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PART I.

VANCOUVER ISLAND. }
No. 26.

DOWNING STREET,
28th JUNE, 1860.

Sir,

You have been already informed that a correspondence has been for some time in progress between Her Majesty's Government and the Hudson's Bay Company on the subject of the resumption by the former of Vancouver Island, and the amount which, on such resumption would be payable to the Company under the stipulations of the grant of 13th January, 1849.

By the terms of that grant the Crown was entitled, at the expiration of the Hudson's Bay Company's license of exclusive trade, to repurchase Vancouver's Island on repayment to the company of the sums of money expended by them upon the Island, and of the value of their establishment, property and effects thereon. The license of exclusive trade expired on 13th May, 1859, and in anticipation of its termination Her Majesty's Government gave notice to the company, in the close of 1859, of the intention of the Crown to resume the Island, and requested them to send in a statement of the amount of which they would be entitled to claim repayment. The claim which they sent in in the first instance embraced the whole of their expenditure and amounted to £225,699, but on being informed that Her Majesty's Government declined to take over any of the establishments or property connected with their commercial transactions, they furnished an amended account, comprising only three items, viz.:

1. The balance due on account of Public Works and Establishments amounting on 31st December, 1857.	£ 8,505 6 11
2. The cost of sending out settlers ;	25,559 6 0
3. The expense of searching for coal at Fort Rupert	12,469 4 7
	<hr/>
	£46,524 11 6

The company however have since intimated that they do not wish this to be taken as a final restriction on their part of their claims to those enumerated in this list.

To the two first items (assuming the details to be supported by vouchers) Her Majesty's Government did not object, but the third appeared to them to stand on a different footing. It is unnecessary to trouble you with a detail of the correspondence that ensued, it is sufficient to state that Her Majesty's Government being convinced after full consideration that a further and indefinite delay in the settlement of the matter would be detrimental to public interests, and that an examination of the matter on the

spot would probably involve considerable expense, thought it most advisable on the whole to effect a compromise on the point with the Hudson's Bay Company.

They therefore proposed that the expense of the Fort Rupert Coal Mine should be divided equally between the Crown and the company, and the company having acceded to that proposition a vote of £25,000 will be proposed to Parliament during the present session in part repayment of the amount due to the company.

The vote has been limited to the above sum because the account of expenditure for Public Works, etc., has, as I have stated, been furnished only to 31st December, 1859, and until that account is completed the exact amount to which the company will be entitled cannot be ascertained.

The company have apprized me of their readiness to receive the amount proposed to be voted, and to convey to you the necessary authority to make grants of land, not however, including any of the lands belonging to, or which have been registered as belonging to the company, whether in their own possession or in that of third parties. As the title of the company to these lands is now under investigation this reservation is reasonable and must be acquiesced in. In regard to other lands in Vancouver's Island you will, on receiving the above authority from the company, take the necessary steps for throwing them open for settlement.

The measures for making the payment of £25,000 are so far advanced that I have every reason to hope that you will receive the intended authority by the present mail or by the next one at the latest.

I shall have no objection to the adoption of the price of 4s. 2d. per acre, which has been recommended by the Legislature with your concurrence. Upon other questions connected with the manner of disposing of the Crown Lands I shall address you by the next opportunity.

I have, etc.,

(Signed) NEWCASTLE.

GOVERNOR DOUGLAS, C.B.
&c., &c., &c.

No. 6.
EXECUTIVE.

VICTORIA, V. I., 10th January, 1861.

My Lord Duke,

With reference to your Grace's despatch of the 28th June, 1860, No. 26, upon the subject of the resumption of Vancouver's Island by Her Majesty's Government, and of the temporary arrangement made for the disposal of land not heretofore dealt with by the company, I have the honor to acquaint your Grace that I received by the same mail with your despatch the undertaking to which you allude from the Governor of the company to confirm all sales of such land that I might make.

2. There is, however, one serious drawback to this arrangement, for by it all the deeds must be forwarded to the company, in England, to be perfected by the attachment of the corporate seal of the company, the use of which it is stated cannot be delegated. I am not aware whether your Grace contemplated this process, but it is one that will be productive of much embarrassment. Under the old system, when land was paid for by instalments, the practice was found inconvenient, but under existing circumstances, when land may be sold by auction and paid for at once, the delay and uncertainty attending the issue of the title may, I fear, have the effect of depreciating its value.

3. As an instance of the delay consequent upon sending the deeds to England, I would mention that in February, 1859, certain title deeds were forwarded for execution, and that up to the present time they have not been returned; constant enquiries have been made at the land office for them, and their non-arrival, combined with a rumor which has circulated that the company do not intend to confirm the appropriation made of land for the public park and church reserves, has created a feeling of distrust embarrassing to this Government.

4. I have specially addressed the company upon the subject of the non-arrival of these deeds, and in replying to the communication before alluded to from the Governor of the company, I have again adverted to the circumstance, as will be seen from the copy of the letter I enclose herewith.

5. My recent despatch, No. 51, of the 7th December last, will throw much light upon the claim now under the consideration of the Judicial Committee of the Privy Council, made by the company to 3,084 acres around Fort Victoria, and I trust I may be pardoned for urging upon your Grace that no settlement of the claim should be admitted which would in any way infringe upon the reserves made and virtually guaranteed to the public by being marked upon the official plan and used as appropriated.

6. To convey a clearer idea of the position of the lands in question I forward herewith a rough sketch map of town of Victoria and environs, upon which the portions reserved for governmental and public purposes are distinctly marked and noted in color.

I have, &c.,
(Signed) JAMES DOUGLAS.

HIS GRACE THE DUKE OF NEWCASTLE,
&c., &c., &c.

No. 54.

DOWNING STREET, 15th April, 1861.

Sir,

I have the honor to acknowledge the receipt of your despatch No. 6, of the 10th of January last, in reference to the arrangements connected with the resumption of Vancouver Island by Her Majesty's Government.

There is no doubt that inconvenience and delay must be occasioned by the system to which you refer of sending to England all deeds of grants of land in Vancouver Island, in order that the seal of the Hudson's Bay Company may be affixed to them; but this appears to be unavoidable so long as it is necessary to the validity of the grants that they should bear that seal. The arrangement, however, is temporary only, and will, I trust, shortly be discontinued, as soon as the pecuniary accounts between Her Majesty's Government and the Company are adjusted, and the island is reconveyed to the Crown, the usual more convenient system will no doubt be brought into operation.

With regard to the recommendation contained in your despatch on the settlement of the company's claim to land around Fort Victoria, I have to inform you that until the title of the Hudson's Bay Company to lands by reason of occupation prior to 1849 is decided no steps can be taken for the settlement of the question respecting this particular land; but that when a decision has been obtained on the general question, the local government will be consulted before deciding on the final arrangements to be made with the company in regard to the disposal of the ground in the vicinity of Victoria.

I have, &c.,
(Signed) NEWCASTLE.

GOVERNOR DOUGLAS, C.B., &c., &c., &c.

HUDSON'S BAY HOUSE,
LONDON, June 29th, 1860.

Sir,

In accordance with arrangements which have been made with Her Majesty's Government you are hereby authorized on the part of this company to dispose of such of the land in the Island of Vancouver as has not already been disposed of by this company, or as is not claimed by them as having been their property prior to the grant of the Island from the Crown.

You are aware that the land so claimed by them consists of 3,084 acres, with Fort Victoria and other buildings erected thereon, and that the whole is registered in the name of this company. You will distinctly understand, therefore, that the present authority does not extend to any part of the property registered in the name of this company, or to any part which has already been conveyed to other parties.

As it is necessary that the conveyances to purchasers should be under the seal of this company, and as this company have not the power to delegate the use of their seal to any person whatever, it will be necessary that the conveyances of the property you may dispose of under the present authority should be sent over here, as in all former cases, for the seal of this company to be affixed to them; but you will consider the present communication as an engagement on the part of this company to give effect to anything you may do within the scope of the authority now delegated to you.

