

) Copy.)—No. 116.

GOVERNMENT HOUSE,
QUEBEC, 22nd October, 1851.

MY LORD,—I have the honor to transmit herewith, with a view to its being laid at the foot of the Throne, an address to the Queen from Her Majesty's dutiful and loyal subjects the Commons of Canada, in Parliament Assembled, praying that Her Majesty will be graciously pleased to recommend to the favorable consideration of the Imperial Parliament, the repeal of certain provisions in the Canada Trade and Tenure Acts, relating to lands held "*a titre de fief*," in Lower Canada.

I trust that I shall be able in a few days to furnish your Lordship with a Report on the subject of this address.

I have &c.,

(Signed,)

ELGIN & KINCARDINE.

Rt. Hon. The Earl Grey,
&c. &c. &c.

Archives de la Ville de Montréal

D. 12

GOVERNMENT HOUSE,
QUEBEC, 5th March, 1852.

MY LORD,—I have the honor to transmit herewith a communication which I have received from Mr. Attorney General Drummond, upon the subject of the Address of the Legislative Assembly, of the 29th August last, transmitted in my Despatch No. 116, of the 22nd October, and praying for the repeal of certain parts of the Imperial Acts 3 Geo. IV., cap. 119, and 6 Geo. IV, cap. 59. 2. The provisions of the above mentioned Acts, to which the Address of the Assembly refers, have been the subject of reiterated complaint on the part of the popular branch of the local Legislature, on the ground chiefly of their being unduly favorable to the Seigneur, to the prejudice of the right which the intending settler had under the old Tenure of demanding the concession of Seigniorial lands, on the payment of the customary quit rents and dues; and also, of the subject being one of internal arrangement, with which the Imperial Parliament ought not to have interfered. It is also to be observed that the applications for commutation which have been made under the Acts have been very limited in number.

I have, &c.,
(Signed,) ELGIN AND KINCARDINE.

Right Honorable
Earl Gray,
&c., &c., &c.

D. 12

Upon the Address of the Legislative Assembly of the 29th August, 1851, praying for the repeal of parts of the Imperial Statutes 3 Geo. IV., cap. 119, and 6 Geo. IV., cap. 59,—Canada Trade and Canada Tenure Acts.

CROWN LAW DEPARTMENT,
QUEBEC, 26th February, 1852.

I have the honor herewith to submit for the information of His Excellency the Governor General, several extracts made from the Journals of the House of Assembly of Lower Canada, shewing the opinions expressed, and the proceedings adopted by that Body on various occasions with reference to the Canada Tenures Act.

The object of the Address, which it is now proposed to submit to the favorable consideration of the Imperial Authorities, is solely to obtain the repeal of those Clauses of the Acts in question which go to deprive the inhabitants of Lower Canada of the right of claiming unconceded lands in Seigniories, upon the payment of a moderate annual rent, by enabling the Proprietors of Lands held *en fief* to commute them into a Free Tenure, even in cases where, under the old laws of the country, the waste lands so commuted would have been subject to forfeiture from the neglect of the holders to effect settlements upon them.

I would also beg respectfully to refer His Excellency the Governor General to the Report of the Commissioners, who were appointed in 1835, for the investigation of grievances affecting Her Majesty's subjects in Lower Canada, where an opinion is pronounced in favor of the repeal of these enactments in the following terms:—

“There is every reason to hope that whenever a better understanding may be established between the Local Legislature and the Provincial Government, there will be no objection on the part of the former, to pass some measure for the gradual discharge of lands from feudal duties and services, if not in a manner obligatory on the Seignior, at least by voluntary agreement, and whenever such a measure may be passed, we have no hesitation in saying that, in our opinion, the Tenures Act of 1825, and the Clauses in the Trade Act of 1822, which relate to Tenures, should be repealed, of course making it a condition of the repeal, that all titles and advantages acquired under either of the Acts are to be held valid.

(General Report, cap. 4, sec. 20, page 63. See also preceding sections, from 7 to 20).

The hope expressed by the Commissioners that a measure for the gradual discharge of lands from feudal duties and services would be passed by the Provincial Government was fulfilled by the enactment of the optional Commutation Act 8, Vic., cap. 42.

I have further deemed it expedient to annex to this Report, a certificate from the Deputy Provincial Registrar, which, together with the Returns made in 1833 and 1835, to be found among the accompanying abstracts from the Journals of the House of Assembly, show the number of commutations which have been effected under these Acts. From these statements, it will be perceived that commutations have as yet been effected in no more than nine Seigniories. The rights acquired by the holders of these Fiefs, as well as those of all others who have taken advantage of the facilities accorded to them by the Imperial enactments, should of course, be maintained, as suggested in the Address now under consideration. The Imperial Parliament is not called upon to any interference with rights acquired under the enactments complained of, but to prevent individual holders of Fiefs not yet commuted, from availing themselves of the Imperial Statutes to deprive the *bonâ fide* settler of rights acquired by him under the preceding laws of Canada.

I must not omit to draw His Excellency's attention to that part of Lord Glenelg's instructions to the above Commissioners, which relate to the Tenure of Lands in Lower Canada, from which the following extract is taken:—

“I next proceed to the consideration of a subject which has given rise to long and embarrassing discussions between the Executive Government and the House of General Assembly, I refer to the Tenures on which lands in the Province of Lower Canada are holden. Much controversy has prevailed, not only respecting the legal incidents of Soccage Tenure in that Province, but also respecting the comparative advantages of holding land in Fief and Seignior, or in Soccage, and a question has arisen whether these controversies would be more properly adjusted by Parliamentary or by Provincial enactments. Convinced of the propriety of referring the whole subject to the Provincial Legislature, Lord Ripon embodied that principle in an Act which was passed in the year 1831. It has been since maintained that the language of that Statute is not sufficiently precise or copious to affect the real design of its author, and it has been strongly pressed on His Majesty's Government, that Parliament should be advised to repeal the Canada Tenures Act of 1825.

On the whole of this subject, I am well convinced that the Imperial Legislature will adopt any measure *distinctly recommended to them by the Legislature of Lower Canada*. To advance any further, except at the instance of that Legislature, and with a perfect assurance of its approbation, would be to disregard every lesson to be derived from the experience of past years.

(Signed,)

LEWIS T. DRUMMOND,
Atty. Genl. L. C.

LIST of Seigniories, the Tenure of which has been commuted under the provisions of the Imperial Statute, 6th Geo. IV., cap. 59.

NAME OF SEIGNIORY.	DATE.
Ste. Anne de la Pérade,	28th December, 1830.
Beauharnois,	10th March, 1833.
Lotbinière,	21st December, 1835.
Madawaska and Temiscouata,	5th December, 1838.
Mont Louis,	6th June, 1839.
Perthuis,	7th April, 1841.
Rivière de la Magdelene,	8th March, 1842.
Pabos,	8th March, 1842.
Ancé du Grand Etang,	14th February, 1846.

(Signed,)

THOS. AMIOT,
Deputy Registrar.

Quebec, 26th Feby., 1852.

(Copy.)

Notes of the proceedings of the House of Assembly of Lower Canada, and extracts from its Journals in relation to the Canada Tenure's Act.

