

An Act respecting the transfer of the Railway Belt and the Peace River Block.

[Assented to 30th May, 1930.]

(Can) 20-21 Geo. V., c. 37

HIS Majesty by, and with the advice and consent of the Senate and House of Commons of Canada,
enacts as follows:-

Short title 1. This Act may be cited as The Railway Belt and Peace River Block Act.

Agreement
confirmed. 2. The agreement set out in the schedule hereto is hereby approved.

SCHEDULE

MEMORANDUM OF AGREEMENT

Made this twentieth day of February, 1930

Between

The Government of the Dominion of Canada, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior

Of the First Part,
and

The Government of the Province of British Columbia, represented herein by the Honourable Simon Fraser Tolmie, Premier and Minister of Railways of the said Province, and the Honourable Frederick Parker Burden, Minister of Lands thereof

Of the Second Part.

Whereas pursuant to paragraph eleven of the Terms of Union between the Dominion of Canada and the then Colony of British Columbia and to certain statutes of the Legislature of the Province of British Columbia, being chapter eleven of the statutes of the year eighteen hundred and eighty, chapter fourteen of the statutes of the year eighteen hundred and eighty-three, and chapter fourteen of the statutes of the year eighteen hundred and eighty-four, there were granted by the Province to Canada certain Crown lands in the Province by way of consideration for Canada's undertaking to secure the construction of a railway to connect the seaboard of the Province with the railway system of Canada and of Canada's paying to the Province from the date of the Union an annual sum of one hundred thousand dollars, the said Crown lands being defined in the statutes aforesaid and having become known as the Railway Belt and the Peace River Block;

And whereas a railway such as is described in paragraph eleven of the Terms of the Union has been duly constructed and is in operation, and the Province has requested the re-transfer to it of such of the lands in the said Railway Belt and Peace River Block as remain unalienated;

And whereas the Honourable W.M. Martin, one of the Judges of the Court of Appeal for the Province of Saskatchewan, having by Order in Council dated the eighth day of March, 1927 (P.C. 422) been appointed a commissioner under Part One of the Inquiries Act to receive and inquire into the arguments of the Government of the Province of British Columbia in support of its claim for the reconveyance of the said lands to the Province, submitted his report as such commissioner in which he expressed the opinion that the Province could not by reason of its own agreements and statutes advance any legal claim, but that its request should be considered from the standpoint of fairness and justice rather than from the strictly legal and contractual position, and in which he recommended that the said lands should be restored;

And whereas Canada has agreed accordingly to re-transfer the said lands to the Province on the terms hereinafter set out:

Now This Agreement Witnesseth that the parties have agreed as follows:

Transfer of Railway Belt and Peace River Block Generally

1. Subject as hereinafter provided, all and every interest of Canada in the lands granted by the Province to Canada as hereinbefore recited are hereby re-transferred by Canada to the Province and shall, from and after the date of the coming into force of this agreement, be subject to the laws of the Province then in force relating to the administration of Crown lands therein.
2. Any payment received by Canada before the coming into force of this agreement in respect of any interest in the said lands shall continue to belong to Canada, whether paid in advance or otherwise, without any obligation on the part of Canada to account to the Province therefor, and the Province shall be entitled to receive and retain any such payment made after the coming into force of this agreement without accounting to Canada therefor.
3. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any interest in any of the lands hereby transferred and every other arrangement whereby any person has become entitled to any interest therein as against Canada, and will perform every obligation of Canada arising by virtue of the provisions of any statute or order in council or regulation affecting the said lands hereby transferred to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise, or to any railway company for grants of land for right of way, roadbed, stations, station grounds, workshops, buildings, yards, ballast pits or other appurtenances.
4. Any power or right which, by any agreement or other arrangement relating to any interest in the lands hereby transferred or by any Act of the Parliament of Canada relating to the said lands, or by any regulation made under any such Act, is reserved to the Governor in Council, or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by the

Lieutenant-Governor of the Province in council or by such officer of the Government of the Province as is authorized to exercise similar powers or rights under the laws of the Province relating to the administration of Crown lands therein.

5. The application to the lands hereby transferred of the laws of the Province relating to the administration of Crown lands therein, as hereinbefore provided, shall not be deemed to affect the terms of any alienation by Canada of any interest in the said lands or of any agreement made by Canada for such alienation, or the rights to which any person may have become entitled as aforesaid.

