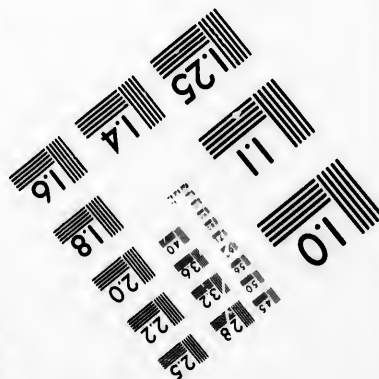
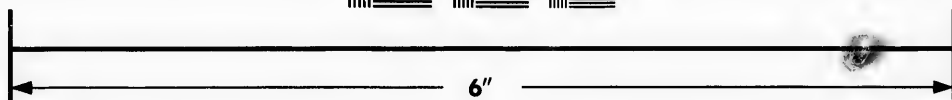
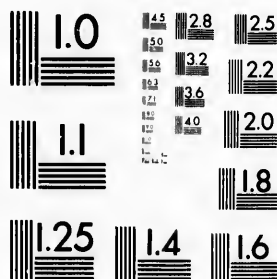


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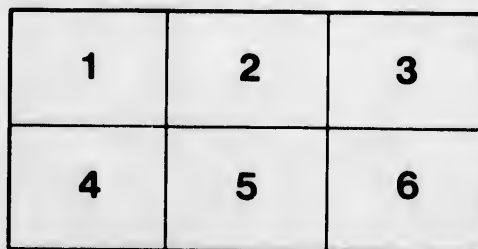
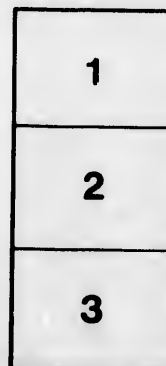
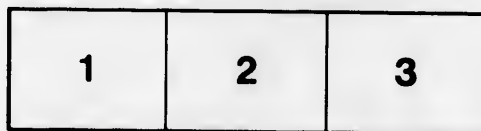
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*MEMORANDUM on "A Report of a Committee of the Honorable the Privy Council for Canada, approved by His Excellency the Governor-General on the 19th May, 1881,—and generally in support of the recent Petition of the Legislative Assembly of British Columbia to Her Majesty the Queen."*

1. In the Preamble of the Report of the Committee of the Honorable Privy Council of Canada, of the 19th May 1881, it is stated :—

"The Committee of the Privy Council have had under consideration the letter addressed by Mr. De Cosmos on behalf of the Government of British Columbia, dated the 13th instant, to Sir John Macdonald representing the importance of constructing the Esquimalt and Nanaimo Railway on the Island of Vancouver, and they have also had before them a Petition to the Queen which the Legislative Assembly of that Province directed on the 29th March, should be forwarded for presentation to Her Majesty."

~~It will be observed that the Preamble states that the Committee of the Privy Council have had under consideration a letter addressed by Mr. De Cosmos on behalf of the Government of British Columbia, dated the 13th ultimo, to Sir John Macdonald, representing the importance of constructing the Esquimalt and Nanaimo Railway on the Island of Vancouver, and they have also had a Petition to the Queen, which the Legislative Assembly of that Province directed, on the 29th of March, should be forwarded for presentation to Her Majesty; and that "on these papers" the Committee made their Report to His Excellency the Governor-General.~~

The first statement, as to the purpose for which the letter of Mr. De Cosmos was written, is a mistake ; for the real object of that letter was to give the Dominion Government an opportunity to consider the Prayer of the Petition to the Queen ; and, if possible, arrive at a final and satisfactory settlement of the questions in dispute respecting the Railway obligations of Canada to British Columbia,—and, thus, render the presentation of the Petition to the Queen, unnecessary. What object the Committee of the Privy Council had in taking a different view of the letter,—unless it was a desire that the whole question of the Delays and Breaches of Agreement respecting the construction of the Canadian Pacific Railway in British Columbia, should be submitted to Her Majesty's Imperial Government,—cannot be discerned. To show, however, in the most conclusive manner, that the letter of the 13th April, addressed to Sir John A. Macdonald, was not as represented in the Preamble to the Report, a Copy of the letter of Mr. De Cosmos, with the reply of Sir S. L. Tilley thereto, on behalf of the Privy Council, and the rejoinder of Mr. De Cosmos, are submitted, and are as follows :—



MR. DE COSMOS TO SIR JOHN A. MACDONALD.

"Ottawa, April 13, 1881.

"SIR,—I have the honor to state that on November 6th, 1880, I informed the Secretary of State for Canada that I had been authorized by an Order in Council of the Government of British Columbia to press upon the Dominion Government the importance of carrying out their Agreement to construct the Esquimalt-Nanaimo Section of the Canadian Pacific Railway,—and report the result from time to time to the former Government.

"On November 8th, I received a reply from the Under-Secretary of State acknowledging my letter, and stating that a copy of the Order in Council referred to had been received from the Lieutenant-Governor of the Province.

"Between the latter date and the 28th February last, I had several interviews with yourself, Sir Charles Tupper, Hon. J. H. Pope, and Mr. D. McIntyre of the Syndicate, respecting the Agreement referred to; but without reaching a final conclusion on the subject. Since then, the question has remained in abeyance.

"To-day I received a letter from the Hon. T. B. Humphreys, Provincial Secretary of British Columbia, in which I was officially informed that I had been appointed Special Agent and Delegate to London to support the Prayer of a Petition of the Legislative Assembly of that Province to the Queen,—a Copy of which is herewith enclosed.

"This Action of the Government and Legislative Assembly,—whilst it raises in the Petition new questions, and includes the former one, for the consideration of the Dominion and Imperial Governments,—has not, as I understand it, superseded my authority to press upon the Dominion Government the importance of carrying out their Agreement to construct the Esquimalt-Nanaimo Section of the Canadian Pacific Railway. I am, however, authorized to proceed to London to support the Prayer of the Petition; and, unless it is your desire to consider here, without undue delay, the questions raised in it, with a view to their final and satisfactory settlement, it will be necessary for me to complete my preparations to proceed to London at an early day. In case you should decide to consider, here, the Prayer of the Petition, of course, it will be understood as being done without prejudice to the Petitioners.

"I may remark that I have always held in the past, and still hold, that as a matter of sound Public Policy, any important matter in dispute between a Province of Canada and the Dominion Government, ought to be exhaustively considered by the representatives of the respective Governments at Ottawa, before presenting an appeal for the consideration and decision of Her Majesty's Imperial Government. Such was my advice, when Mr. Walkem was *en route* to England in 1874 with a Petition to the Queen; and such also were my views as expressed and reported in the *Hansard Debates* of the Session of 1876.

"In submitting this matter for your consideration, I trust that you may be pleased to favor me with a reply, at an early day.

"I have the honour to be, Sir,

"Your obedient Servant,

A. DE COSMOS.

"To the Right Honorable

"Sir John A. Macdonald,

"Premier and Minister of Interior, Ottawa."

SIR S. L. TILLEY TO MR. DE COSMOS.

"Ottawa, 16th May, 1881.

"SIR—Sir John Macdonald has desired that your letter to him of the 13th of April, on the subject of the construction of a railway between Esquimalt and Nanaimo, should be submitted to the Committee of the Privy Council; and I have to-day taken the opportunity of complying with his request.

"You are aware that every effort is now being put forward by the Government to construct the Pacific Railway from this part of Canada to the Seaboard of British Columbia; that the main line in that province will cost a very large sum of money; and that some of its most expensive sections are already under contract.

"With this evidence of the good faith, with which the Government is dealing with the question before them, we trust that the people of British Columbia will be satisfied; and that it will be recognized that the Esquimalt and Nanaimo Railway should be left over, for the present, as a work which is not essential to the connection of the Seaboard of British Columbia with the Canadian System of Railways.

"2. In the meantime, the Government of the Dominion will avail themselves of every opportunity of pressing the question of the construction of this Railway, as a

"private enterprise, upon the attention of the Canadian Pacific Railway Company, in furtherance of views already expressed to you by Sir John Macdonald, Sir Charles Tupper, and Mr. Pope, and which are referred to in your letter.

"3. I trust that the explanations which I have given you, will prove sufficiently satisfactory to you to render unnecessary your proposed mission to London.

"4. In any event, Her Majesty's Government can only be approached by you through his Excellency The Governor-General.

"I am, Sir,

"Your obedient Servant,

"Hon. A. De Cosmos,

"Ottawa."

"S. L. TILLEY.

Mr. DE COSMOS TO SIR S. L. TILLEY.

"Ottawa, 18th May, 1881.

"Sir,—I have the honor to acknowledge the receipt, on the 17th instant, of your letter of the 16th instant, in which you inform me, that Sir John Macdonald had desired that my letter of the 18th April on the subject of the construction of a Railway between Esquimalt and Nanaimo should be submitted to the Committee of the Privy Council; and that you had done so on that day.

"In reply, I have the honor to state that there is a manifest misapprehension, on your part, as to the contents and object of my letter of the 13th ultimo; and in proof of this statement I refer you to the letter itself.

"The following extract from my letter of the 13th ultimo to Sir John A. Macdonald, makes it perfectly clear what was my paramount object in addressing it to him, viz:—

"I am, however, authorized to proceed to London to support the Prayer of the Petition; and unless it is your desire to consider here, without undue delay, the questions raised in it, with a view to their final and satisfactory settlement, it will be necessary for me to complete my preparations to proceed to London at an early day. In case you should decide to consider, here, the Prayer of the Petition, of course, it will be understood as being done without prejudice to Petitioners."

"Not having replied to the real object of my letter, you leave me no other course open, but to proceed to London.

"At a future time I may reply to the other statements in your letter.

"I have the honor to be

"Sir

"Your most obedient Servant,

"A. DE COSMOS.

"To the Hon. Sir S. L. Tilley,

"Minister of Finance, &c., &c., &c.,

"Ottawa."

## 2. The Report further states:—

"1. One of the terms upon which British Columbia, in the year 1871, entered into the Union of Her Majesty's North American Provinces was as follows:—

"The Government of the Dominion undertake to secure the commencement simultaneously within two years from the date of the Union, of the construction of a Railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the Seaboard of British Columbia with the Railway System of Canada; and further to secure the completion of such Railway within ten years from the date of the Union."

The points in this Section of the Report that deserve special notice are:—

(1.) That "one of the terms upon which British Columbia, in 1871, entered into the Union of Her Majesty's North American Provinces" was the first Clause of the 11th Section of The Terms of Union, providing for the construction of a Railway connecting the Pacific Ocean with the Railway System of Canada.

(2.) That the words, "one of the terms," imply that there were other terms of Union.

(3.) That a Railway was to be constructed to connect the Seaboard of the Pacific with the Railway System of Canada.

(4.) That the Railway was to be commenced within two years from the date of Union.

(5.) That the Railway was to be commenced, simultaneously, at each end, that is to say, at some point on the Seaboard of the Pacific, and at such point east of the Rocky Mountains as might be selected, and that the work of construction should commence at both of the said points at one and the same time.

(6.) That the Railway should be completed within ten years from the date of Union, between the Seaboard of the Pacific and the Railway System of Canada.

3. With reference to these several conditions of the Railway obligation of Canada, it is necessary to state:—

(1.) That the Railway was not commenced "within two years from the date of Union," at its Eastern or Western Terminus, or anywhere;

(2.) That at the end of "ten years from the date of Union," it had neither been commenced on the Seaboard of the Pacific, at Port Moody, or Esquimalt,—the Terminus fixed by an Order in Council of June, 1873, under the Railway Act of 1872,—nor at Nipissing, which was declared by same Act to be the Eastern Terminus;

(3.) That the Railway was commenced in 1874, on the Pembina-Winnipeg Branch of the Canadian Pacific Railway;

(4.) In 1875, on the Fort William-Sunshine Creek Branch of the Canadian Pacific Railway;

(5.) In 1875, on the Sections between Red River and Cross Lake;

(6.) In 1876, on the Section between Sunshine Creek and English River;

(7.) In 1877, between Cross Lake and Rat Portage;

(8.) In 1879, Contracts were let for the construction of 200 miles Railway, west of Red River;

(9.) In 1880, construction was first commenced in British Columbia at Emory, on Fraser River; but not on the Seaboard of the Pacific;

(10.) That a Subsidy had been granted to the Canada Central Railway Company, in 1874, though not part of the Canadian Pacific Railway, at the rate of \$10,000, per mile, but not to exceed in the whole \$1,440,000, to aid in the extension of the Canada Central Railway from Douglas to Nipissing.

(11.) That a Subsidy had been several times refused to a Company to construct the Esquimalt-Nanaimo Section of the Canadian Pacific Railway, though the Location Survey had been made in 1875.

(12.) That the Expenditure on the Surveys for the Canadian Pacific Railway up to December 31, 1879, amounted to \$3,119,617.79, leaving the total expenditure in construction at \$11,168,608.22; but not a dollar of that sum had been expended in British Columbia, although the Surveys between Esquimalt and Nanaimo had been completed and mapped in 1875, and on the Continental Section of the Province in 1877-8.

(13.) That up to December 31, 1879, \$14,287,824 had been expended in Construction and Surveys, but not a Dollar had been expended in British



Columbia in the construction of the Western end of the Canadian Pacific Railway, either on the Seaboard or elsewhere.

(14.) That up to July 1, 1880, \$16,488,759 had been expended on the Canadian Pacific Railway, of which about \$13,400,000 had been spent in construction east of the Rocky Mountains, whilst only two months' work, in construction, had been done by the Contractor in British Columbia.

(15.) That up to November 30, 1880, the total amount expended on the Canadian Pacific Railway was \$18,600,402.36 and of that sum up to December 31, 1880, exclusive of Surveys, only \$367,655.40 had been expended in actual construction in British Columbia.

(16.) That the route of the Railway from Burrard Inlet to Yellow Head Pass, the Eastern Boundary of British Columbia, had been fixed by Order in Council in 1878; and that, notwithstanding that fact, a further postponement of construction for a year was made to effect Surveys commencing at Port Simpson near the South Eastern extremity of Alaska, about 500 miles from the Settlements in the Province, and thence eastwardly to Peace River, with the evident object of securing a year's delay; for it was well understood, all the time, in the Department of Railways and Canals, that when construction commenced, it would be on the route between Burrard Inlet and Yellow Head Pass.

(17.) That persistent and unnecessary delays were made respecting the commencement of the Railway in British Columbia, at variance with the letter and spirit of the Railway Clause of the Terms of Union; and that, at the end of the ten year period for completion of the Canadian Pacific Railway, there is still further delay as the work has not yet been commenced on the Seaboard.

(18.) These facts show the great wrong that has been done to British Columbia by Canada,—and, it is submitted, warrant the interference of Her Majesty's Imperial Government, to secure to the Province, prompt, certain, and substantial relief.

### 3. The Section 2 of the Report is as follows :—

" II. On the 6th June, 1873, in view of the then probability of the  
" Railway running by Bute Inlet, an Order in Council was passed declaring  
" that Esquimalt should be the Terminus of the Railway on the Pacific  
" Coast, but the alignment on the Mainland was, at that time, wholly unde-  
" termined.

" In May, 1878, the Government, on increased information, determined  
" however, to select Burrard Inlet as the objective point on the Pacific  
" Coast to be reached by the Railway; and they cancelled the Order  
" relating to Esquimalt. Still further examinations were, however, deemed  
" necessary, particularly with reference to the advantages of a still more  
" northern route which should terminate at Port Simpson; and, to keep the  
" whole question entirely free until additional exploratory surveys should be  
" made, the Order in Council of June, 1873, was in April, 1879, revived,  
" and continued in force until October, 1879,—when the selection of  
" Burrard Inlet was finally made as the terminus on the Pacific Coast of  
" the Canadian Pacific Railway, rendering unnecessary the line between  
" Nanaimo and Esquimalt as a Condition of the Union with British  
" Columbia."

Attention is directed to the following points in the above statement :—

(1.) That on the 7th June, 1873, an Order in Council was passed by Canada, fixing the Western Terminus of the Canadian Pacific Railway at Esquimalt.

(2.) That it was done in view of the probability of the Railway running by way of Bute Inlet.

(3.) That the alignment was wholly undetermined on the Mainland of British Columbia on the 7th June, 1873.

(4.) That the Government of Canada in 1878, determined that Burrard Inlet should be the objective point on the Pacific Coast to be reached by Railway.