The Imperial Act of the 3rd Geo. IV., cap. 119, commonly called the "Canada Trade Act," was made known to the Colonial Legislature by allusion to its passage in the speech of the Earl of Dalhousie, at the opening of the Lower Canada Parliament, on the 11th January, 1823, in the following words:—

"Another Act has also been passed regulating our trade with the United States of America, and our intercourse with Upper Canada, and providing for an adjustment of the differences subsisting between the two Provinces," without any allusion to the two Clauses thereof, (31 and 32), regulating the mode of effecting a change of the Seigniorial Tenure.

On the 25th of January, 1823, a copy of the above Act was laid before the House of Assembly, and on the 15th of February, following, it was unanimously resolved by the House, on the motion of Mr. Stuart, seconded by Mr. Cuvillier, to take the said Act into consideration by a Committee of the whole House, on the following Wednesday.

Feby. 19th. Committee sat and reported progress.

Feby. 24th. Committee again sat and reported progress.

March 19th. House resolves to take into their most serious consideration, at an early period in the ensuing Session, the Act commonly called the "Canada Trade Act."

In the following Session, the House having previously sat in Committee of the whole House four times on the said Bill on

Feby. 18. Motion was made for an Address to the Governor in Chief representing,

"That the unconceded lands held by the Seigniors *en fief*, in this Province, are held by them subject to be regranted to any applicant engaging to settle thereon, subject only to the accustomed dues and conditions, and that it is on grants of those lands that the cultivators of the soil in Lower Canada depend for the settlement of their children, they the said cultivators and their children having a legal right to obtain such grants."

That any arrangement which might be made under the provisions of the Canada Trade Act between His Majesty and the holders of such waste lands *en fief et Seigneurie* would deprive a third party of a legal right, which is beneficial to the individual, advantageous to the community, and guaranteed by the capitulations of the Colony, by an Act of 14th Geo. III., (1774.)

"That this House conceiving that it is a duty incumbent upon it to support in so far as may depend upon the House, every right of its constituents, humbly represent the matter to your Excellency, and pray that in any conditions which may be imposed on any Seignior rendering lands under the said Act, to obtain a grant thereof in Free and Common Socceage, such conditions may be imposed on such Seignior in conformity to the said Act, as may preserve entire the right of the subject to a grant of said waste lands, at the usual *redevance* or dues and conditions."

Consideration of motion postponed to 21st February.

Feby. 21. Above motion lost by adjournment.

Same day. A motion to appoint a Committee of seven to draft an Address praying for the repeal of said Act "inasmuch as it contains certain dispositions contrary to the rights and interests of the Province" was negatived, 8 to 14.

Also, another motion for the appointment of a Committee of seven "to enquire into and report upon the advantages or disadvantages resulting from the execution of the Act 3 Geo. IV., cap. 119, to the constitutional rights and interests of the Province" was made and carried, 14 to 13.

No report from this Committee.

28th Feby., 1824. The Order of the Day of 18th inst., then lost by adjournment, was revived, and the Address then moved, was unanimously adopted.

3rd March. His Excellency's answer to Address was communicated to the House.

"I shall pay every attention to the subject of this Address when any exchange of the Seigniorial Tenure shall come under my consideration."

The Canada Tenures Act, 6 Geo. IV., cap. 59, was passed by the Imperial Parliament on 22nd June, 1825, and transmitted to Lord Dalhousie by despatch dated August, 1825, and a Proclamation fixing the terms upon which the commutations were to be effected, was published in the "Quebec Gazette" by authority of the 20th April, 1826.

In 1829, the Legislature of Lower Canada passed An Act, (cap. 77,) "for rendering valid conveyance of lands and other immoveable property held in Free and Common Socceage within the Province of Lower Canada, and for other purposes therein mentioned" and reserved for His Majesty's Sanction.

Before the Royal Assent was given to the above Bill, the Imperial Parliament passed an Act (30th March, 1831) intituled, "An Act to explain and amend the Laws relating to lands holden in Free and Common Socceage in the Province of Lower Canada." This Act was published in the "Quebec Gazette" of the 22nd September, 1831.

On the 5th March, 1831, it was resolved by the House of Assembly to take into consideration, by a Committee of the whole House (on the 9th) the expediency of addressing the three branches of the Parliament of the United Kingdom, for the repeal or amendment of the 6th Geo. IV., cap. 59.

March 9 }
" 16 } Consideration deferred.

March 24. Order revived.

House in Committee. Chairman Reports following Resolutions :

1. That the introduction of the English Law into certain parts of this Province, by an Act, &c., (6 Geo. IV, cap. 59), without confirming all such transactions as had been previously entered into in good faith, has introduced the greatest confusion into all parts of the Province, by destroying acknowledged rights and by affording facilities for fraud and oppression.

2. That the Law of England, as introduced in certain parts of this Province, in virtue of the said Act, is opposed to the feelings of the inhabitants of this Province, incompatible with their education and habits of life, and has been forced upon them contrary to their rights, interests and desires.

3. That the said Act ought to be repealed.

The above Resolutions were unanimously adopted, and a Committee named to draft an Address founded thereon, to be submitted to the King in Parliament.

March 26. Addresses to the three branches of the Imperial Legislature, founded on the above Resolutions were adopted by the House, and an Address to the Governor in Chief, informing him of the same, and requesting him to transmit them to His Majesty's Ministers, was also adopted.

It was also resolved, That the Speaker be desired to forward the Addresses to the Houses of Lords and Commons, and to see that they be presented according to the Resolutions of this House.

28th March, 1831. The Speaker reported the Governor's answer to the above Address, promising in the usual forms to transmit it to be laid at the foot of the Throne.

In the following Session, December 20th, 1831, it was

Resolved,—That the House would, on the 27th, resolve itself into a Committee of the Whole, to consider the expediency of repealing in whole or in part the Act, &c., (Canada Tenures Act) or adopting such Legislative provision as may appear best calculated to secure to all His Majesty's subjects in this Province, the right given to them by the Ancient Laws, of obtaining possession without purchase, of sufficient portions of unconceded wild lands held from the Crown, *à titre de fief et Seigneurie*, at the accustomed rates and dues, on condition of cultivation and residence thereon.

December 27th. Committee reported progress.

January 24th, 1832. Committee reported progress.

“ 27th. Committee reported Resolutions.

“ 28th. The following Resolutions, reported by the Committee, were unanimously adopted by the House :—

1. That by the Laws of Canada, guaranteed to the inhabitants of the Province, by the capitulation of 1760, the Act of 1774, (cap. 83) and the constitutional Act 31 Geo. III, cap. 31, they had a right to grants of sufficient portions of wild lands held from the Crown, *à titre de fief*, subject to the customary dues, and on condition of cultivation and residence.

2. That the commutation of these lands, into the Tenure of Free and Common Soccage, under the Act 6 Geo. IV, cap. 59, deprives them of this right, and vests the said lands in the Seigneur, to dispose of them on such terms and conditions as he thinks fit, at the same time subjecting those who may settle thereon to laws with which the great majority of the people of the Province are unacquainted, utterly unsuitable to their circumstances, and repugnant to their feelings and usages.

