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PRINCE EDWARD ISLAND.

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COPY of the ADDRESS to Her Majesty, adopted by the House of Assembly of *Prince Edward Island* on 9 May 1859, praying for the Appointment of a COMMISSION to inquire into the existing Relations of LANDLORD and TENANT in that Colony; and, COPY OF EXTRACTS of the subsequent CORRESPONDENCE of the Secretary of State for the Colonies with the Governor of *Prince Edward Island*, and Landowners and others of that Colony, relating to the same Subject.

(*Lord Stanley.*)

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Ordered, by The House of Commons, to be Printed,  
26 July 1864.

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[*Price 1 s. 8 d.*]

528.

*Under 16 oz.*

191

PRINCE EDWARD ISLAND.

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RETURN to an Address of the Honourable The House of Commons,  
dated 2 May 1864 ;—for,

“COPY of the ADDRESS to Her Majesty, adopted by the House of Assembly of *Prince Edward's Island* on the 9th day of May 1859, praying for the Appointment of a COMMISSION to inquire into the existing Relations of LANDLORD and TENANT in that Colony :”

“And, COPY or EXTRACTS of the subsequent CORRESPONDENCE of the Secretary of State for the Colonies with the Governor of *Prince Edward's Island* and Landowners and others of that Colony, relating to the same Subject.”

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Colonial Office, }  
25 July 1864. }

FREDERIC ROGERS.

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(*Lord Stanley.*)

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Ordered, by The House of Commons, to be Printed,  
26 July 1864.

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## SCHEDULE.

## DESPATCHES FROM THE GOVERNOR.

| No. in Series. | Number and Date.        | Page. | No. in Series. | Number and Date.         | Page. |
|----------------|-------------------------|-------|----------------|--------------------------|-------|
| 1              | No. 29 - 13 May 1859 -  | 1     | 19             | No. 26 - 24 April 1862 - | 24    |
| 2              | " 21 - 8 August 1859 -  | 3     | 20             | " 45 - 25 June 1862 -    | 24    |
| 3              | " 29 - 3 October 1859 - | 5     | 21             | " 46 - 25 June 1862 -    | 33    |
| 4              | " 15 - 16 April 1860 -  | 5     | 22             | " 52 - 23 July 1862 -    | 35    |
| 5              | " 21 - 30 April 1860 -  | 6     | 23             | " 61 - 3 Sept. 1862 -    | 36    |
| 6              | " 22 - 30 April 1860 -  | 6     | 24             | " 65 - 17 Sept. 1862 -   | 36    |
| 7              | " 55 - 1 October 1860 - | 7     | 25             | " 66 - 17 Sept. 1862 -   | 37    |
| 8              | " 56 - 1 October 1860 - | 9     | 26             | " 34 - 9 April 1863 -    | 39    |
| 9              | " 61 - 12 Nov. 1860 -   | 10    | 27             | " 68 - 5 August 1863 -   | 47    |
| 10             | " 62 - 12 Nov. 1860 -   | 11    | 28             | " 73 - 19 August 1863 -  | 47    |
| 11             | " 63 - 12 Nov. 1860 -   | 12    | 29             | " 76 - 2 Sept. 1863 -    | 48    |
| 12             | " 64 - 12 Nov. 1860 -   | 12    | 30             | " 43 - 6 May 1864 -      | 49    |
| 13             | " 65 - 12 Nov. 1860 -   | 13    | 31             | " 44 - 7 May 1864 -      | 50    |
| 14             | " 4 - 1 February 1861   | 14    | 32             | " 50 - 6 June 1864 -     | 53    |
| 15             | " 54 - 24 June 1861 -   | 15    | 33             | " 59 - 3 August 1864 -   | 54    |
| 16             | " 80 - 2 Sept. 1861 -   | 15    | 34             | " 61 - 15 August 1864 -  | 56    |
| 17             | " 3 - 10 January 1862   | 23    | 35             | " 65 - 7 Sept. 1864 -    | 57    |
| 18             | " 15 - 3 March 1862 -   | 23    |                |                          |       |

## DESPATCHES FROM THE SECRETARY OF STATE.

|    |                            |    |    |                          |    |
|----|----------------------------|----|----|--------------------------|----|
| 1  | No. 11 - 6 Sept. 1859 -    | 59 | 11 | No. 94 - 7 February 1862 | 65 |
| 2  | " 13 - 17 Sept. 1859 -     | 59 | 12 | " 97 - 21 March 1862 -   | 65 |
| 3  | " 12 - 21 March 1860 -     | 60 | 13 | " 103 - 5 April 1862 -   | 66 |
| 4  | " 23 - 16 June 1860 -      | 60 | 14 | " 120 - 9 August 1862 -  | 66 |
| 5  | " 28 - 3 July 1860 -       | 61 | 15 | " 24 - 11 July 1863 -    | 67 |
| 6  | " 33 - 28 July 1860 -      | 62 | 16 | " 1 - 9 January 1864 -   | 73 |
| 7  | " 39 Extract, 19 Oct. 1860 | 62 | 17 | " 3 - 27 January 1864 -  | 73 |
| 8  | " 40 - 22 October 1860 -   | 63 | 18 | " 2 - 8 April 1864 -     | 74 |
| 9  | " 45 - 2 January 1861 -    | 63 | 19 | " 13 - 8 July 1864 -     | 74 |
| 10 | " 52 - 13 February 1861    | 64 | 20 | " 28 - 15 Nov. 1864 -    | 74 |