(5.) That this determination was based on increased information.

(6.) That the Government, therefore, cancelled the Order in Council fixing the Terminus at Esquimalt.

(7.) That it was deemed necessary that further surveys should be made to find out the advantages of a more northern route, terminating at Port Simpson.

(8.) That it was determined in 1879, to keep the whole question of the route of the Railway unsettled till the exploratory surveys from Port Simpson were made.

(9.) That the Order in Council fixing the Terminus at Esquimalt was, consequently, revived, in April, 1879.

(10.) That it was continued in force until October, 1879.

(11.) That in October, 1879, Burrard Inlet was made the Terminus on the Pacific Coast of the Canadian Pacific Railway.

(12.) That the fixing the Terminus at Burrard Inlet rendered the line between Esquimalt and Nanaimo unnecessary as a condition of the Union with British Columbia.

4. Before commenting on the points raised in Section 2 of the Report, it is necessary to advert to certain pledges of the Canadian Government to construct a Railway on Vancouver Island as part of the Canadian Pacific Railway, in case either the Bute Inlet route, or the Burrard Inlet route, was selected as the Main Trunk line.

(1.) During the Session of the Canadian Parliament in 1872, a Bill was introduced, intituled "An Act respecting Canadian Pacific Railway, 1872," and afterwards became law. Section I. of this Act is as follows :—

"A Railway, to be called 'The Canadian Pacific Railway,' shall be made in conformity with the agreement referred to in the Preamble to this Act, and such Railway shall extend from some point on or near Lake Nipissing, and on the south shore thereof, to some point on the shore of the Pacific Ocean—both the said points to be determined by the Governor and Council, and the course and line of the said Railway between the said points to be subject to the approval of the Governor in Council."

(2.) On May 28th, 1872, whilst this Section was under discussion in the House of Commons, and after Nipissing had been adopted as the Eastern Terminus of the Canadian Pacific Railway, Sir Hector L. Langevin, the then Minister of Public Works, whose Department included Railways,

stated, in reply to Mr. De Cosmos, that "should the Railway be carried to Burrard's Inlet, a Ferry will be established and a line will be carried to Esquimalt, as part of the Railway."

(3.) The following extract from the *Toronto Mail's* Report of May 28, 1872, confirms this Statement,—the part in parenthesis being added in both of the following extracts to make the sense clearer:—

"Mr. De Cosmos said the explanation was quite satisfactory in one respect; but he wanted to know whether the Government was prepared, in case the railway should start at Burrard's Inlet, to construct a branch line from Victoria to Nanaimo; and in case they take the Straits whether they will cause a line to be constructed along the East Coast;

"Mr. Langevin replied that the intention of the Government was to go (via Bute Inlet) to Esquimalt; but, of course, if it was impracticable they could not go; and should the railway be carried to Burrard's Inlet, a Ferry will be established and a line will be carried to Esquimalt as part of the railway.

"Mr. De Cosmos expressed himself perfectly satisfied with the explanation made."

(4.) The *Toronto Globe's* Report of May 28, 1872, corroborates the above Statement, and is as follows:—

"Mr. De Cosmos asked if the Government would pledge itself that, if the Railway were constructed to Burrard Inlet, a line would be built from Victoria to Nanaimo, (laughter), and that if it reached Johnson's Straits, one would be built along the East Coast to Esquimalt—(laughter.) If the Government would not do so, he would take the Statement of the Minister of Public Works for what it was worth—(loud laughter.)

"Mr. Langevin said it was the intention of the Government to go (via Bute Inlet) to Esquimalt; and if the line were carried to Burrard's Inlet, a branch would be extended to Esquimalt."

(5.) When the Canadian Pacific Railway was under discussion in the House of Commons on the 5th of April, 1876, Sir Hector L. Langevin then stated what the Government of which he was a member, in 1872, had done respecting the proposed line of Railway on Vancouver Island. His explanation, on that occasion as to the line of Railway on Vancouver Island, is so pertinent to the subject now discussed, that it is given in full to show that he gave a deliberate pledge in 1872 to British Columbia under instructions from the Cabinet of Canada, that a line of Railway should be constructed on Vancouver Island as part of the Canadian Pacific Railway. It is as follows:—

"This Railway was considered by the previous Government and Parliament as a necessity in view of our position, and as required by treaty obligation. When they gave the contract to Sir Hugh Allan and his twelve associates, they bound themselves to give the Company \$30,000,000 and 50,000,000 acres of land to construct a Railway from Lake Nipissing to Esquimalt, between which points lay the route of the Pacific Railway. If reference was made to the Acts they passed incorporating certain companies during that year, it would be seen that they were intended to build railways from Lake Nipissing to the Pacific Ocean, with power of extension to Esquimalt, and of building besides branch lines. The portion of the line from the inner waters of British Columbia to Esquimalt was not considered, and was not treated in these Acts as a branch, but as an extension and a portion of the Railway. He would go further—and these were matters of fact and history. When the Government of which he was a member was called upon in this House by the present member for Victoria, to state whether he had determined upon the Western Terminus of the line, he was instructed by the Cabinet to announce—as he did do openly—that they intended to make Esquimalt the Terminus. Moreover, an Order in Council was passed to that effect; and in the correspondence laid the other day before the House, it was so stated in a Minute of Council of the present Government. When the question came up under the present Administration, if he was not mistaken, the same course was followed."

This extract makes it perfectly clear that the Canadian Government had

pledged itself to construct a line of Railway on Vancouver Island as part of the Canadian Pacific Railway.

(6.) A Charter, dated at Ottawa, February 5th, 1873, was granted to Sir Hugh Allan and others, to construct the Canadian Pacific Railway. Section 5 of the Charter includes, although not expressly stated, a line of Railway on Vancouver Island, but left the Terminal point and line on the Pacific, to be determined subsequently by the Governor in Council. The following extract from Section 5 corroborates fully this Statement :—

“ Section 5.—And such Railway shall extend from some point on  
“ or near Lake Nipissing, and on the south shore thereof *to some point*  
“ *on the shore of the Pacific Ocean*, both the said points to be determined  
“ by the Government; and the course and line of the said Railway  
“ between the said points to be subject to the approval of the Govern-  
“ ment.”

(7.) The Government of Canada, on the 7th June, 1873, four months after the Charter was granted to Sir Hugh Allan and others, passed an Order in Council fixing the Terminus of the Canadian Pacific Railway on the Pacific, and ordering that a line of Railway be located on Vancouver Island. This Order in Council made it incumbent on the Company holding the Charter to construct a line of Railway from Esquimalt to Nanaimo and beyond, as part of the Canadian Pacific Railway,—and thus, so far, fulfilled the pledge given to British Columbia, by Sir Hector L. Langevin, on behalf of the Canadian Government, in Parliament in 1872. The Order in Council referred to is as follows :—

“ Copy of a Report of a Committee of the Honorable the Privy Council, approved  
“ by His Excellency the Governor-General in Council, on the 7th June, 1873.

“ The Committee of Council having had before them the memorandum of the 29th  
“ May last from the Chief Engineer of the Canadian Pacific Railway, and the Minute  
“ of Council thereupon of the 30th May, beg leave to recommend to Your Excellency  
“ that Esquimalt in Vancouver Island be fixed as the Terminus of the Canadian Pacific  
“ Railway, and that a line of railway be located between the harbour of Esquimalt and  
“ Seymour Narrows on the said Island.

“ The Committee further recommend that application immediately be made by  
“ despatch to the Lieutenant-Governor of British Columbia, for the conveyance to the  
“ Dominion Government in trust, according to the 11th paragraph of the Terms of the  
“ Agreement of Union, of a strip of land 20 miles in width along the Eastern Coast of  
“ Vancouver Island, between Seymour Narrows and the harbour of Esquimalt.

“ An Order of the Lieutenant-Governor of British Columbia in Council, appro-  
“ priating this tract of land in furtherance of the construction of the said Railway, will  
“ be necessary in order to operate as a sufficient conveyance and reservation of the  
“ said land to and for the Dominion Government.

“ Certified, W. A. HIMSWORTH, C.P.C.”

(8.) From the date of the pledge given, in 1872, by Sir Hector L. Langevin, already referred to, to the time when this Order in Council was promulgated, British Columbia had the most complete confidence in the promise of Canada to construct a Railway on Vancouver Island as part of the Canadian Pacific Railway; and consequently her business interests were governed in a very large measure subject to that pledge,—and particularly so on Vancouver Island,—the Government and people believing that it had been made in good faith and would be preserved inviolable.

(9.) Under the second clause of the 11th Section of the Terms of Union, British Columbia was bound not to sell or alienate any of her Crown Lands except by pre-emption, till on and after two years from the date of Union, which period would expire on the 20th of July, 1873.

(10.) The Canadian Government,—in view of requesting the Government

of British Columbia to convey to her the quantity of land to which Canada was entitled under the 11th Section of The Terms of Union,—had a Memorandum of the Chief Engineer of the Canadian Pacific Railway, dated May 29, 1873, submitted to it,—in which he recommended the conveyance of a belt of land 20 miles wide and 160 miles long, alongside the line of Railway ordered, in the subsequent Order in Council of the 7th June, 1873, already referred to, to be located between Esquimalt and Seymour Narrows, on Vancouver Island. This recommendation points out that the Government of Canada had a decided preference for Esquimalt as the Terminus, whether Vancouver Island be reached by Bridge or Ferry; and that “the time for selecting Lands for Railway purposes in British Columbia would expire on the 20th July next.” The following extract from the Memorandum contains the full recommendation:—

“ Canadian Pacific Railway.

“ Office of the Engineer-in-Chief,

“ Ottawa, 29th May, 1873.

“ MEMORANDUM with regard to operations for the present season, the undersigned recommends that the following be undertaken.

“ The Western Section.

\* \* \* \* \*

“ 4. With respect to the Railway in British Columbia, the Government having announced a decided preference for Esquimalt as the Terminus, whether Vancouver Island be reached by Bridge or Ferry; and as the time for selecting lands for Railway purposes in British Columbia expires on the 20th July next, it becomes important to secure, either by an extension of time or otherwise, all the vacant Agricultural and Mineral lands along the probable line for the Railway on Vancouver Island. Should the Government consider this advisable, the limits of the reservation may be sufficiently well described as a strip of land 20 miles in width along the Eastern Coast of Vancouver Island, between Seymour's Narrows and the Harbour of Esquimalt.

\* \* \* \* \*

“ SANDFORD FLEMING.”

(11.) The Government of Canada adopted the recommendation of the Chief Engineer of the Canadian Pacific Railway respecting the Railway Lands, and requested the Government of British Columbia, in the Order in Council of the 7th of June, 1873, already referred to, to convey to Canada under the 11th Section of the Terms of Union, the belt of Land described by the Chief Engineer.

(12.) The Government of British Columbia complied with the request of the Canadian Government for the conveyance of the Lands referred to, by reserving the lands, inasmuch as the lands could not be conveyed till the line of Railway ordered to be located on Vancouver Island had been defined.

(13.) The Government of Canada accepted the Reservation as a sufficient conveyance, and communicated to the Government of the Province its acceptance in the following Order in Council:—

“ Report of the Privy Council approved by the Governor-General on the 3rd September, 1873.

“ The Committee of the Privy Council have had under consideration a Despatch from the Lieutenant-Governor of British Columbia, of the 26th July, 1873, enclosing a Minute of his Executive Council, conveying the conclusion of the Government of British Columbia, that it is not advisable to make at present the Conveyance applied for in a Despatch of the Under Secretary of State for the Provinces, of the 10th of June.

“ The Committee of the Privy Council have read with great attention the report of the Executive Council of British Columbia, enclosed in the Lieutenant-Governor's Despatch, and beg to submit, that so long as the land which is referred to is not

"alienated from the Crown, but held under reservation as stated in the Lieutenant Governor's Despatch, the object of the Government of the Dominion will be obtained, "that object being simply that when the Railway shall come to be constructed, the "land in question shall be at the disposition of the Government of the Dominion, for "the purposes laid down in the 11th Section of the Terms of Union with British "Columbia.

"Certified W. A. HIMSWORTH,  
"Clerk Privy Council."

(14.) The Reservation of the Land on Vancouver Island for the purposes of the Canadian Pacific Railway at the request of Canada, and the order [to locate a line of Railway through them, constituted a binding obligation on the part of Canada to British Columbia to construct a line of Railway on Vancouver's Island, under the 11th Section of the Terms of Union; for, it is submitted, that the "Act respecting Canadian Pacific Railway, 1872," gave the Governor in Council power to determine where the Terminus should be located, but [gave them no power to cancel it after it had once been determined.

(15.) To make the matter still more binding, if possible, and show that the Government of Canada intended, to all outward appearances, to keep inviolable their pledged faith to British Columbia, both in the 11th Section of the Treaty of Union, and upon the floor of Parliament,—the Chief Engineer of the Canadian Pacific Railway acting under instructions from Sir Hector L. Langevin, the then Minister of Public Works, directed Mr. Marcus Smith, the Engineer-in-Charge of the Railway Surveys, in British Columbia, to commence the location survey of the line of Railway on Vancouver Island, referred to in the Order of Council of the 7th of June, 1873. The Engineer-in-Charge of the Surveys carried out his instructions on July 18th and 19th, 1873.

The following Extracts, from the *British Colonist* newspaper, give a brief account of the manner in which he commenced the Location Survey of the Canadian Pacific Railway on Vancouver Island:—

*Extracts from the "Daily British Colonist," Victoria, B.C., Friday, July 18th, 1873.*

"CANADIAN PACIFIC RAILWAY.—THE FIRST STAKE DRIVEN.

"Mr. Marcus Smith, accompanied by Mr. Tiedeman, C.E., and members of the "Local Government, proceeded to Esquimalt yesterday and drove the first stake for "the Location Survey of the Railroad from Esquimalt to Nanaimo. The stake was "driven at the S.E. corner of the Dockyard fence, and a flag hoisted thereon. The "health of the Canadian Pacific Railway was drunk in a flowing bumper of champagne. "The stake was driven to obtain a 'sight.' The location of the Terminus will be at "Constance Cove, it is thought; and it was reported last evening that Hon. Dr. "Helmcken, the Pacific Director, will turn the first sod to-morrow."

*Sunday, July 20th, 1873.*

"THE TERMINUS LOCATED.

"The Terminus of the Canadian Pacific Railway was located yesterday. It is at "the north-west corner of the fence which surrounds the Admiral's residence at Thetis "Cove; and is marked by one of the posts of the fence which is written 'C.P.R.S., "July 19, 1873.' Mr. Smith, with his force, yesterday cut a broad trail through "the bush and saplings for a distance of several hundred yards, driving stakes at short "intervals. The Terminus is on the Indian Reserve, which comprises a large tract of "land lying adjacent to the Admiral's residence and Thetis Cove,—a very pretty, safe "and commodious bay in Esquimalt Harbour. It is supposed that the Company will "take the Indian Reserve, and that lands in another part of the harbour will be "allotted to the Indians. No 'sod' was turned, unless by some of the visitors by way "of a 'lark.' And we learn that a telegram was received from Ottawa in the morning "that the commencement of the Location Survey, on or before the 20th July, is con- "sidered as keeping the Terms of the Treaty of Union."

(16.) About this period, Sir Hector L. Langevin, in whose Department all matters connected with the Surveys and Construction of the Canadian Pacific Railway were managed, recommended, in order to keep faith with British Columbia, that the sum of \$300,000 be expended in construction of the Railway on Vancouver Island; but his recommendation was not adopted.

(17.) The Government of British Columbia, finding that the Location Survey commenced at Esquimalt had been stopped, and that, to all outward appearance, the Canadian Government did not intend to commence the actual construction of the Railway in that Province, protested against the breach, by the Government of Canada, of the 11th Section of the Terms of Union. The protest is as follows:—

“ Order in Council of this Province, dated July 25th, 1873.

“ The Committee of Council have had under consideration the non-fulfilment by the Dominion Government of the 11th Section of the Terms of Union.

“ The Committee regret that the construction of the Railway has not been commenced, and therefore strongly protest against the breach by the Dominion Government of a condition of the Terms so highly important to the Province.

“ The Committee recommend the above for the approval of Your Excellency, and, if sanctioned, respectfully request that a copy thereof be at once forwarded to the Dominion Government.

“(Certified) W. J. ARMSTRONG,  
Clerk, Executive Council.

