

Case of the Ursuline Property at L'Ance des Mères.

IN 1832 Mr. John Fraser of Quebec, purchased from the Ursuline Nuns, a certain property situate on the River St. Lawrence, at a place called L'Ance des Mères, near Quebec, and on the 28th September in that year he petitioned the Governor for a commutation of the Tenure, the property being within the *Censive* of His Majesty.

After an inquiry into the Title of the Nuns, which occupied a period of nearly three years, the matter was finally decided by two Reports of the Executive Council, dated 31st July and 3d September, 1835—[*See Appendix A & B.*]—recommending that the prayer of Mr. Fraser's petition should be granted for that part of the property situate above high-water mark only, and that the other part, below high-water mark, being the Beach, (the Nuns' title to which was objected to,) should be granted to him on his engaging to pay an annual rent to the Crown, to be calculated on the amount of its value at six per Cent. The Government, as is usual in such cases, called on Mr. Fraser to appoint an arbitrator to meet one that the Government would name, to value the property above and below high-water mark, to ascertain what sum Mr. Fraser should pay for a grant of the whole in free and common socage. Mr. Fraser appointed Mr. Robert Wood, and the Government appointed Mr. William Phillips, and two Instruments [*See Appendix C. & D.*] were executed by Lord Gosford, which state, that the Government and Mr. Fraser had mutually agreed that these gentlemen should value the property, to ascertain what sum Mr. Fraser should pay, and that their award should be "*definitive.*"

The Arbitrators sent in their award 22d October, 1835. [*See Appendix E. & F.*] valuing the property above high-water mark at £2,224, and the property below high-water mark, exclusive of the improvements, at £285, which award was received and accepted by both parties without objection or comment, and immediately acted on by the Government peremptorily demanding, and by Mr. Fraser paying the sum of £222 for the commutation of the land above high-water mark, being 10 per Cent. on the £2,224, the amount of the Arbitrators' valuation of that part of the property, and Letters Patent were issued accordingly in Mr. Fraser's name.

The Government continued with every appearance of sincerity and good faith to fulfil the remainder of the award, by ordering Letters Patent to be engrossed for the grant of the remainder of the property below high-water mark, and the Government Officers demanded their fees on this Patent *in advance*, which was also paid, amounting to £251 7. 6., and the Patent was engrossed accordingly, containing the amount of rent payable on the Arbitrators' valuation at 6 per Cent. and laid before Lord Gosford for signature; but to the surprise of the parties interested, on applying for the Patent, they were told that it was not executed, and they were kept in a state of suspense until May, 1836, when an approved Report of Council was delivered to them, dated 16 Jan., 1836, [*See Appendix G.*] by which the Council recommended the Governor to increase the Arbitrators' valuation to two pence per superficial foot, which would amount to about £3,500; on the grounds, as stated in the Report, that in the opinion of the Council the property had evidently been undervalued.—This gross act was committed *after* the Government had received £222 of the money of these parties by virtue of that very award which the Council now recommended the Governor to set aside, and after the Government Officers had received in advance the sum of £251 for their fees on the yet unexecuted Patent.

During the inquiry into the title of the nuns, Mr. Fraser sold his rights to John Bonner and William Petry, allowing them to prosecute the business to a conclusion in his name, and they, placing confidence in the report of Council of 31st July, 1835, had by this time expended nearly £3,000 in improvements on the premises, and by this refusal of the Government to abide by the award of the arbitrators, after obtaining their money on the promise of agreeing to it, they found themselves placed in a situation of extreme difficulty, and from which they knew not how to extricate themselves,—to abandon the property after expending £3,000 upon it, or to accept it on the Council's valuation were both equally ruinous.—On the 26th April, 9th and 16th May, 1836, they sent in firm remonstrances against the injustice of the Government in refusing to abide by the award of the arbitrators, and after being kept in a state of anxious suspense, hardly to be described, for eight months longer, in the month of September following an approved report of Council of 27th June, 1836, (*See appendix, H.*) was delivered to them, in which the Council recommended that the valuation should be reduced to £1,293 6 9. which is stated to be in proportion to the valuation of the adjoining property recently granted to Mr. J. S. Campbell.

Before this report of the 27th June, 1836, was communicated to Bonner and Petry, and while they were ignorant of its existence, they were sent for in the month of September, 1836, by Mr. Walcott, Civil Secretary, who informed them, that the ultimatum of the Government