3. That the provisions of the said law for the said commutation are unjust, and contrary to the established rights of the inhabitants of this Province, to the extension of settlement, and to the general prosperity.

4. That it is expedient to repeal so much of the 3rd Geo. IV, cap. 119, and 6th Geo. IV, cap. 59, as provides for the commutation of lands held *à titre de fief* and *à titre de cens*, in this Province, to be held in Free and Common Soccage, subject to the laws of England.

On the same day Mr. Neilson obtains leave to bring in a Bill to effect the repeal mentioned in the 4th Resolution.

Introduced and read 1st time.

January 31st. Read second time and ordered to be engrossed.

February 1st. Read 3rd time and sent to the Legislative Council.

February 16th. House resolved, on motion of Mr. Neilson,

That an humble Address be presented to His Excellency, the Governor in Chief, with a copy of the Resolutions of this House of the 28th January last, upon which the Bill passed by this House for the repeal of the clauses of the Act passed in the Parliament of the United Kingdom, authorizing the commutation of lands held *en fief et seigneurie*, into Free and Common Socage was founded, praying that His Excellency would be pleased to take the same into favorable consideration, and that until such repeal is effected, he would give directions to the Law Officers of the Crown to support, in all cases, where a commutation of Tenure of Seigneurie is prayed for, the right of all His Majesty's subjects in this Province to obtain concessions of waste lands in the Seigneuries, at the accustomed rates and dues, on condition of actual settlement, and oppose under the 1st and 7th Clauses of the Act 6th, Geo. IV, cap. 59, the making of any fresh grant of such lands, unless the said rights be maintained and reserved, and that without such condition no fresh grants of such waste lands be made.

February 25th. By Message His Excellency "expresses his regret that the interval of time between the presentation of the said Address and the close of the Session, has been too limited to enable him to give to the subject of it the degree of consideration necessary to enable him to come to a decision on a question of so much importance.

"He requests the House to be assured, that he will continue to give to the subject of their Address his best consideration, with every desire to comply with their wishes in as far as the provisions of existing Statutes will authorize him to do."

During the next Session, on the 24th November, 1832, an Address was voted to the Governor in Chief, with reference to the Address of the 17th February, respectfully inquiring of His Excellency, whether, in the interval which had elapsed, he had been enabled to place himself in a situation to give any new information on the subject, praying him, in that case, to be pleased to communicate the same to the House.

On the same day another Address to His Excellency was adopted, praying for a list of all applications made to Government for a mutation of Tenure under the 6th Geo. IV, cap. 59, whether by Seigneurs holding *fiefs* from the Crown, proprietors of *arriere fiefs* or of Censitaires, &c. &c.; also a list of all oppositions, remonstrances or memorials which may have been presented, &c.

On the 7th December, the Governor in Chief, by Message, "assures the House that in every instance where he may be called upon to give effect to the Canada Tenures Act, he will not fail to require the complete fulfilment of every provision of the law."

On the 22nd March, 1833 the documents requested by the Address of the House of the 24th November, 1832, were laid before them as follows:—

(Vide Appendix K.K. 1832-3.)

On the 20th November, 1835, in reply to an Address of the House of the 10th of the same month, a continuation of the above list, up to the 13th November, 1835, was laid before the House, and which is as follows:

(Journal, page 175.)

27th February, 1836. The House, on motion of Mr. Morin, resolved to consider in Committee of the Whole, the expediency of repealing, in whole or in part, the Canada Tenures Act.

On the 1st March, 1836, the House again passed the Resolutions adopted on the 28th January, 1832, and Mr. Morin brought in a Bill to repeal certain parts of the 3rd Geo. IV, cap. 119, (Canada Trade Act) and of 6th Geo. VI, cap. 59 (Canada Tenures Act.)

March 3. Second reading.

" 4. Read third time and sent to the Legislative Council.

The 56th, 57th, 58th, 59th, 60th and 61st of the 92 Resolutions of 1834 relates to this subject, and the 62nd concludes :

“ That it is the duty of this House to persist in asking for the absolute repeal of the said Tenures Act ; and until such repeal shall have been effected, to propose to the other branches of the Provincial Parliament, such measures as may be adapted to weaken the pernicious effects of the said Act,” and in the Address founded on those Resolutions the effect of the Tenures Act is minutely treated of.”

Archives de la Ville de Montréal

DOWNING STREET,
6th April, 1852.

(Copy.)—No. 9.

MY LORD,—I have had the honor to lay before the Queen the Address transmitted in your Despatch No. 116, of the 22nd October last, from the Legislative Assembly of Canada, praying for the repeal of certain parts of the Imperial Acts 3, Geo. IV., cap. 119, and 6, Geo. IV., cap. 59, on which my predecessor, Lord Grey, had deferred taken any steps until the arrival of the Report of Mr. Attorney General Drummond, which has now reached me with your Despatch No. 20 of the 5th ultimo.

2. Her Majesty's Government will not fail to give their best attention to the subject of this Address; but in the present state of public business, it is out of my power to undertake that the repeal of these Acts will be proposed to Parliament during the current Session.

You will therefore be pleased to make known to the Legislative Assembly, Her Majesty's answer to this Address to the above effect.

I have &c., *Archives de la Ville de Montréal*
(Signed,) JOHN S. PARINGTON.

Rt. Hon. The Earl of Elgin and Kincardine, K. T.

&c. &c. &c.

D.18.

DOWNING STREET,
27th December, 1851.

MY LORD,—I have the honor to transmit for the consideration of your Lordship, and of your Executive Council, the accompanying copy of a letter which I have received from the Right Honorable Edward Ellice on the subject of an Act brought into the Canadian Parliament in its last Session, but which it appears was afterwards withdrawn, relative to Seigniorial Rights in Lower Canada, together with a copy of the answer which I have caused to be returned to Mr. Ellice's letter.

I have, &c.,

(Signed,) GREY.

The Right Honorable
The Earl of Elgin and Kincardine,
&c., &c., &c.

ARLINGTON STREET,
10th December, 1851.

SIR,—I request you will bring under the consideration of the Secretary of State for the Colonies, the enclosed copy of a Bill brought into the Legislature by the Solicitor General of Lord Elgin's Government in Canada, under the title of "An Act to define certain rights of Seigniors and Censitaires in Lower Canada, and to facilitate the exercise thereof."

This Bill, under the pretence of defining certain rights of Seigniors in Canada, is in reality for the confiscation of such rights, and, as is alleged in Canada, is brought in more with a view of influencing votes at a general election, by holding out inducement to tenants to vote for candidates willing and able to release them from their engagements than, as it would appear, from any semblance of reason or of expediency, on which an Act of direct spoliation could be suggested.

My family and myself have been interested in, or in possession of the largest and most valuable Seigniori in Canada for the last 70 years.

I made an arrangement with the local Government, under the Act of Parliament of 1825, now nearly 30 years ago, for a commutation of the Tenure of the unsettled land, binding myself, among other conditions and according to the provisions of the Act, to commute the Seigniorial rights and rents of any tenant, who should desire the conversion of his Tenure on such terms as should be determined by arbitration named by both parties, or by arbitration named in the Court of Queen's Bench in the Colony.

