for the first four years of the said term of 21 years; and we do hereby reserve to ourselves, our heirs and successors, for the remainder of the said term of 21 years, the yearly rent or sum of 5*l.* to be paid by the said Governor and Company, or their successors, on the first day of June in every year, into our Exchequer, on the account of us, our heirs and successors; and we do hereby declare, that the said Governor and Company, and their successors, shall, during the period of this our Grant and License, keep accurate registers of all persons in their employ in any parts of North America, and shall once in each year return to our Secretary of State accurate duplicates of such registers; and shall also enter into and give security to us, our heirs and successors, in the penal sum of 5,000 *l.*, for ensuring, as far as in them may lie, or as they can by their authority over the servants and persons in their employ, the due execution of all criminal and civil processes by the officers and persons legally empowered to execute such processes within all the territories included in this our Grant, and for the producing or delivering into custody for the purposes of trial all persons in their employ or acting under their authority within the said territories who shall be charged with any criminal offence: And we do also hereby require, that the said Governor and Company, and their successors, shall, as soon as the same can be conveniently done, make and submit for our consideration and approval such rules and regulations for the management and carrying on the said fur trade with the Indians, and the conduct of the persons employed by them therein, as may appear to us to be effectual for diminishing or preventing the sale or distribution of spirituous liquors to the Indians, and for promoting their moral and religious improvement: But we do hereby declare, that nothing in this our Grant contained shall be deemed or construed to authorize the said Governor and Company, or their successors, or any persons in their

employ, to claim or exercise any trade with the Indians on the North-west coast of America to the westward of the Stony Mountains, to the prejudice or exclusion of any of the subjects of any foreign states, who, under or by force of any convention for the time being between us and such foreign states respectively, may be entitled to and shall be engaged in the said trade: Provided nevertheless, and we do hereby declare our pleasure to be, that nothing herein contained shall 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 for annexing any part of the aforesaid territories to any existing colony or colonies to us, in right of our Imperial Crown, belonging, or for constituting any such form of civil government as to us may seem meet, within any such colony or colonies, province or provinces:

And we do hereby reserve to us, our heirs and successors, full power and authority to revoke these presents, or any part thereof, in so far as the same may embrace or extend to any of the territories aforesaid, which may hereafter be comprised within any colony or colonies, province or provinces as aforesaid:

It being nevertheless hereby declared, that no British subjects other than and except the said Governor and Company, and their successors, and the persons authorized to carry on exclusive trade by them, shall trade with the Indians during the period of this our Grant within the limits aforesaid, or within that part thereof which shall not be comprised within any such colony or province as aforesaid.

Given at our Court at Buckingham Palace, 30th day of May, 1838.

By Her Majesty's command.

(L. S.) (signed) GLENELG.

XII

TREATY ESTABLISHING BOUNDARY WEST OF THE ROCKY MOUNTAINS, 1846

CONCLUDED JUNE 15, 1846; RATIFICATION ADVISED BY THE SENATE JUNE 18, 1846; RATIFIED BY THE PRESIDENT JUNE 19, 1846; RATIFICATIONS EXCHANGED JULY 17, 1846; PROCLAIMED AUGUST 5, 1846.

ARTICLES

- | | |
|-------------------------------------------|-----------------------------------------------------|
| I. Boundary established; free navigation. | IV. Property of Puget's Sound Agricultural Company. |
| II. Navigation of Columbia River. | V. Ratification. |
| III. Property rights. | |

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, deeming it to be desirable for the future welfare of both countries that the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two parties over the said territory, have respectively named Plenipotentiaries to treat and agree concerning the terms of such settlement, that is to say:

The President of the United States of America has, on his part, furnished with full powers James Buchanan, Secretary of State of the United States, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on her part, appointed the Right Honourable Richard Pakenham, a member of Her Majesty's Most Honourable Privy Council, and Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island; and thence southerly through the middle of the said channel, and of Fuca'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, remain free and open to both parties.

ARTICLE II

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall, in like manner, be free and open. In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present treaty.

ARTICLE III

In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

ARTICLE IV

The farms, lands, and other property of every description belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia River, shall be confirmed to the said company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States Government should signify a desire to obtain possession of the whole, or of any part thereof, the property so required shall be transferred to the said Government, at a proper valuation, to be agreed upon between the parties.

