

In order to place before your Grace information on the subject I have the honor of transmitting herewith an extract from the address of Governor Douglas to the Assembly on the 7th May last, and a copy of Mr. Pemberton's speech in the Assembly on the 17th of the same month.

I have, etc.,
(Signed) H. H. BERENS,
Governor.

His Grace the DUKE OF NEWCASTLE.
&c., &c., &c.

DOWNING STREET, 7th January, 1860.

Sir,

I am directed by His Grace the Duke of Newcastle to state in reply to your letter of the 16th ultimo, on the subject of Mr. Dallas' advance of \$27,000 to the Government of Vancouver's Island, that His Grace agrees in what he collects to be your opinion, that further information is required to enable Her Majesty's Government to arrive at a correct conclusion. Governor Douglas will accordingly be directed to furnish an exact and circumstantial account.

But there are passages in your letter which raise an important question. His Grace learns from that letter (and as he believes for the first time) that the company claim land on Vancouver's Island as their own freehold by some original title, as (in your own language) "property possessed by the company in the Island before the grant made to them by the Crown, and therefore entirely irrespective of it.

You refer to a message of Governor Douglas and a speech of Mr. Pemberton in the Vancouver Island Assembly, as showing that this fact is publicly known and acceded to. But those documents speak merely of land as the "property of the company."

Until now it had been inferred in this department that such land had been legally acquired by the company in their private capacity since the original grant. The present claim is therefore new to His Grace. The Duke must repeat in the first place what has already been said in relation to similar claims in British Columbia, that Her Majesty's Government can recognise no claim to land in the foreign possessions of the Crown, except such as is derived either immediately or mediately from the Crown.

But there is another feature that distinguishes the present case from that of British Columbia. In the printed correspondence between the company and this department prior to the grant, (printed 1st February, 1849,) it appears that the company in the first instance informed Her Majesty's Government that they had "formed an establishment on the southern point of Vancouver Island," and were anxious to know whether they would be confirmed in the possession of such lands as they might find it expedient to add to those which they already possessed. Without detailing here the particulars of the correspondence which followed, it is sufficient to say Lord Grey assented to the proposal that "lands in Vancouver Island should be granted to the company," thereby obviously implying that without such grant none of the land was the company's.

The negotiations between this department and the company proceeded throughout in the assumption that such a grant was necessary. And when the grant of the whole Island was ultimately made, it contained no distinction or reservation whatever with regard to the lands now alleged by the company to have been theirs by anterior title. All the lands of the Island were "granted" alike and all were made subject to the like power of repurchase by the Crown.

Under these circumstances I am to state that His Grace is compelled to decline acknowledging any such claim on the part of the company. And it is necessary in order to prevent future misapprehension that he should so inform the Governor with a view to his guidance.

I am, &c.,
(Signed) H. MERIVALE.

H. BERENS, Esq.