

E&N Grants – Don't Take Them For Granted

by Katie Hannah, *BCLS Deputy Surveyor General*

This is a cautionary tale, reminding researchers to do their due diligence when researching rights within the E&N lands. I stumbled upon an interesting situation a couple of months ago – a parcel with both an E&N grant and a provincial Crown grant. Confusion quickly turned into a small amount of panic when basic research didn't yield the expected result, being a forfeit to Crown. This led to a deeper dive into the Surveyor General Vault records, which in turn led to my enlightenment about a little-remembered piece of legislation known as the Vancouver Island Settlers' Rights Act.

In 1884 the Settlement Act (1884 – Chapter 14 S.B.C – An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province) transferred to Canada the available lands within the Railway Belt, a block of three and a half million acres in the Peace River District, and nearly two million acres – over 20% – of Vancouver Island. This was as a result of the Terms of Union when British Columbia joined Canada in 1871. The grant was recorded in the Victoria Land Registry in May 1887.

This first grant of land to the Esquimalt and Nanaimo Railway included all coal, coal oil minerals, timber, base minerals, and the beds of all available bodies of water. Despite

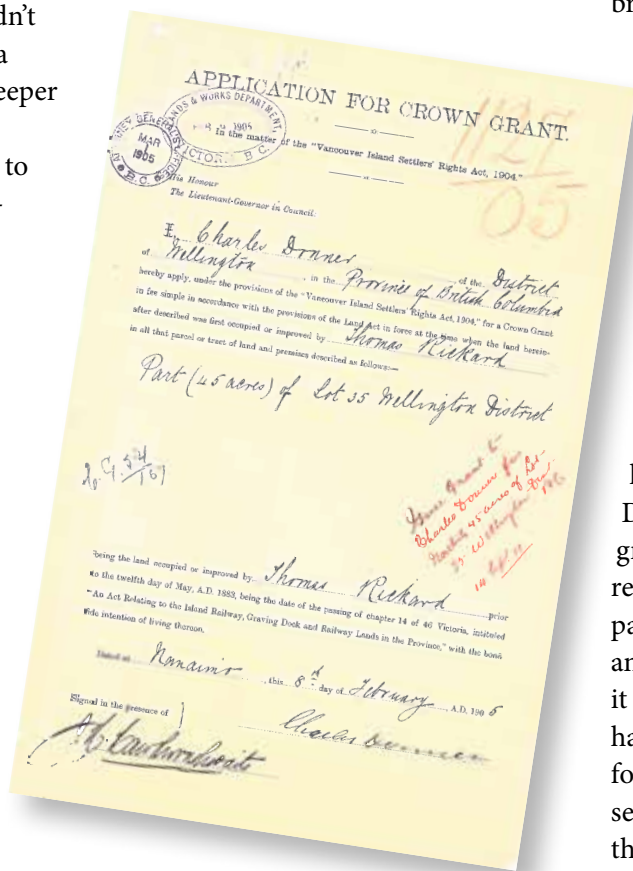
any pre-emption requests, settlers who purchased land from the E&N received only surface rights, and therefore did not receive the same rights as those who purchased land directly from the Crown. A fight ensued which eventually resulted in the Vancouver Island Settlers' Rights Act (Chapter 54 S.B.C.

As a result of the VI Settlers' Rights Act, the E&N applied to the Dominion government for a third grant to make up for lands alienated under this Act. (The second grant was for lands that were not available to the E&N in the first grant, due to previous alienation.)

On to a history of the parcel that brought this to my attention.

The parcel is District Lot 35 (a.k.a. District Lot 35G), Wellington District. Why on earth would a parcel be “also known as”? The original entry in the Absolute Fees Book notes the parcel description as simply DL 35, as does the sketch within document 7570N and subsequent transfers of ownership. The provincial field note book, however, refers to the parcel as DL 35G, as does the Provincial grant of the northerly 45 acres. The reasoning behind including “G” in a parcel description has been lost in the annals of history. For mineral claims it seems to indicate that the owner had the rights to mine gold and silver; for surface parcels a non-exhaustive search in Tantalus seems to indicate that all of the “G” parcels fall within the E&N area, so perhaps it was applied to those parcels of Crown land situated within the E&N lands.

District Lot 35 was surveyed in November 1890 by A. R. Heyland. The parcel was plotted in March 1906 and gazetted in November of the same year. The survey was completed as a



1904). The VI Settlers' Rights Act required that a settler prove bona fide occupation and improvement of the land prior to enactment of the 1884 Settlement Act in an application to the Lieutenant Governor in Council.

result of Pre-emption Claim
No. 26, made by Thomas Rickard
in June 1884.

Mr. Rickard purchased DL 35 from
the E&N, which was recorded in the
AFB on September 24, 1891. Two
entries below is a sale of the north 45
acres of DL 35 from Mr. Rickard to
Mr. Charles Donner. Sources differ in
the date of this sale, but it occurred
either in 1890 or 1891, but certainly
prior to the entry within the AFB.

With enactment of the VI Settlers'
Rights Act in 1904, Charles
Donner began preparation of the
documents to be included with his
“Statutory Declaration in Support of
Application for Crown Grant,” which
he signed on February 8, 1905. The
provincial Crown grant was given
on October 4, 1911 to Mr. Donner,
“being the northerly forty-five (45)
acres of Lot Thirty-five G (35G).” The
original documents included in the
application are attached to the grant
kept in the Surveyor General vault
and include handwritten affidavits.
The only hint of this grant being
different from any other alienation
by the Crown is a note in the
verbiage near the top which reads:
“Know ye, that, pursuant to the
“Vancouver Island Settlers’ Rights
Act 1904[...]”

So despite being cautioned that
“dead men tell no tales,” the records
they leave behind can certainly
aid in figuring out the story of a
funny parcel with two grants. For
more information, read Bill Taylor’s
1975 paper “Crown Land Grants:
A History of the Esquimalt and
Nanaimo Railway Land Grants, the
Railway Belt, and the Peace River
Block,” a copy of which can be found
on the LTSA’s website www.ltsa.ca ❖