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Hazard's Gazette.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, THURSDAY, MARCH 6, 1856.

IN THE HOUSE OF ASSEMBLY. Wednesday, 20th February, 1856.

HIS Excellency the Lieutenant Governor having transmitted by Messrs. the following Documents to the House of Assembly, for the information of the House, it was thereupon—

Ordered, That the same be inserted in all the Newspapers published in Charlottetown.

Also, the Papers marked Nos. 1 and 2, viz:—
Extract from Minutes of the Executive Council, dated 27th August, 1855; and

Copy of Despatch of the Right Honourable H. Labouchere, Secretary of State for the Colonial Department, dated Downing Street, 21st December, 1855, subsequently presented to the House, were likewise ordered to be published as above.

JOHN McNEILL, C. H. A.

Extract of a Despatch from Secretary Sir George Grey of the 17th November, 1855.

Copy of a letter from Mr. R. B. Stewart to Lord John Russell, praying that the Royal Assent may be withheld from certain Bills passed last Session of the Legislature.

Copy of Memorial and Petition of certain Proprietors to Lord John Russell against "Rent Rolls Bill" and "Tenants' Compensation Act," dated the 4th June, 1855.

Copy of Petition and Remonstrance of certain Proprietors and Agents of Land in Prince Edward Island, to the Queen, against the "Act to impose a rate on the Rent Rolls of Proprietors," dated the 4th June, 1855.

Copy of Petition and Remonstrance of certain Proprietors and Agents of Land in Prince Edward Island, to the Queen, against "Tenants' Compensation Act," dated the 19th June, 1855.

Copy of Petition of certain owners of Township Lands, against "Rent Roll Bill" and "Tenants' Compensation Act," to Sir Wm. Molesworth, dated the 27th August, 1855.

Government House, 20th February, 1856.

Extract of a Despatch from Secretary Sir George Grey, of the 17th November, 1855.

"I have to acknowledge your Despatches, by which you transmit to me, for Her Majesty's sanction, two Acts passed by the Legislature of Prince Edward Island, in the month of April last, intitled respectively:—

"An Act to impose a Rate or Duty on the Rent Rolls of the Proprietors of certain Township Lands in Prince Edward Island, in order to defray the expenses of any Armed Force which may be required on account of the withdrawal of the troops; and for the further encouragement of Education;" and "An Act to secure Compensation to Tenants in Prince Edward Island, and thereby to promote the improvement of the Soil;" both of which Acts contain exceedingly clause receiving them for the assent of the Crown; and also transmit representations, from various parties interested in the subject of these Acts.

Her Majesty's Government have considered these Acts separately, and with an anxious desire to do justice between the Community of Prince Edward Island in general and the Proprietors of the Soil, and to allow the fullest possible scope to the principle of local independence in Legislative matters, subject only to their paramount duty not to advise the Crown to assent to any measure inflicting manifest wrong on any of Her subjects.

I regret to be obliged to inform you that Her Majesty's Government find themselves unable to advise Her Majesty to give Her assent to either the one or the other of these Acts. If the Legislature of Prince Edward Island should find that the Revenue of the Island is not sufficient to defray the public expenses of the Colony, and if these expenses cannot be diminished by any economical revision without detriment to the public service, a general tax affecting alike all incomes arising in any way from land, from houses, from trade, from manufactures, from salaries, or from any other source, might be a fair and proper mode of providing the requisite funds; and if such an Act were passed (with sufficient reason shown for it)—applying equally to landowners and tenants, to proprietors and occupiers—such a measure would be free from objection.

The measure intitled "An Act to secure compensation to tenants in Prince Edward Island, in respect of the improvements on the soil," which Her Majesty's sanction must be withheld from, is not objectionable to me.

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A true Copy, as the same were read in the House of Assembly, this 20th day of February, 1856.

Copy of a Letter from Mr. R. B. Stewart to Lord John Russell, praying that the Royal Assent may be withheld from certain Bills passed last Session of the Legislature.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, MAY 19th, 1855.

MY LORD—
As the Proprietor of about 80,000 acres of land in this Colony, I beg to be permitted to address your Lordship, on the subject of certain Acts recently passed by the Colonial Legislature, and about to be transmitted for the Royal Assent. I am but too well aware of the amount of self-government conceded to the inhabitants of this Colony, and exercised by them in unlimited or universal suffrage, still cannot willingly believe that Her Majesty's Government intend to deprive themselves of their just right and prerogative as a Court of Appeal in extreme cases of injustice, such as those intimated here, and to which I now address your Lordship's attention.

1. An Act to impose a Rate or Duty on the Rent Rolls of the Proprietors of certain Township Lands in Prince Edward Island, in order to defray the expenses of any Armed Force which may be required on account of the withdrawal of the Troops, and for the further encouragement of Education.