## CORRESPONDENCE WITH LANDOWNERS AND OTHERS.

| No. in Series. |   | Date.        | Page. |
|----------------|---|--------------|-------|
| 1              | Sir S. Cunard, Bart., and others to the Duke of Newcastle | 13 Feb. 1860 | 75    |
| 2              | C. Fortescue, Esq., M.P., to Sir S. Cunard, Bart.         | 11 May 1860  | 76    |
| 3              | Sir S. Cunard, Bart., to C. Fortescue, Esq., M.P.         | 14 May 1860  | 76    |
| 4              | C. Fortescue, Esq., M.P., to Sir S. Cunard, Bart.         | 30 June 1860 | 76    |
| 5              | Sir S. Cunard, Bart., to the Duke of Newcastle            | 8 Oct. 1860  | 77    |
| 6              | Sir F. Rogers, Bart., to Sir S. Cunard, Bart.             | 13 Oct. 1860 | 78    |
| 7              | Ditto - ditto -   | 23 Jan. 1861 | 78    |
| 8              | Sir S. Cunard, Bart., to the Duke of Newcastle            | 2 Oct. 1861  | 78    |
| 9              | Ditto - ditto -   | 14 Nov. 1861 | 80    |
| 10             | C. Fortescue, Esq., M.P., to Sir S. Cunard, Bart.         | 29 Nov. 1861 | 80    |
| 11             | T. F. Elliot, Esq., to Sir S. Cunard, Bart.               | 22 Mar. 1862 | 80    |
| 12             | Sir S. Cunard, Bart., to C. Fortescue, Esq., M.P.         | 24 Mar. 1862 | 81    |
| 13             | C. Fortescue, Esq., M.P., to Sir S. Cunard, Bart.         | 31 Mar. 1862 | 81    |
| 14             | Sir S. Cunard, Bart., and others to the Duke of Newcastle | 28 Mar. 1862 | 81    |
| 14*            | C. Fortescue, Esq., M.P., to Sir S. Cunard, Bart.         | 28 Mar. 1862 | 83*   |
| 15             | Sir S. Cunard, Bart., to the Duke of Newcastle            | 2 April 1862 | 85    |
| 16             | Sir F. Rogers, Bart., to Sir S. Cunard, Bart.             | 5 April 1862 | 85    |
| 17             | Ditto - ditto -   | 3 Dec. 1862  | 85    |
| 18             | Sir S. Cunard, Bart., to Sir F. Rogers, Bart.             | 30 Jan. 1863 | 86    |
| 19             | T. F. Elliot, Esq., to Sir S. Cunard, Bart.               | 14 Feb. 1863 | 87    |

CORRESPONDENCE WITH LANDOWNERS AND OTHERS—*continued.*

| No. in Series. |   | Date.         | Page. |
|----------------|---|---------------|-------|
| 20             | Sir S. Cunard, Bart., to T. F. Elliot, Esq. - - - -             | 24 Feb. 1863  | 87    |
| 21             | Sir F. Rogers, Bart., to Sir S. Cunard, Bart. - - - -           | 11 July 1863  | 88    |
| 22             | Ditto - - - ditto - - - -                                       | 28 Oct. 1863  | 88    |
| 23             | Sir S. Cunard, Bart., to Sir F. Rogers, Bart. - - - -           | 31 Oct. 1863  | 88    |
| 24             | Sir S. Cunard, Bart., to the Duke of Newcastle - - - -          | 14 Nov. 1863  | 89    |
| 25             | T. F. Elliot, Esq., to Sir S. Cunard, Bart. - - - -             | 23 Nov. 1863  | 91    |
| 26             | Ditto - - - ditto - - - -                                       | 26 Nov. 1863  | 91    |
| 27             | Sir S. Cunard, Bart., to Sir F. Rogers, Bart. - - - -           | 5 Dec. 1863   | 91    |
| 28             | Sir F. Rogers, Bart., to Sir S. Cunard, Bart. - - - -           | 1 Jan. 1864   | 93    |
| 29             | Sir S. Cunard, Bart., to Sir F. Rogers, Bart. - - - -           | 4 Jan. 1864   | 94    |
| 30             | Sir S. Cunard, Bart., to the Duke of Newcastle - - - -          | 26 Mar. 1864  | 94    |
| 31             | Sir F. Rogers, Bart., to Sir S. Cunard, Bart. - - - -           | 6 April 1864  | 98    |
| 32             | Ditto - - - ditto - - - -                                       | 4 June 1864   | 98    |
| 33             | Sir S. Cunard, Bart., to Sir F. Rogers, Bart. - - - -           | 6 June 1864   | 98    |
| 34             | Sir S. Cunard, Bart., to Sir F. Rogers, Bart. - - - -           | 10 June 1864  | 99    |
| 35             | Sir F. Rogers, Bart., to Sir S. Cunard, Bart. - - - -           | 13 June 1864  | 99    |
| 36             | Ditto - - - ditto - - - -                                       | 29 June 1864  | 99    |
| 37             | Sir S. Cunard, Bart., to Mr. Secretary Cardwell - - - -         | 6 July 1864   | 99    |
| 38             | Sir F. Rogers, Bart., to Sir S. Cunard, Bart. - - - -           | 8 July 1864   | 100   |
| <hr/>          |   |               |       |
| 1              | Lieutenant Colonel Cumberland to Mr. Secretary Cardwell - - - - | 16 June 1864  | 100   |
| 2              | Sir F. Rogers, Bart., to Lieutenant Colonel Cumberland - - - -  | 3 Aug. 1864   | 101   |
| <hr/>          |   |               |       |
| 1              | Lady Georgina Fane to the Duke of Newcastle - - - -             | 26 Nov. 1861  | 102   |
| 2              | Sir F. Rogers, Bart., to Lady Georgina Fane - - - -             | 31 Dec. 1861  | 103   |
| 3              | Lady Georgina Fane to the Duke of Newcastle - - - -             | 13 Jan. 1862  | 103   |
| 4              | T. F. Elliot, Esq., to Lady Georgina Fane - - - -               | 13 Jan. 1862  | 104   |
| 5              | Lady Georgina Fane to the Duke of Newcastle - - - -             | 22 Nov. 1862  | 104   |
| 6              | Sir F. Rogers, Bart., to Lady Georgina Fane - - - -             | 16 Dec. 1862  | 105   |
| 7              | Lady Georgina Fane to Mr. Secretary Cardwell - - - -            | 13 June 1864  | 105   |
| 8              | T. F. Elliot, Esq., to Lady Georgina Fane - - - -               | 27 June 1864  | 107   |
| 9              | Lady Georgina Fane to T. F. Elliot, Esq. - - - -                | 28 June 1864  | 107   |
| 10             | Lady Georgina Fane to Mr. Secretary Cardwell - - - -            | 6 July 1864   | 108   |
| 11             | C. Fortescue, Esq., M.P., to Lady Georgina Fane - - - -         | 16 July 1864  | 109   |
| 12             | Lady Georgina Fane to Mr. Secretary Cardwell - - - -            | 2 Aug. 1864   | 109   |
| 13             | Sir F. Rogers, Bart., to Lady Georgina Fane - - - -             | 9 Aug. 1864   | 109   |
| 14             | Lady Georgina Fane to Mr. Secretary Cardwell - - - -            | 18 Aug. 1864  | 110   |
| 15             | Ditto - - - ditto - - - -                                       | 27 Aug. 1864  | 110   |
| 16             | T. F. Elliot, Esq., to Lady Georgina Fane - - - -               | 1 Sept. 1864  | 112   |
| 17             | Lady Georgina Fane to Mr. Secretary Cardwell - - - -            | 2 Sept. 1864  | 112   |
| 18             | T. F. Elliot, Esq., to Lady Georgina Fane - - - -               | 12 Sept. 1864 | 113   |
| 19             | Lady Georgina Fane to Mr. Secretary Cardwell - - - -            | 15 Sept. 1864 | 113   |
| 20             | Sir F. Rogers, Bart., to Lady Georgina Fane - - - -             | 28 Sept. 1864 | 114   |
| 21             | Lady Georgina Fane to Mr. Secretary Cardwell - - - -            | 28 Sept. 1864 | 114   |
| 22             | Ditto - - - ditto - - - -                                       | 8 Nov. 1864   | 115   |
| 23             | T. F. Elliot, Esq., to Lady Georgina Fane - - - -               | 19 Nov. 1864  | 116   |
| <hr/>          |   |               |       |
| 1              | Sir F. Rogers, Bart., to J. H. Gray, Esq. - - - -               | 16 June 1860  | 116   |
| 2              | J. H. Gray, Esq., to Sir F. Rogers, Bart. - - - -               | 7 July 1860   | 117   |
| 3              | J. H. Gray, Esq., to the Duke of Newcastle - - - -              | 23 Dec. 1861  | 118   |
| <hr/>          |   |               |       |
| 1              | Messrs. Montgomery to the Duke of Newcastle - - - -             | 11 Dec. 1861  | 118   |
| 2              | C. Fortescue, Esq., M.P., to Messrs. Montgomery - - - -         | 20 Dec. 1861  | 119   |