ARTICLE V

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at London, at the expiration of six months from the date hereof, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington the fifteenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

(Seal)
(Seal)

JAMES BUCHANAN.
RICHARD PAKENHAM.

XIII

CHARTER OF GRANT OF VANCOUVER'S ISLAND TO THE HUDSON'S BAY COMPANY, DATED 13 JANUARY, 1849, AND CORRESPONDENCE BETWEEN THE COLONIAL OFFICE AND THE HUDSON'S BAY COMPANY THEREON, SINCE DATE OF LAST PAPERS LAID BEFORE THE HOUSE OF COMMONS.

VANCOUVER'S ISLAND—ROYAL GRANT

VICTORIA, BY THE GRACE OF GOD OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND QUEEN, DEFENDER OF THE FAITH.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING.

WHEREAS by the Royal Charter or Letters Patent of his late Majesty King Charles the Second, bearing date the 2d day of May in the 22 year of his reign, his said late Majesty did

(amongst other things) ordain and declare that the Governor and Company of Adventurers of England trading into Hudson's Bay, thereby incorporated, and their successors by that name, should at all times thereafter be personable and capable in law to have, purchase, receive, possess and enjoy and retain lands, rents, privileges, liberties, jurisdictions, franchises and hereditaments, of what nature or kind soever they were, to them or their successors: And also to give, grant, demise, alien, assign and dispose lands, tenements and hereditaments, and to do and execute all and singular other things by the same name that to them should or might appertain to do:

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

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

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

And whereas by an Act passed in the Session of Parliament holden in the first and second years of the reign of his late Majesty King George the Fourth, intituled, "An Act for regulating the Fur Trade, and establishing a Criminal and Civil Jurisdiction within certain Parts of North America," after reciting, among other things, that doubts had been entertained whether the provisions of said Act of the 43d year of George the Third, extended to the territories granted by charter to the said Governor and Company, and that it was expedient that such doubts should be removed, and that the said Act should be further extended; it was enacted (amongst other things), that from and after the passing of said last-mentioned Act, it should be lawful for his then Majesty, his heirs and successors, to make grants, or give his royal

license, under the hand and seal of one of his Majesty's Principal Secretaries of State, to any body corporate or company, or person or persons, of or for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any of such grants or licenses respectively, not being part of the lands or territories theretofore granted to the said Governor and Company of Adventurers of England trading into Hudson's Bay, and not being part of any of his Majesty's provinces in North America, or of any lands or territories belonging to the United States of America, subject to the provisions and restrictions in the said Act mentioned:

And it was thereby further enacted, that the said Act of the 43d year 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 13th day of May 1838, under the hand and seal of one of Our then Principal Secretaries of State, We granted and gave Our license to the said Governor and Company and their successors, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and westward of the lands and territories belonging to the United States of America as should not form part of any of Our provinces in North America, or of any lands or territories belonging to the United States of America, or to any European government, state or power, subject nevertheless as therein mentioned:

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

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

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

And whereas under the said last-mentioned grant or letters patent, and also under our hereinbefore recited grant or license of the 13th day of May 1838, the said Governor and Company have traded as well within as beyond the limits of the lands and territories granted to them by the said grant or letters patent of his said late Majesty King Charles the Second, and have, in 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's Island, the boundary line between which and the territories of the said United States is determined by the hereinbefore recited treaty between Ourselves and the said United States:

And whereas it would conduce greatly to the maintenance of peace, justice and good order, and the advancement of colonization and the promotion and encouragement of trade and commerce in, and also to the protection and welfare of the native Indians residing within that portion of Our territories in North America, called Vancouver's Island, if such island were

colonized by settlers from the British dominions and if the property in the land of such island were vested for the purpose of such colonization in the said Governor and Company of Adventurers of England trading into Hudson's Bay; but nevertheless, upon condition that the said Governor and Company should form on the said island a settlement or settlements, as hereinafter mentioned, for the purpose of colonizing the said island, and also should defray the entire expense of any civil and military establishments which may be required for the protection and government of such settlement or settlements (except, nevertheless, during the time of hostilities between Great Britain and any foreign European or American power):