The proposed rate or duty is to be 5 per cent upon the annual rental of each proprietor of more than 500 acres of land, whether the rent be paid or unpaid. An exclusive tax to be levied upon one kind of income, may well be deemed unjust and oppressive. A penal tax upon the ownership of wilderness land, in the form of that Land Assessment to which I am already subjected, is now intended to be seconded by a penal tax upon the rental of leased land; a penal tax, I thought to say, upon our bad debts; for at least 50 per cent of the rents due to me under lease, may well be termed bad debts, and not recoverable without an outlay of time, money and trouble, which may demand the sympathy of British nobles and gentlemen, unused to such evils and annoyances in the recovery of their just dues from tenants on their lands. By one existing local law of this Colony, the landlord is debarred from the remedy upon all other classes of Her Majesty's subjects—the small Debt Court; by another existing local law, the process of distraint for rent is rendered so difficult as to be almost impossible, especially on property managed by Agents. By means of my own active personal agency on my own land, and by the aid of two or three active, honest, and resolute followers, I am able occasionally to effect a distraint by way of making example of some more than ordinarily lawless or insolent tenant; but this cannot be done without employing two or three men, and those actuated by attachment and good feeling towards myself, instead of the one man for whom the law allows me to charge expenses; and by maintaining and supporting, as it were, a garrison in the enemy's stronghold during the injuriously long period to which the law has extended the time for holding possession of the distrained goods, before sale.

The preamble of the Act against which I address your Lordship recites that the proprietors, by certain covenants in their leases, contrive to evade the payment of the Land Assessment, and to saddle the tenant with it. The tenants indeed are generally bound by their leases to pay the Land Assessment, as well as their rent, such as tenants in England are bound to pay tithes and rates, but many of our Tenants here pay neither Land Assessment nor rent; and if the proprietor in such case do not pay the Land Assessment, his freehold is proclaimed and sold by the Sheriff. Besides this, and much more than this, is the oppressive penal tax on wilderness or unoccupied land on which there is neither lease nor tenant; the proprietor cannot even attempt to evade the tax upon this portion of his property; in my case it amounts to nearly as much as all the rents which I receive from my leased land. The preamble of this Act, and its consecutive sections, cannot but strike an impartial reader as breathing the strongest spirit of hostility to the landlords, speaking of "Proprietors, factors, trustees, receivers, or owners of more than 500 acres of land," much in the same tone as some old Acts of Parliament use in denouncing rogues, thieves and vagabonds, to be suppressed and put down for the benefit of the community. With regard to any armed force which may be required on account of the removal of the troops, our local Legislature are not likely to deem such force necessary for any purpose, and such a measure not for the benefit of the proprietors, in enabling them to recover their rents in the face of open and violent resistance to the Sheriff, as I myself can testify from experience. Nor was the case different under the old or exclusive regime. The late Col. Lorne, when acting as administrator of the Government after the decease of Sir Donald Campbell, assured me that he had instructions, forbidding any such employment of the military force. This was in reply to my application to him on the occasion of one of my tenants having quitted his land, and he was removed from the hands of the said tenant by a military body of armed soldiers, who were accompanied, and seconded by, a number of the Legislative Assembly. The proprietor can look for no benefit from any armed force, and surely he at present contributes, under the Land Assessment Act, more than a fair or just proportion of his means for the encouragement of public Education.

2. An Act to secure compensation to Tenants in Prince Edward Island, and thereby to promote the improvement of the soil. By this Act it is intended that when a tenant is in arrears of rent, and the landlord would proceed by the usual mode of distraint, followed, when nothing can be found upon which to distraint, by an action of ejectment, the tenant shall compel his landlord in the first place to compensate him, the tenant, for whatever improvements may have been made upon the land, since the commencement of the term, the value of such improvements to be ascertained by arbitration. Until within the last nine years, the period during which I have been a resident proprietor in this Colony, I was intimately acquainted with the practice and theory of the management of landed estates in Great Britain. The present Act does certainly seem to me a monstrous innovation upon all those principles which I had been accustomed to consider fixed and established by justice and usage, in regard to such property. But the evil of such an Act as this would be less extreme in Great Britain than in this Colony, wherein ninety nine persons out of every hundred have a direct fellow feeling and personal interest on behalf of the tenant, and quite the reverse towards a landlord. I do not hesitate to say that justice is quite out of the question, and could not be hoped for, under such arbitration. The Act would have, and is intended to have, in connection with other Acts, the effect of depriving the landlord of every remedy, other than the ex-