CORRESPONDENCE WITH LANDOWNERS AND OTHERS—*continued.*

| No. in Series. |   | Date.         | Page. |
|----------------|---|---------------|-------|
| 1              | Messrs. Palmer & Pope to the Duke of Newcastle - - -      | 18 Sept. 1863 | 119   |
| 2              | Sir F. Rogers, Bart., to Messrs. Palmer & Pope - - -      | 24 Sept. 1863 | 119   |
| 3              | Messrs. Palmer & Pope to the Duke of Newcastle - - -      | 13 Oct. 1863  | 120   |
| 4              | Sir F. Rogers, Bart., to Messrs. Palmer & Pope - - -      | 30 Oct. 1863  | 122   |
| 5              | T. F. Elliot, Esq., to Messrs. Palmer & Pope - - -        | 7 Nov. 1863   | 122   |
| 6              | W. H. Pope, Esq., to the Duke of Newcastle - - -          | 21 Nov. 1863  | 123   |
| 7              | T. F. Elliot, Esq., to W. H. Pope, Esq. - - -             | 26 Nov. 1863  | 123   |
| 8              | W. H. Pope, Esq., to the Duke of Newcastle - - -          | 27 Nov. 1863  | 123   |
| 9              | Sir F. Rogers, Bart., to W. H. Pope, Esq. - - -           | 5 Dec. 1863   | 124   |
| 10             | T. F. Elliot, Esq., to W. H. Pope, Esq. - - -             | 10 Dec. 1863  | 124   |
| 11             | W. H. Pope, Esq., to the Duke of Newcastle - - -          | 18 Dec. 1863  | 124   |
| 12             | T. F. Elliot, Esq., to W. H. Pope, Esq. - - -             | 7 Jan. 1864   | 134   |
| 13             | W. H. Pope, Esq., to T. F. Elliot, Esq. - - -             | 13 Jan. 1864  | 134   |
| 14             | H. Palmer, Esq., to Mr. Secretary Cardwell - - -          | 18 Aug. 1864  | 136   |
| <hr/>          |   |               |       |
| 1              | Mrs. Stephens to the Duke of Newcastle - - -              | - Feb. 1861   | 137   |
| 2              | C. Fortescue, Esq., M.P., to Mrs. Stephens - - -          | 4 Mar. 1861   | 137   |
| <hr/>          |   |               |       |
| 1              | Messrs. Stewart and others to the Duke of Newcastle - - - | 1 Oct. 1860   | 138   |
| 2              | R. B. Stewart, Esq., to Mr. Secretary Cardwell - - -      | 12 July 1864  | 141   |
| 3              | Sir F. Rogers, Bart., to R. B. Stewart, Esq. - - -        | 9 Aug. 1864   | 141   |
| 4              | R. B. Stewart, Esq., to Mr. Secretary Cardwell - - -      | 20 Oct. 1864  | 141   |
| 5              | T. F. Elliot, Esq., to R. B. Stewart, Esq. - - -          | 19 Nov. 1864  | 142   |
| <hr/>          |   |               |       |
| 1              | Lady Wood to Mr. Secretary Cardwell - - -                 | 31 Oct. 1864  | 142   |
| 2              | T. F. Elliot, Esq., to Lady Wood - - -                    | 8 Nov. 1864   | 143   |
| <hr/>          |   |               |       |
| 1              | Charles Wright, Esq., to the Duke of Newcastle - - -      | 6 Nov. 1860   | 143   |

COPY of the ADDRESS to Her Majesty, adopted by the House of Assembly of *Prince Edward's Island* on the 9th day of May 1859, praying for the appointment of a COMMISSION to inquire into the existing Relations of LANDLORD and TENANT in that Colony:—And, COPY or EXTRACTS of the subsequent CORRESPONDENCE of the Secretary of State for the Colonies with the Governor of *Prince Edward's Island* and Landowners and others of that Colony, relating to the same subject.

## Despatches from the Governor.

— No. 1. —

(No. 29.)

COPY of a DESPATCH from the Lieutenant Governor Sir *D. Daly* to the Right Hon. Sir *E. B. Lytton*, Bart.

Government House, Prince Edward Island,  
13 May 1859.

No. 1.  
Lieut.-Governor  
Sir *D. Daly* to Sir  
*E. B. Lytton*, Bart.  
13 May 1859.

Sir,

(Answered, No. 11, 6 September 1859, page 50.)

I HAVE the honour of transmitting to you herewith, an Address to Her Majesty, passed by the Legislative Assembly of this Island in their present Session, on the subject of the "Land Tenures," and the fishery reserves, for the purpose of being laid at the foot of the Throne.

