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A portion of the purchase money may remain, secured on the premises.  
Terms at sale.  
**E. H. NORTON, Auctioneer.**

## THE SITUATION.

ABLY REVIEWED BY SENATOR FERGUSON.

Overwhelming Arrangement of the Government.

(Continued from Hansard.)

Hon. Mr. Ferguson—I have just mentioned the answer I received from my hon. friend the Secretary of State and the reply that he gave and the statements that are telegraphed from Washington, which we have in the newspapers, that permission has been refused to the Americans to build a railway into our territory, and consequently it is all the more likely that our government would not apply after having given such a refusal. For my own part I admit there are difficulties in this coast strip.

Hon. Mr. Scott—Does the hon. gentleman think that we ought to be content with a road from the head of Lynn Canal into our own territory?

Hon. Mr. Ferguson—I shall come to that very soon.

Hon. Mr. Mills—I thought my hon. friend had come to it and was passing it.

Hon. Mr. Ferguson—I admit there are difficulties in connection with this coast strip, but I take this ground: I can see no reason for refusing permission to the people of the United States to build a railway into our country, if we get a reciprocal advantage of locating a railway over that coast strip, unless a provision is contained in the contract which is not yet in it that McKenzie & Mann will be precluded forever from passing their charter over to foreigners. What is the use of refusing permission to Americans to build a road over our territory if you leave the gate open to them to acquire or buy a railway for which we are giving a domain? I cannot see it. I think it is a most extraordinary thing that that contract should come down to us without a provision forbidding these contractors from assigning that property to United States companies.

Hon. Mr. Scott—No; they will not have the opportunity of doing it.

Hon. Mr. Ferguson—If the hon. gentleman leaves the door open to them, they will have an opportunity if they want it.

Hon. Mr. Scott—They will not have the door left open; you need not be afraid.

Hon. Mr. Ferguson—I have not such unbounded confidence in the hon. gentleman and his contractors that I would leave them the power to do what they choose. This is a dangerous thing, and I am not going to take the ground that we should not reserve to Canadians the trade of that country, by securing an all-Canadian route into it. I am inclined to believe that is what we ought to do, even though it should cost us a good deal, but I say it is extremely inconsistent for gentlemen of this government to say that they would not ask the Americans for permission to locate a railway on their territory, and refuse them to penetrate our country with railroads, while they leave this contract without a provision for preventing the passing over of this railroad, that is going to cost us so much, into the hands of United States capitalists. The bonding system has also been discussed, and it appears that difficulties are met with in respect of these privileges, and perhaps some of the whispered arguments may refer to difficulties over the bonding system. There is also another difficulty with regard to transshipment, that difficulty will be met with, I think, more pointedly at the mouth of the Stickine river than perhaps at any other place, because it is a question of navigation which we would not meet at the head of Lynn Canal. I do not know whether we can get over the bonding system by the Stickine river route. It is certain we will meet this difficulty at the other point at the head of Lynn Canal, and I think it is likely we shall meet it at the Stickine as well. That brings me to the subject which was referred to by three hon. gentlemen who have spoken on the other side of the House. The Secretary of State gave an explanation to the House, and gave us some very interesting information with regard to the difficulties about this boundary. I followed him with close attention, and was pleased with the information which the hon. gentlemen gave us with regard to the line of demarcation between the United States possessions and those of Great Britain on that coast; but he made this statement: that the Russians were simply allowed to use that coast as a spherance for the curing of their fish.  
Hon. Mr. Scott—I am sure I did not use the word spherance.  
Hon. Mr. Ferguson—I may be wrong in using the word spherance, but the hon. gentleman said it was for the purpose of curing their fish. As I understand the history of it, the Russians held that coast by right of discovery. There was no question about the right of Russia to that coast and their claim went even further south than the end of Prince of Wales Island, but while it was settled that should be the southern limit of their possessions on that coast, the British held the interior of the country through the Hudson Bay Company and other British subjects pressing very near to the coast, and that accounts for the strip that was settled by the treaty of St. Petersburg of 1825. There was another point referred to very lightly by my hon. friend the leader of the House and followed up by the Secretary of State and then dealt with very strongly and very fully yesterday by the hon. gentleman from Halifax. The ground taken was this, that we lost at the time the treaty of Washington was agreed to very important rights which we had there, as my hon. friend from Halifax put it, through the want of information on the part of the gentlemen who represented Canada at Washington in 1817. My hon. friend from Halifax reads a provision from the treaty of St. Petersburg, the one negotiated in 1825, in which

very wide privileges were given to British subjects and which were not reciprocal. Whether going from the interior to the coast or from the ocean to the British subjects who had the free use of all the rivers flowing through that strip of country for all purpose.