clusive one of an action at law in the Supreme Court of Judicature, the rent being no more than one acre per annum, the defendant being generally a destitute aliko of property and of principle, the jury being composed of tenants, or persons interested in purchasing themselves to become freeholders, without their land, and the sanctity of an oath being but regarded when a proprietor is to be injured by its infraction. Under all these adverse influences or circumstances, the landlord has but little chance of succeeding, and still less of getting his money, if he should gain his suit. Direct compensation to the landlord for deprivations such as these, or any person daring to take, or to treat with the landlord for taking the vacant farm—destitution and threat of injury both to property and person. It is evident that for the most part, the improvements of the outgoing tenant can be of no value to the landlord, beyond the amount which an incoming tenant would pay for them, when fairly and undisturbed, brought to sale by public auction in the usual way. The value of clearing the land of trees, and bringing it under cultivation, is very generally reduced and destroyed by the tenant's improvidently cropping and exhausting the soil, so that many of those very persons who, as arbitrators, would be likely to go to the utmost extent against the landlord, would be equally likely to say, in case of the farm being offered to themselves, that they would much rather take a green wood of wilderness farm at once, and "have all the good out of it to themselves" to say nothing of the timber trees, which the tenant invariably cuts from every part of his farm, and (if not closely watched) from the proprietor's vacant land also, long before more than a very small part of the said farm be brought into cultivation. In common fairness, an Act ought to be passed to give compensation to the landlord for deprivations such as these, by the outgoing tenant. I have had a tenant greatly in arrears, who never paid any rent, and who actually removed and sold from the premises a good part of the farm buildings, before making his exit.

3. In an Act relative to Highways there is the following clause. When land held by a tenant or lessee, under lease, agreement, or a part thereof, shall be laid off or taken for a line of highway or road, the tenant or lessee shall be discharged from any further or future payment to the landlord or landlord, in respect of the said land, or of a part or proportion thereof, according to the extent or area of the land taken for the highway or line of road.

I believe this enactment to be an unprecedented novelty in legislation, and quite unjust in principle. The Land Assessment is levied upon the entire area of each Township, and all. The Act of which the above extracts forms a part, or some other Act, was passed by the House of Assembly with a provision, that in case a road-way should ever be stopped up, as not being required, the fee simple of the area which had been occupied by the said road-way should go to the tenant and not to the landlord. This enactment was passed by the Legislative Council. I may also state that an Act was passed by the House of Assembly during its recent Session, requiring proprietors to put their titles in conformity with the provisions of the Act, under penalty of being liable to a fine, or otherwise. I need scarcely point out to your Lordship how directly such an enactment would strike at the root of a great principle hitherto recognised in the letting of real property, that the tenant cannot question his landlord's title. The Legislative Council have not passed this Act, but it was brought forward as a Government measure. As such it was passed by the House of Assembly, and has been published as having been passed by the Legislative Council, so as to lead the country constituency to believe it to be the law of the land, and thus to be strengthened in their obstinate resistance to the landlord. These facts are proof of the animus entertained towards the proprietors. As further proof of such animus, I beg to submit to your Lordship some extracts from a speech made by the Colonial Secretary, the Hon. George Coles, in the House of Assembly, on March 29th last, in the course of a debate on the old subject of Echeat. Your Lordship will see that these extracts are not mere expressions of feeling, uttered during the heat of debate; but that they are deliberate avowals of the past policy and present views of the speaker.—"Believing that Echeat was impracticable, I have introduced a bill, which other measures for the benefit of the people, at the expense of the proprietors. This course I proposed my constituents at my first election that I would pursue. They approved of it, and they returned me, and I have been retained to the House at every subsequent election, and I have loved the same policy of dealing with the Land Question morally, but to some practical effect. Under these circumstances, I consider myself at perfect liberty to oppose the rescission of the honorable member, and in doing so, I shall endeavor, as the common saying is, to give it a black eye."

"I am satisfied that this House has it in its power to mitigate the hardships on the tenantry, arising from the operation of the Echeat, and to do so, by passing the Land Purchase Bill."

"I think the Bill I proposed to bring in, concerning the Land Purchase Bill, will be a substantial benefit to the people."

The following is an extract from the speech of another member of the Government, the Hon. Joseph Williams, in the same debate:—

"Before long I have no doubt that the proprietors will be glad to sell their lands to the Government, and the land tax will find to be a somewhat heavy burden, which is not without its influence upon them now. The completed tax upon their Rent Rolls, is another step in the same progression."

enquiry into the lenity of my own conduct towards my tenantry; and further, that during the nine years that I have been in this Colony, there has not been a single instance, on the part of any Proprietor, of that oppression and tyranny with which we are charged by the demagogues who gain their bread by asserting falsehoods.