The rents on the different farms vary from 2d to 6d an acre. I think the largest proportion are at 6d. The rents are covenanted for in written leases, signed by both parties, and passed before and recorded in the Offices of Notaries Public which have been frequently matter of proceeding and judicial determination before the Courts of Justice in the Province, where their provisions have invariably been en-

forced. It is now sought, for the first time, and certainly in a manner and on principles unknown to the Legislature of any Country in the world except in France, during the first Revolution, to release the tenants from their engagements, and to confiscate the rents of the proprietor by an Act of the Provincial Legislature. The same complaint has been made of perpetual leases and of any ancient modes of Tenure in the adjoining State of New York, in our Colony of Prince Edward's Island, and in other places. Propositions have been made for their abolition or regulation, but only in the Colony of Prince Edward's Island without adequate compensation to the proprietor. The Government have lately, it is understood, disallowed the Act passed in that case although of much less violent character.

Recourse would be had to the Supreme Court of the United States, against a similar attempt on the part of the Legislature of any separate State in America. In the Colonies the subject can only look to the protection of the Crown, when parties in the Legislature, excited by circumstances of the moment, disregard the sacred rights of property on any supposed view of expediency, or in seeking for popularity to promote their political objects.

It is on this ground that I trouble you with this application.

The Secretary of State will have no difficulty in forming his opinion on the import of the provisions of the Act. It is scarcely necessary to point out particular claims to his attention, all being more or less of the same character, but the Clause 34, relieving tenants from voluntary engagements, and which to my knowledge they have punctually performed during half a century, is probably the most striking.

The Bill, after passing the second reading, was withdrawn, but notice was given by the Solicitor General of re-introducing it in the first Session of the new Parliament. A canvass and election are now proceeding in the various Seigniories on the faith of Candidates returned by the tenants voting for it.

Having brought the matter under the notice of the Secretary of State, I have no disposition to suggest any course with respect to it. His Lordship may probably consider it right to express his opinion to Lord Elgin, whether it is consistent with the honor of the Crown, or the claims which the subject has to its protection that his Government should encourage an agitation on this subject, by re-introducing a Bill, to which it would be impossible for the Crown to give its assent.

By the last accounts tenants are paying their rents as heretofore, but the Agent expresses great doubts as to the state of things which further agitation might produce.

I have, &c.,

(Signed,)

EDWARD ELLICE.

T. F. Elliot, Esq.,
&c., &c., &c.

(Copy.)

DOWNING STREET,
December 30th, 1851.

SIR,—I have laid before Earl Grey your letter of the 10th instant, (addressed to Mr. Elliot,) bringing under His Lordship's consideration a Bill which had been brought into the Canadian Parliament, in its last Session, but afterwards withdrawn, intitled, "An Act to define certain rights of Seigniors and Censitaires in Lower Canada, and to facilitate the exercise thereof."

Lord Grey directs me to acquaint you in reply, that the Bill to which you refer has not yet been brought under His Lordship's notice by the Governor General of Canada. It is impossible, therefore, for His Lordship to express any opinion, or to advise Her Majesty to interfere with respect to the Bill in question, and as to which

it is uncertain whether it will pass at all, or if so, in what shape. Lord Grey is, however, persuaded that in legislating upon a subject of so much difficulty and importance, the Provincial Legislature will proceed with due caution and deliberation, and that a great majority of its members will be found too enlightened, to understand too well the true interests of the Province, and the shock which such a course would give to its rising credit and prosperity, to pass a law, which, on examination, would prove to be inconsistent with a scrupulous regard to justice to individuals, and the rights of property.

Lord Grey has a proof that it was not the wish of the leading members of the Assembly, which has just been dissolved, to legislate upon this subject, without a careful inquiry into the rights which might be affected by doing so, in the fact, that an Address has been presented to the Queen from the Assembly, praying for Her Majesty's assistance in obtaining a variety of information calculated to throw light on the subject of the Feudal Tenure in Lower Canada. If, unfortunately, the new House of Assembly should proceed to pass an Act which would, in your opinion, involve such a violation of private rights as would justify parties similarly aggrieved in one of the States of the American Union in seeking redress in the Supreme Court of the Union, it would be open to you to bring any objection which you might entertain to its confirmation, under the notice of Her Majesty's Government, nor would Her Majesty be advised to confirm any Act against which such objections had been urged, until they had been fully considered, and if established, the Royal Assent would be withheld.

Lord Grey will transmit a copy of your letter, and of this reply, for the consideration of the Governor General and of His Executive Council.

I have, &c.,

(Signed)

F. PEEL

Archives de la Ville de Montréal

The Right Honorable,
Edward Ellice,
&c., &c., &c.

D. 20,

DOWNING STREET,
19th June, 1852.

((Copy.)

No. 37.

MY LORD,—I transmit for your Lordship's consideration the copy of a letter which I have received from Colonel Gagy, who has arrived in this country, deputed by a body of Seigneurs interested in landed property in Canada, to appeal against attempts which they apprehend will be made in the Provincial Parliament to interfere with their rights.

On this subject it is only at present necessary that I should express my entire concurrence in the observations contained in the letter addressed by Earl Grey's direction to Mr. Edward Ellice, which formed the enclosure in his Lordship's Despatch No. 670, of the 31st December last.

I have, &c.,

JOHN S. PAKINGTON,

The Right Honorable
The Earl of Elgin and Kincardine,
&c., &c., &c.

Archives de la Ville de Montréal

65, STAFFORD PLACE,
PIMLICO, 7th June, 1852.

(Copy.)

SIR,—I have arrived in this country from Canada, deputed by a body of Seigneurs interested like myself in landed property in that Colony, to make an appeal to the British Government against attempts made in the Provincial Parliament at Toronto, and the renewal of which, is threatened at the approaching meeting thereof at Quebec, to deprive them of rights secured by law, and of which they have been in undisturbed possession since the annexation of Canada to Great Britain.

I pray you will be pleased to admit me to an audience, at which I may more fully explain the grounds for this appeal, but in order that you may be previously aware of the exact nature of our grievance, I beg to submit the following statement on behalf of the interests I represent.

In the course of the Session before the last of the Provincial Legislature the following resolution was referred for consideration, to a Select Committee :—

10. *Resolved*,—That the Seigniorial Tenure in Lower Canada is a matter of public concern, which it is the duty of the Provincial Legislature to take into consideration, more especially now that the subject has attracted the public attention in a high degree; and that it is therefore important to effect, at as early a period as possible, the conversion of the said Tenure into a free one, taking care that all the interests concerned are protected and equitably adjusted.

After considerable investigation into the origin and progress of the settlement of the Seigneuries, and of the various laws and edicts of the French Government respecting them, the Solicitor General, Mr. Drummond, Chairman of the Committee, introduced the Bill, of which I have the honor to enclose a copy. The bill was read a second time and then dropped, in consequence of the approaching termination of the Session.