2. In an Address to myself, which I have also the honour of transmitting to you, the Assembly request my favourable recommendation of their proposition, with which request I beg very respectfully to comply, for although not very sanguine as to the efficiency of the remedy prayed for, I consider the proceeding of the Assembly in the present instance to be a move in the right direction.

3. It has also the singular advantage of having been adopted all but unanimously by the Assembly, the only dissentient voice being that of the "notorious escheator, Mr. Cooper."

4. Much might be said as to the prospect of complete success which this proceeding is imagined by some persons to present, but if it should meet the approval of Her Majesty's Government, it will I trust at all events have the effect of suspending the mischievous agitation of the subjects in question, and will give to all the parties interested further time for the consideration of other means for the solution of the difficulties which have so long impeded the advancement of this Colony.

I have, &c.  
(signed) *D. Daly*,  
Lieut. Governor.

Enclosure 1, in No. 1.

To the QUEEN'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,

WE, Your Majesty's loyal and devoted subjects, the House of Assembly of Prince Edward Island, in Parliament assembled, beg to approach Your Majesty, and most humbly submit for Your Royal consideration the following premises:—

"In certain Despatches from one of Your Majesty's Ministers, the Right Honourable Sir Edward Bulwer Lytton, Baronet, Secretary of State for the Colonies, dated Downing-street, 20th October and 3d December 1858, the Right Honourable Baronet therein states that the whole question of the land tenures in this Island is engaging his most anxious attention, and that it would give him unfeigned pleasure to receive such suggestions for their amicable settlement as could be accepted by Your Majesty's Government.

"Having taken these Despatches into consideration, after mature deliberation, and with an earnest design to terminate the disputes which have so long disturbed the peace and harmony of the Colony, the House have adopted the following resolutions:—

"Whereas certain questions arising out of the original grants of the lands in this Island, severally called the Escheat question, the Fishery Reserve question, and the Quit-rent question, have for many years caused much discussion and difference of opinion

opinion amongst the people of this Island, and many delusive projects and impracticable measures have been and are from time to time enunciated respecting such questions, whereby the tenantry have been and are greatly imposed upon and induced to support the propounders of such measures, under the delusive hope that by doing so they will be relieved of the payment of rent; and the attention both of the people and Legislature being occupied with such deceptive schemes, measures intended to develop the resources of the Colony are not only neglected, but a state of society equally opposed to the moral, social, and political welfare of the people, and their true interests is produced: And whereas various despatches have for a great number of years declared that Her Majesty's Government will not consent to any compulsory interference with the laws and rights of the proprietors, and which has been strongly reiterated in the despatch of Sir Edward Bulwer Lytton, now Her Majesty's Principal Secretary of State for the Colonies, dated 20th October 1858, and 3d December 1858, from which it is clear that any measures for the benefit of the tenantry must result from an amicable arrangement with the proprietors: And whereas the agitation of hostile measures, such as escheat, fishery reserves, and quit-rents, must not only result, as they always have done, in leading the tenantry into costs and trouble without in any way ameliorating their condition, but will also engender a feeling in the proprietors, rendering them disinclined to listen to proposals which, if such agitation were at an end, they would be likely to entertain: And whereas Sir Edward Bulwer Lytton, in his despatches above referred to, while refusing to sanction measures which in England are considered inconsistent with the rights of property, has expressed the readiness of Her Majesty's Government to co-operate with the Legislature in furthering measures for the settlement of the land tenures, if conceived in a spirit of fairness and conciliation to all parties:

"Therefore resolved, 1st. That an humble address be presented to Her Majesty, praying that Her Majesty will be pleased to direct a Commission to some discreet and impartial person, not connected with the Island or its affairs, to inquire into the existing relations between landlord and tenant, and to negotiate with the proprietors for such abatement of present liabilities, and for such terms for enabling the tenantry to convert their leaseholds into freeholds, as, without infringing on the rights of the landlords, may be fairly and reasonably asked for to ameliorate the condition of the tenantry.

"2d. Resolved, That in the opinion of this House the basis of any such arrangement should be a large remission of arrears of rents now due; and secondly, the giving every tenant holding under a long lease an option of purchasing his land at a certain rate, at any time he might find it convenient to do so.

"3d. Resolved, That a remission of arrears of rent may be reasonably asked, inasmuch as the existence of these arrears, although it is due partly to an unwillingness of the tenants to pay rent, under the idea that escheat or some other delusive scheme would enable them to evade; yet it is also due in part to the lâches and remissness of the landlords and their agents in not enforcing it; and because, in many cases, the arrears, however incurred, amount to so large a sum that the exacting them would prove ruinous to a large number of loyal and industrious people, and would further entirely put it out of their power to avail themselves of the plan suggested in subsequent resolutions for purchasing their farms.

"4th. Resolved, That as the circumstances of the tenantry would not in general enable them to pay down any large portion of the purchase-money, the best and only means for converting the tenures into freeholds lies in the adoption of the plan which would practically constitute every farm a savings bank for its owner, in which he could from time to time invest his savings at interest, towards the purchase of his farm, an arrangement which could be effected by the following means; viz., that the landlords should agree to permit the tenants to purchase their farms for such sum per acre as shall be fixed upon; and providing further, that when any tenant (whose rent was paid up) should be desirous of paying any sum, not being less than ten pounds, towards the purchase of his land, he should have the option of doing so, and that the interest on the ten pounds, or other amount so paid, should thenceforth go in reduction of his yearly rent, and so on for every payment on account of purchase until the whole was paid, when he should receive his deed, and that similar covenants should be inserted in all future leases for terms over 40 years; such an arrangement would not only give the tenant the advantage of paying an instalment of his purchase-money, and at the same time reducing his rent whenever he chose, without subjecting himself to the vexation and costs incident to cases of inability to meet instalments agreed to be paid at a particular day, but would, in the opinion of this House, gradually but certainly change the tenures into freeholds, without the aid of loans and the expensive subsistence of public offices, by which heavy liabilities have already been, and would, if persevered in to a much greater extent, be imposed on the public finances.

