

HOUSE OF ASSEMBLY.

THURSDAY, June 23rd, 1864.

The House met at 3 o'clock. Members present--Messrs. Trimble, Tolmie, Franklin, Foster, Duncan, Dimes, Powell, and DeCosmos.

CROWN LANDS RESOLUTIONS.

The House went into Committee, Dr. Tolmie in the Chair, on Mr. DeCosmos' resolutions on the Crown Lands.

Dr. Helmecken wished to show that the Crown Lands Committee had altogether overstepped their powers. If they found after an investigation that matters other than those contained in the resolution of the House appointing the Committee, were required to be looked after it was the duty of the Committee to report to the House and ask for fresh powers or the appointment of another Committee. That was the Parliamentary practice. He was therefore opposed to the preliminary remarks to the resolutions, that "During their investigations they had learned the following facts and had formed the following opinions." He moved they be struck out.

Seconded by Dr. Tolmie. The amendment was lost, and the paragraph allowed to remain.

Section 1, was then read, which is as follows:--

"That the Hudson's Bay Company of England become possessed of the Crown Lands of this colony, without any exception, by virtue of a Royal Grant made on January 13th, 1849; and as Trustees of the Crown, they were bound by the Grant to sell the Crown Lands for colonization purposes; and that the gross proceeds of the sales, after deducting therefrom one-tenth for the special benefit and use of the Company, were to be devoted to the colonization and settlement of the Island."

Dr. Helmecken proposed that the words "without any exception" be struck out, as being altogether unnecessary.

Mr. Franklin seconded.

Mr. DeCosmos opposed the amendment. He thought it was absolutely essential to have these words in the resolution.

Dr. Tolmie supported the amendment, and had hoped that the hon. gentleman to his left (Mr. Franklin) would have given them his new lights and new views and would have said something on the subject. He (Dr. Tolmie) had been charged by the hon. gentleman opposite (Mr. DeCosmos) with being very anxious to bring the Crown Lands Committee's labors to a close.

Mr. DeCosmos—I did it as a compliment to show your anxiety to have the work done with despatch.

Dr. Tolmie looked upon it as a very dubious looking one, he would, however, say that there was a very great desire on the part of several gentlemen to hurry these resolutions through the House. It was only a bad cause that required to be hurried over. (Heart, hear.) A good cause never feared discussion. Good wine needed no bush. The hon. gentleman (Dr. Tolmie) was then going on to show by clauses in the Indenture and discretionary powers vested in Gov. Douglas, that the lands in dispute were not Crown Lands, when

Mr. DeCosmos said the remarks were not in order.

Dr. Tolmie claimed to be in order, and wished the gentleman to know that he was not to be thrown off the scent. He (Dr. Tolmie) had often wondered that when the Crown Lands Committee met, they did not, like the snotsayers of old, but into language at their devices. They seemed very fond of sound argument, logical deduction, and so forth; but although asserting that the lands were Crown lands, they never took the trouble to prove them to be. They had consumed eight months over a matter that could be fully performed in three weeks, and the expression which they had inserted in this section of the resolutions "without any exception," was a mere quibble; for the establishments of the Company prior to 1849 were, for the second time, mentioned in the grant.

Mr. Duncan read a despatch from the Colonial Office, dated Jan. 2nd, 1860, showing that Her Majesty's Government stated distinctly and emphatically that they were not willing to recognize any private claims prior to the grant.

Mr. Franklin was not disposed to burke this question, which should be considered calmly, coolly, and without any personal feeling (hear, hear). He had been charged by the hon. gentleman on his right (Dr. Tolmie) with inconsistency, with having new lights and new views. He thought he had already satisfied the House as to his inconsistency. He had supported a resolution of the House in 1859, to the effect that His Excellency should lay the communications in reference to the Hudson Bay Company claims before the House. By those communications it was seen that the Home Government were working in the matter to bring the question to a settlement. He (Mr. Franklin) however, went further, and moved that all despatches in connection with the matter should be laid on the table; but the motion was not seconded. So far for his inconsistency. The hon. gentleman (Dr. Tolmie) thought the whole question was settled by the Indenture, and that the Home Government believed in the Company's claims prior to the grant. He would, however, read a despatch from the Colonial Office bearing date 13th March, 1848. (The hon. gentleman then read a despatch to the effect that the Company could reap no pecuniary advantage from either lands or minerals, and that the proceeds of the sales of such should be expended on the colony.) He (Mr. Franklin) was accused of always crying out for his bond, and that he would have his bond (laughter). Well, this was his bond--the terms of this despatch--and he would insist on it being fulfilled to the letter (hear, hear). The grant says establishments are to be paid for--not lands. He did not wish to see any injustice done, and he was certain the colony was quite prepared, and the Home Government was prepared, to pay the Com-