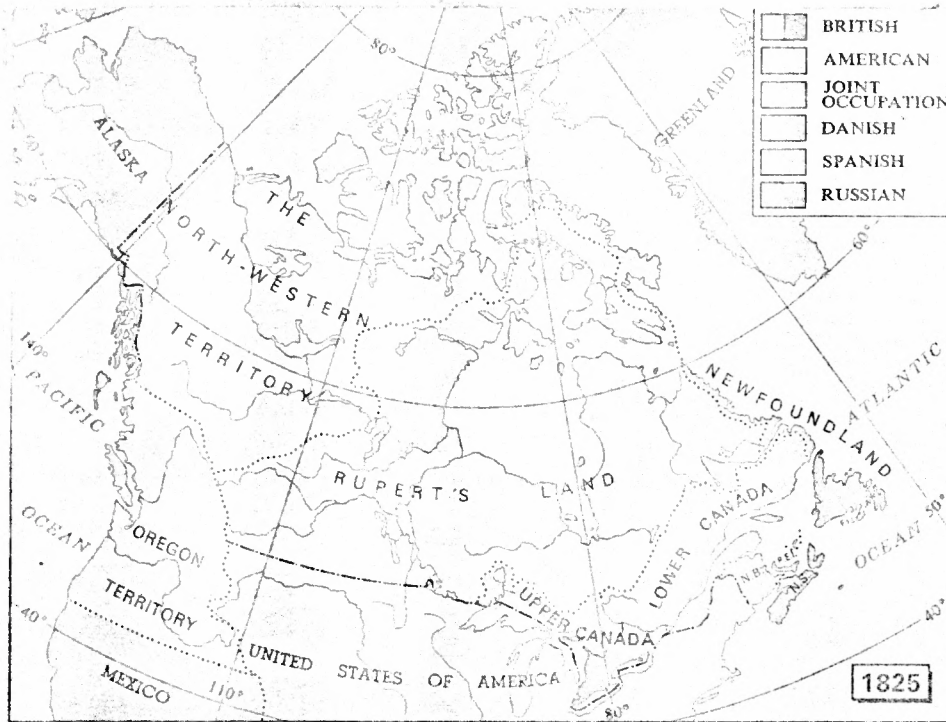
Now know ye, that We, being moved by the reasons before mentioned, do by these presents, for Us, Our heirs and successors, give, grant and confirm unto the said Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, all that the said island called Vancouver's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

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

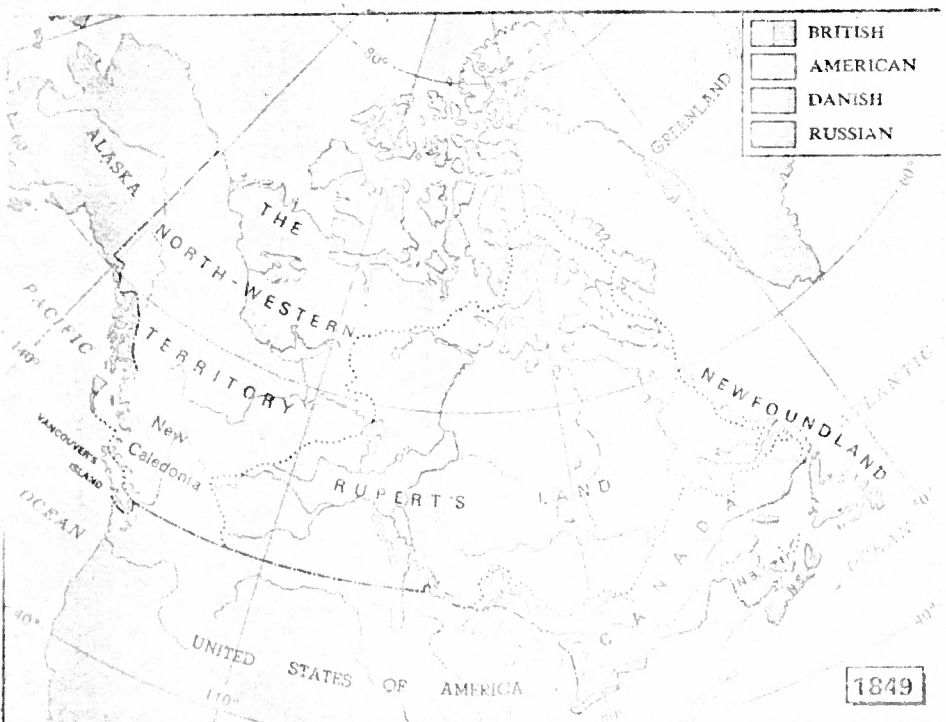
Provided always, and We declare, that this present grant is made to the intent that the said Governor and Company shall establish upon the said island a settlement or settlements of resident colonists, emigrants from Our United Kingdom of Great Britain and Ireland, or from other Our dominions, and shall dispose of the land there as may be necessary for the purposes of colonization; and to the intent that the said Company shall, with a view to the aforesaid purposes, dispose of all lands hereby granted to them at a reasonable price, except so much thereof as may be required for public purposes; and that all monies which shall be received by the said Company for the purchase of such land, and also from all payments which may be made to them for or in respect of the coal or other minerals to be obtained in the said island, or the right of searching for and getting the same, shall (after deduction of such sums by way of profit as shall not exceed a deduction of 10 per cent. from the gross amount received by the said Company from the sale of such land and in respect of such coal or other minerals as aforesaid) be applied towards the colonization and improvement of the island; and that the Company shall reserve for the use of Us, Our heirs and successors, all such land as may be required for the formation of naval establishments, We, Our heirs and successors, paying a reasonable price for the same; and that the said Company shall, once in every two years at the least, certify under the seal of the said Governor and Company to one of Our Principal Secretaries of State, what colonists shall have been from time to time settled in the said island, and what land shall be disposed of as aforesaid:

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

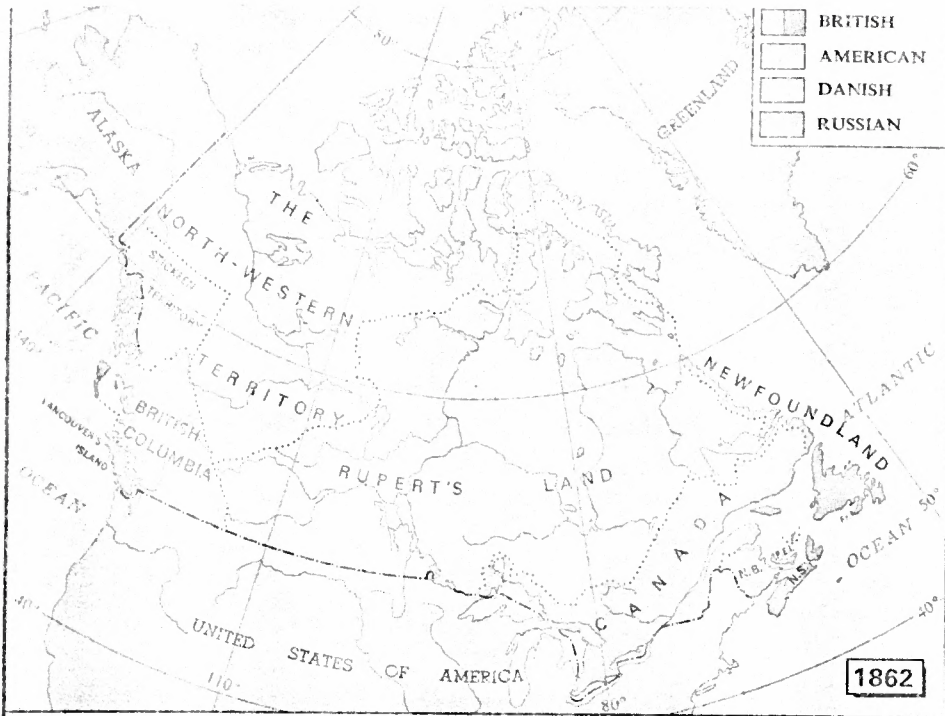
Maps: relating to the territorial evolution of British Columbia. (1825-1866).