This measure, as you will see from a perusal of its provisions, instead of providing for a commutation of the Feudal Tenure, the object of the resolution enacted an unconditional confiscation of a large portion of the rent, without even the semblance of compensation, either from the tenants or the public. By one of the Clauses, all tenants in Lower Canada were absolved from their written engagements voluntarily entered into with the formalities required by law. We venture to assert that no legislative measure of so violent and immoral a character has ever been proposed to, or sanctioned by, any Legislature except, possibly, by the French Convention in 1789, and most assuredly has never been attempted by any Parliament or Colonial Assembly under the authority of the Crown of Great Britain.

We have reason to believe that the attempt was made from the expectation that such a measure might render the parties supporting it popular with the tenants and Electors in the Seigneuries at the then approaching Elections for the present Assembly. It is from the engagements of these parties to re-introduce the Bill in the approaching Session and our knowledge of the extreme lengths to which they are prepared to carry their views, that we feel ourselves compelled to throw ourselves on the protection of the English Government. If we were to wait till such a bill proposed with the sanction of the Governor General, passed the Legislature, the expectations it would raise among the tenants (and the subsequent disappointment from its necessary disallowance by the Crown, for we cannot permit ourselves for an instant to doubt the disallowance) would throw the whole country into discontent and confusion.

The enclosed bill had not even the merit of providing for a commutation of those feudal restrictions which all parties admit to be objectionable in the present circumstances of the Colony. The perpetual rent varying generally from two pence

to six pence an acre, and in some few instances raised so high as eight pence,—so far from being an evil in a new country, is a much less onerous engagement to the settler than the payment of a capital equivalent to it. It is less than half the interest on the amount now required by this Government as the minimum price of wild lands in the Colonies. The real evil in Canada is the fine or mutations, varying and increasing with the increased improvement of the Country—the *droit de monture* and other restrictions of that character.

For these grievances the bill proposed no remedy.

The pretext on which an attack was made on rent, was that the Seigneurs were restricted by the terms of their original grants from exacting a higher rent than a certain tariff fixed by the obsolete edicts of the French Government.

This has been a fruitful topic of agitation by all demagogues for the last fifty years—and has led rarely, probably in ten or twenty cases, to attempt at resistance to the payment of the covenanted rent, by tenants urged by those parties to appeal to the Courts of law on the question.

From the first suit of this description to the last, (decided by the Superior Court of Lower Canada in January last,) the Judges have invariably and unanimously sustained the validity of the leases, and the legal rights of the proprietors—I refer you for confirmation of this fact to the case of *Langlois vs. Martel*, at page 36 of the Lower Canada Reports, officially published and enclosed herewith.

By way of example, I submit also that my family have held the three Seigneuries of Grandpré and Dumontier and the half of Grosbois for about ninety years. These properties were purchased, immediately after the Conquest, by my great uncle, at that time an officer in the English army, and from that period our rents have invariably been paid without dispute.

Admitting the policy of some equitable settlement of the Feudal Tenure, we humbly submit that even if it was justifiable to determine legal rights in this manner by legislation, this act of simple spoliation would be of no benefit to the tenants without ruining the landlords, thus entailing irreparable loss not only on their creditors, but on the community at large, and holding out, as you will admit, an evil example susceptible of imitation elsewhere.

A perusal of the clauses of the Bill, especially of the 34th, releasing tenants from their written contracts, (indeed all the clauses are of the same tenor,) will enable you to judge how far we are justified in characterising this proceeding in the terms I have ventured to apply to it.

The Seigneurs, so far from objecting to any measure for a commutation of their rights, and the abolition of the Feudal Tenure on equitable conditions, are as much satisfied as any other class of the community of the expediency of such an arrangement. The conditions imposed for this purpose by the Canada Tenures Act, passed in 1822, on proprietors obtaining a commutation of their tenures from the Crown, seem to be equitable, and might be extended with great advantage to all cases of estates, whether held under old or new tenures.

These conditions entitled every tenant desiring to be released either from rent, fines or droits, to a Free and Common Soccage title, on payment of a compensation for the rights of the Seigneur, to be fixed by arbitrators mutually chosen; or, failing the appointment of arbitrators on the part of the proprietor, by arbitrators named by the Court of Queen's Bench. But whether in this way or in any other, the whole body of proprietors are more than desirous to meet the wishes of the local Government for a commutation of the tenure on fair and equal terms; such an arrangement, however, they humbly submit must be preceded by and based upon an acknowledgment of their legal rights, admitted by the Courts of Justice and confirmed by prescription since the British possession of Canada. I venture to suggest further that the greatest difficulty in arriving at a settlement of this complicated question

will arise out of the indifference of the tenants of French descent, if not from their preference for the present tenure, and it is a fact that few or none of them have availed themselves of the provisions of the above mentioned Act, nor has a single case of a commutation of tenure under it taken place at their instance, to my knowledge.

I have taken the liberty of troubling you at length with this statement of the case which I am deputed to represent to you, in order, in the first place, to put you in possession of the facts, on which I desire the honor of a conference, and in the second to support an appeal to the Justice of Her Majesty's Government, that instructions may be sent to the Governor General of Canada to withhold his sanction from the introduction of any new bill of a similar character with that proposed, as I have said, by Mr. Drummond, or which may contain provisions inconsistent with public faith, the rights of property, and the principles by which both are secured in the Legislation of this country.

I have, &c.,

A. GUGY.

Archives de la Ville de Montréal

The Right Hon.

Sir John S. Pakington, Bart.,

&c., &c., &c.

(Copy.)
No. 33.

D. 23

DOWNING STREET,
29th June, 1852.

MY LORD,—With reference to Earl Grey's despatch, No. 670, of 27th of December, I have the honor to transmit to Your Lordship, with a view to its being brought under the consideration of your Council, the copy of a representation which I have received from Mr. Peter Burnet, upon the subject of two Bills introduced last Session into the Provincial Legislature, affecting Seigniorial Rights and the tenure of land in Canada.

I have, &c.,

(Signed,) JOHN S. PAKINGTON.

The Right Honorable,
The Earl of Elgin and Kincardine,
&c., &c., &c.

(Copy.)

NICE, ITALY,
29th April, 1852.

SIR,—I have the honor to address you on the subject of a heavy grievance and injustice, to which I and other persons holding Seigniories in Lower Canada are exposed, in regard to which, an appeal to the British Government has become necessary, for the protection of the rights of property in that Colony. I am desirous to plead the urgency of the case, as an excuse for bringing the subject under your notice at the present moment. Two Bills were introduced into the House of Assembly during last Session, one of which, to define certain rights of Seigniors and Censitaires in Lower Canada, and the other, to facilitate the redemption of Seigniorial Rights, and to convert the tenure of the lands into that of *franc alev roturier*. Under the influence of circumstances, the making up of the Lafontaine Ministry, the leading members of which were opposed to many of the provisions of these Bills, the question of the Clergy Reserves, and the re-construction of a mixed Ministry, several

Archives de la Ville de Montréal

of the members of which hold very extreme opinions; these two Bills are now again about to be brought forward by the present Attorney General, and consequently, under the system of self-government now accorded to the Colonies, will pass into law, unless the Governor General be instructed to withhold his assent, and by the exercise of the Prerogative of the Crown, reserve these two Bills for the consideration of the authorities in England.