pany for their establishments. The hon. gentleman (Mr. Franklin) then went on to show that similar claims to town sites had been put forward by the East India Company. In 1832, that body claimed the site of Calcutta and Fort William, and the matter was introduced by the late Lord Macaulay in the House of Commons. The Hudson Bay Co., like the East India Company, may have performed valuable services--it was the Home Government's concern to requite them--but the colony could not be expected to pay the piper. In conclusion he would say that he thought the hon. gentlemen who took up the subject for the Company, were not doing their duty to the colony or their constituents.

Dr. Tolmie denied the charge of not doing his duty to his constituency. He was doing his duty to them and the country generally in opposing an enormous expenditure of money without the chance of receiving a farthing. No doubt the hon. gentleman (Mr. Franklin) expected they would get the million dollars, and was, therefore, prepared to have a second Down's fall of shipping. The hon. member for Lake would get in for four-mills, propelled by wind or vapor, for harbor defence (laughter). As for the other hon. gentleman (Mr. DeCosmos) he was not prepared to say what would be his hobby.

Mr. DeCosmos--To expend the money for the country's good.

Dr. Tolmie had no doubt of it (laughter). He was disposed to laugh at the whole affair. Mr. DeCosmos--It's the best way to take it.

Dr. Tolmie--Several despatches had been read about the Company's claim; but why did these gentlemen overlook the indenture? Why did they not read this later document which settled the whole affair? Did they not think that the matters were better understood at the Colonial Office than here, and that everything was carefully weighed before the arbitration was submitted to.

Major Foster was especially careful about getting into litigation--in fact, he was, as had been said, frightened of so gigantic a law-suit. He would persist in advocating the advisability of requesting His Excellency to forward the Crown Lands report to the Home Government. He opposed a commission, for on looking back over the last eight months of the Crown Lands Committee, he had no hope that anything would be done by a commission before at least nine or ten months. He was anxious to see the matter settled quickly, and he thought the course he proposed best suited for the purpose.

Dr. Helmecken believed there were exceptions to the lands acquired by the grant. That the Duke of Newcastle had written in 1800, or other periods, to the effect that the Company had no prior right was nothing to the purpose when the indenture was considered. The Duke of Newcastle no doubt understood the matter but imperfectly when he wrote his early despatches, and he was some more acquainted with the merits of the case when the indenture came to be agreed upon. Previous to the grant, in some correspondence, Earl Grey promised that land should be granted to the Company. That was their right previous to the Oregon Treaty. When Gov. Blanchard came to the colony to settle matters, twenty miles was the portion marked out. Two miles were enclosed for cattle. After Gov. Blanchard went home a despatch came back stating that six miles were to be made over, three of them to go to the Fur Trading branch without purchase, and that any other land required would be charged at the rate of \$1 per acre. The deeds for the land outside the 3084 acres, bought at \$1 per acre, are signed, and to say the Home Government are not aware of this, is what he thought not the case. Governor Douglas never disputed the right of the Company to the 3084 acres.

Mr. DeCosmos--The greater shame!

Dr. Helmecken--When the Governor found that the Duke of Newcastle had a different opinion, of course he had something else to go on. No one in the House in 1852, or out of it, ever supposed that the town site was Crown Land.

Mr. DeCosmos--Everybody!

Dr. Helmecken--Nobody but the Barrister Colonist, and nobody cared for that! And no one has claimed the town site as Crown Land till this 1864, when it was valuable. He was here to express his opinion and he would do so fearlessly, and heedless of what other people thought. Parliament was the place for the expression of opinion, and represented the whole colony, although some people seemed to think that parliament represented only that region lying between Wharf street and Douglas street.

Mr. DeCosmos would only call attention to one point of the hon. Speaker's remarks in which he alluded to the Company's establishment. The agreement with the Crown distinctly stated the whole of Vancouver Island.

Dr. Tolmie moved in amendment that the words "without any exceptions" be inserted in the grant. He put it to the hon. members as a point of right and justice to agree to this amendment.

Dr. Tolmie's amendment was lost.

Ayes--Tolmie, Helmecken and Foster--2.

Noes--DeCosmos, Franklin, Trimble, Duncan, Carswell, and Dimes--6.

Dr. Helmecken's amendment to leave out the words "without any exceptions" was also lost.

Ayes and noes as above.

The original resolution was then passed by the hon. members.

Resolutions two and three were then passed nem con.