"We do therefore humbly pray that Your Majesty will be pleased to take the foregoing matters into Your Royal consideration, and to appoint some fit and proper person or persons Commissioner or Commissioners to inquire into the relations of landlord and tenant in this Island, and negotiate with the proprietors of township lands for the fixing some certain rate of price at which every tenant may at any time have the option of purchasing his land, or of paying instalments of such purchase, and thereby gradually reducing the yearly rent until the whole price thereof is paid; and also to negotiate with the proprietors for a remission of the arrears of rent in such cases and on such townships as the said Commissioner

197

or Commissioners, from the circumstances of the tenantry or otherwise, may deem reasonable and expedient; and also to make such report respecting the Fishery Reserve question, and other questions relating to the township lands of the Island, as we confidently hope will effect a final settlement thereof, and prevent an agitation regarding the same in future.

“House of Assembly, P. E. Island,  
9th May 1859.”

“(signed) DONALD MONTGOMERY,  
“Speaker.”

Enclosure 2, in No. 1.

To His Excellency Sir *Dominick Daly*, Knight, Lieutenant Governor and Commander-in-Chief in and over Her Majesty's Island, Prince Edward, and the Territories thereunto belonging, Chancellor, Vice Admiral and Ordinary of the same, &c. &c. &c.

Encl. 2, in No. 1.

May it please Your Excellency,

THE House of Assembly having resolved to address Her Majesty on the subject of the land tenures and fishery reserves of this Island, as alluded to in the Despatches of Her Majesty's Principal Secretary of State for the Colonies, addressed your Excellency, and bearing date the 20th October and 3d December 1858, have passed an Address to Her Majesty on the foregoing questions.

The House of Assembly respectfully request that your Excellency will be pleased to forward the same to Her Majesty at your earliest convenience, and at the same time to give your Excellency's favourable recommendation.

House of Assembly,  
9 May 1859.

(signed) *Donald Montgomery*,  
Speaker.

— No. 2. —

(No. 21.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K.G.

No. 2.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K.G.  
8 August 1859.

Government House, Prince Edward Island,  
8 August 1859.

My Lord Duke,

(Answered, No. 13, 17 September 1859, page 59.)

IN the instructions, dated 7th January 1859, which before leaving England I received from Sir E. B. Lytton, he desired me to ascertain, after my arrival in the Island, whether it would be possible to appoint a Commission or Committee to consider the best means for the final settlement of those questions, connected with the tenures of land, that had for so long agitated this Colony, and hindered its prosperity.

2. At the time that Sir Edward delivered these instructions to me, a Government was in power here, which it was believed would not be favourable to the appointment of such a Commission.

3. Since then, however, that Government has been replaced by one which has anticipated the means of adjustment pointed to by Sir E. B. Lytton, and which carried an Address from the House of Assembly, dated 9th May 1859, praying that Her Majesty would appoint a Commission to inquire into the relations of landlord and tenant in this Island, with the view of settling what was in dispute between them, and facilitating the equitable acquisition by purchase of his farm by the tenant.

The Address likewise suggests other questions, the principal of which is that of the fishery reserves, to be dealt with by this Commission.

4. From all I have learned since my arrival in the Colony, I am strongly of opinion that the appointment of such a Commission would be highly beneficial, and that it would go far towards effecting a final and satisfactory settlement of what has been for so many years in dispute.

5. I think it is very desirable that arrangements be entered into at once for the formation of this Commission.

6. Though Sir Edward pointed to a selection, by me, of men belonging to the Island to compose the Commission, I consider that it would be preferable to take two out of the three, who would form it, from the adjoining colonies, and the third from England.

7. This would prevent any unfair bias or leaning towards either party being attributed to the Members of the Commission.

8. From the time of my arrival in North America, I have made anxious inquiry, with the view of securing the services of the best and the most able men to be had.

9. I feel much gratification in being able to submit to your Grace the names of two gentlemen, of whom there seems to be but one opinion entertained by all who have expressed themselves to me regarding them.

10. Mr. John Hamilton Gray, of St. John, New Brunswick, is one, and Captain Robinson, R.N., of Campo Bello, in the Bay of Fundy, is the other; both these gentlemen are well qualified for Commissioners, they bear high characters for integrity and uprightness, they are well acquainted with all colonial subjects, and well used to deal with them; Mr. Gray has already the advantage of a personal acquaintance with Prince Edward Island, acquired during the time that he was employed as umpire between the English and American Commissioners on the Reciprocity Treaty respecting the rivers of the Island, when he gave great satisfaction.

11. Being a barrister, his legal knowledge will prove highly advantageous to the Commission.

12. In addition to these two, I would also bring under your Grace's notice Mr. Johnston, the Attorney General of Nova Scotia, a gentleman of profound legal acquirements, and who, if your Grace thought it desirable, might be substituted for Captain Robinson.

13. The third name which I would submit to your Grace is that of a gentleman in whose ability and judgment I place full reliance, based on my personal knowledge of his character. He is Mr. Thomas Robert Preston, of 26, Austin-friars, E. C.

14. Mr. Preston has had large colonial experience, gained during a residence in Canada, and while he acted as a Special Commissioner for the Southern Whale Fishery Company to the Auckland Islands. He is a thorough business man and accountant.

15. If your Grace will sanction my doing so, I shall put myself in communication with Mr. Gray and Captain Robinson, or Mr. Johnston; and should your Grace approve also of Mr. Preston being appointed a Member of the Commission, that gentleman might receive, direct from the Colonial Office, orders to hold himself in readiness to proceed, without delay, to Prince Edward Island.

16. With regard to the expenses of the Commission, it has been suggested that one-third be defrayed by the Legislature of the Island, one-third by the proprietors, and the remaining third by the Home Government.

17. To the last part of the proposed arrangement I trust your Grace will not object. Compared with the results to be gained, the expense is as nothing; and when the long-agitated questions that have disturbed the peace of the Colony shall have been settled, much difficulty and embarrassment will be saved, not only to Her Majesty's Representative here, but to the Colonial Office at home.

18. Independently of the advantages to be gained both by the Island and at home by the settlement of these questions, there is another consideration demanding grave attention.

19. In the original grants of several of the townships of this Island, a space of 500 feet high-water mark, is reserved, and free liberty extended to all Her Majesty's subjects to make use of this space for fishing purposes. By treaty, equal rights to those of British subjects, as regards fishing, are granted to the Americans, who, if they were aware of the extent to which they might, under the words of that treaty, claim these, would not be slow in taking advantage of them, and thus causing extreme inconvenience, if not incurring the certainty of serious misunderstanding.

20. The principal questions, to the solution of which the Commissioners will have to apply themselves, are, "the Land Tenures," "the Quit-rents," and "the Fishery Reserves." With regard to the two first, there is in reality but little difficulty; and an authoritative decision, at which men of sound judgment can readily arrive, will go far to set these matters at rest for ever.