(18.) Two additional protests against the non-fulfilment by Canada of the 11th Section of the Terms of Union were made by British Columbia: one on the 22nd November 1873, by the Government of British Columbia; the other on the 9th February, 1874, by the Legislative Assembly of that Province.

(19.) These statements of fact show conclusively that the Canadian Government pledged itself in the House of Commons and by Order in Council to build a line of Railway on Vancouver Island as part of the Canadian Pacific Railway; that such line,—in case the Bute Inlet route were adopted as the Main Trunk Line of the Canadian Pacific Railway,—should extend from Esquimalt to Seymour Narrows; that,—if the Burrard Inlet Route were adopted,—a Line of Railway should be constructed between Esquimalt and Nanaimo, as part of the Canadian Pacific Railway; and that, in the latter case, a Railway Ferry should be established between Nanaimo and Burrard Inlet. And further, they show that the Government of Canada, on June 30, 1873, became the possessor, in trust, of a belt of land measuring 20 miles wide by 160 miles long, equal to 3,200 square miles, or 2,048,300 acres, as part of the consideration for the construction of a section of Railway between Esquimalt and Seymour Narrows.

(20.) The Statement, therefore, in Section 2 of the Report as given above, that the Terminus was only fixed at Esquimalt in view of the probability of the Railway running by the way of Bute Inlet, is incorrect; because it is shown by the pledge given by Sir Hector L. Langevin on behalf of the Canadian Government, on the floor of the House of Commons, by instructions of the Cabinet, that if the Burrard Inlet route were selected as the Main Trunk Line of the Canadian Pacific Railway, then a line would be built between Esquimalt and Nanaimo, and a Railway Ferry be established between Nanaimo and Burrard Inlet; further, that, as stated by the Engineer-in-Chief of the Canadian Pacific Railway, the Government announced a decided preference for Esquimalt as the Terminus, “whether Vancouver Island be reached by Bridge or Ferry;” and that all the vacant Agricultural and Mineral lands along the line of Railway on Vancouver Island should be



secured for Railway purposes; and it has been further shown that the Order in Council fixing the Terminus at Esquimalt, and ordering a line to be located between Esquimalt and Seymour Narrows,—requested the transfer of 3,200 square miles of Agricultural and Mineral lands, along the line of the Railway, under the 11th Section of the Terms of Union,—as no such request could legally have been made except under that Section of the Terms of Union,—and that the Government of Canada accepted the said lands. Moreover, it is shown that a Location Survey was commenced at Esquimalt, in 1873, and, as the Canadian Government cannot wish it to be inferred that such location was made with the intention to deceive British Columbia, it must be considered as having been done with the *bona fide* intention of constructing the Island Section of the Canadian Pacific Railway. The binding of the Allan Company under their Charter to build a Railway from Esquimalt towards Seymour Narrows, renders the supposition incredible that the Terminus was fixed at Esquimalt merely in view of the probability of the Bute Inlet route being selected as the Main Trunk Line of the Canadian Pacific Railway.

(21.) The Statement “that the alignment on the Mainland was wholly undetermined,”—when the Terminus was fixed at Esquimalt, when the location survey of a line on Vancouver Island, between Esquimalt and Seymour Narrows was ordered, and when a request was made for the transfer by British Columbia to Canada of 2,048,000 acres of land,—does not in any way affect the obligation assumed by Canada to build a line of Railway from Esquimalt to Nanaimo and beyond, as part of the Canadian Pacific Railway; for the Allan Company had before become responsible for making the alignment on the Mainland. Besides that, the fact of the alignment on the Mainland being wholly undetermined was no sufficient reason why the Terminus should not be fixed, and the location of a line of Railway on Vancouver Island ordered; for it is manifest that the very first thing to have done towards constructing a line of Railway to connect the Pacific with the Railway system of Canada was to select the Terminus, and then construct from it towards the Railway system of Canada.

(22.) The 11th Section of the Terms of Union allowed two years within which to fix Terminus, and then commence simultaneously at each end of the line. It was well known in 1871-2-3 to the Government of Canada that there were only two possible routes from the Coast of the Mainland, across the Cascade Mountains to the interior plateaux; the first was *via* Burrard Inlet, and the second *via* Bute Inlet;—For, in 1871, Sir Hector L. Langevin, as Minister of Public Works, visited Bute Inlet, and personally inspected the route from Burrard Inlet, up the Fraser and Thompson Rivers, on the line of Railway at present adopted, and also the Harbours of Alberni and Esquimalt; and, on May 28, 1872, on the floor of the House of Commons, stated his preference for Esquimalt as the Terminus and Bute Inlet as the Continental route,—and concluded by pledging the Government of Canada to construct the line between Esquimalt and Nanaimo with a Railway Ferry to Burrard's Inlet.

(23.) Mr. Sandford Fleming, Chief Engineer, in his Report on the Canada Pacific Railway for 1876-7, page 13, said, in giving an epitome of the results of Surveys in 1871 that,—

“The survey did not begin in British Columbia until the 20th July, 1871, the day upon which that Province became incorporated into the Dominion.

\* \* \* \* \*

“It was found that there would be no difficulty in carrying a line from the Valley



"of the River North Fraser, in the neighbourhood of Tête Jaune Cache, to the Valley of the North Thompson, by a low and wide depression in the mountains in that quarter.

"It was found that the Valley of the North Thompson would in all probability admit of a line being constructed from Yellow Head Pass to Kamloops, a distance of 255 miles, with grades not exceeding 50 feet per mile.

\* \* \* \* \*

"It was further found that it was possible to reach the Coast from Kamloops, by the course and outlet of the Rivers Thompson and Fraser, the line terminating at an excellent harbour on Burrard Inlet.

"Thus it was ascertained that a line was available for the Railway, through the entire Rocky Mountain Region, although portions of it would be enormously expensive."

On page 11, of the Report of the Canadian Pacific Railway for 1874, Mr. Fleming said :—

"In order to acquire a correct knowledge respecting the Physical characteristics of the whole Territory, and obtain such information concerning its engineering features as only a personal examination can furnish, I considered it necessary that I should undertake a personal reconnaissance of the several regions proposed to be traversed by the Railway.

"Accordingly, early in July, 1872, I started with a small exploratory expedition to cross the Continent.

\* \* \* \* \*

"After a somewhat fatiguing journey through interminable windfalls and other hindrances, we entered the first range of Mountains on the 11th September, and on 15th reached the Yellow Head Pass, and camped near the Continental Water Shed.

"Pursuing our journey, we followed the River Fraser from its Yellow Head source to Tête Jaune Cache, crossed over to the Canoe River, the Albreda, and thence followed the North Thompson River to Kamloops, at which place we arrived on the evening of September 28th. From Kamloops we travelled to Lytton, Yale, and New Westminster, examined Burrard Inlet, Bute Inlet, Barclay Sound, Seymour Narrows, Dent, and Arran Rapids, visited intermediate points, and on the 11th October finally arrived at Victoria, in Vancouver Island, thus completing a reconnaissance which altogether extended over 5,300 miles."

Mr. Fleming concludes this Report (page 34), dated at Ottawa on January 26th, 1874, on the Canadian Pacific Railway, as follows :—

"That the practicability of establishing Railway communication across the Continent wholly within the limits of the Dominion, is no longer a matter of doubt. It may, indeed, be now accepted as a certainty that a route has been found, generally possessing favourable engineering features, with the exception of a short section approaching the Pacific Coast; which route, taking its entire length, including the exceptional section alluded to, will, on the average, show lighter work, and will require less costly structures than have been necessary on many of the Railways now in operation in the Dominion."

(24.) It will be observed that these extracts show conclusively, that the Canadian Government and their Chief Engineer knew, in 1871,—nearly two years before the Terminus was located at Esquimalt and a line ordered to be located on Vancouver Island,—that there was an available route for the Railway on the Mainland; and that, in January, 1874,—about eight months after the Order in Council had been passed to locate a Railway and Terminus on Vancouver Island,—that the Chief Engineer stated "that the practicability of establishing a Railway across the Continent is no longer a matter of doubt." It must appear, therefore, to every impartial person that the statement made by the Canadian Government to excuse itself from carrying out its obligations to construct the Esquimalt-Nanaimo Railway, on the mere ground that the alignment on the Mainland, at the time the Terminus was fixed at Esquimalt, "was wholly undetermined,"—is wholly untenable and cannot be entertained; particularly, as, among other things, the Railway Land Reserve Vancouver Island, has been continued from

June 30th, 1873 to July, 1881,—and that no later than April 14th, 1880, Mr. Trutch, a Confidential Agent of the Dominion Government, requested the Government of British Columbia to convey more land by Statute to Canada, than the quantity named in the Original Reserve for Railway purposes on Vancouver Island.

5. Before dealing with the other points in Section 2 of the Report, it is necessary to a thorough understanding of the case of British Columbia to refer to some other matters ;

(1.) On September 22nd, 1873, the Government of British Columbia requested the Canadian Government "to at once define, by survey, the land they propose claiming on the East Coast of Vancouver Island," and to "appoint, also, a competent person in the Province to dispose of the lands "on such terms as will admit of settlement."

(2.) The Canadian Government replied to this request as follows :—

"THE SECRETARY OF STATE TO THE LIEUTENANT-GOVERNOR.

"Ottawa, 8th October, 1873.

"Sir,—I have the honor to acknowledge the receipt of your despatch of the 22nd ultimo, on the subject of the occupation of lands Reserved by the Dominion Government, and to state that the same will receive due consideration.

"I have, &c.,

"EDWARD J. LANGEVIN,

"Under Secretary of State."

In this communication it is stated that the question of the occupation of Railway Land Reserve, between Esquimalt and Seymour Narrows, would receive the consideration of the Canadian Government ; and it will be observed, by reference to page 9, that they had on September 3rd previous accepted its Reservation.

(3.) Nothing has since been done by Canada to throw open the Railway Land Reserve on Vancouver Island to Settlement, that is, for a period of eight years and over.

(3.) In May, 1874, the Canadian Government, through Mr. Edgar, asked for a relaxation of the time limit for the construction of the Canadian Pacific Railway, in the 11th Section of the Terms of Union ; and proposed "to commence construction from Esquimalt to Nanaimo immediately, and to push that portion of Railway on to completion with the utmost vigour, and in the shortest possible time."

(4.) The negotiations were, however, unsuccessful ; but the proposal shows that [the proposed Railway from Esquimalt to Nanaimo was then considered to be a part or portion of the Canadian Pacific Railway.

(5.) Subsequently, on December 18th, 1874, Canada agreed, through the then Secretary of State for the Colonies, the Earl of Carnarvon, "That the Railway from Esquimalt to Nanaimo shall be commenced as soon as possible, and completed with all possible despatch." British Columbia was satisfied with this part of the agreement, and fully expected that it would be carried out.

(6.) The Canadian Government, on March 25th, 1875,—in making provision for the construction of the Section of the Canadian Pacific Railway between Esquimalt and Nanaimo,—requested the Government of British Columbia to convey by Statute, in accordance with the 11th Section of the Terms of Union, to Canada that portion of the Railway Land Reserve on

Vancouver Island, situated between Esquimalt and Nanaimo. The Order in Council to that effect is as follows :—

"Copy of a Report of the Honorable the Privy Council, approved by His Excellency the Governor-General in Council on the 25th day of March, 1875.

"On a memorandum, dated 25th March, 1875, from the Hon. the Minister of Public Works, reporting for the consideration of Council, that prior to the commencement of any works of construction on the proposed Railway from Esquimalt to Nanaimo, which the Dominion Government have agreed to build under the arrangement made through Lord Carnarvon at the instance of British Columbia, it is essential that the Province of British Columbia should convey, by legislation, to the Dominion Government in trust to be appropriated in such manner as the Dominion Government may deem advisable, a similar extent of public lands along the line of Railway before mentioned (not to exceed twenty miles on each side of the said line) as may be appropriated for the same purpose by the Dominion from the public lands of the North-west Territories and the Province of Manitoba, as provided in the Order in Council, section 11, admitting the Province of British Columbia into the Confederation; and that it is desirable that the British Columbia Government should be at once notified that it will be necessary during the present Session of the Legislature of that Province to pass an Act to appropriate and set apart lands to this extent, and for this purpose, the grant to be subject, otherwise, to all the conditions contained in the said Eleventh Section of the Terms of Union.

"The Committee concur in the above report of the Minister of Public Works, and recommend the British Columbia Government be notified accordingly.

"Certified, W. A. HIMSWORTH, C.P.C."

(7.) This Order in Council expressly states that the Dominion Government had agreed to build a Railway from Esquimalt to Nanaimo; and that British Columbia should be at once notified to convey, by legislation, to Canada a belt of land along the line of the said Railway, in conformity with the 11th Section of the Terms of Union.

(8.) British Columbia conveyed by Statute, on April 22nd, 1875, to Canada, the belt of land between Esquimalt and Nanaimo as requested by Canada, and as the following extract from the Act shows :—

"An Act to authorize the grant of certain Public Lands to the Government of the Dominion of Canada for Railway purposes. (Assented to 22nd April, 1875.)

"Whereas it is expedient to provide for the grant of Public Lands to the Dominion Government, required for a Railway between the Town of Nanaimo and Esquimalt Harbour;

"Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows :—

"1. From and after the passing of this Act, there shall be and there is hereby granted to the Dominion Government, for the purpose of constructing, and to aid in the construction of a Railway between the town of Nanaimo and Esquimalt Harbour, in trust to be appropriated in such manner as the Dominion Government may deem advisable, a similar grant of Public Lands along the line of Railway before mentioned (not to exceed 20 miles on each side of the said line) as may be appropriated for the same purpose by the Dominion from the Public Lands of the North West Territories and the Province of Manitoba, as provided in the Order in Council, Section 11, admitting the Province of British Columbia into the Confederation; such grant to be subject otherwise to all the conditions contained in the said 11th Section of the Terms of Union.

\* \* \* \* \*

"7. This Act may be cited as the Esquimalt and Nanaimo Railway Act, 1875."

(9.) It is perfectly clear, therefore, that as between Canada and British Columbia, the Section between Esquimalt and Nanaimo was recognized as part of the Canadian Pacific Railway; for, unless it had been, the Canadian Government had no right to notify British Columbia to convey by Statute the Railway Lands now held by Canada under Reserve and Statute on Vancouver Island to Canada under the 11th Section of the Terms of Union.

(10.) In the Session of 1875, the Canadian Parliament voted \$500,000 for the construction of the Esquimalt and Nanaimo Section of the Canadian Pacific Railway.

(11.) The Location Surveys between Esquimalt and Nanaimo, were completed and mapped in 1875; and 5000 tons of rails were landed at Esquimalt and Nanaimo to iron the railway between those points.

(12.) On April 14th, 1880, Mr. Joseph W. Trutch, acting as a Confidential Agent of the Canadian Government, and appointed under an Order in Council, requested the Government of British Columbia to provide by legislation for the conveyance of more land on Vancouver Island, under the 11th Section of the Terms of Union. The following extract from the letter of Mr. Trutch to Mr. Walkem, the Attorney-General of British Columbia, shows conclusively the Claim made by the Canadian Government to lands on Vancouver Island, up to fifteen months ago.

"The area to be selected outside of the belt mentioned should, in addition, include  
 "a quantity of land to represent that in the Fraser River Valley and elsewhere along or  
 "in the vicinity of the Railway line which may be found to have been already disposed  
 "of by the Province, or with regard to which valid claims may be preferred, *as also to*  
 "*cover the deficiency caused by the International Boundary on the Mainland and the*  
 "*coast line on Vancouver Island respectively falling within the forty mile belt.*

"The Dominion Government cannot doubt that the Provincial Government will  
 "consider itself pledged in good faith in view of the whole circumstances, and of the  
 "actual money consideration stipulated for in the section of the 'Terms and Con-  
 "ditions' above cited, and which has been regularly paid, to place the Dominion  
 "Government in possession of land elsewhere in lieu of the corresponding area within  
 "the railway belt, which may be found to be useless for agricultural or other valuable  
 "purposes.