On resolution 4, Mr. DeCosmos moved that it do pass.

Dr. Helmecken moved that the clause stating the amount of money and land still held by the Hudson Bay Co., be so amended, so as to be struck out. He thought we should only send home to the Home Government what we could prove, not mere statements. In common fairness the assessment of 1851, and not that of 1853, should be taken. He thought the mode

adopted was intended to excite the cupidities of Her Majesty's Government. The hon. gentleman insisted that the Colony had no claim whatever to the property and money in dispute. He did not believe this Colony would ever gain one single cent by this attempt.

Dr. Tolmie said that despatch was superseded by a later despatch. He wished to know how it was that hon. gentlemen were always bringing up ancient letters, which were superseded by later documents.

Mr. Duncan read the despatch in which it was stated that the whole matter would be referred to the local government before a final settlement.

Dr. Tolmie, excitedly--I'll coincide that I'll make that as clear as day.

Dr. Trimble--Don't get excited, Doctor?

Dr. Tolmie--I'm not excited; I'm perfectly cool. The hon. gentleman proposed to quote from a despatch dated the 31st February--my birthday, by-the-by! a singular coincidence. (Great laughter.) I am glad to see the hon. gentleman so jolly; I feel very jolly myself. (Renewed laughter.)

The hon. gentleman read from the despatch where the 50 acres of Barclay Farm were to be referred to the Governor on the one hand, and the Hudson Bay Company on the other.

Mr. Duncan said he cared nothing about the 50 acres; what he alluded to was the general issue.

Mr. DeCosmos quoted from the report, stating the value of the property sold and still held by the Company, and mentioned sales which he had seen made himself and could testify to.

Dr. Helmecken's amendment was put and lost.

Ayes--Helmecken and Tolmie.

Noes--DeCosmos, Franklin, Trimble, Duncan, Carswell, and Dimes.

The resolution was then put and carried as above.

Resolution 5, in reference to the value of the water frontage on Victoria harbor and Cadboro Bay, valued at \$500,000, next came up.

Dr. Helmecken moved in amendment that the portion referring to the value of the water frontage be erased. The water-frontage was not worth \$500,000; it was worth nothing, and the resolution would merely have the effect of misleading the Home Government.

Mr. DeCosmos said it was not intended to inflame the cupidities of Her Majesty's Government. As to the value of the water-frontage, he could find gentlemen even in this colony, where capital was limited, who would readily pay the Government \$500,000 and take the water-front property.

Dr. Helmecken's amendment was put and lost, the mover and Dr. Tolmie voting for it, and the resolution was carried.

Resolution 6, affirming that if the Indenture be not cancelled the Crown would lose the sum of \$1,265,437, came up.

Dr. Helmecken objected in toto to the resolution. Deducting the \$500,000 for water frontage which he had shown was totally incorrect there remained only some \$700,000, and as the Company's establishments were valued at \$225,699, this would absolutely leave the colony in debt. The statement that the Home Government would lose by annulling the Indenture \$1,265,437 was absolutely false, and would only have the effect of exciting the cupidities of Her Majesty's Government.

Mr. Duncan said the hon. gentleman might know nothing about law, but he was an excellent special pleader. He had said the Hudson Bay Company claimed \$225,699, but it was not at all likely they would get such an amount. He supposed that that sum was composed of such items as this: For bringing out settlers to the country, \$25,000, when it was well known that they did this by engaging men in England and Scotland for five years at \$25 a year and making them work out that term. (Laughter.) Mr. DeCosmos would like to see that \$225,699 proved; by the Assessment Roll the Company's establishments were only valued at some \$175,000.

Dr. Tolmie said as the hon. member wanted the documents, he would move that the committee rise and report progress. There was no use in trying to smother up the truth. As Milton said, "Let truth and falsehood grapple; Who ever knew truth fall in the encounter. Motion lost.

On resolution 6, stating that if the Indenture were annulled, and the Company compelled to adhere to the agreement of 1849, they would be obliged to refund to the colony a balance of \$1,009,000, Dr. Helmecken opposed, arguing that the figures were utterly false, and intended to mislead Her Majesty's Government.

Mr. Franklin said these figures were only given as data, not as finalities. It was only this caused him to vote for the resolution.

Dr. Tolmie--The hon. gentleman talks about his "daws"! "Oh! my daughter!" (loud laughter). Let him stick to truth, and never mind his "daws"! (laughter).

Dr. Helmecken asked what right had the hon. gentleman to talk about his "daws"; he knew he was great on "respectable females," but he never knew he had a "daws" (laughter). It was quite time he had a "daws"! (great laughter).

