

" Council being conscious that legal difficulty encompassed the question,"—and then, in conclusion, recommend, so as to ensure justice to all parties, "that the Beach-plot in question be set up at public sale, after due notice, and that the Nuns, as Riparian proprietors, be reserved the right of taking the property within twenty-four hours after the sale, at the rate offered by the highest bidder."

If the first mentioned remark is intended to show that, at that period, the Executive Council of the country contemplated that the rights of the Crown were in legal danger, the remark is not in place; inasmuch as the grant then ordered was in a spirit of justice so made, not only in regard to Laporte's peculiar situation during this protracted transaction, but also for the purpose of ratifying in good faith the engagements of Government to him, so far as it lay in the power of the Crown so to do; he, Laporte, having the option reserved to him of continuing the contestation at his own disposition and expense.*

The expediency, in the opinion of the Honorable Committee, of setting up the property in question to the highest bidder, and of reserving the right to the party representing the Nuns of taking the same at the amount of the purchase price, must undoubtedly preclude Mr. Laporte and all others from becoming vendees.—This proceeding, if acted upon, completely foreclosing him from the exercise of all claim upon Government, and all opportunity of retrieving his losses. The opposite party, by such an act, becoming proprietors of the improvements made by Laporte during the pendency of this long and tediously procrastinated business, the same having been made in a spirit of perfect reliance upon the pledge and good faith of Government; and upon the strength of which Laporte has, and still retains possession of the said property at great annual cost, and in opposition to the violent and forcible attempts of William Lampson to dispossess him, Laporte, thereof. The representatives of the Nuns themselves, formerly the fierce opponents, lately, the humble supplicants of the Crown, and, at the present time, the vindictive adversaries of the rights of Laporte, would not, in their ingenious Petition to the Executive, hazard a claim of preference to the latter, without first proposing the conciliatory and plausible offer of compensation being made to him for his improvements, but which the Crown then honourably and judiciously rejected, as incompatible with its engagements to Laporte.

The consideration, in a legal point of view, of the creation of a tenure so *novel* and *unique* in this or, perhaps, any other country, as the one proposed by the Honorable Committee—namely, that of the *Droit de Retrait*, to be exercised by William Lampson, the representative of the Nuns, upon property held *in free and common socage*, the same situate within the domain of the Crown, is, as regards the dignity of the latter, in its nature so preposterous, and of so humiliating a character and tendency, (Government being, heretofore, always considered the sole *seigneur* of the Royal domain, enjoying, possessing, and disposing of all property therein situate, free from all seigniorial claims and drawbacks of every species and description, *Droit de Retrait* or otherwise,) as to cause a regret that the expediency of such a measure, so as to ensure justice to all parties, should have been recommended at all by the Honorable Committee in the present Report.†

It must be conceded, upon an examination of this last executed Report, that not only has every demonstration of respect been shown in the same to the pretensions of the legal opponents of the Crown, but, under the real circumstances of the case, the inference is presumptive that the most favorable interpretation, as a measure of expediency, has been given to their claims, and this carried out to such an extreme point as not to be found in any other of the numerous Reports of the Executive Council on the subject, and to receive which gift at the hands of the Crown they are not, it is confidently asserted, either equitably or justly entitled.

* The appeal to the Queen and Privy Council by the Frasers was, for reasons best known to themselves, never carried into effect, the Committee therefore which framed the Report of December, 1811, the appeal alluded to having ceased to exist, could not in any way be governed by such a move on the part of the opponents of the Crown. The cross appeal made by Government for the benefit of Laporte in this case was also discontinued, leaving the Beach as property situate within the Domain of the Crown.

† The right of preemption is an application of the old system of *retrait* in the French law, which existed solely for the purpose of preventing fraud in private sales, to the detriment of the *seigneur's* rights, by a concealment of the real amount of the purchase money.

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