I hold extensive property in Canada, having at one time been a member of the House of Assembly for the City of Quebec. One part of my property is a Seigniori granted by the King of France, and liable to foi and homage to the Crown. Another part of my property I hold as a free gift and grant of a very old date, and I submit my own case, which, however, assimilates to that of the other Seigniors in Lower Canada as almost all the Seigniors hold their properties under the one or the other of these titles, which titles are unregistered in the *Registre d'Intendance*, at Quebec, and are not contested. By the enactments of the Bills now under consideration, the compensation to be given to the Seigniors for the rights and privileges they are required to surrender and give up, is to be estimated, valued and paid for in a manner utterly unjust, and contrary to the evidence of the Attorney General, (Ogden) and of the Solicitor General, (O'Sullivan) as given in the year 1836, is not only quite inadequate and far less than recommended by the Commissioners of Grievances in their General Report in 1836, and even then the compensation granted to the Seignior in France, when under the influence of the Revolution, the *Rigeme féodale* was done away with in 1789-90, but the Seigniors in Lower Canada are now about to be deprived of a part of what has hitherto been recognized as their property and their right, and which property is virtually to be confiscated by the provisions of these Bills, and without any compensation being given to the Seigniors. That part of my property originally granted as a free gift and not under the Seigniorial title, is about to be held liable to the enactments of those Bills, to which I do not object, as such lands, although not liable to foi and homage, or to any fine to the Crown, have hitherto been treated as Seigniories by the custom of the Country and under the maxim of French law, *nulle terre sans Seigneur*; but while this maxim is held to be valid, and is about to be adopted so as to bring these lands under the provisions of those Bills, it is nevertheless to be abrogated and set aside, as regards the rights and privileges of the proprietor of the lands, and who is to be deprived of the rights of property and privileges such as unquestionably appertained to such lands and property, when held under the same maxim of law in France, and which rights of property have always been freely exercised under the sanction of the law and custom of the Country, and continued to be so exercised up to the present time.

I am aware that these harsh proceedings and legislation in favor of one class only, may appear to be so extraordinary as to seem exaggerated, and even to create doubt, but I appeal to the Chief Justice of Canada, Sir James Stuart, Bart., who I trust may not yet have left England, and who I am confident will establish to the full extent these facts, and as more clearly detailed in a statement I have the honor to transmit herewith. All that I ask and desire is, that justice be done, that when I am required to give up my property and my rights for the public good, I receive a moderate but equitable compensation for that of which I am deprived, and that no part of my property held by myself and my predecessors, under the sanction of the law and custom of the Country, and in perfect reliance on the good faith of the Government and of the Crown, shall now be confiscated, and I earnestly appeal to the British Government to prevent this gross injustice and violation of the rights of property.

Many years ago, when a Bill of the Imperial Parliament was under consideration for the purpose of settling the question of the tenure of lands in Lower Canada, I had frequent conference with the Secretary of the Province, then in London, and by desire

of the Governor General, whose intimacy I had the honor to enjoy, I furnished a variety of information on this and on other subjects connected with Canada, and my name was at that time sufficiently known at the Colonial Office, where I was requested to attend while some of those matters were under consideration; it may, however, now be necessary for me to refer to any gentleman of old standing connected with Lower Canada, or to the present Lord Panmure, who is aware of the position I held in that Country and in England, to the Hon. Admiral Gordon, M. P. for Aberdeenshire.

I have, &c.,

PETER BURNET.

The Right Hon.
Sir John S. Pakington, Bart.,
&c., &c., &c.

(Copy.)

MEMORANDUM.

The undersigned having resided for many years in Canada acquired a large extent of property in that Colony.

One part of this property, as appears by titles registered in the Registre d'Intendance at Quebec, in the year 1723, is a Seigniori granted by the King of France, with the rights of haute moyenne and basse justice, pêche and chasse, and liable to foi and homage to the Crown.

Another part of his property, as appears by titles enregistered at Quebec in the year 1637 is a free gift and grant, liable to no such conditions, and this grant is not a titre de fief Seigneurie, but by the law and custom of the country, such grants of land, whether made before or since the conquest, have been treated as liable to the Seigniorial Tenure, under the maxim of French law, nulle terre sans Seigneur.

It has been the custom of Lower Canada to concede to Censitaires for tenants in perpetuity, the lands in the Seigniories liable to very low rents, and to lods et ventes, or a fine of one-twelfth of the value on each mutation of sale, and by an arrêt of the King of France of 1711, it was rendered compulsory in the Seigniors to concede their lands without requiring any sum of money by reason of the said concession, but by another arrêt of the King of France of the same year and date 1711, such concessions and grants are to be made only for actual settlement and improvement, if the Censitaire or tenant did not reside on and improve the lands so conceded within a year and a day, the farm or grant became remitted to the domain of the Seignior.

The undersigned, and the Seigniors generally, have not exacted any sum of money by reason of the concession of their lands, but complaints have been made that there are cases where Seigniors have attempted to do so, and although such cases were sought for over the whole space of time since the conquest, are found to have been extremely rare and to have been corrected under the law and custom of the country, a kind of excuse has been given, and as many of the Censitaires or tenants have become wealthy in consequence of the very low annual rents they have been subject to, they are now desirous of no longer being held liable to pay to the Seignior lods et ventes, or a fine or mutation by sale, and under these circumstances two Bills were introduced during the last Session of the House of Assembly, the one to define certain rights of Seigniors and Censitaires in Lower Canada, and the other to facilitate the redemption of Seigniorial rights; and to convert the tenure of the lands into that of franc roturier, and fixes the indemnity to be given to the Seignior as compensation for rents, lods and ventes, and other rights and privileges he is required to surrender and give up. The under-

signed, from some experience, and having been a member of the House of Assembly for the city of Quebec, is strongly of opinion that the Seigniorial Tenure is far the most advantageous for the settlement of a new country, and more especially where the inhabitants are habituated thereto, but if a change of tenure be supposed by the Legislature to be for the public good, he, and many of the Seigniors do not complain or remonstrate, all they ask or desire is an equitable, fair and just compensation for that of which they are to be deprived, and are required to surrender and give up, and the object of the present is to shew clearly and beyond all manner of doubt, that many of the provisions of these Bills are harsh and unjust towards the Seignior—a violation of the rights of property by arbitrary legislation in favor of one class only, and contrary to the welfare of the Colony by throwing the whole of the unconceded lands into the hands of land jobbers and speculators unconditionally. One arret of the King of France of the year 1711, for the protection of the Censitaires or tenants is held to be in force; while another arret of the King of France of the same date, for the protection of the Seigniors is abrogated or rendered unavailable, and the Seigniors are by express legislation to be compelled to grant their unconceded lands to all persons who may demand of them, and without any condition or obligation whatsoever, as to residence on, or the improvement of the lands, unless such conditions as contained in the original titles of the Seignior, and even in that case, the parties who have enforced the concession to them of such lands, are to be considered as residing thereon, if they occupy any other land, Lot, or emplacement, within a distance of 10 leagues from the lands so conceded. It was stated in the House of Assembly by the present Attorney General that the Seigniors who held Seigniories or *titre de haute justice* probably enjoyed certain rights and privileges in their quality as High Justiciers and not as Seigniors, and that their rights ceased to exist after the conquest when justice became vested in the Crown; this assertion was, however, avowedly a mere speculative opinion, and as many of the grants of land in Lower Canada are not a *titre de fief Seigneurie* by the original titles, consequently those grants, if Seigniories at all, can only be held liable to the Seigniorial Tenure under the maxim of French law *nulle terre sans Seigneur*, the proprietor of the lands so held is justly and equitably entitled to the rights, privileges and property, as conferred by the tenure to which it is held to be liable, and not being a High Justice could not by possibility have lost the rights consequent on that title. By the preamble of the Bill to define the rights of Seigniors and Censitaires, it is assumed that certain Acts have been done in violation of the conditions under which the original grants of the Seigniories were made; the arret of the King of France of 1711, in relation to lands in Canada granted as Seigniories, and the same powers are to be conferred on the Superior Court of Lower Canada, as the powers heretofore exercised by the Governor and the Intendant. But several enactments of this Bill go far beyond the declaration in the preamble and in direct terms confiscate the property on the unnavigable rivers, and the timber on the lands; both of which rights and Property, incontestibly and beyond all manner of doubt, appears to have formed part of the property of the owners of land in France, not granted as Seigniories, but held liable to the Seigniorial Tenure, under the maxim of French law, *nulle terre sans Seigneur*, in the same manner as similar grants of land in Lower Canada have been held liable to the same tenure under sanction of the law and custom of the country.