Eagerly hoping that the royal allowance may not be given to those continued and unjustifiable attacks upon the Proprietary body.

I have &c.
(Signed) ROBERT BRUCE STEWART.

Memorial and Petition of Mr. R. B. Stewart and Mr. Charles Wright to Lord John Russell, against the Rent Roll and Tenant Compensation Acts, dated 4th June, 1855.

THE MEMORIAL AND PETITION OF THE UNDERIGNED RESIDENT OWNERS OF LAND IN PRINCE EDWARD ISLAND, SHewETH—

That in addition to any further representations to which your Memorials may become parties respecting late public measures affecting their interests as a class of Colonists, they beg leave respectfully to submit to your Lordship the following statements.

That certain local enactments, passed during the last five sessions of the Legislature, have called forth various remonstrances on the part of owners of Township lands in this Colony, respectfully urging the attention of the Colonial Minister to the serious consequences of such measures, as affecting the value and security of property throughout this Island; the object of the Legislature being to force land into the market, with a view to its being purchased by the Colonial Government, under an Act passed for that purpose, and thereby affect its re-investment in the Government by the working of oppressive statutes, whose operation, if sanctioned, will be tantamount to the confiscation of lands so situated.

That the titles to the lands in question, conferred by the Crown in the years 1769 and 1770, and Her Majesty's Ministers have on repeated occasions declared that it would be neither just nor politic to interfere with property so held for the non-fulfilment of conditions imposed by the original grants, as such conditions were impracticable; and this has been regarded by parties making investments of capital on the Island as an all-sufficient guarantee that Her Majesty's Government would not permit any undue encroachments on the interests of proprietors, holding under such titles. But the foregoing assertion as regarding the policy of the Legislature, will be fully borne out by the following extracts from a speech delivered by the Leader of the Government in the Assembly on the 29th March last:—"Believing that Echeat was impracticable, I have introduced and carried other measures for the benefit of the people at the expense of the Proprietors. * * * I am satisfied that this House has it in its power to mitigate the hardships on the tenantry, arising from the operation of the Echeat, and to do so, by passing the Land Purchase Bill. * * * And the Land Purchase Bill, the Education Act, and the proposed Act for taxing the Rent Rolls of Proprietors, would have the effect of inducing a reasonable and equitable settlement of the question."

As regards what the leader of the local Government may esteem "a reasonable and equitable settlement," it will be proper to refer to the opinions of different Secretaries of State, repeatedly expressed on the same subject.

When Responsible Government was conceded to this Island in 1851, the Right Honourable Earl Grey, then at the head of the Colonial Department in a Despatch dated Downing Street, 12th of February, 1851, directed Sir A. Bannerman, on his assuming the Government, to impress on the Legislature the necessity of abstaining from passing any laws bearing unjustly on the owners of landed property, and so far from recommending any measures which might tend to depreciate its value, his Lordship is pleased to say—

"It is obvious that an influx of capital and settlers, by tending to raise the value of property, would be most beneficial to the Colony and to all classes of its inhabitants. Prince Edward Island, possessed as it is of great natural advantages, which are becoming better known in this country than formerly, is likely at no distant time to attract both emigrants and capital, if the policy adopted by the Legislature is not such as to discourage them. But nothing could tend more to this unfortunate result, than the sense of indignity which must infallibly be created by any attempt of the Legislature to pass laws bearing unjustly on the owners of landed property."

In the same despatch Sir A. Bannerman is also referred to "the correspondence between successive Secretaries of State and Lieutenant Governors of Prince Edward Island," for his guidance in carrying out the above directions; and your Petitioners beg leave more particularly to mention Lord Goderich's Despatch to Sir A. W. Young, dated 27th January, 1835, and Lord J. Russell's Despatch to Sir C. Fitzroy, dated 24th June, 1841, as having an important bearing on the same subject.

That the lands in Prince Edward Island are for the most part leased at from one to two shillings per acre, but by far the larger portion of them at one shilling, as appears by the last statistical returns; and these rents were, with few exceptions, reserved in sterling money of Great Britain, or payable at the same rate, such being regarded as the only safe standard in a Colony where the currency is liable to fluctuate. But by a recent Colonial statute, lessors are prohibited from reserving rents so reserved at their expressed value; the provisions of the statute being, that more than one-ninth in the pound advance on the present depreciated rate of the Currency shall not be paid by any tenant, though sterling money and Bills of Exchange, payable in Britain, bear a much higher premium, namely, fifty per cent. ; and owners of land so lessened are thus subjected to a loss of thirty-five per cent.

That urgent remonstrance was made by different parties concerned against the allowance of the One-ninth Bill, on the ground of its interfering with covenants voluntarily entered into, and considered binding between parties, but as