Hon. Mr. Scott—As freely as the Russians had.

Hon. Mr. Ferguson—They had the right to use them freely. When my hon. friend read that treaty he appeared to have forgotten that a very serious war broke out between Great Britain and Russia in the fifties, the Crimean war, and surely hon. gentlemen know that whenever a state of war exists between two countries all existing treaties are abrogated.

Hon. Mr. Mills—No.

Hon. M. Ferguson—My hon. friend the leader of the House shakes his head. If my hon. friend will take the trouble of looking at the treaty of 1859 he will find that that position is acknowledged from the fact that the provision in the treaty of 1825 is revived and I think the diplomats who negotiated the treaty of 1859 for Great Britain and Russia would not have gone to the trouble of renewing it as they did in order to get back in the old position as far as it was possible, if these treaties had not been abrogated by the war.

Hon. Mr. Mills—My hon. friend, if he will allow me, will find this to be the case, that while treaties are abrogated by war, treaties settling international rights, treaties of boundaries, treaties of cession of territory, treaties giving absolute right of navigation—the rights to defined are not affected by war, are not so even affected by the abrogation of the treaty.

Hon. Mr. Ferguson—That is my hon. friend's view.

Hon. Mr. Mills—That is the rule of law.

Hon. Mr. Ferguson—I am not a lawyer, but lawyers themselves will have to settle such questions as this by reference to precedent. It is not a matter of law merely it is a matter of precedent and constitutional law; and before I leave the question I will say that my hon. friend may read a little more upon this question, and he may perhaps be satisfied before he has done with it that the rule of law is not at all so firm as he puts it before this House. I know my hon. friend is an authority on these questions, but we know that the best of doctors will err, and patients will die; and this is a subject upon which my hon. friend may, before he is through, find that he is not altogether on so solid ground as he thinks he is. In 1859 it would seem to be settled, at all events by the diplomats who represented Great Britain and Russia, that the treaty of 1825 did cease with a state of war, for if not, what was the necessity of their getting together and solemnly re-enacting this provision at that time?

Hon. Mr. Mills—It is not.

Hon. Mr. Ferguson—My hon. friend says it is not; and his opinion is entitled to more weight than mine, but I will undertake to say that his opinion is not of greater weight than that of the diplomats who settled this matter in 1859, and the fact that they found it necessary to revive the provision of that old treaty by solemn treaty again at St. Petersburg, shows that they held to my contention, that the state of war between two countries did abrogate that treaty. Now, I have the clause in the treaty of Washington here, and my hon. friend from Halifax said that Sir John Macdonald, the British commissioner, did not know of the existence of these provisions in the two treaties of St. Petersburg in 1825 and 1859. If they will turn to protocol 26 of the negotiations which took place in 1871 they will find these words:

The British commissioners replied—(that is when the demand was put up for the navigation of the St. Lawrence)—that they would not admit the claims of American citizens to navigate the River St. Lawrence as of right, but that the British Government had no desire to exclude them from it. They however, pointed out that there were certain rivers running through Alaska which should on like grounds be declared free and open to British subjects, in case the River St. Lawrence should be declared free.

And we find that a provision was placed in the treaty of Washington which the Americans insisted should be reciprocal, giving them rights to use these rivers when they penetrated British territory in return for the rights we got when the rivers penetrated the territory of the United States. But there is another ground. Hon. gentlemen contend that we have lost the free use of these rivers. Hon. gentlemen say; having this right restored by the treaty of 1859, how was it then that we did not have it continued? Why was it receded from? The answer is that the cession of this country to the United States terminated these treaties. With regard to that I know my hon. friend will not agree with me; he will tell me what the rule of law is. I will tell him what precedent is, and I will tell him what occurred in other circumstances like these. I will point out to him what occurred in the case of the Island of Madagascar; Lord Salisbury made a speech only a few days ago in which he admitted that France had got the better of Great Britain as regards Madagascar. He said:

"The French armies had invaded the island with the avowed intention of maintaining the protectorate. If they had adhered to their intention the British treaties with the Queen of Madagascar would have been safe, but when the French were masters of the situation they suddenly changed the protectorate to annexation, and with the latter the British treaties fell."