The effect to result from this legislation palpably is, that practically the proprietors of extensive properties in Lower Canada are held to be liable to the conditions of a certain tenure, but are arbitrarily to be deprived of the rights of property such as hitherto at all times freely exercised under sanction of the law and custom of the Country, as consequent on the same tenure, and are not to be compensated for that of which they are so deprived.

That part of the property admitted by these Bills to remain vested in the Seignior, or persons holding lands under the Seigniorial Tenure, is to be estimated, valued and

annum, from a source of vastly increasing value, taken at something more near to its actual value and real value and as representing the interest of capital at 4 per cent., would amount to about £2,875, considerably more than double the compensation as proposed to be awarded to the Seignior.

In a note attached to the General Report of the Canada Commissioners of 1836, it is suggested that on a change of tenure, where voluntary on the part of the Censitaire, in no case ought the commutation fine to be less than one ordinary fine or lods et ventes, on the contrary it ought to exceed the amount of such fine by the present value of all the reversionary fines to which, if the tenure remained unaltered, the land will be subject, and that taking in consideration all the circumstances, it perhaps may be found that in voluntary commutations of one-tenth of the actual value of the property will be sufficient compensation to the Seignior for the rights which he surrenders, but that in this allowance no estimation is made for rents or any other feudal burthens beyond lods et ventes, and that the rents may be easily calculated and redeemed at so many years purchase, or they might be left as a charge on the property. By this calculation, however, the amount to be paid to the Seignior is avowedly decreased under the supposition that as lands granted as Seigniories with the rights of Haute Justice, &c., &c, are liable to or a fine to the Crown on mutation by sale, this claim would be given up by the Crown, and the benefit to arise from the remission by the Crown would thus be divided between the Censitaire and the Seignior; it is therefore quite evident and clear that where lands are held under the maxim of law, nulle terre sans Seigneur, and consequently are not liable to any fine to the Crown on mutation by sale, the Seignior on a change of tenure by the Censitaire is equitably entitled to a proportionate increase of compensation for the difference in the value of that which he is required to surrender and give up. In the evidence of the Attorney General and of the Solieitor General it is recommended as equitable and just that the actual value of the property liable to lods et ventes be ascertained by experts or arbitrators. In France when the Régime féodale was done away with, the valuation of the Seignior's property subject to lods et ventes on a change of tenure was taken as that of the last sale if within ten years, and if no sale had taken place within that term, and that the Seignior and his tenant had not come to an agreement, then the actual value was ascertained by experts or arbitrators.

3rd. The Seigniors in Lower Canada who hold their Seigniories of the Crown and also the proprietors of large grants of land not granted a titre de fief Seigneur, but held to be liable to the Seigniorial Tenure, under the maxim nulle terre sans Seigneur, have hitherto held and exercised the right of property in the timber on the lands and control thereof, as completely and entirely as in and over any other property or real estate whatsoever; this property is nevertheless to be confiscated to the Seignior to the proprietor. The timber on the unconceded lands of the Seigniories in France, appears not only to have been considered of a domainal nature, but when under les ordonnances des eaux and forêts of 1669 which continued in force in 1792. Timber was taken for the Royal Navy, the Seigniors were paid the value of the timber so taken, and it seems quite incontestable and beyond all manner of doubt, that where property was held to be Seigniorial under the maxim nulle terre sans Seigneur, the right of property in the timber on the lands was just as entirely and completely vested in the proprietor of the lands as the right of property in any other immoveable or real estate whatsoever.

4th. By these Bills the Seigniors in Canada are deprived of the control over unnavigable rivers, within their Seigniories, and of the property in the beds of such rivers, thus summarily and arbitrarily interfering with the rights of property, and assuming as a fact and legislating on, that which is not only very doubtful but has created so much difficulty as not to be settled in France up to the present time;

paid for on a change of tenure in a manner utterly contrary to equity and justice, and in favor of one class only.

The compensation thus to be awarded to the Seigneur on a change of tenure, is not only rendered very precarious and uncertain, but has no direct relation to the actual and real value of the property, is infinitely less than what was recommended as a just and fair arrangement by the Canada Commissioners in their General Report in 1836, and is founded on principles entirely contrary to the evidence of the Attorney General Ogden, and Solicitor General O'Sullivan, as annexed thereto, and to the more equitable manner of which the real value of such Seigniorial property was established in France, when the Régime fèodale was done away with at the commencement of the Revolution in 1789-90. By the enactments of the Bills as now proposed in Canada.

1st. The annual rents are to be estimated by the present rental which is taken to represent the interest of capital at 6 per cent, and thus an annual and increasing rent of £12 is taken to represent £200, which is redeemable at the option of the tenant but not of the Seigneur.

In France although the Régime fèodale was abolished in revolutionary times, the rents were valued at 20 and 25 years purchase, and thus a rent £12 per annum would represent £300 capital payable the Seigneur, a much more equitable arrangement than that proposed at the present moment in Canada.