It is of course understood that in anything you may do you are to act altogether under the instructions of Her Majesty's Government, from whom you will no doubt have already received the necessary advices.

I have the honor to be,

Your Excellency's very obedt. Servant.

(Signed)

H. H. BERENS,

His Excellency JAMES DOUGLAS, C.B., &c., &c., &c.

Governor.

No. 1.

DOWNING STREET, 2d January, 1860.

Sir:

With reference to your despatch, No. 47, of 12th of September last, and my answer of the 1st ultimo relative to the erection of public buildings in Vancouver Island. I now transmit you copy of a letter from Mr. Berens commenting on your despatch on behalf of the Hudson's Bay Company and of the answer which I have caused to be addressed to that gentleman.

You will observe that it is necessary that your report on the whole subject should be full and explanatory, as the matter is one involving serious considerations.

You will also observe strictly the caution expressed in that letter, and let it be fully understood that Her Majesty's Government are not prepared to recognize any private ownership of soil in Vancouver Island by the company by any title anterior to the grant. It must rest with the company to take such steps in vindication of such supposed title as they may think proper.

You will further furnish me with as little delay as possible a report in which the land claimed by the company in Vancouver Island by anterior title is distinguished from such land as they may have acquired in their private capacity, and in accordance with the land sales regulation since the date of the grant. On this subject I have to refer you to your despatch of 15th July, 1858, containing a return of "Land sold to an individual or company," in which the Hudson Bay Company appear as purchasers of several specified lots.

I have, etc.

(Signed)

NEWCASTLE.

GOVERNOR DOUGLAS, &c., &c.

HUDSON BAY HOUSE,
London, December 16, 1859.

My Lord Duke:

I have the honor to acknowledge the receipt of Mr. Merivales letter of the 7th inst. in which he informs me that Governor Douglas has reported with respect to the advance of \$27,000 made by Mr. Dallas, the representative of this company in Vancouver Island, to defray the expense of public buildings at Victoria, that it was met by the surrender to Mr. Dallas of the site of the old public offices on condition of his

placing at the disposal of Governor Douglas the sum of money obtained by the sale. Mr. Merivale requests of me to inform your Grace whether any information has been received by this company of the sale of this land and of the arrangement made with Mr. Dallas.

The letter which I had the honor of addressing to your Grace on the 4th ult. and with which I transmitted a copy of Mr. Dallas' letter to the secretary of this company of the 14th September, contains the latest information we have received upon the subject, and by reference to it your Grace will observe that at that period no reference is made to the sale of the land in question, and I consequently presume that it had not then been sold.

With respect to the arrangement made between Governor Douglas and Mr. Dallas in regard to the advance made by the latter of \$27,000, I am at a loss to understand how under any circumstances it could have been provided for in the manner which Governor Douglas appears to have represented, because, as we read his communication while on the one hand it is suggested that the advance in question was met by the surrender to Mr. Dallas of the site of the old public offices, it is added on the other that this surrender is made on the condition of Mr. Dallas placing at the disposal of Governor Douglas the sum of money obtained by the sale. Unless it is meant that the Government are to be responsible to the company for the amount of such sale, this company would appear literally to receive nothing in respect of the advance that has been made. But in point of fact the company entirely denies the right or power of Governor Douglas to deal with the land in question at all, as it formed part of the property possessed by this company in the Island before the grant made to them by the Crown and therefore entirely irrespective of it, but we have been informed by Mr. Dallas that Governor Douglas had attempted to treat this property as belonging to the Government, and upon that pretension had advertised it for sale. This course of proceeding was immediately protested against by Mr. Dallas on the part of the company, and, as we gather from Mr. Dallas' communications, it was distinctly understood that inasmuch as the preparations for the sale had proceeded so far, and in order not to cast a slur upon the proceedings of the Governor who admitted it to be fur trade land, the sale should be proceeded with under Mr. Dallas direction and on account of the Hudson Bay Company. It was also arranged between Governor Douglas and Mr. Dallas that as the public buildings were urgently required, Mr. Dallas should advance, not the amount of the sale of the land, but the specific sum of \$27,000, to enable Governor Douglas to proceed with the proposed buildings, it being distinctly understood that this advance was a loan which was to be reimbursed to the Hudson Bay Company along with the other payments made by the company under the provisions of Her Majesty's grant.

I take leave to add that Mr. Dallas' views are entirely borne out by the facts. The land upon which the old buildings stand was the undoubted property of the Hudson's Bay Company before the grant to them of the Island. The buildings upon it were also erected at the expense of the Hudson's Bay Company. Indeed Governor Douglas has admitted that both the land and the buildings belong to the company, as your Grace will see by reference to his address to the House of Assembly on the 7th May, and that fact was confirmed by Mr. Pemberton, the Colonial Surveyor, in the course of a debate on the subject which took place on the 17th May last.

The land upon which Governor Douglas is now erecting the new public offices has also been represented by that gentleman to be Government property, but I have reason to know that it is part of the land held by the fur trade long prior to the grant from the Crown. The company will therefore have a claim upon the Government for the value of this land.

From this statement I trust I have made it evident to your Grace that the advance of \$27,000 was actually a loan by this company on Government account and that Governor Douglas is in no way justified in representing the advance as being met by the surrender to Mr. Dallas of the site of the old buildings.

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.

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

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

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.

H. BERENS, Esq.

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

VICTORIA, VANCOUVER ISLAND,
28th March, 1860.

My Lord Duke,

I have honor to acknowledge the receipt of your dispatch No. 1, of the 2nd January, transmitting copy of a letter from Mr. Berens, together with your reply thereto, having reference to the subject of the advance of 27,000 dollars, made by the Hudson Bay Company, for the erection of public buildings in Vancouver's Island.

2. My recent despatch No. 11, of the 16th ult., will I trust have placed your Grace in possession of every detail in connection with the transaction, and I will therefore confine myself in this despatch solely to the question of the claim now put forth by the company to the ownership of the land.

3. I must confess that it is not without some surprise that I have perused the letter of Mr. Berens, and I am convinced that the course pursued by that gentleman must originate through want of proper and full information in the premises.

4. During the period I have been Governor of Vancouver Island I have always found the Hudson Bay Company most liberal in their views and sparing of no reasonable expense for promoting the good of the Colony, and in the present instance the right of the Colony to the land sold is so clear and indisputable that I cannot but presume that as soon as the company become aware of the facts in connection therewith they will at once relinquish a claim which I feel assured has only been advanced through misconception.

5. On the 1st January, 1851, the Hudson Bay Company acquainted Governor Blanchard that the sum of £4000 would be placed at his disposal for the erection of some of the buildings most urgently required, and informed him that those buildings, "and the lands that may be appropriated with them," were to be held by him and his council as trustees "for the colony," and further that the site of these buildings should be near Fort Victoria for convenience and protection.

6. For the better information of your Grace I enclose a copy of the entire despatch in which the above instructions are embodied.

7. Shortly after the receipt of these instructions Governor Blanchard left the colony, but a residence for the Governor was put up before his departure, and this very building with the land appropriated to it was that sold in May last, and is now claimed by Mr. Berens on behalf of the Hudson Bay Company.

8. I became Governor Blanchard's immediate successor, and carried out so far as I was able the other arrangements contemplated by the Hudson Bay Company.

The land appropriated to the Government House was always regarded by me as a government reserve, and the Colonial Surveyor had strict orders from me not to dispose of any part thereof. And although no formal conveyance had been effected, yet I did not view that circumstance at the time as a matter of any moment, the intentions of the Hudson Bay Company being so unmistakable.

9. In point of fact had the Hudson Bay Company themselves not adopted the foregoing arrangement, an arrangement which apparently removed all probability of cavil or dispute, it becomes a question whether the land could not have been reserved from the first under the Charter of Grant which prohibits the disposal by sale of any land "which may be required for public purposes;" but as in the interpretation of this passage it is not improbable that some controversy might have arisen, I consider that the Hudson Bay Company acted very wisely and properly at the outset in laying it down as a rule that the lands appropriated, with the public buildings, were to be held in trust for the Colony.

