



CHAPTER 54.

An Act to secure to certain Pioneer Settlers within the Esquimalt and Nanaimo Railway Land Belt their surface and under-surface rights.

[10th February, 1904.]

WHEREAS certain persons who settled upon lands within the belt reserved for railway purposes on Vancouver Island by Order in Council dated June 30th, 1873, prior to the passing of chapter 14 of 47 Victoria, have been unable to obtain titles in fee simple to the lands occupied by them : Preamble.

And whereas said reserve was made in order to carry out the provisions of section 11 of the Terms of Union, which section expressly enacts that the Government of British Columbia shall not within the time mentioned in said section sell or alienate any further portion 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 :

And whereas said section 11 of the Terms of Union further provides that lands in lieu of the lands so alienated by Crown grant or right of pre-emption shall be reserved in contiguous lands :

And whereas the Order in Council of June 30th, 1873, reserving said lands, and as continued by Order in Council dated July 25th, 1873, was assented to by the Government of Canada by Order in Council dated 3rd September, 1873 :

And whereas by sections 4, 5 and 6 of chapter 14 of 47 Victoria, the Legislature of British Columbia did comply with the said section 11 of the Terms of Union by withholding from or excepting out of the grant to Canada for railway purposes all those lands alienated up to the passing of the said Act, and did provide by said sections 4 and 5 lands in lieu of the lands so excepted out of the grant to be conveyed for railway purposes :

And whereas certain of the settlers within the Esquimalt and Nanaimo Railway Land Belt were evicted in 1895 at the instance of the Esquimalt and Nanaimo Railway Company, on decision of the Courts that the land was not open for settlement :

And whereas all of said settlers are entitled to peaceable and absolute possession of said land occupied by them and title thereto in fee simple, in accordance with the Statutes of British Columbia at the time existing governing the disposal of public lands :

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

- Short title. **1.** This Act may be cited as the “Vancouver Island Settlers’ Rights Act, 1904.”
- Interpretation. **2.** In this Act, unless the context otherwise requires—
- (a.) “Railway Land Belt” shall mean the lands described by section 3 of chapter 14 of 47 Victoria, being “An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province” :
- (b.) “Settler” shall mean a person who, prior to the passing of the said Act, occupied or improved lands situate within the said railway land belt, with the bonâ fide intention of living thereon.
- Crown grant. **3.** Upon application being made to the Lieutenant-Governor in Council, within twelve months from the coming into force of this Act, showing that any settler occupied or improved land within said railway land belt prior to the enactment of chapter 14 of 47 Victoria, with the bonâ fide intention of living on the said land, accompanied by reasonable proof of such occupation or improvement and intention, a Crown grant of the fee simple in such land shall be issued to him or his legal representative free of charge and in accordance with the provisions of the Land Act in force at the time when said land was first so occupied or improved by said settler.
- Rights of grantee to be asserted by Crown. **4.** The rights granted to the settler under this Act shall be asserted by and be defended at the expense of the Crown.
- Repeal. **5.** Chapter 26 of the Statutes of 1903, being the “Vancouver Island Settlers’ Rights Act, 1903,” is hereby repealed: Provided, however, that all applications made by settlers for Crown grants under the said Act shall be deemed to have been made under this Act.

VICTORIA, B.C.:

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