

examination to be as destitute of foundation, as any the most absurd of opinions ever vulgarly entertained.

If the Seigniors be trustees and not proprietors, this much must be conceded—that their capacity of trustees must arise, either from the incidents of the law in France before their grants; or from something which took place at the time of making the grants—from something done here in the colony, or by the authorities in France, before the cession; or, lastly, from something done since the cession of Canada to the British Crown. On all these points, I maintain that there is nothing to show the Seigniors to have been trustees, and not proprietors—everything to show that whatever interference was exercised over their property, was of an abnormal character.

As to the tenor of the prior French law, interpreting the subsequent grants in Lower Canada, I will not say much; because, though addressing a tribunal, I am not addressing a body composed exclusively of professional men, and ought not therefore to talk too abstruse law. I shall go as little as possible into details; but, venturing as I do on a position which professional men will and must attack, it is necessary for me to state, in some detail, my reasons for the conclusions to which I come.

It would be a singular thing, considering what we know of France, if in the seventeenth and early part of the eighteenth centuries, any idea should have been entertained by the French Crown, of creating a body of aristocratic land-holders, as mere land-granting trustees for the public, especially for a portion of the public then considered so low as to be unworthy of attention. For ages, indeed down to the great revolution in the 18th century, the doctrine which prevailed in France, was a doctrine which made public trusts a property; not one which made of property a public trust. The Seignior who was a *Justicier*, was the absolute owner of all the many and onerous dues, which he collected from the people subject to his control. The functionaries, even, whom he employed to distribute the justice—such as it was—which he executed, held their offices for their own benefit—bought them and sold them. Trusts were then so truly property, that the majority of the functionaries of the very Crown itself possessed their offices as real estate, which might be seized at law, sold, and the proceeds of the sale dealt with just as though the offices had been so much land. The whole system regarded the Throne as worthy of the very highest respect; the Aristocracy as worthy of a degree of respect only something below that accorded to the Crown; the country population, as worthy of no respect at all. Was it at a time when public trusts were property; when the masses were only not slaves; when we must suppose that the French King, about to settle a new and great country, would naturally seek to introduce there something like the state of things which prevailed in the old country; was it, too, when the King was here creating Seigniors, with the prerogatives of *Hauts Justiciers*, and raising some of them to high rank in the peerage; that he gave to these his grantees, what only purported to be property but was really a public trust, and this trust to be executed in behalf of a class for whose welfare he cared next to nothing? The idea is natural to us; because we associate the power of the Crown with the happiness and welfare of the people governed. We are so sensitive, that we shrink, when speaking of the classes of old called the lower orders, from calling them by that name; but this was not so then. Then the masses were emphatically the lower orders; or rather they were hardly an “order” at all. This was the state of things here, at the time of the making of these grants.

Now, under the French system, there were then four principal modes of holding real estate. It was often held under certain limitations. All who did not hold by the noblest and freest tenure, may be said (if one must use a modern term) to have held in trust; not, however, in trust for the behoof of those below, but for that of those above them. Certain property, in France and in Lower Canada, was held in *franc alev noble*—free land held by a noble man—held by a noble tenure, of no one, and owing no faith nor feudal subjection to any superior. There was again another kind of property, held in *franc alev roturier*—a property incapable of the attributes of nobility, but in other respects free. A third description was that held in *fief* or *seigneurie*; and lastly there were lands held *en roture* or *en censive*. But all these kinds of property were alike real estate, held by proprietors. The holder