The resolution was carried by the previous majority, and the committee rose and reported progress.

The House then adjourned till to-day, (Friday).

FRIDAY, June 24.

House met at 3 o'clock. Members present: Messrs. Trimble, Tolmie, Franklin, Foster, Powell, Dimes, Duncan, Carswell, and DeCosmos.

CROWN LANDS RESOLUTIONS.

The House went into Committee on the remaining sections of Mr. DeCosmos' resolutions.

On sec. 8, which said there was no good and sufficient reason to justify a settlement according to the Indenture.

Dr. Helmecken opposed the section, stating that there was good and sufficient reason, and that the Home Government knew much more about the matter than hon. members. Her Majesty's Government dreading no doubt an endless litigation, had come to the conclusion contained in the Indenture. The Duke of Newcastle had said that as the question had been so long under discussion, and that as a still lengthened period might elapse before the Privy Council Judiciary could come to a decision, he thought it better to decide the matter by arbitration. The Home Government had in so doing adopted in his (Dr. Helmecken's) opinion, the best plan for settling the matter.

Dr. Tolmie read from the Indenture to show that the general question had been settled, and that one of the clauses--the 5th--in the agreement, provided for the land around Victoria. With regard to the local Government, he took that to mean the Governor and Executive, and they had been consulted.

Mr. Duncan--That is not the local Government.

Dr. Tolmie wished to know what else it was, if not that. He would be told that the Assembly was the local government; but they must know the Assembly was merely a law-making power. It could carry out nothing; the Executive was the Government.

Dr. Helmecken agreed with the hon. gentleman, who had just said down. The term Government meant the Executive, and nothing else.

Mr. DeCosmos said the sum and substance of the matter was simply this--not whether the local Government should have been consulted or not, about which he did not care one straw--but whether the Duke believed that there was a good reason for setting aside the Indenture. If they believed not, then vote against the resolution; if they believed there was good reason, then he hoped they would vote in its favor. For his part, he maintained there was no good, and no sufficient reason to justify the terms of the indenture.

Dr. Tolmie said they had been favored with the hon. gentleman's don't care dictum and nothing else. Perhaps, however, the hon. gentleman did care for some things. He could tell him that much as they might talk about the Hudson Bay Company, that they who possessed the power of selling lands prior to 1861 did so--that they sold the Crown Lands in 1852 there would have been much more capital in the country to-day.

The section was then put, and carried, Drs. Helmecken and Tolmie only voting in the negative.

Section 9, which was to the effect that the Indenture ought to be annulled, and a settlement made in conformity with the grant of 1849, came on for discussion.

Dr. Helmecken said it was admitted that the grant of '49 was an agreement between the Hudson's Bay Company and the Home Government. It was also admitted that the settlement should be arranged between these two parties. The settlement had been made and was final, both parties having agreed to the arbitration. The document was signed, sealed and delivered--the Hudson Bay Company had affixed their seal and Her Majesty's Government had authorized the signature.

If this was not a final arrangement, he did not know what was. The Governor of Vancouver Island acting on the part of the local government had agreed to everything but the one section--section 9. In a late despatch, however, the Home Government had ordered this remaining piece of ground to be given to Mr. Levesque. The whole business was therefore settled. There was no way to upset the Indenture unless fraud were proved since 1862. But the Crown Lands Report, after acknowledging that the Indenture is final and that if it could not be set aside without fraud was proved, acknowledged there was no fraud proved. On what ground did the hon. gentleman then wish the Indenture to be annulled. It was useless to tempt honorable men like those of Her Majesty's Government with a million of dollars against his question. It had, however, no existence--no reality. He had been in that House for seven years and never, during all that period, had there been a statement passed through the House that would not bear the strictest examination. That question, however, would not bear it. But to come to another question. Who wanted the Indenture annulled? Not the people. (Yes, yes) He said distinctly "No." Some few members of that House wanted it; because there was profit attached to delegations and profit attached to Commissions. (Oh, oh!) There were others no doubt who wished the Indenture cancelled, on account of their feelings against the Company. But supposing the Indenture was annulled, what would the colony gain? It would simply open the question of reserves, and nothing more. The Hudson Bay Company would then sell the colony to go to law, and the country would be at once plunged into litigation, for of course the Home Government would bear none of the responsibility. Where then would the colony find means to take the question before the expensive high tribunals of England. But to come to settle the question under the charter of 1849, the colony would have to pay the Company their colonising