10. The ground upon which the claim is now advanced is, I perceive, considered by Her Majesty's Government as utterly untenable, but were it not so I think that the information I now supply sets the question entirely at rest, so far as the public reserves are concerned.

11. I will not fail in furnishing your Grace, so soon as I can obtain it, with the

information you require as to the land claimed by the Hudson Bay Company under a title anterior to the grant, and as to the land acquired by them in their private capacity.

I have, &c.,

(Signed)

JAMES DOUGLAS.

HIS GRACE THE DUKE OF NEWCASTLE, &c., &c., &c.

HUDSON'S BAY HOUSE,

London, 1st January, 1851.

To His Excellency RICHARD BLANSHARD, &c., &c.
Governor of Vancouver Island.

Sir :

It having been determined that the fur trade concern of the Hudson's Bay Company and the Puget Sound Agricultural Company shall respectively become purchasers of considerable tracts of land near to Fort Victoria, although the precise localities and quantities cannot be fixed until the surveys come home. And bailiffs and men having been sent out to commence the establishment of farms and cultivation under the supervision of Mr. Douglas the Governor, and committee feel that they may to a moderate extent anticipate the funds which will thus come into their hands in trust for the colonization and improvement of the Island. They have therefore determined to authorize Mr. Douglas to make you advances to the extent of four thousand pounds, as it may from time to time be required, in erecting some of the buildings most urgently required. These buildings will have to be made under the direction of yourself as governor and of your council. You and your council will hold the same and the lands that may be appropriated with them as trustees for the Colony.

The governor and committee would recommend that a moderate sized but respectable house and premises should be erected as the official residence for yourself as Governor, calculated for the commencement of the Colony rather than for what you may anticipate it may come to in time, as the funds that can be relied upon are limited and small at present.

Also that a moderate sized house should be erected for Mr. Staines who at present will act as chaplain and schoolmaster. And a room or house capable of serving in a temporary way the purposes of a church on Sundays and of a schoolroom during the week.

The site of these buildings should be near the Fort Victoria for convenience and protection, and the materials should be stone, as preferable to wood, to diminish the risk of fire; there should be a similar erection of a house for the chaplain and schoolmaster, and a building for a temporary church and schoolroom at the principal establishment of the Puget Sound Company.

As a principle, a plan and estimate of all public buildings should first be submitted to the Governor and committee for their consideration and sanction, but in the present case this may be dispensed with, provided the plans and estimates are approved of and sanctioned by Mr. Douglas.

It is to be understood that the trust fund is only to be applied towards the building and that any annual expense for maintenance of the buildings, or for salaries, must be raised from the inhabitants by the Governor and his Council by means of a tax upon imports or otherwise as they may deem most expedient.

The Governor and committee will be glad to hear from you from time to time, on all that may occur, and on all subjects that may concern the advancement of the Colony.

I am, etc.,

A. BARCLAY, Secretary.

VANCOUVER ISLAND.
No. 32.

DOWNING STREET, 24th August, 1860

Sir,

Your despatches, dated respectively the 16th February and the 28th March, having been referred to the Hudson Bay Company, a letter has been received from them of which I enclose you a copy. I request that you will furnish me with your report upon the contents of this letter at your earliest convenience.

As the Hudson Bay Company admit that part at least of the buildings upon the land near Fort Victoria are the property of the Government, I should wish to be informed whether so much of the produce of the sale as represented the price of those buildings has been carried to the credit of the Colonial Government.

I take this opportunity of mentioning to you that the question of the company's title to certain land in Vancouver's Island, as their private property anterior to the grant to them of the Island, will be settled by a reference to the Judicial Committee of the Privy Council.

GOVERNOR DOUGLAS, C.B.
&c., &c., &c.

(Signed)

I have, &c.,
C. FORTESCUE,
In the absence of the Secretary of State.

HUDSON'S BAY HOUSE, June 26th, 1860.

My Lord Duke,

I have the honor to acknowledge the receipt of Mr. Under Secretary Fortescue's letter of the 7th instant, accompanying copies of two despatches from Governor Douglas of the 16th February and 28th March last, having reference to the claim of this company to the land and government buildings erected upon it near Fort Victoria, in the Island of Vancouver.

I have now caused reference to be made to the correspondence which passed in the year 1851, at the time when the despatch referred to in Governor Douglas' communication of the 28th March, was sent to Governor Blanchard.

A copy of that despatch was under the same date referred to Mr. Douglas who was then the representative of this company. Your Grace will observe that that despatch contemplated the purchase by this company and the Puget Sound Company of considerable tracts of land near Fort Victoria, and it was at that time contemplated that the buildings intended for the Government should be erected either on a portion of the land so to be purchased or upon land not then disposed of and therefore belonging to Colony, but it afterwards turned out that under the directions of Mr. Douglas certain buildings for the Government had already been commenced upon land previously in the possession of this company, that land being in fact a part of the district claimed by this company, and their right to which is now to be the subject of discussion before the Privy Council.

I think it desirable that your Grace should be put in possession of everything which has occurred in regard to this subject.

In the letter to Mr. Douglas of the 1st January, 1851, which accompanied the copy of the despatch to Governor Blanchard of that date, instructions to the following effect were given to him: "In the case of the fur trade the extent and boundaries of the land occupied by that concern previous to the date of the boundary treaty must be accurately marked out and agreed with Governor Blanchard and the Council. For this portion of land no price will have to be paid. But for any future quantity that may ultimately be taken by that concern the same price of 20s. per acre, as paid by other settlers, will have to be paid over to the Hudson's Bay Company."

Before, however, this communication reached Mr. Douglas he had under date 29th

B.

January, 1851, addressed a letter to the secretary of this company, in which the following paragraph occurs ;

"The house and premises erected at this place for the residence of Governor Blanchard have cost 1548 dollars 55 cents in labor and material, and the Governor is now making an addition to the house which will come to several hundred dollars more. I have not charged that sum to the Colony as the site on which it stands belongs to the fur trade, and I was proposing that the house and premises should remain a fur trade possession, and that the Colony should be charged an annual rent of 10 per cent. on the original outlay. I beg to be informed of the committee's pleasure on the subject."

From this letter your Grace will observe that Mr. Douglas contemplated not only that the Government buildings should be erected on land then claimed by this company as their own, but that the Government should pay a rent for the occupation of the land and buildings at the rate of 10 per cent. upon the outlay. This proposition was not approved of, and Mr. Douglas was so apprized in a letter from the secretary under date the 23rd May, 1851, and in a letter of the same date to Mr. Douglas from the then Governor, Sir J. H. Pelley, Mr. Douglas was informed that the fur trade might retain the building he had referred to as having been constructed for the residence of the Government, on paying the expense of erecting it and that another house might be built for the Governor on a different site, but adding, that in all cases of reserves of land it must be understood that if any part was required for public purposes it must be resumed upon repaying the price and any improvements that might have been made upon it.

It appears, however, that the Government retained possession of the buildings which had already been erected on land claimed by the fur trade establishment of this company, and the cost of these buildings has, I find, been included in the account of expenditure rendered to the Government by this company and those buildings are therefore without doubt the property of the Government ; although I find that the cost of other public buildings on the same land, such as the Custom House and Post Office, have not yet been so charged, but assuming that the title of the company to the land in their possession prior to the Treaty of Oregon should be established, then I apprehend there can be no question but that the land upon which those buildings were erected would be their property, and that the proceeds arising from any sale of it would belong to them.

I will now revert to the communications which passed with Mr. Douglas consequent upon the instructions conveyed to him in the letter of the 1st January, to ascertain the extent and boundaries of the land occupied by the fur trade prior to the Oregon Treaty. Mr. Douglas answered that communication under date the 16th April, 1851, as follows : "In reference to the fur trade reserve the boundaries determined on when I made choice of this spot for the company's establishment in the year 1841, long previous to the date of the treaty, includes an area of rather over 20 square miles, the extent, however, actually occupied by tillage and enclosures does not exceed two square miles while the cattle ranged over an additional space of about 4 square miles occupied by enclosures and for a cattle range. I beg to be informed by the return of post if it is the committee's wish to confirm to the fur trade without payment the whole area of 20 square miles according to the original limits previous to the treaty which were not actually marked out, or to confine their grant to the six square miles occupied by enclosures and as a stock range."