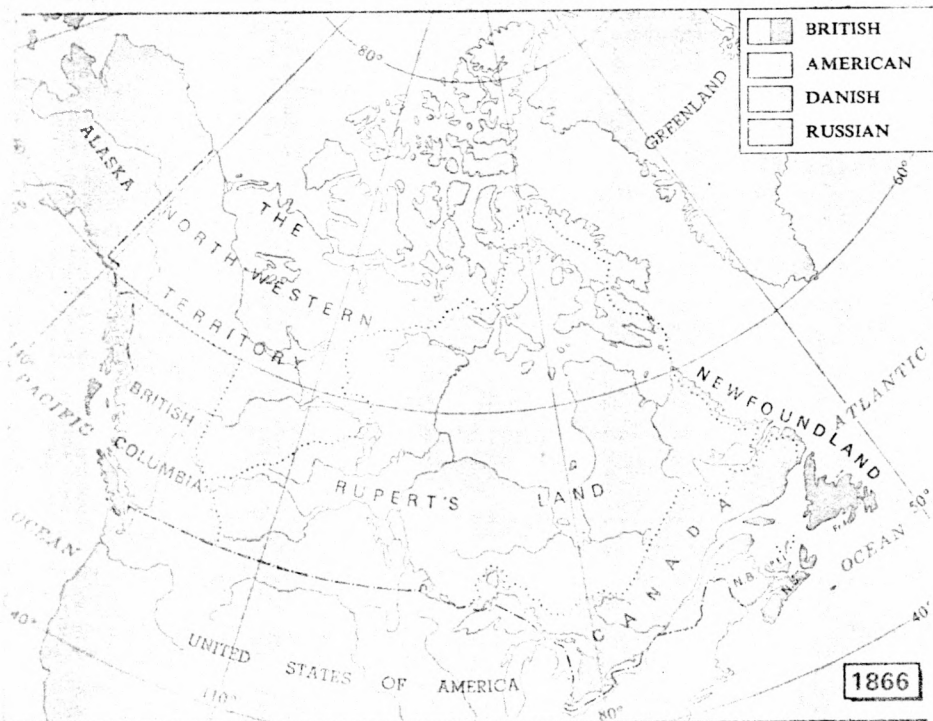
The international boundary is extended westward along the 49th parallel to the Rocky Mountains (1818). The Oregon Territory is occupied jointly by Britain and U.S.A. Reannexation: Cape Breton Island to Nova Scotia (1820); Ile d'Anticosti and part of the coast of Labrador to Lower Canada (1825). Agreement between Russia and Britain on the description of Alaska boundary (1825).



The Province of Canada is formed by uniting Upper and Lower Canada (1840). The international boundary from the Rocky Mountains to the Pacific is described by the Oregon Treaty (1846). The northern portion of the Oregon Territory is called New Caledonia, a name used by Simon Fraser in 1806. The Hudson's Bay Co. is granted Vancouver's Island to develop a colony (1849).



New Caledonia, with extended boundaries, becomes the British colony of British Columbia (1858).
The Stickeen Territory is delimited (1862).



British Columbia attains its present boundaries by the uniting of the colonies of Vancouver's Island.
British Columbia and the Stickeen Territory with a northern boundary along the 60th parallel.

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

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

By Writ of Privy Seal.

XIV

AN ACT TO PROVIDE FOR THE ADMINISTRATION OF JUSTICE IN VANCOUVER'S ISLAND

(28th July, 1849)