21. The fishery reserves question will probably require more time and deeper inquiry; but I anticipate the most satisfactory results from the practical acquaintance which Mr. Gray has already with all the shores and numerous inlets of the Island, a knowledge which will greatly assist the Commission in arriving at an equitable and just conclusion.

22. Should

22. Should the report of these gentlemen meet with your Grace's approval, perhaps your Grace will sanction a short declaratory Act of the Imperial Legislature being passed to carry out the recommendation of the Commissioners. This would effectually silence any attempt to revive in the Colony agitation on the subject, even for electioneering purposes.

23. On an adjustment of these questions being attained, I anticipate that the prosperity of the Colony will at once make a marked and rapid progress. It is impossible to over-state the resources of the Island as an agricultural settlement. The fertility of the soil, the ease with which that soil may be wrought, the cheapness of every necessary of life, and the facility of land and water carriage, all render it—when these advantages are combined with a climate healthy and congenial to an Englishman—a home essentially fitted for that class of colonist who is an active labourer, and has saved a sufficient sum to enable him to begin his career in a new country.

I have, &c.  
(signed) *George Dundas*,  
Lieut. Governor.

## — No. 3. —

(No. 29.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K.G.

Government House, Prince Edward Island,  
3 October 1859.

My Lord Duke,

I HAVE the honour to acknowledge the receipt of your Grace's Despatch, No. 11,\* of date 6th September 1859, in which, with regard to the proposed Commission to inquire into the existing relations between landlord and tenant in this Island, your Grace expresses your opinion that any prospect of a beneficial result from the labours of that Commission would be nullified were the independent action of the Commission fettered by its having prescribed to it, by the House of Assembly, any particular measures as a basis of that arrangement which it should be the endeavour of the Commission to bring about.

2. I laid your Grace's Despatch before my Executive Council, who unani- mously assured me that nothing could have been further from the wish of the House of Assembly than in any way to impede the free and independent action of the Commission, were your Grace to sanction its appointment; and that the principal reason for passing the Resolutions, which appeared to your Grace to indicate the circumscribing of the powers of the Commission, was to point out the existence of difficulties which a Commission might remove.

3. Under these circumstances I have only to add that, while it is the wish of the Government of this Island that the Commission should be at liberty to propose any measure which they may themselves judge desirable, yet the Government trusts that the suggestions of the House of Assembly, as contained in these Resolutions, may not be lost sight of by the Commission.

I have, &c.  
(signed) *George Dundas*,  
Lieut. Governor.

## — No. 4. —

(No. 15.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K. G.

Government House, Prince Edward Island,  
16 April 1860.

My Lord Duke,

(Answered, No. 23, 16 June 1860, page 60.)

I HAVE the honour to acknowledge the receipt of your Grace's Despatch No 12,\* of date 21st March 1860, on the subject of the Land Commission, and enclosing copy of a letter to your Grace from Sir Samuel Cunard.

I lost no time in laying your Grace's Despatch before my Executive Council, that immediate action might be taken to ascertain whether the tenants of

No. 3.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K. G.  
3 October 1859.

\* Page 59.

No. 4.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K. G.  
16 April 1860.

\* Page 60.

Prince Edward Island, or the House of Assembly on their behalf, were prepared to agree to a reference on the terms proposed in your Grace's Despatch.

With this object a Resolution, copy of which I herewith enclose, was moved in the House of Assembly, and affirmed by a large majority. Your Grace will observe that, by this Resolution, the House of Assembly, on behalf of the tenantry, agrees to the appointment of three Commissioners, one by each party to the reference, binds itself to abide by the decision of the Commissioners, or the majority of them, and pledges itself to concur in whatever measures may be required to give validity to that decision.

I have, &c.  
(signed) *George Dundas*,  
Lieut. Governor.

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Enclosure in No. 4.

Enclosure in No. 4.

EXTRACT from Journal of the House of Assembly, Saturday, 14 April 1860.

RESOLUTION on the subject of the appointment of a Commission of Enquiry in relation to the Land Tenures of Prince Edward Island; carried on division, 18 to 6.

*Resolved*, that this House deem it expedient to concur in the suggestions offered for the consideration of the House of Assembly, as set forth in the Despatch from His Grace the Duke of Newcastle, dated Downing-street, 21st March 1860, on the subject of the proposed appointment of a Commission of Enquiry for the arrangement of the long pending disputes between the landlords and tenants of this Island. The House of Assembly therefore agree to the appointment of three Commissioners, one by Her Majesty, one by the House of Assembly, and the third by the proprietors; the expense of the Commission to be equally divided between the Imperial Government, the general revenue of the Colony, and the proprietors.

The House of Assembly also agree, on the part of the tenantry, to abide by the decision of the Commissioners, or the majority of them, and pledge themselves to concur in whatever measures may be required to give validity to that decision.

A further Resolution, nominating the Honourable Joseph Howe, of Nova Scotia, a Commissioner on the part of the Assembly, passed *nem. con.*

(Certified.)  
(signed) *J. McNeill*, Clerk, House of Assembly.

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— No. 5. —

No. 5.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K. G.  
30 April 1860.

(No. 21.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of Newcastle, K. G.

Government House, Prince Edward Island,  
30 April 1860.

My Lord Duke,

(Answered, No. 23, 16 June 1860, page 60.)

I HAVE the honour to inform your Grace that the House of Assembly, on behalf of the tenantry of this Island, have unanimously invited the Hon. Joseph Howe, of Halifax, Nova Scotia, to be their referee or arbiter in the approaching Land Commission.

Mr. Howe has expressed his willingness to act in the above capacity.

I have, &c.  
(signed) *George Dundas*,  
Lieut. Governor.

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— No. 6. —

No. 6.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K. G.  
30 April 1860.

(No. 22.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of Newcastle, K. G.

Government House, Prince Edward Island,  
30 April 1860.

My Lord Duke,

(Answered, No. 23, 16 June 1860, page 60.)

REFERRING to my Despatch, No. 15\*, of date 16th April 1860, enclosing copy of a Resolution passed by the House of Assembly on the 14th instant, on the subject of the Land Commission, I have to inform your Grace that, confirma-  
tory

tory of the said Resolution, a short Act to the same effect has since been passed through both Houses.