In reply to this communication the secretary of this company addressed Mr. Douglas under date the 16th July, 1851, as follows :

In reference to the 4th paragraph of your letter of the 16th April, I am to state that the utmost extent of land that the Hudson's Bay Company will allow the fur trade branch to occupy without paying for the same will be the two square miles actually occupied by tillage and enclosed, and 4 square miles, together 6 square miles occupied by enclosures and as a cattle range prior to the treaty with the United States.

The fur trade may have as much more of the reserve of 20 miles as they may choose to purchase at the fixed price.

An actual survey was afterwards made of the six square miles of land herein referred to, and it was found to contain 3,084 acres which were accordingly entered on the Land Register as belonging to the company.

Trusting that this explanation will sufficiently shew the position of the land with which Governor Douglas has been dealing as if belonging to the Crown.

I have, etc.,

(Signed) H. H. BERENS,

Governor.

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

No. 51.
EXECUTIVE.

VICTORIA, VANCOUVER ISLAND,
7th December, 1860.

My Lord Duke,

I have the honor to acknowledge receipt of your despatch No. 32, of the 24th August, forwarding for my report copy of a letter received from the Governor of the Hudson's Bay Company, in reply to my despatches, dated respectively 16th February and 28th March, 1860, upon the subject of the claim put forth by the Hudson's Bay Company to the proceeds of the sale of a portion of government land.

2. I scarcely expected, after the clear proof I exhibited in my despatch of the 28th of March, not only of the right of the Colonial Government to the land, but also of the *original intentions* of the Hudson's Bay Company with respect to such land,—that the company would have further pressed a claim which at first I was inclined to believe had only been preferred by the directors through a misconception of the actual facts of the case, but from the perusal of Mr. Beren's letter I perceive that the company, although relinquishing one part of the claim, viz., *the buildings*, do not seem disposed to resign the other, *the land*.

3. The letter of Mr. Berens is a fair narration of some of the circumstances concurrent with the erection of buildings and the appropriation of the land, and the facts are substantially correct; but I do not see that he throws any fresh light upon the claim the fur trade branch of the company have made, or that it in any way strengthens their position; on the contrary I think his letter contains clear evidence that the fur trade have neither a legal nor an equitable title to the land in question. Had the company adopted my proposition in the first instance, made as their agent, of leaving to the Colony the buildings required by the Government, the matter might wear a different complexion, though even then I am not sure that such an arrangement could have been confirmed under the charter of grant of the whole Island to the company, which especially restricted the sale of lands to such as were *not* required for public purposes, such public purposes I take to mean lands required for purposes in connection with the government of the colony; but the company did not approve of my suggestion, and the cost of the buildings was in consequence borne by the colony, and the land appropriated to them was retained and *set apart as a government reserve up to the period of its sale* under the authority of the despatch to Governor Blanshard from the secretary of the company, of the 1st January, 1851, which provides that the buildings required for government purposes "*are to be near the Fort Victoria, for convenience and protection;*" and also that the "*lands which may be appropriated, with the buildings, are to be held by the Governor and Council as trustees for the colony.*" These two points, which I brought forward in my despatch of the 28th March, to my mind conclusively settles the question, and the more so as I notice that they are not touched upon by Mr. Berens. To have adopted the expedient alluded to by Mr. Berens, of the fur trade retaining the buildings and other buildings being erected upon a different site, not claimed by the fur trade, would have been simply absurd, for that would have necessitated the removal of the government buildings from the settlement altogether, and would have placed them in the then almost untrodden wilderness. But in the quotation used by Mr. Berens from the letter of Sir

J. H. Pelley, it would appear that in *all cases* of reserves of land, if any part was required for public purposes, it might be resumed upon repaying the price and any improvements that might have been made upon it. For better information I enclose a copy of the whole of that letter, which I should not have done from motives of delicacy, the word "private" being marked upon it; but as Mr. Berens has alluded to it as an official document, which in point of fact it is, and as some most material points can be gathered from it, I do not longer hesitate to produce it. That letter, in my opinion, clearly establishes the point that if any portion of land reserved for the fur trade or Puget Sound Company were required for public purposes, it might be resumed upon two conditions, first repayment of its cost, and secondly compensation being made for any improvements upon it; but in the case under discussion no repayment of the original price of the land was required, the fur trade having paid nothing for it then, (nor have they I believe up to this day made any payment for the 3084 acres claimed by them), and no compensation was necessary, no expenditure having been made in improvements.

4. A consideration of these circumstances, I think, fairly proves that the fur trade can have no claim whatever to the proceeds of the land when sold in 1859.

It is shewn that the land was *required for public purposes, and was taken possession of by the Government* in 1851. It was *retained* by the Government, *and treated as a government reserve down to 1859*; and the most that the fur trade could ever be entitled to claim would be a *refund* of the money paid by them for it *prior to 1851*; but they have not even this claim, inasmuch as they never paid for it at all.

5. Your Grace will perceive that I have written upon the assumption that the land around Fort Victoria *does* belong to the fur trade branch of the Hudson Bay Company, and I have refrained from questioning the validity of their claim to it all. That question, I notice, is to be considered by the Judicial Committee of the Privy Council, and whether their claim be allowed or not I conceive makes no difference in the position of this Government. The entire case is I think stated in the fourth paragraph of this despatch, and the points there enumerated seem to me to decide the matter.

6. There is, however, one further point which is somewhat material. Mr. Berens mentions that in the last paragraph but one of his letter, the fur trade claim of 3084 acres was entered in the land register as belonging to the company. I have referred to the register, and I find therein a memorandum, signed by the Secretary of the Hudson's Bay Company, and dated 7th January, 1859, containing a copy of a minute of resolution made on the 26th September, 1853 (nearly three years after the portion of land now claimed by the fur trade was in possession of the Government), that the 3084 acres should be entered as belonging to the company.

A form of title deed was also filled in and sent home, but it would seem never to have been executed.

7. Considering that some legal points were involved in the question. I placed the whole of the papers before the Attorney-General, and I forward herewith his opinion for your Grace's information.

8. With reference to the information required in your despatch as to whether the produce of the sale of the buildings has been carried to the credit of the Colonial Government, I beg to state that so far as I am aware, that amount has not been so credited, although the cost of all the buildings erected upon the disputed land was charged to the colony.

I have, &c.,
(Signed) JAMES DOUGLAS.

HIS GRACE THE DUKE OF NEWCASTLE,
&c., &c., &c.

Governor Douglas to Duke of Newcastle.

No. 28.
EXECUTIVE.

VICTORIA, V. I., 10th May, 1861.

My Lord Duke :

With reference to the last paragraph of my despatch of the 28th March, No. 17, I have the honor to transmit to your Grace copy of a letter which I have received from the agent at this place of the Hudson's Bay Company, exhibiting the quantity of land claimed by the company under a title anterior to the charter of grant, and also the quantity acquired by purchase in their private capacity.

2. The quantity of land purchased by the company at Nanaimo, alluded to by Mr. Dallas in the postscript of his letter, amounts to six thousand one hundred and ninety three acres, excluding reserves made on the tract for public purposes and for Indians of one thousand and seventy-four acres.

I have, &c.,

(Signed) JAMES DOUGLAS.

COLONIAL SECRETARY'S OFFICE,
VICTORIA, V. I., 30th March, 1860.

Sir :

I am instructed by His Excellency the Governor to request you will be good enough to furnish him with as little delay as you conveniently can for the information of Her Majesty's Government, with a report shewing the extent and situation of the land claimed by the Hudson's Bay Company as their private property in Vancouver Island, distinguishing any that may be claimed under a title anterior to the charter of grant from such as may have been subsequently acquired by the company in their private capacity.