"In accordance with these views, and acting as the Agent of the Dominion  
 "Government, duly accredited to the Government of British Columbia under authority  
 "of the Order in Council, dated the 25th February last, a copy of which has been  
 "received by His Honor the Lieutenant Governor, I have the honor to prefer the  
 "request that the right above defined of selecting lands outside of the forty-mile belt  
 "in lieu of lands within that limit which, on investigation, shall be found to be valueless,  
 "and to supply the deficiency caused by the International Boundary on the Mainland,  
 "and the coast line on Vancouver Island respectively falling within the forty-mile belt,  
 "be specifically conveyed to the Dominion by the insertion of provisions to that effect  
 "in the 'Railway Lands Reservation Bill,' now under consideration in the Legislative  
 "Assembly.

"I have, etc.

"JOSEPH W. TRUTCH."

(13.) All the lands reserved on June 30, 1873 for the Canadian Government on Vancouver Island are still at its disposal,—the portion between Esquimalt and Nanaimo being held under Statutory conveyance; and that north of Nanaimo to Seymour Narrows under the Reservation accepted by Canada in 1873.

(14.) It will thus be seen that Canada has now in her possession a belt of Land extending from Esquimalt to Seymour Narrows on Vancouver Island that she received from British Columbia, on condition of constructing a portion of the Canadian Pacific Railway through it; and that there has been a continuous and unbroken chain of possession from June 30th, 1873, to July, 1881.

(15.) It is contended, therefore, that Canada is morally and legally bound to construct a Railway between Esquimalt and Nanaimo, and to construct it as a part of the Canadian Pacific Railway.

6. The remaining points, of Section 2 of the Report on the Petition to the

Queen, may now be considered; and in the first place, "the objective point to be reached by the Railway on the Pacific."

(1). "The objective point" was not named in 1878, as the Terminus in any Order in Council. In a letter of Mr. Braun, Secretary of the Department of Public Works, dated Ottawa, May 29th, 1878, addressed to the Under-Secretary of State for Canada, with a request that it should be communicated to the Government of British Columbia, it is stated:—

"I am further directed to state that as Burrard Inlet *will in all probability be adopted as the Western Terminus of the Canadian Pacific Railway*, it is deemed advisable that a strip of land should be reserved for the conveyance to the Dominion Government, in accordance with the 11th paragraph of the Terms of the Union, along said line of railway, beginning at English Bay, or Burrard Inlet, and following the River Fraser to Lytton, thence by the valley of the River Thompson to Kamloops, thence up the valley of the North Thompson, passing near to Lakes Albreda and Cranberry to Tête Jaune Cache; thence up the valley of the Fraser River to the summit of Yellow Head, or boundary of British Columbia and the North-West Territories.

(2.) When this letter was written, it would appear that there was only a probability that the Western Terminus of the Canadian Pacific Railway would "be located" on Burrard Inlet. It is true that an Order in Council, that was intended for the purpose of cancelling the Order in Council of June 7th, 1873, fixing Esquimalt as the Terminus, had been passed on the 23rd May, 1878. But there are grounds for the belief that it was done, mainly, in view of the General Election that was imminent. If the result of the election had been favorable to the then Government, it is doubtful what weight might have been attached to the Order in Council of May 23rd, 1878. In fact, the letter of Mr. Braun was not based on an Order in Council, at all.

(3.) The Order in Council defining the route of the Canadian Pacific Railway from Tête Jaune Cache to Burrard's Inlet, was not passed till July 13th, 1878, about two months after Mr. Braun's letter had been written,—and it fixed no Terminus, but merely alludes to the terminal point of the Railway as "Port Moody or such other point on or near Burrard Inlet as may be most convenient for harbour accommodation,"—thus leaving the Terminus on the Continental Section of British Columbia undetermined. For instance, it says:—

"That later information has shown that it would be in the Public interest that the route of the railway, from the neighbourhood of the Tête Jaune Cache should be toward Burrards Inlet.

"The Minister, therefore, recommends that the route of the Railroad shall be defined generally as passing from the neighbourhood of the Tête Jaune Cache, by the Albreda to the North Thompson River, towards Kamloops Lake, to the Fraser Valley at Lytton, and thence descending the Valley of the Fraser by Yale and New Westminster, to Port Moody, or such other point on or near Burrard Inlet as may be found most convenient for the purpose of harbour accommodation."

(4.) It will be observed, however, that the letter of Mr. Braun speaks of the "line of Railway, beginning at English Bay or Burrard Inlet." English Bay or Burrard Inlet, according to Admiralty Charts, is 15 miles from Port Moody,—and, thus "the proposed beginning" of the Railway seems to be in the direction of connection with Vancouver Island.

(5.) What the increased information may be is uncertain, and possibly not material, as the Order in Council of 13th July 1878, merely speaks of it as "later information has shown that it would be in the Public Interest that the route of Railway" from Tête Jaune Cache should be towards Burrard Inlet.

(6.) The alleged Revival of the Order in Council fixing Esquimalt as the Terminus in 1873, was done by Order in Council in April, 1879; but it is remarkable that there is not a single word in it intimating in the slightest degree that it was done in consequence of further surveys near Fort Simpson being necessary. The Government and Legislative Assembly were, at that time, very urgent in their requests to learn what the Dominion Government intended to do respecting Railway Construction in British Columbia; and it is presumed that it was passed with the object of "quieting" them. The whole tenor of the Order in Council seems to be adverse to the supposition that it was passed as the consequence of a determination on the part of the Canadian Government to make further surveys "with reference to the advantages of a still more northern route." That it had been determined to make the further surveys, before the Order in Council of the 22nd April, 1879, was passed, is no doubt correct. The Order in Council is as follows:—

"Report of the Privy Council approved by the Governor-General on the 22nd April, 1879.

"On a memorandum dated 16th April, 1879, from the Hon. the Minister of Public Works, representing that on a memorandum from the Chief Engineer of the Canadian Pacific Railway, dated 23rd May, 1873, an Order in Council was passed June 7th, 1873, fixing Esquimalt, on Vancouver Island, as the Terminus of that Railway in British Columbia. That subsequently, March 25th, 1875, an Order in Council was passed, authorizing the Dominion Government to notify the Government of British Columbia that it would be necessary that the Legislature of that Province then in Session should pass an Act setting apart such extent of Public lands along the line of the Railway in Vancouver Island in the manner set forth by the 11th paragraph of the Terms of Agreement of the Union.

"That on the 23rd May, 1878, the late Government had another Order in Council passed, cancelling that of June 7th, 1873, which fixed the Terminus at Esquimalt; but no reason appears to have been given for their Action in the matter, nor is there any mention made of the Order in Council of March 25th, 1875, which provides for the appropriation of the necessary lands in Vancouver Island.

"The Minister, therefore, recommends that in the absence of satisfactory reasons having been given for cancelling the Order in Council of June 7th, 1873, that the Order in Council of May 23rd, 1878, cancelling it, be annulled, and that of June 7th, 1873, be revived.

"He also recommends that a copy of his Report to Council, if approved, be furnished to the Hon. Secretary of State for transmission to the Government of British Columbia for their information.

"The Committee submit the above recommendations for your Excellency's approval.

(Certified) W. A. HINSMORTH,  
Clerk Privy Council, Canada."

(7.) It may be remarked that, notwithstanding the "further examinations with reference to the advantages of a still more northern route which should terminate at Fort Simpson," it was well understood in the Department of Railways and Canals, that the Railway would be commenced on Fraser River.

(8.) It is stated that the object in view in reviving the Order in Council of the 7th June, 1873, fixing the Terminus at Esquimalt, was to "keep the whole question entirely free until additional exploratory surveys should be made." But it is submitted that the alleged revival of the Order in Council of the 7th June, 1873, instead of keeping the whole question free, really re-fixed the Terminus under the Railway Act of 1874, at Esquimalt.

(9.) The Order in Council of the 4th of October, 1879, merely confirmed the Order in Council of July 13th, 1878, as to the route of the Canadian

Pacific Railway, on the Continental portion of British Columbia, and did not revoke the Order in Council of the 22nd April, 1879, re-fixing Esquimalt, as the Terminus. The Order in Council cancelling the Terminus at Esquimalt is as follows:—

“ Copy of a Report of a Committee of the Honorable the Privy Council, approved  
“ by His Excellency the Governor-General in Council on the 23rd May, 1878.

“ The Committee of Council have the honor to recommend that the Order in  
“ Council of the 7th June, 1873, fixing Esquimalt in Vancouver's Island, as the Ter-  
“ minus of the Canadian Pacific Railway, and requiring the conveyance to the  
“ Canadian Government of a strip of land 20 miles in width, along the Eastern Coast  
“ of Vancouver's Island, between Seymour's Narrows and the harbour of Esquimalt  
“ be rescinded.

“ Certified, W. A. HIMSWORTH, C.P.C.”

(10.) Nowhere in the Act, intituled “ An Act respecting the Canadian Pacific Railway,” which was passed in the last Session of Canadian Parliament, 1881, to confirm “ the contract ” made with Mr. George Stephen and others, now known as ‘ The Canadian Pacific Railway Company,’ is there any mention made of a Terminus; but it is said in Schedule A of that Act, that “ any extension of the main line of Railway that shall hereafter be constructed or acquired by the Company, shall constitute the line of Railway hereinafter called the “ Canadian Pacific Railway.”

(11.) Were it not stated, in Section 2 of the Report under consideration, that in October, 1879, Burrard Inlet, “ was finally made as the Terminus on the Pacific Coast of the Canadian Pacific Railway,” it would not otherwise have been known, as no Order in Council to that effect exists, or it would have been submitted to Parliament. But even that statement seems only to extend to the Terminus on the Continental Section of British Columbia; for, it will be remarked, that it is stated that “ Burrard Inlet was finally made as the Terminus on the Pacific Coast of the Canadian Pacific Railway, rendering unnecessary the line between Nanaimo and Esquimalt as a condition of the Union with British Columbia;” but it is not stated that it is not necessary to construct the Section between Nanaimo and Esquimalt as essential to the commercial success of the Canadian Pacific Railway.

(12.) Port Moody, as the Mainland Terminus, is not objected to, nor is it the wish of the Government and Legislative Assembly, as expressed in the Petition to the Queen, to do so; but it is contended that the intentment of the 11th Section of the Terms of Union is that the Ocean Terminus of the Canadian Pacific Railway should be placed at such a commanding point on the Pacific Coast as would ensure its commercial success in competition with the Northern Pacific Railway, and where it would be most valuable for defence in the event of war.

(13.) Mr. Sandford Fleming in his Report, for 1878, on the Canadian Pacific Railway, page 13, says:—

“ Burrard Inlet is not so eligible a terminal point as Esquimalt. It cannot be ap-  
“ proached from the Ocean, except by Navigation more or less intricate; nor can it be  
“ reached by large sea-going ships, without passing at no great distance from a group  
“ of islands in the possession of a foreign power, which may at any time assume a  
“ hostile attitude and interfere with the passage of vessels.” \* \* \* “ It is  
“ impossible, however, to deny that, other things being equal, Esquimalt as a  
“ harbour and terminal point is superior to Burrard Inlet.”

(14.) Admiral De Horsey in his Report respecting the Terminus of the Canadian Pacific Railway, to the Lords Commissioners of the Admiralty, dated on board Her Majesty's ship “ Shah,” at Esquimalt, 26th of October, 1877, also says, speaking of Esquimalt, that—



"This Port is easy and safe of approach at all times; its dock (to take the largest ships) has been commenced, and there is reason to think that the line coming from the principal collieries and iron districts on Vancouver Island, ought to pay itself in great part by the conveyance of Minerals to Esquimalt for shipment. Not only for trade, but for the supply of coal to Her Majesty's Squadron at Esquimalt, a line of rail from Nanaimo would be advantageous, as the possession of San Juan might enable the United States, in case of War, to cut off our supply from the mines by sea."

(15.) The Canadian Government, having selected the Burrard Inlet route as the line for the Canadian Pacific Railway, cannot overlook the difficulties in approaching Port Moody by sea. If Vancouver Island were not between it and the ocean, no question could be successfully raised against its unanimous adoption as the sole Western Terminus of that Railway on the Pacific Ocean. But Vancouver Island, with the Archipelago lying between the Strait of Fuca and the Strait of Georgia, renders that impossible; and makes Esquimalt, on Vancouver Island, and Port Moody and Burrard Inlet on the Mainland, the joint and natural Terminus of the Canadian Pacific Railway, on the Pacific Ocean. It is with this view that the Petition to the Queen is framed. But even if that had not been the case, the physical and political geography of the country between the Pacific Ocean proper and Port Moody, points out that Esquimalt is essential to Burrard Inlet, and *vice versa*. The competition that will inevitably arise between the Northern Pacific Railway and the Canadian Pacific Railway, renders a line of Railway from Esquimalt to Nanaimo with a Ferry to Burrard Inlet, absolutely essential to the commercial success of the latter as a trans-continental line.

6. Sections 3 (?) and 4 of the Report are as follows:—

"(3.) In 1874 Her Majesty's Principal Secretary of State for the Colonies, having had the matter submittted to him, had suggested to "compensate British Columbia for past and probable future delays" what have since become known as "Lord Carnarvon's Terms," which provided, amongst other things, that "the railway from Esquimalt to Nanaimo should be commenced as soon as possible, and completed with all practicable dispatch," but this was not necessarily a part of the Canadian Pacific Railway, and not essential to the fulfilment of the conditions of the Union with British Columbia.

"These terms were the suggestions of the then Secretary of State for the Colonies, made for the purpose of quieting the differences which had arisen between the Government of the Dominion and the Province of British Columbia, growing out of the long delays in commencing works of construction, and which had formed the subject of continuous and acrimonious complaint on the part of the Province. Lord Carnarvon's suggestions were entitled to every respect, but although adopted by the Government of the day, they never received the sanction of the Parliament of the Dominion, and never acquired the force of a National compact.

"(4.) On the contrary, in the Session of 1875, with the view of seeking to give effect to these 'terms' a Bill having been introduced by the Government into the Canadian House of Commons, providing for the construction of the Esquimalt and Nanaimo line, a step which would not have been necessary, it may be observed, had that line formed necessarily part of the Canadian Pacific Railway. The Bill though passed by the House of Commons was lost in the Senate, and consequently Parliamentary sanction refused to the construction of what was regarded by the majority in the Senate as a Provincial work quite unnecessary to the fulfilment of the Terms of Union with British Columbia."

The chief points in these two Sections that deserve particular notice are as follows:—

(1.) That what are known as "Lord Carnarvon's Terms" were suggested "to compensate British Columbia for past and probable future delays."

That (2.) The condition that "the railway from Esquimalt to Nanaimo should



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be commenced as soon as possible, and completed with all possible despatch" was part of the compensation.

(3.) That, nevertheless, that railway "was not necessarily a part of the Canadian Pacific Railway, and not essential to the fulfilment of the conditions of the Union with British Columbia."

(4.) That "Lord Carnarvon's Terms were 'suggestions' that were made for the purpose of quieting the differences which had arisen between Government of the Dominion and the Province of British Columbia, growing out of the long delays in commencing works of construction."

(5.) That "Lord Carnarvon's Terms" never received the sanction of the Parliament of the Dominion, and never acquired the force of a national compact.

(6.) That a Bill was introduced, in 1875, into the Canadian House of Commons, providing for the construction of the Esquimalt and Nanaimo line; and that it "would not have been necessary had that line formed necessarily a part of the Canadian Pacific Railway."

(7.) That the Bill passed the House of Commons, but was rejected by the Senate, and never received the Sanction of Parliament; and that a majority in the Senate regarded the Esquimalt and Nanaimo Railway as a Provincial work, quite unnecessary to the fulfilment of the Terms of Union with British Columbia.

7. In considering the above points, it is necessary to state:—

(1.) That the quotation "to compensate British Columbia for past and probable future delays," is not contained in Lord Carnarvon's Despatches.

(2.) Canada was bound at the time Lord Carnarvon wrote his despatches of August 16th and November 17th, 1874, to complete the Canadian Pacific Railway by July 20th, 1881; and referring to Lord Dufferin's Ministers, he said, that "they will not on the other hand fail to bear in mind, that even after these concessions are made, British Columbia will receive considerably less than was promised her as the condition of entering the Dominion."

(3.) Instead of "Lord Carnarvon's Terms" being suggested "to compensate British Columbia for past and probable future delays," they were declared to be "in the nature of a compromise," by which that Province made an important concession to Canada, by extending the time limit for completing the Canadian Pacific Railway from the Pacific Seaboard to Lake Superior, from July 20th, 1881, to December 31st, 1890, and by abandoning any definite period for the completion of the remaining portion of the Canadian Pacific Railway between Lake Superior and the Railway System of Canada.