This has been done in order to carry out the views expressed in your Grace's Despatch, No. 12\*, of date 21st March 1860, that as far as possible the Legislature of the Colony would concur in any measures which might be required to give validity to the decision of the Commissioners.

\* Page 60.

I have, &c.  
(signed) *George Dundas*,  
Lieut. Governor.

— No. 7. —

(No. 55.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K. G.

Government House, Prince Edward Island,  
1 October 1860.

No. 7.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K. G.  
1 October 1860.

My Lord Duke,

(Answered, No. 40, 22 October 1860, page 63.)

I INFORMED your Grace, in my Despatch, No. 50, of date 3d September 1860, that Messrs. Gray, Ritchie, and Howe, the three Commissioners appointed to investigate the land question, had arrived at Charlotte Town, and were to open their court on Wednesday the 5th September.

2. I have now to report that the Commissioners have brought their inquiries to a close, and that they leave Prince Edward Island to-day for Halifax.

3. These gentlemen have, since the opening of their court, conducted their investigations in a manner so careful and comprehensive that it reflects the utmost credit on their ability, and they have gained general confidence and respect from the courtesy, urbanity, and patience with which they have listened to every person claiming to be heard before them.

4. I have the honour to enclose, for your Grace's information, a report of the proceedings of the Commissioners, which has been prepared by them at my request.

I have, &c.  
(signed) *George Dundas*,  
Lieut. Governor.

Enclosure in No. 7.

Charlotte Town, Prince Edward Island,  
1 October 1860.

Enclosure in No. 7.

Sir,

WE have the honour to report for your Excellency's information, and for that of the Right Honourable the Secretary of State for the Colonies, who will, we assume, communicate with the combined proprietors, that the Queen's Commission was read in the council chamber in this city on the 6th day of September last, and that we have since held an open court, either in Charlotte Town, or in one of the shire towns of the counties into which the island is divided, on every day since, closing this morning.

All parties interested having been invited by public notice, and the members of the legislature by special circular, we have throughout the month been occupied in hearing evidence in the presence of large masses of the population, and have collected and written down a body of evidence, extending over 276 pages, and including the testimony of almost every leading public man in the Island, of a large majority of the proprietors or their agents, and of 200 delegations chosen and accredited by the tenantry.

In conducting this inquiry we have had the very able assistance of Joseph Hensley and Samuel Thomson, esquires, representing the provincial government and the tenants, and of Robert G. Haliburton and Charles Palmer, esquires, who have represented the proprietors. These gentlemen have been permitted to cross-examine every witness who presented himself in open court, and we have been favoured with their fearless discussion of the whole case for two days at the close of the sittings in Charlotte Town, including such legal questions as we presented for their investigation, or such as naturally arose in the progress of the inquiry.

The documentary history of this question is very voluminous, and we regret to say was not, at our coming, and is not now, arranged with sufficient accuracy and order to enable

us to study it with the ease and assurance of completeness which would guard us from error on important points.

This documentary history runs over nearly a century, including the correspondence of 25 Governors with the Board of Trade and with the Colonial Office, and is to be found in the journals of the legislature and the letter books of the province, or must be sought for on the files in Downing-street, where those of the Colony are, as often happens in the loose practice of early Colonial Governors, very incomplete.

To enable us rightly to comprehend all the proportions of the relations we are charged to investigate, and of the remedies we may desire to propose, it is almost indispensable that we should be furnished with the rent rolls of the proprietors, and with abstracts of the titles under which they hold their lands, and with various returns from the different public departments, including one or two that can only be obtained from home.

We propose now to spend the next three months in digesting the vast body of evidence we have collected, and in a thorough search into the history and merits of a controversy unexampled, perhaps, for length and virulence, in the history of colonization, and in the preparation of those returns which may be required to illustrate the subject, or fortify our decisions.

When we commenced our labours we were in hopes that they might be terminated in a few weeks, and that by the adoption of some general principles, we might be enabled to adjust the rights of all parties in a spirit of equity and fairness with very little delay. We have reluctantly abandoned this hope, and resigned ourselves to the conviction that haste in a matter of so much importance would not be true wisdom.

We had hardly entered upon this inquiry before we were compelled to consider it in some aspects scarcely anticipated when we assumed the task, and the questions of—

|                   |                 |
|-------------------|-----------------|
| Escheat,          | Quit-rents,     |
| Fishery reserves, | Pay-list hands, |

and the treatment and claims of the French and Indians have been pressed upon our attention by numerous delegations, and have been discussed in the arguments of counsel upon either side. It being impossible to cut off these collateral branches from the main inquiry, we decided to hear all that could be said upon them, and if possible to quiet, by an authoritative decision, the agitation of them for the future.

Coming to the conflicting claims of landlord and tenant, we soon discovered that all parties with whom the Commission originated had under-estimated the delicacy and difficulty of the inquiry. If one landlord owned the island—if one family had controlled its territory, one system would be apparent to the eye, and one remedy might be applied to its disorders, whatever they were.

But the Island having been divided into 67 townships, some of which have been since subdivided among several proprietors, each estate has a history and complications of its own; and even where several estates have fallen, at a later period, into the hands of one proprietor, their past treatment affects the length of leases, the value of the property, the amount of arrears, and the equitable considerations which must ultimately control our decisions in respect to them.

On some lots the leases have but 20 years to run, on others they are for 999 years. On some the rents are 1s., on others they are 2s. 6d. per acre. For some lots a price not higher than was paid for the Worrall and Selkirk estates would seem to be sufficient to remunerate the proprietor, while on others there is proof before us that lands are actually selling at prices varying from 2l. to 3l. 5s. per acre.

Where agents have been vigilant, and landlords have comprehended their duties as well as their rights, estates are in fair condition, leasehold tenures are easily converted into freehold, and there is but little discontent; but where the management has been bad, the title uncertain, or the tenants of a thriftless class, the contrasts are very striking; and it is therefore apparent that the hasty application of any general principles might work frightful injustice, either to the proprietors or the tenants.

Under these circumstances, it may yet be necessary, and we fear it will, to deal with each lot separately; and to enable us to do this with the care and circumspection which are indispensable to an equitable decision in each case, the facts bearing upon it must be collected, and so arranged as to afford the materials for just comparison.

We are most reluctant to deceive his Grace the Duke of Newcastle or your Excellency in a matter of so much importance, and we ought not, in an investigation affecting more than a million of acres of land, and the rights and interests of 80,000 people, to peril our reputations, as gentlemen, by deciding upon questions so important and interests so vast in less time than is often required by legal tribunals to adjudicate on a single estate, and without the aids which a Court of Chancery deems indispensable to the adjustment of the complicated transactions of individual parties.