(Signed)

I have, &c.,
WILLIAM A. G. YOUNG,
Act. Col. Sec.

To A. G. DALLAS, Esq.
&c., &c., &c.

W. A. G. YOUNG, Esq.,
Act. Colonial Secretary.

VICTORIA, 9th April, 1860.

Sir :

In reply to your letter of the 30th ultimo I beg to state that I decline respectfully to give His Excellency the Governor the information required, the land in question being the private property of the fur trade and publicly acknowledged to be such both by His Excellency and the Colonial Surveyor.

As a matter of courtesy I should have had no objection to furnish this information, but I conceive that His Excellency has failed to carry out his agreement with me in relation to the advances of money made contingent on the sale of the land in question in so far that he has led the Duke of Newcastle to understand that the Hudson's Bay Company had been already reimbursed for the above named advances, His Grace consequently and naturally objects to owe the claim on this head. The question is one of principle, not of amount, and nothing but an express declaration by

His Excellency to the Duke of Newcastle of the terms made with me can solve the difficulty.

I have the honor to be, Sir,

Your most obedt. servant.

(Signed)

A. G. DALLAS.

VICTORIA, 14th April, 1860.

W. A. G. Young, Esq.,
Act. Col. Sec.,

Sir,

I have to acknowledge receipt of your letter of the 30th ultimo, relative to the lands owned by the Hudson's Bay Company upon this Island.

The lands claimed under a title anterior to the charter of grant of the Island comprise, to the best of my knowledge,

Uplands Farm,
North Dairy,
Beckley Farm,

} 3052 acres, including site of town.

The lands subsequently acquired by purchase comprise :

Saw mill on Esquimalt Harbor,
Lot G IV., about 20 acres.

Fur trade purchases in Esquimalt District subsequently resold, with the exception of Lot LXVI., on which the company's tannery stands, amounting to 17 acres, and about 2½ acres in Lot 51, section 23.

I have, etc.,
(Signed)

A. G. DALLAS.

P.S.—In the above I have taken no notice of the company's lands at Nanaimo, acquired by purchase.

A. G. D.

No. 9.
EXECUTIVE.

VICTORIA, V. I., 7th Feb., 1861.

My Lord Duke,

It having been brought to my notice that the Hudson's Bay Company were about to dispose of at sale by public auction the whole of the remaining available water frontage of the business portion of the city of Victoria, and which water frontage they claim under a title anterior to the charter of grant, I considered it my duty to address a request to the Board of Management to reserve such portions of water frontage as might be necessary to construct a government wharf and harbor master's office, no such reservation having been previously made, and the Government in consequence being compelled to pay an exorbitant rent for a small room upon a private wharf for use as a harbor master's office.

2. From the reply of Mr. Dallas herewith enclosed, your Grace will perceive that the company declined to make any such reservation as that requested, and I therefore caused a second letter to be addressed to Mr. Dallas recapitulating the grounds upon which the requisition was made, and explaining its propriety. To this second letter I have not as yet received any reply, but I fear, from the position assumed by Mr. Dallas in his first letter, that there is but little prospect of obtaining what is so obviously required.

3. Your Grace has informed me that you do not recognise the claim set up by the Hudson's Bay Company to the land forming the town site of Victoria, and adjacent thereto, but that the question had been referred to the Judicial Committee of the Privy Council for settlement. I therefore submit the present case to your Grace in order

that should the claim of the company be admitted, the portion of land required, and as it is shown upon the annexed tracing, may not be confirmed to them, for I think it clear, whether the claim be admitted or not, that under all the circumstances of the case, it is wholly inadmissible that the company should be permitted to monopolise not only the whole town site, and thus deprive the colony of the advantages resulting from its sale, but also every available foot of water frontage, and thus reduce the Government to the level of a private individual, and oblige it to go into the market and buy at an enormous cost what is required for an evident and important public purpose.

4. A few days ago the company sold at auction a portion of the ground upon which formerly stood their first establishment at Victoria, (its position is marked upon the tracing enclosed,) 51 lots, of an average of 31ft. by 75ft., were sold for the aggregate sum of one hundred and twenty-five thousand dollars. Some 60 lots still remain unsold, but I understand the company propose selling as soon as the market will yield a similarly good return. The company also still hold some 300 acres around Victoria (part of their claim of 3084 acres), which they are disposing of from day to day at private sale, at the rate of one hundred pounds an acre.

5. I mention these circumstances to show the large pecuniary benefit reaped by the company through their tenure of Vancouver Island, and owing to the accident of the discovery of gold in British Columbia, and that therefore the company cannot, with any show of reason, complain that if the very insignificant portion of land now sought be withheld from them, it would be at all an act approaching to injustice.

I have, &c.,
(Signed) JAMES DOUGLAS.

HIS GRACE THE DUKE OF NEWCASTLE,
&c., &c., &c.

COLONIAL SECRETARY'S OFFICE,
15th January, 1861.

Gentlemen :

His Excellency the Governor having been given to understand that the Hudson Bay Company are about to sell certain water frontages in Victoria Harbor, I am desired by His Excellency to request that previously to any such sale you will cause a reservation to be made of a plot of ground suitable for a landing place and office for the Harbor Master as the want thereof is now becoming sensibly felt and as no such appropriation of land for this indispensable purpose has, as yet, been made by the company.

2. The Government are prepared to repay to the company the actual outlay they may have incurred in the purchase of the land, and to reimburse the value of any improvements which may exist thereon.

3. The Colonial Surveyor has received instructions to confer with such persons as you appoint as to the site required.

THE BOARD OF MANAGEMENT,
Hudson Bay Company, Victoria.

I have, etc.
(Signed) W. A. G. YOUNG.

VICTORIA, 28th January, 1861.

Sir,

I have to acknowledge receipt of your letter of the 15th instant addressed to the board of management of the Hudson's Bay Company, and to state in reply that the board does not feel itself authorized to make a grant of land on the terms proposed by the Government for the use of the Harbor Master.

At the same time the board is willing, as it has already offered to build an office for the Harbor Master for a moderate rent, and to grant him the free use of the company's

wharf with the exclusive right to a suitable approach and landing steps.

W. A. G. Young, Esq.
&c., &c., &c.
Government Buildings.

I have, &c,
(Signed) A. G. DALLAS.

ATTORNEY-GENERAL'S OFFICE,
January 30th, 1861.

Sir :

I have to report for the information of His Excellency that I am of opinion that a letter in addition to that of the 15th inst. should be addressed to Mr. Dallas, acquainting him with the fact that it is absolutely necessary that a portion of land should be set apart for the use of the harbor master's office, and again requesting him to do so; further informing him, that pending the settlement of the land question at present in discussion at home, a piece of land (to be specified by the Colonial Surveyor) must be retained for that purpose, and requiring him to desist from the sale of such piece of land.

(Signed) I have, &c.,
G. H. CARY,
The Acting Colonial Secretary, Acting Attorney-General.
Vancouver Island.

COLONIAL SECRETARY'S OFFICE,
31st January, 1861.

Sir :

I have had the honor to receive and to lay before His Excellency the Governor your letter of the 28th instant, stating that the board of management does not feel itself authorized to make the grant of land on the terms proposed by the Government for the use of the Harbor Master, but offering in lieu to build an office for the Harbor Master, and to receive him as a tenant for a moderate rent.

2. The terms proposed in my letter of the 15th instant were to the effect that the Government were prepared to repay to the Hudson Bay Company the actual outlay they may have incurred in the purchase of the land now required for an essential public purpose, and to reimburse the value of any improvements which may exist thereon.

3. These terms, it is believed, were in conformity to the charter of grant of Vancouver Island to the Hudson's Bay Company which limits the power of sale to such lands as are not required for public purposes and in strict accordance with the rules laid down by the Hudson Bay Company with a respect to lands required for public purposes. The Governor of the Hudson's Bay Company, in a despatch dated 23d May, 1851, communicating those rules to the Governor of Vancouver Island in the following words: " But in all cases of reserves of land, such as those made for the fur trade and Puget Sound Company, it must be understood that if any part is required for public purposes it may be resumed upon paying the price and any improvements that may be made upon it.