(4.) Lord Carnarvon, also stated that under his "decision" "the Dominion will be relieved of a considerable part of those obligations which were assumed in the first instance" in 1874.

(5.) It is evident, therefore, that as the Dominion was to be a gainer, and British Columbia a loser, that compensation was impossible.

(6.) The language of Lord Carnarvon on this subject, as contained in his despatch of November 17, 1874, conveying his final decision, is as follows:—

"I explained very fully in my despatch of the 16th August, the opinion which I entertained on each of the principal questions at issue, and I need now add but little to the simple statement of my decision. That decision is necessarily, as both parties are aware in the nature of compromise, and as such it may perhaps fall short of giving complete satisfaction to either. If on the one hand your Ministers, as you inform me, consent with reluctance to the further con-



"cessions which, at an earlier stage, I suggested, they will not on the other hand fail to bear in mind that even after those concessions are made, British Columbia will receive considerably less than was promised to her as the Condition of entering the Dominion. I prefer rather to reflect that under the amended terms now to be established, British Columbia will, after all receive very great and substantial advantages from its union with Canada, while the Dominion will be relieved of a considerable part of those obligations which were assumed in the first instance without a sufficient knowledge of the local conditions under which so enormous and difficult an undertaking was to be carried into effect, and to fulfil which would seriously embarrass the resources of even so prosperous a Country as Canada."

(7.) It follows, therefore, that the Esquimalt and Nanaimo Section of the Canadian Pacific Railway was not "suggested" to compensate British Columbia for past and probable future delays. Besides that, the line between Esquimalt and Nanaimo had a year and a half before been declared part of the Railway.

(8.) It has been shown in considering section 2 that by the intendment of the 11th Section of Terms of Union, the Esquimalt and Nanaimo Section was necessarily, for physical, political, and commercial reasons, a part of the Canadian Pacific Railway, and was "essential to the fulfilment of the conditions of the Union with British Columbia."

(9.) It is stated that Lord Carnarvon's "suggestions" were made for "quieting the differences which had arisen between the Government of the Dominion and the Province of British Columbia, growing out of the long delays in commencing works of construction." That being the case in 1874, when there had been only about eighteen months' delay, how much more binding ought those "suggestions" to be now after seven years' more delay.

(10.) The answer to the remaining points is, that the Canadian Government practically recognized that Esquimalt and Nanaimo Section was "necessarily a part of the Canadian Pacific, when it applied in 1875 for Lands on Vancouver Island, under the 11th Section of the Terms of Union, and had them conveyed to Canada by Statute in that year, and by continuing the Order in Council of the 7th June, 1873, fixing Esquimalt as the Terminus and ordering a line of Railway to be located between Esquimalt and Seymour Narrows. The mere fact of a majority of the Senate holding that the Esquimalt-Nanaimo Section was a Provincial work, did not make it so, in the face of Orders in Council under the Terms of Union and the Railway Statutes of 1872 and 1874, *to the contrary*."

(11.) It will be remembered that Sir Hector L. Langevin said, on April 5th, 1876, in the House of Commons:—

"The portion of the line from the inner waters of British Columbia to Esquimalt was not considered, and was not treated in these Acts, (Acts incorporating the Canadian Pacific Railway Company and Inter-oceanic Company) as a branch, but as 'an extension and a portion of the Railway.' \* \* \* If it should be determined that the road must come to Burrard Inlet, instead of Bute Inlet, we would have to ferry across to Nanaimo which would occupy an hour and a half. \* \* \* They were bound to build the road to Esquimalt on the west, which was the terminus fixed upon at the time. He would go further, and say that they were bound of necessity to build it to that point in order to compete successfully with the American Railway (the Northern Pacific) for the trade of the East."

These statements of the present Minister of Public Works for Canada, make it clear that the construction of the Canadian Pacific Railway between Esquimalt and Nanaimo is a necessity, in order to compete successfully with Northern Pacific Railway, and consequently necessary to the fulfilment of the 11th Section of the Terms of Union.

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(12.) Lord Dufferin, in his speech delivered at Victoria, September 20th, 1876, said that, "Every single item of the 'Carnarvon Terms,' is at this moment in the course of fulfilment."

This utterance of itself, expressive of the intentions of the Canadian Government, is a sufficient reply to the statement that the "Carnarvon Terms" had not been sanctioned by the Canadian Parliament, and implied that measures would be introduced into Parliament to make those terms operative.

8. The 5th Section of the Report is as follows:—

"The necessity of extended examination of the different possible routes for a line of Railway running across a Continent, and as to long distances through very difficult Country, caused much time to be occupied in exploratory surveys—the difficulties attending the selection of the Pass through which to cross the Rocky Mountains—and of settling the best line from their summit to the Pacific Coast, and the selection of the terminus on that coast,—all tended to prolong the period before the works of construction could prudently be begun. The magnitude of these preliminary difficulties may be estimated when it is stated that the cost of the exploratory and preliminary surveys has reached the sum of three and a half millions (\$3,500,000) but the absolute necessity of exhaustive examinations for the best line, including all considerations of topography and soil, before embarking in the construction of so gigantic a work, will be admitted."

The points of this Section deserving of notice are:—

(1.) That there was necessity for extended examination of the different possible routes for a line of Railway running across the Continent.

(2.) That long distances through very difficult country caused much time to be occupied in exploratory surveys.

(3.) That the difficulties of selecting the Pass through which to cross the Rocky Mountains prolonged the period before construction could be commenced.

(4.) That the time was prolonged in settling the best line from the "summit" of the Rocky Mountains to the Pacific Coast.

(5.) That the difficulties in the selection of a Terminus on the Pacific Coast prolonged the period before which works of construction could prudently be begun.

(6.) That the magnitude of the exploratory and preliminary surveys may be estimated by the total cost, \$3,500,000.

(7.) That the necessity for exhaustive examinations for the best line, including topography and soil, before commencing construction, must be admitted.

9. The points enumerated in this Section of the Report are more or less correct, but cannot be passed over without consideration:—

(1.) It is admitted that exhaustive examinations were necessary for a line of Railway across the Continent. But it is not admitted that there was any necessity to spend eight years from July, 1871, to November, 1879, in making such examinations.

(2.) Whether the distances were long and the country very difficult to explore, or not, it is a fact that the Chief Engineer stated, in his Report of January 26th, 1874, as already quoted, that "the

"practicability of establishing Railway communication across the Continent, wholly within the limits of the Dominion, is no longer a matter of doubt." It, therefore, follows, that eight years ago the Chief Engineer reported to the Canadian Government that a line of Railway across the Continent was practicable; and that its average cost would be less than on many of the Railways then in operation in the Dominion.

(3.) The very difficult country to explore referred to in Section 5 of the Report, certainly did not include the 1200 miles west of Red River; for the Government as well as the Railway "Syndicate" have stated that it would be built and completed to the foot of the Rocky Mountains within three years, or in 1884. It follows, that the difficult country must be east and west of the "Central Section" of the Canadian Pacific Railway. It is well known that from the date of the Carnarvon Terms in November, 1874 to 1880, the eastern end of the Railway from Lake Superior to Nipissing was abandoned, except an abortive attempt to construct a branch line from Georgian Bay, *via* French River, to connect with the Canada Central at Renfrew. Besides that, the Chief Engineer, in his Report for 1877, page 48, says, that when the season closed in 1872, "it was established that the Railway could be constructed from the River Ottawa to Red River, *via* the northern side of Lake Nipigon, and that neither the work nor the gradients would be exceptionally heavy." These facts may be taken as an answer to the statement of prolonged delays in surveys so far as what is now called "the Eastern Section" is concerned.

As to the surveys in the Western Section, it has already been stated elsewhere on the authority of the Chief Engineer that an available line for the Railway had been found through British Columbia from the summit of Yellow Head Pass to the Coast in 1871—and that was confirmed by him in his Report of 1874.

(4.) The statement that there was difficulty in selecting a Pass through which to cross the Rocky Mountains, and that that prolonged the time is a mistake. For all the passes south of Yellow Head Pass were abandoned in 1872,—and Yellow Head became an accepted crossing. In 1876, an Order in Council was passed locating the line of the Canadian Pacific Railway from Yellow Head Pass to Fort George, *via* the North Fraser, with a view of terminating either at Dean's Canal or Bute Inlet. The only actual delay apparently, in relation to Yellow Head Pass was in 1879 when exploring parties were sent to Port Simpson and Pine and Peace Rivers; and that route had been well explored before, and the line *via* Yellow Head Pass to Burrard Inlet adopted, formally, by Order in Council, on July 13th, 1878.

(5.) But the time occupied in making the surveys in British Columbia is now admitted to be a fault of administration, and not due to the character of the country. The Chief-Engineer, Mr. Fleming, has admitted before the Royal Railway Commission recently, that if he had to order the surveys again they would be

managed differently. And, what is very important, Mr. Walter Moberly, a Civil Engineer, who had been employed in command of a surveying party, and who had been familiar with British Columbia as Assistant Commissioner of Lands and Works before Union, is reported as having recently testified before the Royal Commission, that two years time, from July 20th, 1871, was sufficient to determine the route generally of the line through British Columbia; and that the cost of surveys need not have been more than \$400,000 or \$500,000.

(6.) It has already been shown that the Ocean Terminus of the Canadian Pacific Railway had been selected in 1873, and that the Order in Council of April 22nd, 1879, reviving and confirming that selection, is still in force; and, it is submitted, cannot be changed without special Legislation.

(7.) No one familiar with the geography and climate of the Pacific Coast of British Columbia, and competent to form an opinion, could hesitate for a moment as to where the Ocean Terminus must be placed. North of Bute Inlet to Alaska, the climate and harbour accommodation and approaches from the Ocean render any consideration of that Coast useless. This is confirmed by Admiralty reports. The only two routes possible were via Burrard Inlet and Bute Inlet. Either of these routes necessitated an Ocean Terminus at some harbour on Vancouver Island. If any delay be admissible at all, it would be confined simply to a choice between those routes; and that choice fell on Burrard Inlet route. The time taken to determine which of the two routes it would be most desirable to select, was extended beyond all reasonable limits. For, it had been for years shown that the railway could be prudently commenced at one or the other Inlet, and the construction from the Coast to the summit of Yellow Head Pass, common to both routes, could have been commenced within the period fixed in the 11th Section of the Terms of Union, or at latest in 1874.

(8.) The cost of the surveys for the whole line was unquestionably very great. It will be seen by reference to "No. 1 Statement" hereto annexed that in British Columbia alone \$1,552,297. On the other hand it is sworn to by Mr. Moberly that it need not have cost over \$400,000 or \$500,000, and not have occupied over two years' time. The resignation of the Chief Engineer, in 1880, was a consequence of the dissatisfaction of Parliament with the surveys and construction of the Canadian Pacific Railway.

(9.) To delay the construction because a location survey had not been made defining the whole line was not necessary. The main points being determined was all that was necessary. This is seen very clearly by the contract with the Syndicate or present "Canadian Pacific Railway Company." By section 13 of their contract, they are only governed by the terminal points,—and may vary the route between these points as they please. This course has been sanctioned by Parliament, and is as follows:

"The Company shall have the right, subject to the approval of the Governor in Council, to lay out and locate the line of the Railway hereby contracted for as

"they may think fit, preserving the following terminal points, namely: from  
 "Callander Station, to the junction with the Lake Superior Section, and from  
 "Selkirk to the junction with the Western Section at Kamloops, by the way of  
 "Yellow Head Pass."

What has been agreed to by the Canadian Government with "the Syndicate," might have been adopted in 1873, and the work of construction commenced in British Columbia long ago.

(10.) It is admitted that exhaustive surveys were necessary; but it is maintained that these exhaustive surveys between the terminal points of each section, could have been conducted during the progress of construction, before the contract was made with the "Syndicate" as well as after it had been made.

(11.) There has been delay, however, no matter from what causes. But that cannot be urged as a reason for not commencing the construction of the Esquimalt Section of the Canadian Pacific Railway now; nor for delaying the commencement of construction at Port Moody. Neither can the delay, from whatever cause, be rightfully set up as an offset to full compensation being paid to British Columbia for the breaches of agreement and delays by Canada in the fulfilment of her Railway contract with British Columbia.

(12.) If the Treaty of Union, instead of being between Canada and British Columbia, had been between Canada and the United States or other foreign power, the default in the construction of the Railway would have ~~not~~ entailed the payment of indemnity or war; and it is contended that the same principle is involved, as between Canada and British Columbia, as would obtain between Canada and the United States or other foreign powers.

10. Section 6, one of the most important Sections of the Report is as follows:—

"(6.) Within the last year a Contract has been entered into and received the sanction of the Canadian Parliament for the construction of the whole Pacific Railway  
 "from the end of the existing system of Canadian Railways at Callander Station,  
 "near Lake Nipissing, about 250 miles from the Capital of the Dominion to Burrard  
 "Inlet, on the Seaboard of British Columbia, involving an expenditure of about  
 "\$53,000,000 in money, and 25,000,000 of acres of land,—contracts involving a sum  
 "of about 88,000,000 has been given out in British Columbia, and work is being  
 "vigorously pressed in that Province, and the Government itself has undertaken the  
 "construction of the Section of the Railway extending from Yale to Burrard Inlet."

Attention is directed to the following points in this Section:—

(1.) That within a year a contract had been made by the Canadian Government for the construction of the whole Pacific Railway.

(2.) That the whole Pacific Railway lies between the end of the existing system of Canadian Railways at Callander Station, near Lake Nipissing and Burrard Inlet, on "the seaboard of British Columbia."

(3.) That this contract involves an expenditure of about \$53,000,000, and 25,000,000 of acres of Land.

(4.) That contracts involving a sum of about \$8,000,000 have been given out in British Columbia.

(5.) That the work (of construction) is vigorously pressed in that Province.

(6.) That the Government itself has undertaken the construction of the Section of the Railway between Yale and Burrard Inlet.

11. These points deserve special consideration:—

(1.) It is denied that "the whole Pacific Railway" is included between Callander Station and Burrard Inlet, for the reason, as already shown, that under the Statutes of 1872 and 1874, and the Orders in Council in force based thereon "the whole Pacific Railway" would extend to and include the Section from Esquimalt to Nanaimo, with a Railway Ferry to Burrard Inlet; and that no contract has been made for the whole line of the Canadian Pacific, but only for "the whole of the Railway" between Callander Station and Port Moody, leaving the extension from that point to Englis. Bay, "the beginning" of the line referred to in Mr. Braun's letter of May 29th, 1878, with the Ferry across the Strait of Georgia to Nanaimo, and the Railway between that town and Esquimalt unprovided for in the contract.

(2.) If the Canadian Government had included the Esquimalt and Nanaimo Section of the Canadian Pacific Railway in the contract, and had provided for its immediate commencement and vigorous and continuous prosecution, in the contract with "the Syndicate," "the continuous and acrimonious complaint" of British Columbia would have been happily terminated; and the cordial feeling that once existed between the Province and Canada would have been fully restored, and Her Majesty's Imperial Government would not, in all probability, have ever been again asked to move the Canadian Government to fulfil any condition of the Terms of Union.

(3.) It is unfortunate that that Section of Canadian Pacific Railway was not included. Under the "Carnarvon Terms," the time limit for the construction of that part of the Railway between Esquimalt and Lake Superior was extended from July 20th, 1881, to December 31st, 1890. The Canadian Government, however, without showing any regard to that agreement, and without asking British Columbia to assent to a further extension of time, deliberately contracted with "The Syndicate" to have the Railway completed on or before the 1st of May, 1891. They also included the section between the junction with Lake Superior and Callander Station in the contract, which was indefinitely postponed through Lord Carnarvon, and ignored altogether the Esquimalt-Nanaimo Section. *the Section*

(4.) The cost of the construction of the Esquimalt and Nanaimo Section would not have added materially to the whole cash cost of the Railway. If a cash subsidy of \$13,333 per mile,—which is the rate of the cash subsidy to the "Syndicate" for the last 450 miles of the Central Section,—had been given to the Syndicate contractors, with the Railway Lands on Vancouver Island along that line, it would have only added \$913,310.50 to the \$53,000,000, making the Total Cash Expenditure on account of the whole Pacific Railway \$53,913,310.50. Sir Alexander Campbell, the Minister of Justice for Canada, in introducing the Act to sanction the contract, said, "that the interest on \$53,000,000, at 4 per cent. would amount to \$2,120,000 a year." Adding interest at the same rate, on the Cash Subsidy mentioned above for the Esquimalt-Nanaimo Section, namely \$36,532, to the \$2,120,000, the total amount of interest on Cash Subsidy for constructing the whole Canadian Pacific Railway would only reach \$2,156,532, an almost inappreciable addition, considering the magnitude of the contract.