WHEREAS an Act was passed in the Forty-third Year of 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": And whereas by an Act passed in the Second Year of King George the Fourth, intituled "An Act for regulating the Fur Trade, and establishing Criminal and Civil Jurisdiction within certain Parts of North America," it was enacted, that from and after the passing of that Act the Courts of Judicature then existing or which might be thereafter established in the Province of Upper Canada should have the same Civil Jurisdiction, Power and Authority, as well in the Cognizance of Suits as in the issuing Process, mesne and final, and in all other respects whatsoever, within the Indian Territories and other Parts of America not within the Limits of either of the Provinces of Lower or Upper Canada or of any Civil Government of the United States, as the said Courts had or were invested with within the Limits of the said Provinces of Lower or Upper Canada respectively, and that all and every Contract, Agreement, Debt, Liability and Demand whatsoever made, entered into, incurred, or arising within the said Indian Territories and other Parts of America, and all and every Wrong and Injury to the Person or to Property, real or personal, committed or done within the same, should be and be deemed to be of the same Nature, and be cognizable by the same Courts, Magistrates, or Justices of the Peace, and be tried in the same Manner, and subject to the same Consequences in all respects, as if the same had been made, entered into, incurred, arisen, committed, or done within the said Province of Upper Canada, and in the same Act are contained Provisions for giving Force, Authority, and Effect within the said Indian Territories and other Parts of America to the Process and Acts of the said Courts of Upper Canada; and it was thereby also enacted, that it should be lawful for His Majesty, if he should deem it convenient so to do, to issue a Commission or Commissions to any Person or Persons to be and act as Justices of the Peace within such Parts of America as aforesaid, as well within any Territories theretofore granted to the Company of Adventurers of England trading to Hudson's Bay as within the Indian Territories of such other parts of America as aforesaid; and it was further enacted, that it should be lawful for His Majesty from Time to Time by any Commission under the Great Seal to authorize and empower any such persons so appointed Justices of the Peace as aforesaid to sit and hold Courts of Record for the Trial of Criminal Offences and Misdemeanors, and also of Civil Causes, and it should be lawful for His Majesty to order, direct, and authorize the Appointment of proper Officers to act in aid of such Courts and Justices within the Jurisdiction assigned to such Courts and Justices in any such Commission, provided that such Courts should be constituted as to the Number of Justices to preside therein, and as to such Places within the said Territories of the said Company, or any Indian Territories or other Parts of North America as aforesaid, and the Times and Manner of holding the same, as His Majesty should from Time to Time order and direct, but should not try any Offender upon any Charge or Indict-

ment for any Felony made the Subject of Capital Punishment, or for any Offence, or Passing Sentence affecting the Life of any Offender, or adjudge or cause any Offender to suffer Capital Punishment or Transportation, or take cognizance of or try any Civil Action or Suit in which the Cause of such Suit or Action should exceed in Value the Amount or Sum of Two Hundred Pounds, and in every Case of any Offence subjecting the Person committing the same to Capital Punishment or Transportation, the Court, or any Judge of any such Court, or any Justice or Justices of the Peace before whom any such Offender should be brought, should commit such Offender to safe Custody, and cause such Offender to be sent in such Custody for Trial in the Court of the Province of Upper Canada: And whereas for the Purpose of the Colonization of that Part of the said Indian Territories called Vancouver's Island, it is expedient that further Provision should be made for the Administration of Justice therein: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the Proclamation of this Act in Vancouver's Island the said Act of the Forty-third Year of King George the Third, and the said recited Provisions of the Second Year of King George the Fourth, and the Provisions contained in such Act for giving Force, Authority, and Effect within the said Indian Territories and other Parts of America to the Process and Acts of the said Courts of Upper Canada, shall cease to have Force in and to be applicable to Vancouver's Island aforesaid, and it shall be lawful for Her Majesty from Time to Time (and as well before as after such Proclamation) to make Provision for the Administration of Justice in the said Island, and for that Purpose to constitute such Court or Courts of Record and other Courts, with such Jurisdiction in Matters Civil and Criminal, and such equitable and ecclesiastical Jurisdiction, subject to such Limitations and Restrictions, and to appoint and remove or provide for the Appointment and Removal of such Judges, Justices, and such Ministerial and other Officers, for the Administration and Execution of Justice in the said Island, as Her Majesty shall think fit and direct.

2. Provided always, and be it enacted That, when and so soon as a Local Legislature has been established in Vancouver's Island it shall be lawful for such Legislature from Time to Time, by any Law or Ordinance made in the Manner and subject to the Conditions which may be by Law required in respect of Laws or Ordinances made by such Local Legislature, to make such Alterations as to such Legislature may seem meet in the Constitution or Jurisdiction of the Courts which may be established in the said Island, and to make all such other Provisions as to such Local Legislature may seem meet for and concerning the Administration of Justice in the said Island.

3. Provided always, and be it enacted, That all Judgments given in any Civil Suit in the said Island shall be subject to Appeal to Her Majesty in Council, in the Manner and subject to the Regulations in and subject to which Appeals are now brought from the Civil Courts of Canada, and to such further or other Regulations as Her Majesty with the Advice of Her Privy Council shall from Time to Time appoint.

4. And be it enacted, That all such Islands adjacent to Vancouver's Island or to the Western Coast of North America, and forming Part of the Dominions of Her Majesty, as are to the Southward of the Fifty-second Degree of North Latitude, shall be deemed Part of Vancouver's Island for the Purposes of this Act.

5. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.