4. The portion of land now sought to be acquired by the Government is for an indispensable and important public purpose, for which no reserve has hitherto been made, and the inconvenience arising in consequence render it absolutely necessary that the accommodation required should be sought and provided without further delay, His Excellency therefore trusts that the board of management will reconsider the matter and make the appropriation requested.

5. His Excellency is advised that the claim advanced by the Hudson Bay Company

to the title to land at and around Victoria is rejected by Her Majesty's Government and that the question has by mutual consent been submitted to the Judicial Committee of the Privy Council for settlement. His Excellency has, however, no desire to enter into any correspondence on the subject, he merely directs me to allude to it so that if the board of management does not feel itself authorised to make the reserve required, it will, he trusts, at all events feel itself equally unauthorized under such circumstances to permit the land required as aforesaid for public purposes to be sold to private individuals, the more especially as nearly one-half of the entire available water frontage on the business portion of Victoria Harbor is still in possession of the Hudson's Bay Company.

6. The Colonial Surveyor has been instructed to point out the site and dimensions of the plot of ground to be set apart for the uses before-mentioned, and if the board of management, after this representation, still declines to retain the land for the purpose and does not desist from its sale to private individuals, I am to acquaint you that such proceeding will be at the responsibility of the Hudson's Bay Company, as to the expenses to which the Government may be put in obtaining hereafter what is now, it is believed, most properly and consistently sought.

7. In conclusion, I am desired by His Excellency to thank you for the offer to build an office for the Harbor Master, with the free use of the company's wharf, but such an expedient would be both inconsistent with the charter of grant and with the contemplated arrangements of the Government.

I have, &c.,
WILLIAM A. G. YOUNG,
Act. Col. Sec.

(Signed)

To A. G. DALLAS, Esq.
H. B. Co., Victoria.

VICTORIA, VANCOUVER ISLAND,

4th February, 1861.

Sir,

I have the honor to acknowledge receipt of your letter of 31st ultimo respecting my offer of temporary accommodation for the Harbor Master.

It is not for me to discuss the terms of the charter of grant of the Island to the Hudson's Bay Company, but I cannot overlook the fact that the obligations of the company in respect to the charter ceased on the 30th May, 1859.

The instructions of the governor of the company, dated 23rd May, 1851, quoted by you were based in a liberal spirit, on the assumption that the lands in and around Victoria were the property of the fur trade branch of the Hudson's Bay Company by right acquired prior to the charter of grant, a right only now disputed though at the time, and subsequently acknowledged and recognized by Her Majesty's Government. Her Majesty's Government virtually confirmed to the company the lands in and around Victoria by declining to take over their establishments, property and effects thereon as bound by the charter to do.

In obedience to my instructions, and bearing in mind the understanding between Her Majesty's Government and the Hudson's Bay Company, as set forth in a letter of May, 1860, from the Secretary of State for the Colonies, and another of the 29th June, from the Governor of the Hudson's Bay Company, both addressed to His Excellency Governor Douglas, I am not prepared to incur any responsibility beyond affording any temporary facility to the Colonial Government as already offered.

I should, under ordinary circumstances, have been willing to assume any reasonable responsibility in order to further His Excellency's views, but my confidence

is entirely shaken by the manner in which I have been dealt with on two separate occasions when I overlooked my instructions in order to render him assistance.

Previous to 30th May, 1859, I arranged to advance a sum of \$27,000 for the erection of public offices on the assurance of His Excellency, to which he pledged me his word of honor that the amount should be passed in the Colonial accounts and be repaid to the company. His Excellency subsequently refused to sign these accounts, and advised the Duke of Newcastle that the expenditure in question had been met by a surrender of certain lands to the company. His Grace consequently and naturally declined to admit the charge and the amount remains to this day unpaid.

Subsequently to the 30th May, 1859, when the Company's charter of grant expired, though I was expressly instructed to provide no more funds for the Colony, at the urgent entreaty of the Governor, I advanced a sum of \$3,744 on condition that the amount should be repaid out of Colonial funds. On the 16th February, 1860, I addressed His Excellency asking if he was prepared to pay the above amount, or in what manner he proposed to deal with it. To this letter I received no reply nor to three reminders of 6th March, 10th and 14th April. It was not till 11th June that my applications were noticed, when I was informed that the amount mentioned had been included in the Colonial accounts for 1859. This reply was but a mockery, seeing that His Excellency had refused to acknowledge or pass the Colonial accounts made up by me, and that the Duke of Newcastle had emphatically disavowed responsibility for any sums expended subsequently to expiry of the company's charter, *or even in anticipation of that event.*

The marked discourtesy and want of good faith exhibited in the above transactions do not encourage me again to overstep the strict line of my instructions, and I take this opportunity of informing His Excellency that I still look to him personally for the reimbursement of the above sums for which I conceive he is justly responsible to the company.

I have, &c.,

A. G. DALLAS.

W. A. G. YOUNG, Esq.,
Acting Colonial Secretary,
Government House.

VICTORIA, V. I., 11th February, 1861.

Sir -

I had the honor, on the 9th instant, to receive and lay before his Excellency the Governor your letter of the 4th instant.

2. His Excellency desires me to observe in answer thereto that your said letter contains no definite reply to my communication of the 31st January, making formal requisition for the reservation for public uses of a portion of the water frontage on Victoria Harbor.

3. The reservation of the land in question His Excellency considers to be a matter of public right, and not one of convenience or accommodation, to be yielded by the Hudson's Bay Company. It will therefore be the duty of His Excellency, pending a reference of the question for the decision of Her Majesty's Government, unless indeed you at once afford him a positive assurance that the land will be retained by the company to await the issue to institute such proceedings as may be requisite to restrain the Hudson's Bay Company from further dealing with the same.

4. In consideration of the liberal policy that until recently has characterised the proceedings of the Hudson's Bay Company in connection with their tenure of Vancouver Island, His Excellency will much regret having recourse to these extreme measures, but the position you have now assumed on behalf of the Company unfortunately leaves him no option in the matter.

I have, etc.

A. G. DALLAS, Esq.

(Signed)

W. A. G. YOUNG.

VICTORIA, V. I., 15th Feb., 1861.

Sir:

I have the honor to acknowledge receipt of your letter of the 11th instant, and to state that I have no more definite reply to give to your communication of the 31st ultimo than is conveyed in my letter of the 4th instant.

Of the 200 feet water front required for the harbor master, a portion was sold shortly after the public sale on 23rd ultimo. Lot 15, measuring about 50 feet frontage, is still unsold, and will remain so, being let to a tenant. The remainder, about 32ft, is in the occupation of the company, as it has been for a length of time, and is required for the uses of their business.

Irrespective of the question of right, the Hudson's Bay Company would be at all times ready to surrender to Her Majesty's Government any reasonable quantity of land required for public use; but when, as upon a former occasion, land is demanded for the purpose of resale to a profit, I am not prepared to admit the propriety of the request.

The want of good faith on the part of His Excellency in the transaction referred to in my letter of the 4th instant is my apology and substantial reason for declining to involve myself again in a similar manner, more especially as the tenth part of the water frontage demanded would supply all the reasonable requirements of the harbor master.

The reservation of the land in question is demanded by His Excellency as a matter of public right. On a former occasion His Excellency assumed a position which he could not maintain in demanding as a right that the company should continue to provide funds for colonial expenditure after expiry of the charter of grant. In my anxiety to meet his wishes, I conceded the point contrary to my own judgment. The opinions of the Duke of Newcastle and the result of my consequent applications for an adjustment of the account, as set forth in the 7th paragraph of my letter of 4th instant, caution me to make no more concessions to an assumed right pending a reference to the Governor and Board of Directors in London.