2nd. The lods and ventes, or fine of one twelfth of the real value, payable to the Seigneur on each mutation by sale, is to be estimated by taking the receipts of fourteen years, and after deducting the receipts of the two highest and two lowest years, then assuming the average of the remaining ten years, as the value of the income of the Seigneur, and to represent the interest of capital at 6 per cent., redeemable at the option of the Censitaire or tenant but not of the Seigneur, and distributed in proportion to the lands of the whole Seignior. This tortuous and confused mode of estimating and valuing a revenue derived from so extremely fluctuating and increasing a source as a fine on each mutation by sale, is palpably unjust and a mere lottery, depending entirely on the accidental circumstance of whether, large sums have been paid in two, or the same amount has been paid in three or more years, and a Seigneur, having a Seignior or Seigniorial lands of ten times the value, and having actually received ten times the amount of income for fourteen years, may nevertheless actually receive less compensation under these Bills than a Seigneur having a Seignior of only one tenth of the value; but where the payments of lods et ventes have happened to be made differently. The rents of lands are excessively low, and great source of Seigniorial revenue is the lods et ventes, or fine due to the Seigneur when property is sold, and thus from its nature the receipts from lods et ventes are liable to very great fluctuation, but of vastly increasing value, and the estimation and valuation to take place under the enactments of these Bills, has in fact no relation to the actual and real value of the Seigneur's property, and the amount so estimated and again revalued by being converted into capital at 6 per cent. interest, is not only quite inadequate, but is arbitrary and unjust, as not being founded on the real and actual value of the rights and property the Seigneur is required to surrender, and give up for the public good, and is in direct contradiction to the opinions of the Attorney General, Ogden, and Solicitor General O'Sullivan, as given in their evidence to the Canada Commissioners of 1836. A Seigneur who for the last fourteen years has received of lods et ventes or fines on sales within his Seignior an amount of £1,600 in four payments, would have an average annual income of about £115 per annum, which by this arbitrary and oppressive plan of estimation and valuation would be reduced to about £80 per annum; by deducting the two highest years, and which sum of £80 per annum being taken as representing the interest of capital at 6 per cent., would amount to about £1,333, while the average income actually received by the Seigneur of £115 per

and while this enactment is to take place in Canada, from the avowed reason that possibly those Seigniors who were High Justices in Canada, held some of their rights and privileges as High Justices and not as Seigniors, yet the same enactments are rendered applicable to lands and rivers held under the maxim of law nulle terre sans Seigneur where the Seigniors or proprietors were not High Justiciars, and under which tenure in France, all such property appears beyond all manner of doubt to have been held as fully and entirely as any other property or immoveable whatever.

5th. The undersigned and his predecessors have erected extensive and valuable Saw Mills, and under sanction of the law and custom of the Country have at all times freely exercised the right of property in the timber on his Seignior and lands, but by the enactments of these Bills the Seignior or proprietor is deprived of the right of property in the timber on his Seignior and lands, and consequently those extensive and valuable saw mills will in fact virtually be confiscated. The arrêt of the King of France of 1711, for the protection of the Seignior, and to enforce the actual settlement and improvement of the Country, being abrogated, or set aside by those Bills, and the granting unconditionally of the unconceded lands to all who may demand of them rendered obligatory on the Seignior, it inevitably follows that land jobbers and speculators are to be empowered to demand the concession to them of the whole of the lands on which there is timber, and without any intention of the improvement or settlement of those lands, but for the express purpose of cutting and selling the timber, leaving the lands denuded and waste, and this deteriorated, no longer in a fit state to be conceded for actual settlement and improvement, and the Seignior without any recourse whatsoever, unless that of resuming the lands after the whole of the timber has

Archives de la Ville de Montréal

(Signed,)

PETER BURNET.

Nice, Italy, April, 1852.

D. J. G.

EXTRACT from a Despatch from the Right Honorable Earl GREY, Secretary of State for the Colonies, to His Excellency the Earl of ELGIN and KINCARDINE, dated Downing Street, 3rd January, 1852—No. 674:—

“ MY LORD,—I have had the honor to lay before the Queen, the Address transmitted in Your Lordship’s Despatch, No. 102, of the 26th August, from the Legislative Council of Canada, in Parliament assembled, praying Her Majesty to cause to be laid before that House, copies of certain Correspondence on the subject of Seigniorial Tenure.

“ I am commanded by Her Majesty to transmit to Your Lordship, for the information of the Legislative Council, and in answer to the Address from that Body, the enclosed copies of Correspondence respecting the Seigniorial Tenure, which has been obtained from the State Paper Office ; together with a list of other documents, deposited in that office, relating to the same subject.

“ These Papers comprise all the documents referred to in the Address, which, after a careful search, can be found amongst the Official Records of the Secretary of State.”

(Copy.)

STATE PAPER OFFICE,
10th November, 1851.

SIR,—Agreeably to the direction of Earl Grey, conveyed to me by your letter of the 4th instant, that I should cause the Colonial Department to be supplied with

30

copies of the Correspondence which took place in or about the year 1766, between His Excellency Guy Carleton, Governor of the Province of Quebec, and the Earl of Shelburne, His Majesty’s Principal Secretary of State for the Colonies, relative to the Titles to Lands held *à titre de fief et seigneurie avec haute moyenne et basse justice*, granted in Canada by His Most Christian Majesty the King of France, and which, after the Session of Canada, passed under the British Crown ; I have the honor to transmit herewith copies of the Correspondence, so far as I have been enabled to find it in this office.

I also beg leave to transmit herewith, for Earl Grey’s information, a list of documents preserved in this office, relating to the subject of Seigniories in Canada, although not forming part of the Correspondence.

I am, &c.,

(Signed) H. HOBHOUSE

T. F. Elliot, Esquire,
&c., &c., &c.,
Colonial Office.

Archives de la Ville de Montréal



An Act to amend an Act respecting the Credit Valley Railway Company.

WHEREAS the Credit Valley Railway Company have, by their petition, prayed that an Act may be passed amending an Act passed in the forty-third year of Her Majesty's reign, chaptered fifty-four, and intituled: "*An Act respecting the Credit Valley Railway Company,*" and whereas it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

10 1. In the event of the Credit Valley Railway Company being amalgamated or uniting with the Ontario and Quebec Railway Company and the Canada Southern Railway Company or either of them; or in the event of the Credit Valley Railway being leased to the said companies or either of
15 them, or in the event of the Credit Valley Railway Company leasing the London Junction Railway or entering into joint working arrangements with the said companies or any of them, the companies entering into such amalgamation, union, lease or joint working arrangements (hereinafter
20 called the Amalgamated Company) may continue to exercise the running powers granted by the above recited Act, subject to the provisions as to compensation hereinafter contained.

2. The amalgamated Company shall, with the assent of
25 the Northern Railway Company, have the right to exercise, for the purposes of their traffic, running powers over any railway tracks owned or used by the Northern Railway Company, lying between Berkeley street and the point on the northerly part of Esplanade Street, at
30 or near its intersection with the east side of Brock Street mentioned in the said Act: such running powers to include the right, privilege and power of running the trains, locomotives and cars of the Credit Valley Railway Company, or of the amalgamated Company, between the said points: Provided always, that the exercise of such running powers
35 shall be subject to the control of the Northern Railway Company, and under such running regulations as may from time to time be in force and operation with regard to the movement of their trains: and provided further, that the exercise of the said running powers shall also be subject to the pay-
40 ment for the same by the Credit Valley Railway Company or the amalgamated Company to the Northern Railway

Company, and any other company interested therein, of such tolls, rents or compensation as shall be mutually agreed upon.

3. In case the said companies fail to agree upon the extent or manner of working the running powers granted **5** by the first and second sections of this Act or either of them, or upon the tolls, rent or compensation to be paid for the same, or upon any other matters arising out of the exercise of the same, all the provisions of the fifth section of the Act hereby amended shall apply as if they had been re-enacted **10** in this Act.