*like* (5.) The cash subsidy for the "Eastern Section" under the contract is \$15,384 per mile. If ~~that~~ subsidy had been given "the Syndicate" for constructing the 684 miles between Esquimalt and Nanaimo, it would only have added \$1,053,804, and the interest would be \$42,152 a year, making the Total Cash Subsidy, for completing the whole Canadian Pacific Railway



from Esquimalt to Callander Station, \$54,173,804, and the total interest thereon \$2,162,152.

(6.) It seems almost incomprehensible how so small a subsidy, so necessary to the completion of the Railway obligations of Canada to British Columbia, was not included in the contract.

(7.) It has been stated by one of the London negotiators with "the Syndicate" in 1880, that he believed that a cash subsidy of \$600,000 would have induced them then to consent to include the Esquimalt-Nanaimo Section in the contract.

(8.) In the Bill for the construction of the Esquimalt-Nanaimo Railway, that was introduced into Parliament by Mr. Mackenzie, the cash subsidy was limited to \$10,000 per mile, or \$685,000 for the whole line; but to that was added a guarantee for interest at four per cent. on "the lowest sum on which such interest and guarantee will be required."

(9.) There was also a land subsidy of 20,000 acres per mile to be given to the contractors. It was not, however, proposed to give the Lands within the Railway Land belt, between Esquimalt and Nanaimo, as they were considered to be very valuable Coal and Mineral lands; but to give the contractors 20,000 acres of Land elsewhere on the line of the Canadian Pacific Railway,

(10.) The provisions of the Bill providing for this Subsidy are as follows:—

"3. That the total sum to be paid to the contractors shall be stipulated in the contract, and shall be ten thousand dollars for each mile of the railway or of the section contracted for, and that such sum shall be paid to the contractors as the work progresses, by monthly payments in proportion to the value of the work then actually performed, (according to the estimates of the engineers designated for the purpose by the Minister of Public Works,) as compared with the value of the whole work contracted for, including rolling stock and all things to be done or furnished by the contractors; and except money arising from the sale of lands as hereinafter provided, no further sum of money shall be payable to the contractors as principal, but interest at the rate of four per cent. per annum for twenty-five years from the completion of the work, on a sum (to be stated in the contract) for each mile of the section or sub-section contracted for, shall be payable to the contractors, and guarantees for the payment thereof shall be given from time to time to the contractors in like manner and proportion, and on like conditions, as payments are to be made on the principal sum above mentioned; and the tenders for the work shall be required to state the lowest sum per mile on which such interest and guarantees will be required.

"4. That a quantity of land, not exceeding twenty thousand acres for each mile of the railway or section contracted for, shall be appropriated as hereinafter mentioned, and that two-thirds of the quantity of land so appropriated shall be sold by the Government at such prices as may be from time agreed upon between the Governor in Council and the contractors, and the proceeds thereof accounted for and paid half-yearly to the contractors, free from any charge of administration or management; the remaining third to be conveyed to the contractors. The said lands to be of fair average quality, and not to include any land already granted or occupied under any patent, license of occupation, or pre-emption right; such lands to be situated on the line of the Canadian Pacific Railway or elsewhere in Canada, at such places as may be determined by the Governor in Council."

(11.) It will readily be perceived how small a sum was estimated, in 1875, to be sufficient to complete the Railway from Esquimalt to Nanaimo, and carry out in good faith the first article in the "Carnarvon Terms."

(12.) What was proposed to be done in 1875, in a time of depression, by the Canadian Government can be much more easily done, at present, by a Great Government like Canada, with a prosperous people, and a surplus revenue for the fiscal year 1880-1, that has been estimated at \$4,000,000.



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(13.) It only remains for the Canadian Government to make some such provision for the immediate commencement and active prosecution of the Esquimalt-Nanaimo Section of the Canadian Pacific, and also to commence the section between Port Moody and Emory, to secure in a large degree the contentment of British Columbia.

(14.) The contracts given out in British Columbia commence nearly 100 miles from Port Moody, and cannot be approached nearer by ocean-going vessels. Only river steamers, drawing a few feet of water, can reach Yale, and that can be done only during a portion of the year, as nearly the whole river below Yale for months sometimes in the winter is frozen up, rendering its navigation impossible.

(15.) To render the section, now under contract, valuable as a local railway, pending the completion of the through-line to Winnipeg, the immediate commencement of the Port Moody-Emory section is necessary. The Emory-Kamloops section, connecting navigable water on the Lower Fraser with Lake Kamloops, is expected to be finished in 1885; and unless provision be made for the immediate commencement of the Port Moody-Emory section, the advantages of the sections through the Cascades now under contract, will be indefinitely postponed even for local and provincial purposes.

(16.) From the statement that contracts for construction of the Railway in British Columbia for "about \$8,000,000 have been given out," it may be inferred that a very great deal has been done there in construction. But in answer to a question, it was stated on January 4, 1881, by Sir Charles Tupper, the Minister of Railways and Canals, in his place in the House of Commons, that "the value of the work performed up to December 31st, 1880, is \$408,506, the amount paid is that amount less ten per cent., retained as drawback." Accordingly only the comparatively small sum of \$367,655.40 had been expended in British Columbia in actual construction of the Canadian Pacific Railway,—at the end of 1880, seven years from the treaty period fixed for its commencement. On the other hand, over \$15,100,402 had been expended up to November 30th, 1880, in constructing portions of the Canadian Pacific Railway, and yet of that sum, up to the date mentioned, only \$367,655 had been expended in British Columbia. This fact shows most conclusively how unfairly British Columbia has been treated,—particularly when it is remembered that under the 11th section of the Terms of Union the work was to be commenced simultaneously on the Pacific Coast and east of the Rocky Mountains.

(17.) The Report of the Railway Statistics of Canada for 1879-80, prepared March 1st, 1881, by Mr. Schrieber, Chief Engineer of Government Railways in Operation, states that the re were

#### UNDER CONSTRUCTION,

Fort William to Red River	...	...	410 miles.
First 100 miles west of Red River	...	...	100 "
Pembina Branch	...	...	85 "
British Columbia	...	...	127 "

Total Under Construction ... 722 "

## IN OPERATION,

Fort William to English River	...	...	113 miles.
Kewatin to Selkirk	...	...	112 "
Pembina Branch	...	...	85 "
First 100 miles west of Red River	...	...	70 "
British Columbia	...	...	nil. "
Total in Operation	...	...	380 "

No other conclusion can be reached after considering this statement, than that British Columbia has suffered a great wrong at the hands of Canada.

(18.) Since the Report on Railway Statistics for 1879-80 was issued in March last, four miles have been completed, between Emory and Yale. A Telegram states that on June 7th, 1881, "The construction train, consisting of engine and six cars, reached here (Yale) to-day."

(19.) It is stated in the section under consideration that the "work is being vigorously pressed in that Province." Yet there is the fact showing that fourteen months after the work was commenced that only four miles were so far completed as to enable the contractor to run a construction train over it. Hence no one familiar with railway construction is likely to admit that "work" on the Canadian Pacific Railway "is being vigorously pressed" in British Columbia, without ~~the~~ better explanations than are given in Section 6 of Report on the Petition to the Queen.

(20.) The naked statement is also made in Section 6 that "the Government itself has undertaken the construction of the Section of the Railway extending from Yale to Burrard Inlet." In the sixth section of the contract with "the Syndicate" it is stated that "the Government \* \* \* shall also cause to be completed on or before the 1st day of May, 1891, the remaining portion of the said Western Section, lying between Yale and Port Moody."

(21.) Here then it is found that the Canadian Government have to complete the Port Moody-Yale Section on or before ten years hence. By the Terms of Union the whole Canadian Pacific Railway was to have been completed on July 20, 1881; but the Government of Canada undertakes a contract with the Syndicate to complete ninety-one miles within ten years from the date of the Report on the Petition to the Queen. It will readily be perceived therefore, that this contract with the Syndicate gives no assurance to British Columbia of the early commencement and rapid completion of the Port Moody-Emory Section of the Canadian Pacific Railway; but, in fact, leaves it in the power of the Canadian Government to postpone the commencement for the next seven years at least, and then have ample time to complete it before the 1st May, 1891. It is manifest that this contract is mere trifling with the solemn Railway obligation of Canada to British Columbia.

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(22.) Since the Petition to the Queen was forwarded to Her Majesty's Principal Secretary of State for the Colonies, engineers have been sent from Ottawa to make a survey and report on the Port Moody-Emory Section, with the object, it is alleged, of preparing the plans and quantities, so as to be able to call for tenders for its construction. It is remarkable, however, that no special provision was made in the estimates passed in the last Session of the Dominion Parliament, and it is only reasonable to conclude that the Canadian Government has been induced to take this step in consequence of the transmission of the Petition to the Queen. Moreover, not a word is mentioned in the Report on the Petition, that it was intended to call for tenders for the construction of the Port Moody-Emory Section this year, but the naked statement is made that the Government had contracted to complete it ten years' hence, as above stated.

12. The 7th Section of the Report is as follows:—

"7. Every guarantee has thus been afforded to the Province of British Columbia that the terms of the Union will be carried out at the earliest practicable day."

(1.) This Section of the Report alleges that by having made a contract with "the Syndicate," otherwise the "Canadian Pacific Railway Company," to construct the Canadian Pacific Railway from Nipissing to a junction with the Lake Superior Section, and from Red River to Kamloops, in British Columbia, on or before 1st day of May, 1891; and, also, by having agreed that the Government itself shall complete the Lake Superior and Emory-Kamloops Sections, now under contract, at the time specified in those Contracts; and, lastly, by having agreed to construct the Port Moody-Emory Section by the 1st day of May, 1891,—the Canadian Government has given "every guarantee" to British Columbia that the Terms of Union will be carried out at the earliest practicable day.

(2.) It is denied that the contract with the "Canadian Pacific Railway Company" and others afford "every guarantee" that the Terms of Union will be carried out. On the contrary, what has been done is not a valuable guarantee to British Columbia for the performance of the contract under the Terms of Union with *British Columbia, Canada*

(3.) A valuable guarantee can be enforced; but there is no Court of competent jurisdiction in Canada to which British Columbia can apply to compel the Canadian Government, in case of a further default, to build those portions of the Canadian Pacific Railway for which contracts have been made with the "Canadian Pacific Railway Company" and others. Neither has that Province any right, in case of default, to commence proceedings in a Court of Law or Equity against the "Canadian Pacific Railway Company," and other contractors, to give effect to their respective contracts for the construction of the whole or parts of the Canadian Pacific Railway. Thus, the guarantees, referred to in the Report, are only "a vague, and uncertain assurance" at most, that the Canadian Pacific Railway may, at some time in the future, be built.

(4.) If the Canadian Government had made provision in the contract with the "Canadian Pacific Railway Company" to construct the Esquimalt-Nanaimo Section, and had had it commenced and vigorously prosecuted; and had commenced the construction of the Port Moody-Emory Section, it would have afforded a reasonable assurance that it was their intention to keep faith with British Columbia, by completing the whole railway within a reasonable time in the future. But having ignored altogether the construction of the Esquimalt-Nanaimo Section, and not having yet commenced construction at Port Moody, it is natural to conclude that the Canadian Government has not yet offered those substantial guarantees to British Columbia for the construction of the Canadian Pacific Railway, that will content that Province.

(5.) The Government and Legislative Assembly of British Columbia knew all that the Canadian Government had done towards the construction of the Canadian Pacific Railway in that Province and elsewhere, before the Petition to the Queen was adopted; but what had been done was not considered by them as affording "every guarantee" that "the Terms of Union will be carried out at the earliest practicable day." They, consequently, petitioned Her Majesty the Queen to move the Canadian Government to carry out the Prayer of the Petition.

(6.) It was with painful reluctance that they did so; but the repeated breaches of agreement and delays by Canada in the fulfilment of her Railway obligations to British Columbia, left the Legislative Assembly no other alternative; and so they have appealed to Her Majesty's Imperial Government to afford them those substantial guarantees that will assure them that the Railway obligations of Canada will be carried out.

12. Section 8 of the Report on the Petition to the Queen is as follows:—

- "8. Parliament has not authorized the construction of the Nanaimo and Esquimalt line, and, in view of the large expenditure involved, in the building of the Canadian Pacific from Callander Station to the Pacific Ocean at Burrard Inlet, it is not probable that it would do so."
- "The Committee desire to observe that there exists in the adjacent waters of the Straits of Georgia, sheltered water communication open all the year round quite adequate to the needs of the population of the Island."

The points in this important Section of the Report may be particularized in the following order:—

- (1.) That the Dominion "Parliament has not authorized the construction of the Esquimalt-Nanaimo line."
- (2.) That it is not probable that it will authorize its construction, "in view of the large Expenditure involved in the building of the Canadian Pacific Railway from Callander Station to Burrard Inlet."
- (3.) That the Canadian Government desire to observe that in the adjacent waters of the Strait of Georgia there is sheltered water communication adequate to the needs of the population of Vancouver Island.

In answer to these points it is necessary to state :—

(1.) That the Dominion Parliament has not been asked by the Canadian Government to authorize the construction of the Esquimalt-Nanaimo line, since the rejection in 1875, by the Senate, of the Bill sent up from the House of Commons for that purpose.

(2.) That Canada stands pledged to its construction, and holds a large extent of valuable lands on Vancouver Island as part of the consideration for constructing it.

(3.) That the Dominion Parliament is the custodian of the Honor as well as the Purse of Canada, and that it is impossible to believe that either House of Parliament would tarnish the one by refusing their assent to an appropriation from the other to keep that pledge.

(4.) The sum necessary to be appropriated for the Esquimalt-Nanaimo line is so small in comparison with the \$53,000,000 already pledged for that part of the Canadian Pacific Railway under contract, —and the length of the line on Vancouver Island is so short in comparison with the 2600 miles of railway to be completed between Burrard Inlet and Callander Station—that it cannot be supposed for a moment that the Parliament of Canada would refuse to grant it, if asked by the present Dominion Government.

(5.) What is meant in Section 8 by "the adjacent waters of the Strait of Georgia" is not very clear. It is presumed, however, that it refers to that portion of the Archipelago that is bounded by the Strait of Fuca, the Strait of Georgia, Haro Canal, and Vancouver Island. What "sheltered" refers to, whether sheltered from storms in peace, or from hostile attacks in war, is uncertain. One thing seems certain, however, that it was inserted in Section 8, to show that there was no necessity for a railway along the East Coast of Vancouver Island, between Esquimalt and Nanaimo; and that the navigation from the Pacific Ocean proper, to Burrard Inlet, was free from danger or difficulties. Now, one of the reasons why it is contended that a Railway on Vancouver Island, between the points last mentioned, is that the channels, in the adjacent waters of the Strait of Georgia, are not sufficiently sheltered, safe, and open for navigation, to meet the wants of the population on the Island. The other reason is that the navigation between the Strait of Fuca and the Strait of Georgia "in the adjacent waters" referred to, is so dangerous, and likely to produce such delays in going to and from Burrard Inlet and Nanaimo, from the Straits of Fuca, that a Railway on the Island is essentially necessary to the Canadian Pacific Railway terminating at Port Moody. Sailing vessels going either to Nanaimo for coal or to Burrard Inlet for lumber, at present take steam tugs to tow them. The expense of towage is incurred, rather than submit to the delays and danger incident to sailing. These facts are a sufficient answer in themselves to the statement in the Report that the "sheltered water communications" are "adequate to the needs of the population of the Island." It will be perceived that Vancouver Island is not alone interested in the Esquimalt-Nanaimo Section, but the Mainland is, also. In a "Return" placed before Parliament in 1881, "For

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Copies of any correspondence with the Government of British Columbia, or with any persons in that Province respecting the Island Railway," it is shown that out of about a hundred accidents to vessels navigating the waters between Esquimalt and Nanaimo and Burrard Inlet, from 1858 to 1876 inclusive, about 75 per cent. occurred in the Archipelago referred to, and the Strait of Georgia. This, at least, shows that the navigation of the adjacent waters and Strait of Georgia is unfortunately difficult and dangerous. In this the following officers of Royal Navy concur. For instance :—

Admiral Farquhar, in his Report to the Admiralty, in 1876, says :—

" Ocean-going sailing ships could not be depended on to sail further than the entrance of Haro Channel, although, doubtless, with fair winds and favourable weather, they might sail to English Harbour at the entrance of Burrard Inlet."

