

OTTAWA, 21st July, 1884.

SIR,—I am in receipt of your communication of the 27th ultimo, stating that the Esquimalt and Nanaimo Railway Company have made application for permission to reserve certain portions of lands along the proposed line of their railway in Vancouver Island for town sites; also for permission to sell their lands so reserved for town sites, in lots, at a price to be fixed by the company, as also the Newcastle reserve, near Nanaimo, and that their application had the approval of the Local Government of British Columbia, and asking for an opinion as to whether or not the application is one which the Dominion Government can grant.

By reference to 47th Vic., chap. 6, and the schedule thereto, you will observe that it has been agreed with the company that the land in question, so far as it is vested in Her Majesty, shall be conveyed to the company upon the completion of the whole work to the entire satisfaction of the Governor in Council, subject, nevertheless, to the several clauses, provisions and stipulations referring to or affecting the same, respectively in the Act of the Legislature of the Province of British Columbia referred to in the preamble of the Act 47th Vic., chap. 6.

By reference to the 7th section of the Act 47th Vic., chap. 6, sub section 1, you will further observe that it provided that the said lands, except as to coal and other minerals, and except as to timber lands thereafter mentioned, shall be open for four years from the 19th day of December, 1883, to actual settlers for agricultural purposes, at the rate of \$1 an acre, to the extent of one hundred and sixty acres to each such actual settler; that grants thereof shall be made under the Great Seal, and in such grants the right of cutting timber for railway purposes and rights of way for railway stations and workshops are to be reserved; that until the railway is completed the Government of British Columbia, as agent for the Dominion of Canada is to administer these lands for the purposes of settlement, and that on the completion of the whole work the lands are to be conveyed to the company, in accordance with the agreement before mentioned. Similar provisions are contained in the agreement between the Government of Canada and the Government of British Columbia, set out in the preamble to the Act 47th Vic., chap. 6.

I find nothing in either agreement or in the Act which authorizes the Government of Canada to consent to any of the lands being reserved for town sites, and without such authority I am of opinion that the Government of Canada have no right to give such consent.

GEORGE W. BURBIDGE.

In re application of the Esquimalt and Nanaimo Railway Company for permission to reserve certain lands for town sites along the proposed line of their railway,—

By section 7 of the Act of the Parliament of Canada, 47 Vict., chap. 6, sanctioned 19th April, 1884, which relates to the conveyance of land granted to the Esquimalt and Nanaimo Railway Company, it is enacted that "the lands to be so conveyed shall, except as to coal and other minerals, and also except as to timber lands, be open, for four years from the 19th of December, 1883, to actual settlers for agricultural purposes, at the rate of \$1 per acre, to the extent of 160 acres to each such actual settler; grants thereof shall be made under the Great Seal, and in any such grants the right to cut timber for railway purposes and right of way for the railway and station and workshops shall be reserved. The Government of British Columbia to be the agent of the Government of Canada for administering, for the purposes of settlement, the said lands, until completion of the railway; the Government of British Columbia to issue pre-emption records to actual settlers, to pay, as reserved, all moneys received in respect of such administration into the Bank of British Columbia, to the credit of the Receiver General of Canada, and such moneys, less expenses incurred, if any, shall, upon completion of the railway, be paid over to the company. Every *bonâ fide* squatter who has continually occupied and improved any land for one year prior to 1st January, 1883, shall be entitled to a grant of the freehold of the surface rights of the said squatted land, to the extent of 160 acres, at the rate of \$1 per acre." Lands