Here was Lord Salisbury's opinion; I am not going to set up my own opinion against my hon. friend the leader of the house, but I will, with all confidence, set up Lord Salisbury's judgment against his as an opinion at least equally worthy of weight. Then in the treaty of 1763 of England with France and Spain, England had the right of navigation of the Mississippi River, when the territory passed to the United States, England lost that right

and that right has never been claimed since. Why did England lose it? If it was a territorial right, England would have demanded it; but with the cession of Louisiana the British rights of navigation of the Mississippi River passed away. In 1863 the Ionian Islands were annexed to Greece. England had treaties with these islands for the freedom of ports of commerce, and after the cession it became necessary to make new treaties with Greece for the continuation of these free ports. Here we have illustrations and I think I have some in my notes that would equally prove the view that I take. If, however, the contention of the leader of the House is correct, the treaty of Washington could not abrogate or curtail our rights under the treaty of St. Petersburg, and we have still the free use of the Stickine river for all purposes. This is important, and more particularly since the hon. member from Halifax thought it necessary to dwell on it at considerable length, and went so far as to say that the distinguished gentleman who negotiated on the part of Canada the treaty of Washington had displayed ignorance. However hon. gentlemen may have differed from him during his life, on political questions, I feel assured there is not a gentleman in this House or the country or anywhere else, who will doubt the great ability and the great information possessed by Sir John Macdonald—and when I heard my hon. friend from Halifax impute ignorance to Sir John Macdonald, I really would have given my hon. friend credit for a great deal better judgement. However, I am glad I have these facts in my hands, which I think are sufficient to show that Sir John Macdonald made no mistake whatever in 1871. I will now refer to the difficulties of navigation of the Stickine River and the bonding difficulty, and the difficulty about the location of the railroads. I will take this position, that I think this House and probably the country would risk a good deal and would be willing to expend a good deal of money to give a good all-Canadian route to that country. I am afraid that this contract and this plan that we have before the House is not going to effect that object; it cannot effect inasmuch as unless there is a provision that the road cannot be assigned or conveyed to foreigners, we are not assured that it will be a really all-Canadian route. But even with that there are difficulties in the way of navigation of this Stickine River, there are difficulties about transshipment, there are difficulties that have been alluded to with regard to the bonding privileges, there are difficulties even in the summer time and still greater in the winter which will render it difficult to use that river; owing to the rapidity of the current and ice would be sufficiently strong in some parts for winter travelling, probably it may, but there are doubts on that score about the Little Canon and other parts of the river, and then I think we would have to use American territory in getting up in the winter season. There are all these difficulties in the way, difficulties international and physical, in connection with the Stickine route. But I am willing to admit that the railway it is proposed to build from Telegraph Creek to the head of Teslin Lake is apparently in line with what would form a good trunk line, would form a section of a good trunk railway from the navigable waters of British Columbia to Dawson, say from Portland Canal, and on that account I have some feeling for a railway between those two points. But I say the contract we have before us with regard to this line, provides that this shall only be a tramway, a three feet for three feet six gauge—we do not know which it is to be—and it cannot properly furnish even a link in a trunk railway leading from Portland Canal or Port Simpson, or whatever point may be selected in Canadian territory, right up to the Yukon country. Then, again, the enormous consideration we are giving for building the link—not a link, because it will not be of such a character as to form part of a trunk line—that the consideration we are asked to give away is so great that it would to a great extent, tie our hands in the future with regard to obtaining a through line all the way and paying for it. Now, I have a statement here of the comparative distances. They are approximate—I subjoin as nearly correct as we can get—and the estimate is that from Victoria to Dawson by the Stickine River route is 1,638 miles. Of that 750 miles will be ocean, 178 miles rail; the contract provides for 150, but I think, it is pretty clear from Mr. Jennings' report that the railway will be at least 178 miles long—and inland navigation on the Stickine River and over Teslin Lake, and the other rivers a distance that connect between Teslin Lake and Dawson, about 710 miles; and the estimate is for an electric railway—I do not know whether it is the intention of the Government to build an electric railway, but that is the only information we have of anything of an official character—the estimate is \$2,850,000. We have also figures that we gather from Mr. Ogilvie's report that via the Lynn Canal and the Chilcat Pass the distance is 1,585 miles from Victoria to Dawson; 1,060 miles of that would be ocean (250 miles more ocean than via the Stickine), by rail it would be 245 miles by Mr. Jennings' report from the head of Lynn Canal to Fort Selkirk, and the inland navigation 340 miles, and the cost, according to Mr. Jennings' estimate of the railway portion, would be \$5,636,000. There is still another route, via the White Pass, for which there is a charter as far as this parliament of Canada, is able to give it, to the British Yukon Canadian Company, and for that route the distance would be 1,000 miles by ocean, and 123 miles by rail, and by inland navigation about 600 miles; altogether 1,723 miles, and at a cost for the railway according to Mr. Jennings' report, of \$3,235,000. These are the three propositions that seemed to stand out boldest for reaching the Klondike.

(To be Continued.)

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