Ordnance and Admiralty Lands

6. Nothing in this agreement shall be interpreted as affecting or transferring to the Province any ordnance or admiralty lands included in the Railway Belt which have been or are hereafter transferred or surrendered to Canada by the Government of the United Kingdom of Great Britain and Ireland or of the United Kingdom of Great Britain and Northern Ireland.

7. All ordnance and admiralty lands which were set aside as such before the sixteenth day of May, eighteen hundred and seventy-one, and which have been or are hereafter transferred or surrendered to Canada as aforesaid, whether the same lie within or without the said Railway Belt, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada, provided, however, that Canada shall recognize and confirm any alienation of any part of the said lands heretofore made by the Province and shall perform and execute every obligation of the Province which has arisen with respect to any part of the said lands by virtue of any agreement made by the Province in respect thereof, or by virtue of any Act of the Legislature of the Province or of any Order in Council or regulation made under the authority of any such Act.

8. The location and boundaries of the several parcels of ordnance and admiralty lands aforesaid shall be referred for determination to two persons, one of whom shall be appointed by the Governor General in Council, and one by the Lieutenant-Governor in Council, and in the event of a disagreement between the said two persons, an umpire shall be selected by agreement between the Minister of Justice for Canada and the Attorney-General of British Columbia.

Public Works

9. Notwithstanding anything in the foregoing paragraphs of this agreement, Canada shall retain the wharves and wharf sites situate within the Railway Belt and specified in Schedule One to this agreement, together with the lands adjacent thereto which are required for the convenient use of any such wharf or wharf site; the boundaries of the parcels of land reserved to Canada under this clause shall be ascertained and defined by agreement between Canada and the Province as soon as convenient.

10. Forthwith upon any of the said parcels of land ceasing to be required for use as a wharf site, such parcel shall revert to and become the property of the Province.

Harbours

11. Nothing in the foregoing paragraphs of this agreement shall extend to the foreshores or beds of harbours heretofore established within the Railway Belt, but the said foreshores and beds shall continue to be vested in Canada, and there shall in addition be reserved and retained by Canada the foreshores and beds of the Fraser River and the Pitt River lying above the eastern boundaries of New Westminster Harbour and below lines to be ascertained and defined by agreement at the junction of Kanaka Creek with the Fraser River and at the point of the exit of the Pitt River from Pitt Lake.

Sumas Dyking Lands

12. The Province will grant and assure to the Canadian Pacific Railway Company the lands occupied or required by it for the purpose of the construction and operation of its railway in that part of the Railway Belt hereinbefore referred to which is known as the Sumas Dyking Lands, in such manner that the said Company may obtain a registered title to the said lands in fee simple free from encumbrance.

Indian Reserves

13. Nothing in this agreement shall extend to the lands included within Indian reserves in the Railway Belt and the Peace River Block, but the said reserves shall continue to be vested in Canada in trust for the Indians on the terms and conditions set out in a certain order of the Governor General of Canada in Council approved on the 3rd day of February, 1930 (P.C. 208).

Parks

14. Nothing in the foregoing clauses of this agreement shall be construed as re-transferring to the Province any interests of Canada in any of the lands forming part of the Railway Belt which are included within any of the national parks described in Schedule Two to this agreement.

15. In order that the said national parks may be administered by Canada as such, all the rights of the Crown in all the lands, mines and minerals (precious and base) and the royalties incident thereto within any of the said parks are hereby vested in Canada, so far as they are not already so vested.

16. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of each of the said parks, notwithstanding that portions of any such area may not form part of the park proper, and the laws now in force within such areas shall continue so in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said areas or any of them by or under the authority of the Parliament of Canada, shall extend to and be enforced within the same, and that all general taxing acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

17. On the termination by effluxion of time or surrender or otherwise, of any interest in any lands included within any of the said areas which is outstanding in any person at the date of the coming

into force of this agreement, the lands in which such interest existed shall vest in and shall thereafter be administered by Canada as part of the national park within the outer boundaries of which such lands lie.

18. All rights of the Crown in any waters within the said parks shall be vested in and administered by Canada, and the Province will not by works outside any such park reduce the flow of water in any of the rivers or streams within the said park to less than the flow which the Minister of the Interior may deem necessary adequately to preserve the scenic beauty of the said park.