I cannot remain silent under the implied and groundless charge of illiberality against the Hudson's Bay Company conveyed in the 4th paragraph of your letter, being ignorant and unconscious of any act which can be construed as such. On the means and resources of the company the colonies of Vancouver Island and British Columbia were founded, and for a time supported. The result has been disastrous to the company in an almost total disorganisation and annihilation of its ordinary business, in unpaid accounts and disputed rights. To the injustice and illiberality of His Excellency I attribute a large portion of this result. It is in no illiberal spirit that I now decline to meet His Excellency's wishes, but from an entire want of confidence, engendered by the circumstances referred to in the 6th and 7th paragraphs of my letter of the 4th February.

I have, etc.,

A. G. DALLAS.

W. A. G. YOUNG, Esq.,
Act. Colonial Secretary.

COLONIAL SECRETARY'S OFFICE,
18th February, 1861.

Sir,

I have the honor to acknowledge the receipt of your letter of the 15th instant, which I have duly laid before His Excellency the Governor.

2. His Excellency gathers from that communication that you decline to make the reservation of certain land required for public purposes until the question of the right of the Hudson's Bay Company to deal with such land can be determined by higher authority.

3. His Excellency also gathers that subsequently to my first letter communicating to you the requirements of the public, you sold by private contract a portion of such land, the same having been previously advertised for sale by public auction.

4. His Excellency cannot concede that the question of whether or not the land is to be devoted to public purposes rests with you for decision. His Excellency has offered to refrain from pressing the point until it can be determined in the proper quarter, provided you will agree not to alienate the land in the meantime. You not only refuse this, but you take advantage of an opportunity which offers for selling privately a portion of the land in question. Reluctantly, therefore, is His Excellency compelled for the protection of the public to have recourse to those measures intimated in my letter of the 11th instant.

5. Both in your present letter and in that of the 31st ultimo there are various circumstances introduced wholly foreign to the subject now treated of. His Excellency considers it quite unnecessary for him now to refer to those circumstances, either to expose the misrepresentation of facts in connection therewith, or to controvert the opinions in which you have so freely, and as His Excellency hopes, thoughtlessly indulged.

I have, &c.,

(Signed)

WILLIAM A. G. YOUNG.

To A. G. DALLAS, Esq.,
&c., &c., &c.

VANCOUVER ISLAND,
No. 61.

DOWNING STREET,
15th June, 1861.

Sir :

I have to acknowledge the receipt of your despatch No. 9, of the 7th February last, on the subject of the intended sale by the Hudson's Bay Company of the water frontage of the City of Victoria.

I enclose for your information a copy of a letter which I caused to be addressed to the governor of the company, together with a copy of Mr. Berens' reply, from which you will learn that directions have been sent to the company's agent at Victoria to suspend the sale of the land in question.

I have, &c.,
(Signed)

NEWCASTLE.

GOVERNOR DOUGLAS, C.B.
&c., &c., &c.

DOWNING STREET,
23rd May, 1861.

Sir :

I am directed by the Duke of Newcastle to enclose herewith for your consideration the copy of a despatch from Governor Douglas transmitting a correspondence which had passed between himself and the agent of the Hudson Bay Company in Vancouver Island on the subject of the sale by the company of the water frontage in the City of Victoria.

You will observe that the Governor, anticipating that the whole of this property might be disposed of by the agent of the company to private individuals, applied to him to reserve a plot suitable for a public landing place and Harbor Master's office, offering to repay any outlay which the company might have incurred in the purchase or improvement of the land. This offer was in exact conformity with the principle laid down in Sir. J. Pelly's instructions to Governor Douglas of the 23rd May, 1851, that if any

part of the reserves made by the company is required for public purposes, "it may be resumed on repaying the price and any improvements that may have been made upon it."

Nevertheless the agent declined to accede to the Governor's application, offering, instead what would be clearly insufficient, to build an office for the Harbor Master for a moderate rent, and to grant him the free use of the company's wharf.

In the grant of 13th January, 1849, lands required for public purposes are exempted from those which the Hudson's Bay Company is thereby empowered to sell. The lands in question could not, therefore, be properly sold under that grant.

They appear, however, to be sold not as part of the public lands of the Colony placed at the disposal of the company by the grant of 1849, but as part of the private property of the company, to which they assert a claim by reason of occupation previous to that grant. Her Majesty's Government, as you are aware, deny the validity of that claim, and the question is now under reference to the Judicial Committee of the Privy Council.

Pending the decision of the Judicial Committee Her Majesty's Government would have been anxious to avoid any measure which might be supposed to indicate a hostile spirit towards the company, but they cannot allow their feeling on that point to interfere with their duty towards the public.

As it appears, therefore, from Governor Douglas' despatch that the public interests would be seriously inconvenienced if the remainder of the water frontage of Victoria were disposed of to private individuals, and as the agent of the company has refused to attend to the Governor's remonstrance on this subject, I am directed by the Duke of Newcastle to inform you that unless you can assure His Grace that instructions will be sent to the agent of the company by the earliest and most rapid opportunity to suspend the sale of the land in question, the Governor will be instructed to issue a notice in the colony that Her Majesty's Government deny the right of the company to sell those lands, and that, if the decision of the Judicial Committee should be adverse to the Company's right the sales will not be recognized by the Crown.

I am to request your answer to this letter at your earliest convenience.

I have, &c.

(Signed) F. ROGERS.

H. H. BERENS, Esq.

HUDSON'S BAY HOUSE,

May 24th, 1861.

My Lord Duke,

I have the honor to acknowledge the receipt of Sir F. Rogers' letter of the 23rd instant, enclosing a despatch from Governor Douglas transmitting a correspondence which has passed between himself and the Agent of the Hudson's Bay Company in Vancouver Island, on the subject of the sale by the company of a certain portion of water frontage in Victoria required for a public landing place and harbor master's office.

In reply I beg to state that there is no wish on the part of this company to do anything that would militate against the public interests. I therefore hasten to inform your Grace that, in compliance with the suggestion thrown out in Sir Frederic Rogers'

letter, I have directed that specific instructions shall be sent by this day's post to the Agent of this company at Victoria to suspend the sales of the land in question, as referred to in the correspondence between Governor Douglas and Mr. Dallas.

I have, &c.,
(Signed) H. H. BERENS,
Governor.

HIS GRACE THE DUKE OF NEWCASTLE,
&c., &c., &c.

VANCOUVER ISLAND. }
No. 65.

DOWNING STREET, 26th July, 1861.

Sir,

I have the honor to transmit to you herewith a copy of a letter addressed to me by the Governor of the Hudson's Bay Company, and to request that you will furnish me with a report on the subject of the transactions of which the company complain, connected with certain land sold by their Agents to Mr. Lowenberg.

I have, &c.,
(Signed) NEWCASTLE.

GOVERNOR DOUGLAS, C.B., &c., &c., &c.

HUDSON'S BAY HOUSE, July 15th, 1861.

My Lord Duke,

It is with great reluctance that I have to trouble your Grace upon the subject of an outrage committed by the representatives of the Government in Vancouver Island, in respect to some land which had been sold by the agents of this company to a Mr. Lowenberg who had paid for the same, and who was in possession of it at the time that Mr. Dallas the agent of the company left Vancouver's Island for this country.

The land in question formed a portion of the 3084 acres which are claimed by this company as having been possessed by them before the grant of the island to the company, and adjoining a portion of the same property which had been appropriated for the erection of buildings for the accommodation of the Government. From the Government land it was separated by a ditch or fence. The piece of ground referred to formed part of a farm which had long been under cultivation by the servants of the company, by whom it had been cropped for a series of years; and a proposal having been made to form a street which passed through the farm, and severed this piece from the remainder of the farm. Mr. Dallas thought it right to dispose of the land, consisting of about 2 acres 3 roods, and 17 poles, and accordingly did so, under the authority held by him for the purpose from this company.

