

XVI

Secrétaires Penure font.

Année 1809

Dim. 17th Oct.

In Dunkin Between right acqui-
 red and right facultative the
 distinction cannot usually be
 called in question. But that is
 not the question here. What we
 have to determine is whether a
 facultative right having been
 assured by ~~the~~ the Imperial sta-
 tute to everyone of a certain
 class, that faculty can be ta-
 ken away — whether every con-
 sultative on ~~an~~ a seignior where
 commutation has taken place may
 not have gained the right to
 say to the seignior, I shall sum-
 mon you tomorrow to settle with
 me under the Imperial statute.
 If the consultative possess that
 right, will the filling up of the
 enclosures or anything else do
 prove him of it? If the consultative
 possesses that right towards the
 seignior, does not the seignior
 in like manner possess it towards
 the Crown? A fact can either
 seignior or Consultative be forced
 into this mode of commutation
 when the other method is offered
 them by the Tenures act. Then
 comes this other question with
 respect to the facultative right
 of the seignior. Has not every
 seignior, until the Imperial act
 is repealed, the power of making
 application to the Crown and so
 of bringing himself under the

for operation of that Imperial Legis-
lation. The Imperial Statute has
not been repealed so far, and
will not be repealed by filling
up the cadastre. Either consitaires
or Seigneur can have his right;
but the question is whether either
can be cut out of his right? The
second Clause of the Imperial
Statute is as follows: —

2nd Clause Terminus (Take in)

Therefore if the Seigneur made
the bargain thus indicated with
the Crown, and paid the money
therein stipulated, none of his
consitaires could change their
rates of rent or other dues till
they did so in the terms of this
Statute. The seignioress of Passara
then for example must ^{still} have be-
hveen her and her consitaires
this facultative right — not that
the seigniorial act is thoroughly
unconstitutional and null and
void; but that the Terminus Act
is paramount, and that the
facultative right whether of
Seigneur or consitaires cannot
be imposed of until that act
is repealed.

The fourth Act was passed till
the next day at 2 o'clock when
it was further assented till
the 10th Day of January 1866.