expenses, and repurchase their establishments. Having arrived here for another lawsuit would likely arise as to the terms establishments. Now the establishments are worth one million and a quarter dollars, and the hon. gentleman (Mr. DeCosmos) by a new process of arithmetic is going to pay this out of the \$700,000. The Hudson Bay Company would then still hold a legal title to Vancouver Island. All the Company would be required to do, under the most adverse circumstances, would be to pay a pound an acre for these 3084 acres. Having registered this land, having claimed it as their own, having been promised it by the Home Government, laid out by the Governor, having been told that it was not required to be paid in full--all gives the Company an equitable title to the 3084 acres. The Company could go and pay the £3084 and possess the land without dispute. The Home Government would throw no difficulty in the way. Let the colony consider whether this is worth risking a serious law-suit. The best legal talent have given their opinion on the Company's title and they pronounce it good. But supposing the Indenture were set aside, what else would be the result? The colony would lose the sixty acres of the Ogden fields--the land which was given to condone for accidental faults in selling lands not belonging to the Company. Of course all this would be pleasant to the legal gentlemen; especially the attorney who has been paid considerable sums already in connection with the reserves. He hoped hon. gentlemen would show by fair argument why the Indenture should not be considered binding, and that before sending this document home, they would show other reasons than these, which he could not term disgraceful and degrading.

Major Foster said in regard to what had fallen from the hon. gentleman who had just said down, it must have been apparent to every hon. member in this House, that proceedings had occurred at one time of the most strange character. Moneys had been borrowed, various high handed acts had been carried out; written threats had been affixed to the Fort gates, that unless so and so were done, the Company would sell no more land. The whole of this was caused by a quarrel between two gentlemen. The whole matter which had arisen was as to whether a certain lot was at the foot of Broughton street or not. The whole matter now in question was the annulling the Indenture of 1862, and he would not vote for that; if he did he fully believed that twelve months after, his constituents would utter and utter at him devoid of common sense. If he regretted from this Colony were brought up in Parliament at home, it would result in the turning out of the Ministry that asked for it. The only effect of the application would be, that the Colonial Secretary would ask for a legal opinion, and what was the ground for a legal opinion to be founded on? (Mr. J.) was totally averse to risking a law suit either in the old country, or this subject. He would be very sorry to pledge himself to any such expressions of opinion which were made in these resolutions. He would do so--that he would do so, he would be provided with funds to apply to the best legal counsel, or was it to be left to the Home Government to undertake all the labor and anxiety of the contest? He wished to see the Home Government take the whole matter into their own hands, but to ask the Home Government to overthrow all its previous decisions, to cast a slur on its own actions, was a thing he would not for a moment entertain and a thing which he hoped this very respectable House would never attempt. These resolutions had evidently been drawn up and agreed to already, [hear, hear] but they asked a thing which the Home Government would not entertain for three minutes. The hon. gentleman proceeded to picture the reception of the resolutions in the Imperial Parliament, and their ignominious rejection. If His Excellency would not look at the report take it on himself to appoint a commission (a thing the propriety of which he very much doubted), and if that commission should discover any fraud then he was prepared to say that the Indenture should be forfeited altogether, but till that was done, he would oppose any attempt to overthrow the Indenture.

Mr. Franklin rose to reply the charges of want of integrity and honor against this House in regard to these resolutions. When we looked into this matter as before the Home Government we found that it was the individual act of one minister, and when it came before the parliament at home he believed a very different decision would be come to. It had been said that the Government of this colony was the Governor, but he denied that entirely, and since this Governor had taken on himself to deal with a matter which was intimately connected with the revenues of the colony, he had dealt with a vast domain vitally affecting the welfare of the colony, without consulting this House. The hon. member for Esquimalt had brought up the question of a law suit as a terrible bugbear that was to frighten us from our property--that would make us feel as if our hair stand on end like straw upon the fruitful porcupine.

(Great laughter.) This bugbear the hon. gentleman laughed at as a chimerical. At any rate if we are to have a law suit, we have the £3084 that the Company owes for the town-site, to carry on the expenses.

Dr. Tolmie highly applauded the hon. member for Victoria (Mr. Franklin) for making an attempt at argument, although he was sorry to say it was the shadow and not the substance. He hoped other hon. gentlemen, who were accustomed to public speaking--the hon. members for Lake and Salt Spring (laughter) would also stand up manfully and express their opinions. He had taken the opinion of some of our best educated and intelligent citizens, and found that they took very little interest in the matter, and entertained no hope of any good result. (Question!) Well, well, if hon. gentlemen

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GOODS,

ST.

street,

OFFER
of Clothing
The sale will continue
rely offers,
buyers.

21st inst, the wife of L. J. ...

28th inst, the Rev. ...

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