It now appears that since Mr. Dallas' departure from the island, a Mr. Teideman who is in the employ of the Land Office at Victoria, endeavored to prevent Mr Lowenberg from proceeding with some fencing which he was putting up, stating that he

claimed the land as government property, and on Mr. Lowenberg resisting this interference with his property, a warrant was obtained from the police magistrate for his arrest, under which he was taken to prison, and only discharged upon giving bail. Under these circumstances he seeks redress from this company for the injury which he has sustained, as well as compensation for the land for which he has been dispossessed.

This proceeding is so extraordinary, and so entirely at variance with the understanding come to between your Grace and this company, to the effect that the representatives of the Government should not seek to interfere with the land claimed by this company, and for years past registered in the Land Office as belonging to them, that I feel assured your Grace will at once give the necessary directions for Mr. Lowenberg being reinstated in the possession of his property, and for proper measures being taken to compensate him for the indignities to which he has been subjected.

I have, &c.,

(Signed)

H. H. BERENS,
Governor.

HIS GRACE THE DUKE OF NEWCASTLE,
&c., &c., &c.

No. 66.
EXECUTIVE.

VICTORIA, 24th October, 1861.

My Lord Duke :

I have the honor to acknowledge the receipt of your Grace's despatch, No. 65, of the 26th July last, forwarding for my report copy of a letter from the Governor of the Hudson's Bay Company complaining of certain transactions arising out of the sale by the agents of the company of a certain piece of land at Victoria to a Mr. Lowenberg.

2. My despatch, No. 50, of the 8th August last, will have revealed very fully to your Grace the recent proceedings of the agents of the Hudson Bay Company in respect to lands which had been previously appropriated as Government and public reserves, and will have shown how this Government was compelled, although most reluctantly, by their inconsiderate and really unwarantable actions to have recourse to legal measures, not only to prevent part of the streets, public park and church reserve from being sold, but actually to retain in its entirety the very small spot of land upon which the Government offices stand. The case of Lowenberg is exclusively connected with this Government land, and it is clearly disclosed by the documents forwarded in that despatch, but as it is made the subject of a special and very grave complaint, and as the matter is but very imperfectly represented in the letter of Mr. Berens, I will recapitulate the actual facts of the case, most of which are incontestably proved by the affidavits filed with the information of the Attorney General, certified copies of which were forwarded with my aforesaid despatch.

3. A few days before the interference complained of by Mr. Lowenberg occurred I had issued instructions to the Surveyor General to run a fence round two of the open sides of the Government reserve. Upon the evening of the day the work was commenced, and after the Surveyor's men had ceased work, Mr. Lowenberg, it appears, repaired to the spot with a number of men and proceeded to the construction of another

fence. Mr. Tiedeman, an employee of the land office, warned the men that they were committing a trespass upon the Government property, and were doing that which might lead to a breach of the peace. They desisted, and, I am told, that thereupon Mr. Lowenberg became very violent and assaulted Mr. Tiedeman. Mr. Tiedeman laid an information against him and he was taken into custody. This I believe to be the whole sum and substance of the proceeding characterized as an "outrage" upon the part of the Government by Mr. Berens, but which I, probably with greater accuracy, might designate as an attempt upon the part of the Hudson's Bay Company to repossess themselves of the Government reserve, Mr. Lowenberg being merely their agent or instrument in the first step taken.

4. Mr. Berens does not state that the land purported to have been sold to Mr. Lowenberg by Mr. Dallas was a portion of the Government reserve, he represents it to have formed part of a farm which had long been under cultivation by the servants of the company and had been cropped by them for a series of years and that it "adjoined" the Government reserve from which it was "separated" by a "ditch or fence." In 1858, when the Hudson's Bay Company surveyed off into lots and sold the town site of Victoria, this government reserve, consisting of 10 acres more or less was laid out and marked with conspicuous posts upon the ground, some of which remain to this day; and when the plan of the town was made it was duly included therein. A portion of the reserve might or might not once upon a time have been considered to be included within the limits of the company's farm, but if the lines of the reserve did extend so far back as to encroach upon the lands of the farm, they were taken so designedly in the first instance, by the company's agents to the advantage of the company, by enabling them to utilize and sell as town lots an increased frontage on the water. Certain it is that the cultivation of this portion of the farm represented by Mr. Berens to have existed was not continued after the land was laid out as a government reserve. The portion in question was not separated either by a ditch or fence from the land occupied by the Government, for neither exists, unless indeed a drain or trench about 2ft. wide, to carry off the surface accumulation of water during the winter can with consistency be termed a ditch. Mr. Berens says a *proposal had been made* to form a street which passed through the farm, and severed this piece from the remainder of the farm. The "*proposed*" street was actually *laid out* and lots upon it facing the Government reserve sold in 1859. The map upon which the lots were exhibited and sold by the company containing the lines of the Government reserve as originally laid down, the rear line in 1859 forming part of one side of the "*proposed*" street. For convenience and a better comprehension of this point I forward a plan of the locality.

5. I cannot believe that Mr. Berens could be aware of all these matters when he penned the letter now under consideration. It would seem to have been the policy of Mr. Dallas, who sold the Land, to deprive both the Government and the Public of the Lands originally reserved to them and to restore the power of the Hudson's Bay Company to deal with the Land. The attempt to sell the Public Springs, Public Park, etc., detailed in my Despatch No. 50, afford strong evidence of this. Your Grace is well aware of the manner in which my recent application was met for a site for a Public Wharf and Harbor-master's Office. The Governor of the Hudson's Bay Company then instantly repudiated any desire on the part of the company to interfere with the requirements of the Public, and I would fain believe that he will now, upon becoming possessed of the real facts of the case, as instantly repudiate the attempt to deprive the Government of a piece of ground required for public purposes, and so allotted and marked out in 1858; the more especially as Mr. Berens himself recognizes the Reserve in his letter to your Grace of the 16th December, 1858, wherein he says: "The land upon which Governor Douglas is erecting the new Public Offices has also been represented by that gentleman to be government property; but I have reason to know that it is part of the land held by the Fur Trade long prior to the grant from the Crown. The company,

therefore, will have a claim upon the Government for the value of the land." In 1859, Mr. Berens admits this land to be in the possession of the local Government, and simply contends that the company will have "a claim" for the value of the land. In 1861, Mr. Berens represents a portion of the same land to be part of a farm "cultivated" and "cropped" by the servants of the company, and only separated from that farm in imagination by a proposed street. I have already shown that the lines of the Government Reserve were run and marked in 1858, that the Hudson's Bay Company were in possession of a copy of the official plan of the town upon which those lines are traced, and although one of those lines now forms part of one side of the proposed street (actually laid out in 1859), yet at the time it had no reference to it, and no other significance than the rear line of boundary of the Government reserved land; on the contrary I think the inference may not unfairly be drawn that in laying out the street alluded to in 1859 the situation of the Government Reserve did govern the position and direction of such street and of the lots surveyed off and sold; otherwise it seems remarkable that lots should be laid out and sold upon one side of a street only, and that when fresh lots were required they should be laid out and sold in the *rear* of those first disposed of—the less remote meanwhile not only being not sold but not even surveyed or exhibited for sale, and at least that this piece of land which had it been at the disposal of the Hudson's Bay Company, could have been very advantageously disposed of if put up for sale in lots at public auction, should be parted with to a private individual, a land-agent by profession, without being surveyed and divided in similar manner to the other side of the street.

6. The claim for payment of the value of the land which Mr. Berens asserts in 1859, would, I conceive, be perfectly legitimate if the company in the first instance paid for the land, for it would be merely an equitable refund in a case where the company had no power to sell or purchase, but as the company had not paid for it nor any portion of the 3084 acres dealt with by them as private property they cannot, I apprehend, sustain any claim for repayment or reimbursement on account of any portion of those 3084 acres required for public purposes; for whether the private ownership of those lands be admitted or not the same principle, I conceive, must govern both them and the other lands of the Colony, viz., that all portions as are required for public purposes must remain in the Crown, and are consequently wholly removed from the control of the Company, whatever general rights and privileges may have been accorded by the Crown.

I have, &c.,
(Signed) JAMES DOUGLAS.

HIS GRACE THE DUKE OF NEWCASTLE,
&c., &c., &c.