Admiral Richards, in his Report, says :—

" Ships need not pass as far off as within three miles of San Juan, but they must pass within two miles of Stuart and Patos Islands, unless indeed they take the inner channel along the coast of Vancouver I-land, and the passages from these channels to the Strait of Georgia are dangerous."

Commander Pender, R.N., in his Report, says :—

" The risks attending navigation with large steamships, against time, amongst the Islands lying between Fuca Strait and the Strait of Georgia, are to me, very great."

(6.) This is the testimony of Officers of Her Majesty's Navy,—two of whom were very familiar with the Navigation, as they had commanded the Coast Survey in British Columbia for over ten years,—and ought to be a sufficient answer in itself to the Statement in the Report about " sheltered water communication " in the adjacent waters of the Strait of Georgia."

### 13. Section 9 of the Report on the Petition to the Queen is as follows:

" 9. As regards the Prayer of the proposed Petition to Her Majesty, " That the Province be permitted to regulate and collect its own tariff of Customs and Excise until through communication by Railway be established through British Territory with the Eastern Provinces,"—the Committee of the Privy Council desire to observe that this request involves a breach of the terms of Union, and the virtual severance of British Columbia from the Dominion."

On this section of the Report but little comment is necessary, as Her Majesty's Principal Secretary of State for the Colonies, has viewed it unfavourably. It is deemed necessary, however, to state that the Government and Legislative Assembly of Columbia,—having been so long and so often disappointed by Canada, in carrying out her Railway obligations,—inserted Section (B) in the Prayer of the Petition, in order to secure a substantial guarantee that Canada would fulfil her Railway obligations to that Province. Mere paper contracts having been often broken, and there being no Court of competent jurisdiction to which application could be made to enforce them, they deemed themselves justified in demanding a money security.

## 14. The 10th Section of the Report is as follows:—

"10. It will be seen by Official Statements hereto annexed, that an Expenditure in the Province since it entered the Union has been made by the Dominion of \$5,996,289, against which the Receipts have been \$4,173,238,—this Expenditure is entirely irrespective of disbursements on account of the Railway."

(1.) The answer to this Section of the Report is, that it is wholly irrelevant to the Prayer of the Petition to the Queen. The Railway obligation of Canada to British Columbia under the 11th Section of the Terms of Union is separate and distinct from the other Terms,—and, to use the language of Section 1 of the Report, is "one of the terms upon which British Columbia entered into the Union of Her Majesty's North American Provinces." If the Railway obligations were fulfilled to the letter, it would not exempt Canada from her agreement to fulfil the other Terms of Union. Neither do the alleged Expenditure and Receipts exempt Canada from her Railway obligations. If she had expended, within the time mentioned, \$10,000,000, instead of the alleged Expenditure of \$5,996,289, and had received only \$1,000,000 instead of the alleged Receipts, \$4,173,238, it would neither strengthen her case nor justify Canada in delaying the fulfilment of her Railway contract with British Columbia. On the other hand if British Columbia had paid into the Consolidated Revenue Fund of Canada, within the time mentioned, \$10,000,000 instead of the alleged \$4,173,238, and if within the same period the Expenditure by Canada had been only \$1,000,000 instead of the alleged \$5,996,289, it would not strengthen her claim for the fulfilment of the Railway obligations of Canada. The contract to commence the Railway within two years, and complete it within ten years from the date of Union, is clear, precise, and binding, and cannot be varied by Canada without the consent of British Columbia, the other contracting party. The settlement made, through Lord Carnarvon, in 1874, was agreed to by the respective Governments of the contracting parties; and if the sanction of the Canadian Parliament to that agreement, which is morally binding, had been secured, it would have varied the Railway contract under the 11th Section of the Terms of Union. That sanction not having been obtained, and the settlement made through Lord Carnarvon being treated in Section 3 of the Report as merely "the suggestions of the then Secretary of State for the Colonies,"—a virtual repudiation of a solemn agreement,—the original Railway contract remains in all its binding force to-day as it was in 1871, when British Columbia entered into Union with Canada.

(2.) If British Columbia had agreed with Canada that, in consideration of the alleged Expenditure having been made, or to be made, and the alleged Receipts having been accepted, or to be accepted, the construction of the Canadian Pacific Railway in accordance with the 11th Section of the Terms of Union might be delayed, and the time limit for commencement and completion indefinitely extended to suit the Railway Policy of the Canadian Government for the time being, then the Canadian Government would have been justified in putting forward in their Report the alleged Expenditure and Receipts in British Columbia, as their justification for the Delays and Breaches of Agreement complained of in the Petition to the Queen. But no such Agreement has been shown to exist; neither does any such Agreement exist; and, therefore, the alleged Expenditure and Receipts referred to in Section 10 ~~is~~ <sup>are</sup> on this ground, wholly irrelevant to the Petition to the Queen.

(3.) That the Government of Canada had an object in putting "Section 10" into the Order in Council is undoubted; and doubtless their design was to influence thereby the decision of Her Majesty's Imperial Government upon the Prayer of



the Petition to the Queen. It could not have been put there in reply to a formal complaint in the Petition of insufficient Expenditure in the Province under the Terms of Union other than the 11th Section thereof; for no such complaint has ever been made by the Government of British Columbia. But the evident object was to impress upon Her Majesty's Imperial Government that the insufficiency of the Receipts in that Province to meet the Expenditure therein, left, within a period of nine years, an alleged Deficit of \$1,823,051, which, of course, was expected to become an important factor in the consideration of and decision upon the Prayer of the Petition. Not a word is mentioned in connection with Section 10, admitting or denying that the Expenditure was incident to the extension and application of the Laws of Canada to British Columbia in compliance with the Treaty of Union, or that the Receipts and Expenditure were mainly within the control of the Dominion Parliament. The unqualified Statement of Receipts and Expenditure was made without even a reference to those rights of British Columbia, of which, under the Treaty of Union, Canada had become the Chief Guardian, and whose duty it was to respect and maintain; and also without the faintest allusion to the fact that the people of that Province had paid more than twice the amount of Taxes per head than were paid as the average per capita tax throughout the whole Dominion. It becomes necessary, therefore, in view of the way and evident purpose in and for which the Government of Canada put Section 10 in their Report, that the alleged Expenditure and Receipts should be more fully considered, even with the addition of some historical and financial details.

(4.) To effect this object, it is necessary, in the first place, to quote the financial condition on which British Columbia "in 1871 entered the Union of Her Majesty's North-Western Provinces." They are as follows:—

"1.—Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

"2.—British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive by half-yearly payments in advance from the General Government, interest at the rate of five per cent. per annum on the difference between the actual amount of indebtedness at the date of the Union, and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

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

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

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

"(A.) Salary of the Lieutenant Governor;

"(B.) Salaries and Allowances of the Judges of the Superior Courts and the County or District Courts;

"(C.) The charges in respect to the Department of Customs;

"(D.) The Postal and Telegraphic Services;

"(E.) Protection and encouragement of Fisheries;

"(F.) Provision for the Militia;

"(G.) Lighthouses, Buoys, and Beacons, Shipwrecked Crews, Quarantine and Marine Hospitals, including a Marine Hospital at Victoria;

"(H.) The Geological Survey;

"(I.) The Penitentiary;

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

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

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

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

" 11.—The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of Union, of the construction of a Railway from the Pacific towards the Rocky Mountains, and from such point as may be selected east of the Rocky Mountains, towards the Pacific, to connect the Seaboard of British Columbia, with the railway system of Canada; and further to secure the completion of such Railway, within ten years from the date of the Union.

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

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" 13. The Charge of the Indians and the Trusteeship and management of the lands reserved for their use and benefit shall be assumed by the Dominion Government, and a Policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union. To carry out such policy tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians, on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred to the Decision of the Secretary of State for the Colonies."

(5.) "It will be seen " that, by the above terms, Canada, "irrespective of disbursements on account of the Railway," solemnly agreed to provide for and pay Certain Debts, Liabilities and Subsidies, and Defray the Charges for Certain Services, as part of the consideration to British Columbia for surrendering "from the date of Union" to her custody and exclusive control Certain Rights and Revenues that

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(6.) The Statement of alleged Expenditure and Receipts in British Columbia "as prepared by the Financial Inspector," is not qualified as being "approximate," but is assumed to be exact. That assumption is very questionable, as will be shewn hereafter. The Total alleged Expenditure and Receipts "as prepared by the Financial Inspector" for the fiscal years 1871-2 to 1879-80, inclusive, are respectively, Expenditure \$5,996,289 and Receipts \$4,173,238. By reference to "No. 10 Approximate Statement," hereto annexed, carefully compiled from Statements made at Ottawa, in the Auditor-General's Department from the Public Accounts, it will be perceived that the Total Expenditure by Canada in British Columbia for the period, extending from July 20th, 1871 to July 1st, 1880, is \$5 338,894.66; and by reference to "No. 3 Statement" (column sixth) hereto annexed, compiled from Statements made in the Auditor General's Department, that the Receipts in British Columbia, from July 20, 1871 to July 1, 1880, are put down at \$4,223,745.63. It is, however, very apparent that there is a material difference between the two Statements of Expenditure and Receipts, as the following comparison will more fully show:—

1. Expenditure "as prepared by Financial Inspector" ... ..	\$5,996,289.00
2. Expenditure as compiled from Statements made in Auditor General's Department ... ..	5,388,894.66
3. Difference in Expenditure between the two Statements ... ..	607,394.34

1.	Receipts as compiled from Statements made in Auditor General's Department	\$4,223,745.63
2.	Receipts "as prepared by Financial Inspector" ... ..	4,173,238.00
3.	Difference in Receipts between the two Statements ... ..	\$50,507.63

A further comparison of the Statement of the Financial Inspector with that compiled from Statements made in the Auditor General's Department, shows a very material difference in the Total Deficit from July 20, 1871, to July 1, 1880. For instance:—

1.	Expenditure in B. C., July 20, 1871, to July 1st, 1880	...	...	...	\$5,906,289
2.	Receipts	"	"	"	4,178,238
3.	Total Deficit or Excess of Expenditure over Receipts from July 20, 1871, to July 1, 1880, as per Financial Inspector's Statement...	...	...	...	\$1,823,051

1.	Expenditure in B. C., July 20, 1871 to July 1st, 1880	...	...	...	\$5,338,894.66
2.	Receipts	"	"	"	4,223,745.63
3.	Total Deficit or Excess of Expenditure over Receipts between July 20, 1871, and July 1, 1880	...	...	...	\$1,115,149.03

The Difference between the Total Deficit or Excess of Expenditure over Receipts, as given in the Financial Inspector's Statement above, and that compiled from Statements made in Auditor General's Office, is best shown by the following Statement :—

1. Total Deficit or Excess of Expenditure over Receipts as per Financial Inspector's Statement ... ..	\$1,823,051.00
2. Total Deficit or Excess of Expenditure over Receipts, as per Statement compiled from those made in Auditor General's Department ... ..	1,115,149.03
3. Difference between the Two Statements as to Excess of Expenditure over Receipts ... ..	\$707,901.97

It may here be remarked that Statements made, by request, in the Auditor-General's Department, which, by Statute is independent of the Ministry, may be fairly ranked as equal in weight with those "prepared by the Financial Inspector;" and that the difference between the two statements as to the Excess of Expenditure over Receipts, is so very large that the Statement of the Financial Inspector may with no impropriety be questioned as to correctness of data and clerical accuracy.

(7.) It has been remarked that Section 10 made no allusion to the fact that British Columbia had paid double the amount of taxes per head, that were paid per capita by the average of the whole Dominion. The proof of that fact is apparent in the following Statement:—

1. Statement No. 5, Column 10, hereto annexed, shows that the Total Taxes paid by B. C. from July 20, 1871, to July 1st, 1880, amounted to ...	\$3,844,419.19
2. Statement No. 5, col. 7, shows that the Total Taxes that B. C. would have paid at the average rate of the Dominion from July 20, 1871, to July 1, 1880, is ... ..	1,897,875.00
3. Making the Total Excess of Taxes paid by B. C. over the average rate per capita of Dominion to be ... ..	\$1,946,544.19

It may be further remarked, that British Columbia with an estimated population of 50,000, equal to one eighty-eighth (1/88) of the total estimated population of Canada, paid more than one forty-fourth ( $\frac{1}{44}$ ) of the entire Taxes of the Dominion.

(8.) That Canada can have no reasonable cause to complain about the Excess of Expenditure over Receipts "irrespective of disbursements on account of the Railway," is still further apparent from the fact that the Receipts in British Columbia for the whole period, were nearly \$1,000,000 more on July 1st, 1880, than they would have been had there been no increase in the Receipts above the amount collected in the first Fiscal Year after Union. For instance:—

1. The Total Receipts, July 20, 1871, to July 1st, 1880, were (See Statement No. 3, Column 6) ... ..	\$4,233,745.63
2. The Total Receipts in B. C. for the Fiscal Year, 1871-2, No. 3, Statement, col. 7, were \$363,298.08, which at that annual rate would have amounted in nine years, July 20, 1871, to July 1st, 1880, to ... ..	3,269,688.12
3. Total Increase of Receipts in Nine years over the Total Receipts, at the rate of \$363,298.08, for 1871-2 is ... ..	\$964,057.51

This makes the Annual Average Increase in Receipts in British Columbia, over the Total Receipts for 1871-2 to be about \$100,000 a year; and this is a very important fact, as it will be shown hereafter that the Expenditure is decreasing, whilst the Revenue is increasing.

(9.) The Statement "as prepared by the Financial Inspector," shows that during the five years of commercial depression throughout Canada, that is the five fiscal years, 1875-6 to 1879-80 inclusive, in which there was an Annual Deficit, (See "No. 7 Statement" hereto annexed) that the Receipts in the Province were increasing, the Expenditure decreasing, and rapidly tending to balance each other. For instance:—

Fiscal Year.	Receipts.	Expenditure.	Deficits.
1. 1875-6.	\$544,952	\$750,082	\$205,130
1876-7.	456,976	681,736	224,760
1877-8.	493,756	668,685	174,929
1878-9.	579,144	682,344	103,200
1879-80.	517,540	635,311	117,771

Total Deficit in Five years \$825,790

The Statement made in May, 1881, in the Auditor-General's Department, of the Receipts and Expenditure show not only a marked difference in the amounts received and expended from what is found in the Statement "as prepared by the Financial Inspector" in the fiscal years referred to; but that the Expenditure in British Columbia was but very little over its Receipts towards the end of that period. For instance--

Fiscal Year.	Receipts.	Expenditure.	Deficit.
1. 1875-6.	\$540,981.22	\$651,782.55	\$110,801.33
1876-7.	455,122.61	589,704.03	134,581.42
1877-8.	448,738.12	578,500.31	93,762.19
1878-9.	575,941.59	593,681.32	17,739.73
1879-80.	511,490.16	544,223.90	32,733.74

Total Deficit in Five years..... \$389,618.41

The following Statement shows the Actual Difference between the Deficits of the two Statements :--

Total Deficit as per Financial Inspector's Statement	\$825,790.00
Total Deficit as per Statement of Auditor-General's Department	389,618.11
Total Difference between the Two Statements	\$436,171.89

These Statements show that the Direct Receipts and Expenditure in British Columbia will very shortly balance each other; and it is believed that the Receipts and Expenditure for 1880-81, did balance each other. For instance :--

1. Estimated Receipts in B. C. for 1880-1 compiled from Official data	\$625,000.00
2. Estimated Expenditure 1880-1 as per average of the two last fiscal years, 1878-9 and 1879-80, as per Statement of Auditor General's Department	568,952.61
3. Total Estimated Excess of Receipts over Expenditure in B. C. for Fiscal year, 1880-1	\$56,047.39

Under the Financial Inspector's Statement there would be an insignificant Excess ~~but~~ Expenditure, For instance :--

1. Estimated Expenditure as per average of the two last fiscal years 1878-9 and 1879-80, as per Financial Inspector's Statement	\$658,827.50
2. Estimated Receipts in B. C. 1880-1 compiled from Official data	625,000.00
3. Total Excess of Expenditure over Receipts for 1880-1 as per Financial Inspector's Statement	\$33,827.50

From these Statements, it appears, that, at the end of ten years from the date of Union, the ordinary Expenditure of Canada in British Columbia is more than balanced by the Receipts, as per statement of Auditor-General's Department; and that only the insignificant sum of \$33,827.50 is the Excess over Expenditure, as per Financial Inspector's Statement; and there is every reason to believe that, in future, the Receipts in British Columbia will be very considerably in Excess of the Expenditure, "irrespective of disbursements on account of Railway."