19. In the event of the Parliament of Canada at any time declaring that any of the said areas or any part of any of them are no longer required for national park purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto specified in any such declaration shall forthwith upon the making thereof belong to the Province and the provisions of paragraphs one to five of this agreement shall apply thereto as from the date of such declaration.

20. In the event of its being hereafter agreed by Canada and the Province that any area or areas of land in the Province, in addition to those specified in Schedule Two to this agreement, should be set aside as national parks and be administered by Canada, the foregoing provisions of this agreement on the subject of parks may be applied to such area or areas with such modification as may be agreed upon.

Soldiers' Settlement Lands

21. Nothing in this agreement shall have the effect of transferring to the Province the interest of Canada in any part of the said lands upon the security of which any advance has been made under the provisions of the Soldier Settlement Act, being chapter 188 of the Revised Statutes of Canada, 1927, and amending Acts, until after the provisions of the said Act have ceased to apply to or affect the said lands.

Historic Sites and Bird Sanctuaries

22. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries which have been already established by Canada in the Railway Belt or Peace River Block, and will set aside such additional bird sanctuaries as may hereafter be established by agreement between the Minister of the Interior and the Attorney-General or such other Minister of the Province as may be specified under the laws thereof.

General Reservation to Canada

23. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under the Land Registry Act of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become, the registered owner at the date upon which this agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the

date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

Subsidy Continued

24. Notwithstanding the re-transfer of the hereinbefore recited lands, Canada will continue to pay annually to the Province, by half-yearly payments on the first days of January and July in each year, the sum of one hundred thousand dollars, as provided in paragraph eleven of the Terms of Union aforesaid.

Records

25. Canada will after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively to any dealings with any of the lands hereby re-transferred to the Province and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the lands hereby transferred.

Amendment of Agreement

26. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province.

When Agreement Comes into Force

27. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of British Columbia, and shall take effect on the first day of the calendar month beginning next after the day upon which His Majesty gives His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same. In witness whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable Simon Fraser Tolmie, Premier and Minister of Railways of the said Province, and the Honourable Frederick Parker Burden, Minister of Lands thereof, have hereunto set their hands on behalf of the Province of British Columbia.

Signed on behalf of the Government of Canada
by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, in the presence of
Ernest Lapointe
Chas. Stewart

O.M. Biggar

Signed on the behalf of the Government of
British Columbia by the Honourable Simon

Fraser Tolmie, Premier and Minister of S. F. TOLMIE
Railways thereof, and the Honourable
Frederick Parker Burden, Minister of Lands F. P. BURDEN.
thereof.

R.H. Pooley
Attorney-General

N.S. Lougheed
Minister of Lands

H. Cathcart
Deputy Minister of Lands

Oscar C. Bass
Deputy Attorney-General

SCHEDULE ONE

Wharf Locations

Brownsville
Coquitlam
Port Coquitlam
Minnekahda
Harris Road
Hammond
Port Moody
Ioco
Haney
Albion
Whonnock
Ruskin
Donatella
Barnston Island
Port Kells
Gordon Road
McAdams
Langley
McIvers
McKays
Glen Valley
Marsh's
Mout Lehman
Matsqui

S.F.T.
F.P.B.

Riverside
Mission
Hatzic
Dewdney
Murphy's Landing
Magars Landing
Sumas
Chilliwack Upper Landing
Minto Landing
Anglemont
Blind Bay
Canoe
Celistia
Chase
Eagle Bay
Wanlock
Glenedon
Magna Bay
Sicamous
Salmon Arm
Seymour Arm
Sorrento
Scotch Creek
Pritchard

E.L.
C.S.

SCHEDULE TWO
NATIONAL PARKS

1. Mount Revelstoke National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 28th April, 1914 (P.C. 1125); 5th May, 1920 (P.C. 985); 18th August, 1927 (P.C. 1645).
2. Glacier National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 8th June, 1911 (P.C. 1338); 12th August, 1911 (P.C. 1781); 11th February, 1930 (P.C. 134).
3. Yoho National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 8th June, 1911 (P.C. 1338); 21st April, 1920 (P.C. 828); 11th February, 1930 (P.C. 134).
4. Kootenay National Park as shown on a map certified by the Surveyor General of Canada on 1st February, 1928, and on file in the office of the Surveyor General, a copy thereof having been filed in the Department of Lands of the Province under number 7T 312.