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(10.) It is submitted that the only fair way of determining whether a Province of Canada has or has not contributed her share to the Dominion Treasury, is to first find the total amount paid by the whole population of Canada into the Consolidated Revenue Fund; then find the average rate per head paid by the whole population; and then take such average rate per head as the amount that the population of a Province should pay per head. On that basis, it will be seen, by reference to "No. 3 Statement" hereto annexed, that the estimated Population of Canada, 4,400,000 contributed between July 20th, 1871, and July 1st, 1880, in Taxes and other Revenues, \$203,228,752.58, to the Consolidated Revenue Fund; that British Columbia with an estimated population of 50,000, contributed within the same period as her proportionate share \$2,305,000; but that, as shown in the Statement referred to, her actual contribution to the Consolidated Revenue Fund was \$4,223,745.63, or an Excess over her proportionate share, of the very large sum of \$1,918,745.63.

With regard to Expenditure, also, "it will be seen," by reference to "No. 4 Statement," hereto annexed, that the "Total Expenditure of Canada, with an estimated population of 4,400,000, out of the Consolidated Revenue Fund in Nine years, from July 20th, 1871, to July 1st, 1880, was \$204,610,352.67; and that British Columbia, with an estimated population of 50,000, contributed, not merely her proportionate share, computed from the average per capita, \$2,701,120.63; but also an Excess, over her proportionate share, of \$1,522,625.

Had British Columbia not contributed her proportionate share to the Revenue and Expenditure of Canada, it would not have authorized Canada to deliberately and continuously leave unfulfilled her Railway obligations to that Province: but having contributed her proportionate share to the Receipts and Expenditure of the Dominion, and an Excess besides, it is manifest that she has done all that, in common fairness, can be expected of her; and that the unqualified Statement of Receipts and Expenditure in Sec. 10 of the Report, cannot be entertained as an offset to the breaches of agreement and delays in the fulfilment of the Railway Contract of Canada.

(11.) "No. 9 Approximate Statement" with "Memorandum," is submitted to shew in detail the Charges for the then existing Services in British Columbia, for which Canada became responsible at the date of Union. "No. 10 Approximate Statement" with "Memorandum," explains in detail what Expenditure Canada incurred for British Columbia, "irrespective of disbursements on Account of the Railway." It seems unnecessary to offer any further explanation respecting them, every matter being so fully explained therein. It may be remarked, however, that the facts that they contain make it self-evident that no item of the Expenditure can be made a set-off to the breaches and delays complained of in the Petition to the Queen.

(12.) It may be observed that no mention has been made of the value of the property, irrespective of Railway lands, that came into the possession of Canada by virtue of the Terms of Union in 1871. That property consisted of valuable Indian Reserves (since materially increased in extent), Dredging Vessels, Steamer "Sir James Douglas," two of the best Lighthouses on the Pacific Coast, Governor's Residence, Reserves for Public Purposes of considerable value; the whole being worth at least \$300,000. In addition, Canada had erected up to July, 1880, a Post Office, Customs House, three Lighthouses, and a Penitentiary; the total value of which may be about \$225,000. Under these two heads there is an offset of \$525,000. If that sum be deducted from the Excess of Expenditure over Income, computed from Statements made in the Auditor-General's Office, \$1,115,149, the Actual Excess of Expenditure over Receipts, would be reduced to \$590,149; or, if the \$525,000 be deducted from the alleged Excess of Expen-

diture over Receipts, under the Statement of the Financial Inspector, \$1,823,051, the real Excess of Expenditure over Receipts would be reduced to \$1,298,051, which is equal to an annual average Expenditure for Nine years of \$129,805; and the Interest on that sum, if charged to Capital Account, would be, at 4 per Cent., only \$5,192, a year,—a very small Annual Charge indeed.

(13.) In the Session of the Canadian Parliament for 1880, Mr. Blake, the Leader of the Opposition, stated that in Manitoba the Excess of Expenditure over Receipts was \$722,000; in Prince Edward's Island, \$1,027,000; in British Columbia, \$823,000; in Nova Scotia, \$2,060,000. Now, if the alleged or implied Excess of Expenditure in Section 10 of the Report be held to be a good set-off by Canada to non-fulfilment of her Railway Contract, the Provinces or either of them named above, as well as British Columbia, might be told that their Annual Subsidies were stopped, because there was an Excess of Expenditure over Receipts. It is apparent, therefore, that the consequences of the enforcement of such a principle might be of the most serious character.

(14.) It has been shown that it is very probable that the Receipts and Expenditure in British Columbia for the last fiscal year, 1880-81 balanced, and that, in future, there would be an excess of Receipts over Expenditure. Assuming this to be the fact, there remains only to be considered what real financial burden has been borne by Canada in respect of the alleged Annual Deficits in the Receipts in British Columbia. By reference to "No. 11 Statement" hereto annexed, the Annual Interest in each Deficit appears; and for the four years of Surplus (see No. 7 Statement hereto annexed) viz.:—1871-2, 1872-3, 1873-4, 1874-5, the Total interest on the Deficits of those years in British Columbia amounted to only \$48,884.44: and in the five years of Deficits, 1875-6, 1876-7, 1877-8, 1878-9, 1879-80, (see No. 7 Statement) the Total Interest on Deficits in British Columbia amounted to only \$277,183.52. If each of the Annual alleged Deficits in British Columbia during the first Four years were charged to Capital Account, then, all the burden that Canada incurred for that Province was the pledging of the Public Credit for a sufficient Loan to meet the Deficits, and provide for the interest, either from Revenue or the issue of Dominion Notes. If the Deficits in British Columbia were made good out of Revenue from 1871-2 to 1874-5, it is very apparent that they will soon be paid back by the incoming Excess of Receipts over Expenditure as indicated. The Deficits, however, from 1875-6 to 1879-80 inclusive, with the interest thereon were met, there is no doubt, by Loans and the Issue of Dominion Notes (see "No. 8 Statement" hereto annexed), and thus no Canadian Taxpayer paid a dollar of the Deficits or the Interest: or to use the words of Mr. Blake in the House of Commons, on April 16th, 1880: "We have raised a large sum from our people without interest in the shape of legal tenders in circulation and compulsorily held as bank reserves." \* \* \* "We have had yearly deficits, and have been obliged to borrow to pay our interest." Mr. Blake was Minister of Justice during the three first years of Deficits in the Canadian Exchequer, and is, therefore, unexceptionable authority. We may fairly conclude, therefore, that the Excess of Expenditure over Receipts in British Columbia, whether the amount be great or small, has only cost Canada the trouble of borrowing to meet it—by pledging the Credit of the Dominion, of which British Columbia is one of the joint Securities for the payment of both Capital and Interest. As a matter of account it may seem important, but as a matter of fact it is not.

(15.) It is reasonably hoped, in conclusion, that no Canadian Government will hereafter put an alleged Excess of Expenditure over Receipts in a Province into a grave public document, with the apparent expectation of influencing her Majesty's Imperial Government, or as a set-off to their default in not fulfilling a treaty obligation.

29. IN CONCLUSION, it is submitted that the foregoing review of the Report on the Petition to the Queen shows that Canada has done a great wrong to British Columbia in not carrying out her Railway obligations,—and especially by the long delay that occurred before commencing construction in that Province; that British Columbia has suffered great loss in consequence; and that it is, therefore, but right and fair that Canada should compensate that Province for the injury done to her.

It is not intended to particularize the losses sustained, as they have been made self-evident in the previous part of this Review of the Report on the Petition; but, as a fair criterion to the amount of compensation that should be paid to her for past delays, it is desirable to show part of what Canada has gained by her delays in constructing the Railway in that Province.

The minimum Annual Expenditure in construction in British Columbia, fixed by Lord Carnarvon in 1874, and agreed to by Canada, was \$2,000,000 a year. It is proposed, therefore, to take that amount to determine what Canada has gained by delay.

Canada was bound to commence construction of the Canadian Pacific Railway in July, 1873; but did not commence construction till about July, 1880,—thus making a delay of seven years before commencing construction. If an annual Expenditure of \$2,000,000 had been made, the total amount during the period of delay would have reached \$14,000,000, and the annual interest, at 4 per cent. on each year's Expenditure would, in seven years, have amounted to \$2,240,000.

The following Statement will show the Expenditure and Interest in detail as well as Totals.

Fiscal Year.	Annual Expenditure.	Rate of Interest.	Annual Interest.	No. of Years	Total Interest on each Year's Expenditure.
1873—4	\$2,000,000	@ 4 per cent.	\$80,000	7	\$560,000
1874—5	2,000,000	"	80,000	6	480,000
1875—6	2,000,000	"	80,000	5	400,000
1876—7	2,000,000	"	80,000	4	320,000
1877—8	2,000,000	"	80,000	3	240,000
1878—9	2,000,000	"	80,000	2	160,000
1879—80	2,000,000	"	80,000	1	80,000
Total Ex- penditure }	\$14,000,000		Total Interest gained by Canada by delaying con- struction 7 years }		\$2,240,000

30. From July, 1873, to July, 1881—eight years,—a belt of Railway Lands, 160 miles long, by 20 miles wide, on Vancouver Island, has been reserved, and half of it conveyed, by Statute, to Canada, by her request, under the 11th Section of the Terms of Union.

This belt of Land is the most accessible for settlement of any in the Province. Besides agricultural lands, forests suitable for making lumber,

*and*



it contains about 450 square miles of the best coal fields on the Pacific Coast.

During the eight years that have elapsed, no provision has been made by Canada to open this belt for settlement. No agricultural land could be sold, leased, or pre-empted,—thus completely preventing farmers settling upon it. No sales or leases of timber land could be made,—thus preventing the erection of saw-mills for the manufacture of lumber for Export or Domestic use. No coal lands could be sold, or leased under royalty,—thus preventing the opening of coal mines, and increasing the exports of coal and stimulating other industries.

It was never intended, when British Columbia entered the Union, that the transfer of her Public Lands to Canada for Railway purposes would operate as a bar to their settlement and the development of their industrial resources.

The keeping of the Railway Lands closed against settlement and use on Vancouver Island has entailed a serious loss of population and capital on British Columbia. The great loss sustained must appear self-evident, by a glance at the map hereto annexed, showing the extent of the Railway Lands and their contiguity to the most populous and flourishing part of the Province.

If the Canadian Pacific Railway had been commenced on Vancouver Island in 1873, at the time agreed-on, and vigorously prosecuted, a large population would have settled along the line, and a large capital would have been invested in various prosperous enterprises. It is, therefore, contended that, in considering the amount of compensation due to British Columbia for past delays in the construction of the Canadian Pacific Railway, it is but just and fair that she should be indemnified for losses sustained through not opening the Railway Lands on Vancouver Island to settlement.

31. Had an Expenditure of \$2,000,000 or upwards been made, annually, in construction, during the past seven or eight years, it would have most materially increased the wealth and population of the Province. Hence, the loss entailed on the Province by non-construction, cannot, in common fairness, be overlooked in considering compensation.

32. It is, therefore, submitted, without further detail, that the sum of \$2,500,000 would be a very moderate compensation to be paid to British Columbia, in addition to the construction of the Canadian Pacific Railway from Esquimalt *via* Burrard Inlet to Lake Superior.

33. There are several tabular statements annexed hereto that have been referred to in this Memorandum.

95<sup>2</sup>

Pacific

# MEMORANDUM,

RESPECTING STATEMENT NO. 10, AND CANADA'S REFERENCE TO EXCESS OF  
EXPENDITURE IN B. C., OVER RECEIPTS IN ORDER IN COUNCIL ON PETITION  
TO THE QUEEN.

	\$
1. Total approximate expenditure, by Canada, exclusive of C. P. Railway in British Columbia, July 20, 1871, to July 1, 1880 ...	5,338,894
2. Total Revenue (approximate) derived by Canada from and in British Columbia, from July 20, 1871, to July 1, 1880 ...	4,223,745
(See Statement No. 3, Column 6, p. 144, of Printed Papers). Balance in Excess of Receipts ...	<u>\$1,115,149</u>

3. The Total Expenditure by Canada in British Columbia was made in order to fulfil her Treaty obligations, under Terms of Union; and, hence, can in no possible way be set up as an offset to non-fulfilment of her Railway obligation, under the 11th Section of Terms of Union.

4. The following items, excluding subsidies, &c., in Statement No. 10, are consequent on extension of Dominion Government to British Columbia, viz:—

(1.) Legislation ...	\$ 200,098
(2.) Pensions ...	40,533
(3.) Marine Hospital ...	22,625
(4.) Militia ...	50,308
(5.) Public Works—Penitentiary ...	150,000
Custom House and Post Office, Victoria and Light- houses (valuable to-day) ...	75,000
(6.) Ocean service, excess over former subsidy to San Francisco, &c., say ...	360,000
(7.) Post Office, including Land Mail, Service. Excess of Expenditure over 1871, say ...	500,000
(8.) Indians—Excess, say ...	200,000
(9.) Excise—Excess, say ...	40,000
(10.) Telegraph—Excess, say ...	275,000
(11.) Superannuation—Excess, say ...	9,000
(12.) Assistant-Receiver-General's Department, say ...	68,000
Unnecessary to give more particulars.	

Approximate Total Excess of Expenditure of Canada in B. C., incident to Union with B.C. ...	<u>\$1,990,564</u>
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5. Had British Columbia not united with Canada, the above Approximate Excess over ordinary Expenditure for the Province would never have occurred.

6. The entire Expenditure in the Statement above, came chiefly under the head of Controllable Expenditure, and it was within the discretion of the Dominion Parliament to increase or reduce it. Hence, British Columbia cannot be held responsible for the respective amounts expended.

7. In any case, and from any point of view, the Total Expenditure in Statement No. 10, cannot be urged as an offset to non-fulfilment by Canada of the Railway obligation of the Terms of Union.

If such were urged, it would be equivalent to setting up a new way to pay off debts, viz., that the payment of one or more debts liquidated all others due to the same person.



95-2

No. 11.—STATEMENT  
Showing Annual and Total Interest on Deficits between Receipts and Expenditure in B. C. from July 30, 1871 to July 1st, 1880,  
referred to in Section 10 of Order in Council of Canada, on Petition to the Queen.

Fiscal Year.	Annual Deficit.	Interest due at end of 1872-3, at 4 per cent on deficit.	Ditto 1873-4.	Ditto 1874-5.	Ditto 1875-6.	Ditto 1876-7.	Ditto 1877-8.	Ditto 1878-9.	Ditto 1879-80.	Total Interest for 8 years.
1871—2	\$ 125,231	\$ 5,009.24	\$ 5,009.24	\$ 5,009.24	\$ 5,009.24	\$ 5,009.24	\$ 5,009.24	\$ 5,009.24	\$ 5,009.24	
1872—3	255,833	...	10,233.32	10,233.32	10,233.32	10,233.32	10,233.32	10,233.32	10,233.32	
1873—4	330,202	...	...	13,208.08	13,208.08	13,208.08	13,208.08	13,208.08	13,208.08	
1874—5	285,295	...	...	...	11,149.80	11,439.80	11,439.80	11,439.80	11,439.80	
1875—6	205,130	...	...	...	...	8,205.20	8,205.20	8,205.20	8,205.20	
1876—7	224,760	...	...	...	...	...	8,990.40	8,990.40	8,990.40	
1877—8	174,929	...	...	...	...	...	...	6,997.16	6,997.16	
1878—9	103,200	...	...	...	...	...	...	...	4,128.00	
1879—80	117,771	...	...	...	...	...	...	...	...	
	\$ 5,009.24		15,424.56	28,450.64	39,850.44	49,095.64	57,085.04	64,083.20	68,211.20	326,067.96