It is clear to us that a hasty decision would compromise the honour of the Crown, and if unjust, as it probably would be, might be followed by renewed agitation, even more aggravated than that which has characterised the past. We are most anxious that our decision should be based upon such a thorough examination into the facts, and careful comparison of the relative condition of each township, that the grounds of our decision shall be apparent to proprietors and tenants, and defended either in the Colonial or the Imperial Parliament.

We propose, therefore, between this date and the end of the year, to review the 300 memorials which are upon our files, to digest the evidence which we have accumulated, and to dispose of the documentary history of the question, scattered through the files of nearly

nearly a century. In the meantime we may be compelled to employ a competent person to examine the condition of each township, and, after careful inquiry upon the soil, to fill up the returns with which he will be furnished.

When these are completed, should it be necessary we will visit the Island, and, with these returns in our hands, decide upon each case, and with a discriminating regard to every consideration which can be pleaded either by landlords or tenants.

However much we may regret the delay, we are very anxious that Her Majesty's Government, and all parties concerned, shall at least have the assurance that every pains have been taken to adjust these unfortunate disputes with the care and circumspection which are demanded by an acute sense of their magnitude and importance.

We cannot close this letter without thanking your Excellency for the ready access with which we have been honoured, the facilities afforded in the course of our inquiries, and for the hospitality and courtesy which we have received at your hands.

His Excellency  
Lieut. Governor George Dundas,  
&c. &c. &c.

We have, &c.  
(signed) *J. Hamilton Gray.*  
*Joseph Howe.*  
*J. W. Ritchie.*

— No. 8. —

(No. 56.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K.G.

Prince Edward Island, 1 October 1860.

(Answered, No. 45, 2 January 1861, page 63.)

My Lord Duke,

I HAVE the honour to transmit three authenticated copies of two Bills, intituled respectively, "An Act to authorise Grants of the Shores of this Island," "An Act to give effect to the Report of the Commissioners to be appointed on the Land Question."\*

2. I also enclose a statement by the Attorney General, explanatory of the objects of these Bills.

3. A suspending clause required by the character of these Bills is attached to each, they cannot therefore come into operation before receiving Her Majesty's assent; as it is desirable that the action of these measures should not be delayed, I would beg your Grace's early consideration of them.

I have, &c.  
(signed) *George Dundas,*  
Lieut. Governor.

Enclosure 1, in No. 8.

CAP. XXIV.

AN ACT to authorise Grants of the Shores of this Island.

THE Legislature deemed it expedient to pass this Act in order to invest the Government of the Colony with power to issue grants of portions of the sea shore of the Island, and of the shores along the bays and rivers thereof, to individuals, for the purpose of building breakwaters, wharfs, ships, and other such useful and necessary works and undertakings, and thereby to facilitate and encourage commercial enterprise.

This Act authorises the Lieutenant Governor to issue the grants for the purposes aforesaid, either with or without conditions, restrictions, or limitations, and either in fee simple, for life, or for a term of years, and at and for such price or yearly rent, to be expressed in such grants or leases, as to the Governor in Council shall appear just and reasonable.

The Act contains a suspending clause, until Her Majesty's pleasure therein shall be known.

Charlotte Town,  
Prince Edward Island.

(signed) *Frederick Brecken,*  
Attorney General.

Encl. 1, in No. 8.

\* The authenticated copy of this Bill is printed as an enclosure to Lieutenant Governor Dundas' Despatch, No. 45 of 25th June 1862, page 24.

## Enclosure 2, in No. 8.

## CAP. XXVIII.

Encl. 2, in No. 8:

"AN ACT to give effect to the Report of the Commissioners to be appointed on the Land Question."

THE Government of the Colony introduced this Act, and carried it through the Legislature, in pursuance of a suggestion contained in a Despatch from His Grace the Duke of Newcastle, Her Majesty's Principal Secretary of State for the Colonial Department, bearing date the 21st day of March last, and addressed to the Lieutenant Governor of this Island.

The policy and object of the Act are so clearly set forth in the preamble thereto, that it is unnecessary to enter into any further explanation of the reasons for passing it.

The Act provides that the report or award to be made by the three Commissioners, or any two of them, to be nominated and appointed by the several parties respectively, and to be authorised and empowered by Her Majesty, agreeably to and in conformity with the suggestions contained in the Duke of Newcastle's said Despatch, when in all respects signed and completed by the said Commissioners, or any two of them, shall be delivered to the Lieutenant Governor of this Island, who shall endorse thereon, under his own hand and signature, a note of the day and year when received, and it shall thereafter be registered at full length in the office of the Registry of Deeds in this Island, and the original part thereof, after being duly registered, shall be filed and kept in the office of the Colonial Secretary of this Island.

The Act further provides and declares, that the said award when so completed and delivered shall be deemed and taken to be final and conclusive, and the rights, interests, and estates of Her Most Gracious Majesty the Queen of, in, and to all the township, lands, tenements, and hereditaments, in so far as Her Majesty stands seised therein, or vested therewith, on behalf of the Government or inhabitants of this Island, and so far as the said rights, interests, and estates shall be submitted to the consideration and determination of the said Commissioners, and the rights, estates, rents, issues, and profits of such estates, liberties, franchises, and interests of all and every person and persons whomsoever, of, in, to, out of, or concerning the said township, lands, tenements, and hereditaments; whether acquired before or after the making of the said award or report, shall be and become subject to, charged and chargeable with, and bound by the award or report of the said Commissioners, or any two of them, in such manner, and to such extent, and for such time, as shall in the said award or report be awarded or required.

The Act contains a clause authorising the award or report to be pleaded in any court of law or equity in the Island, by any person whose estate or property may be affected thereby.

The Act provides for the appointment of new Commissioners in case of death, resignation, or incapacity, before the final making of the award or report.

The Act contains a suspending clause, declaring it shall have no force or effect until Her Majesty's pleasure therein shall be known.

Charlotte Town,  
Prince Edward Island.

(signed) *Frederick Brecken,*  
Attorney General.

— No. 9. —

(No. 61.)

No. 9.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K. G.  
12 November 1860.

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K. G.

Government House, Prince Edward Island,  
12 November 1860.

My Lord Duke,

I HAVE the honour to enclose a letter addressed to your Grace, which has been placed in my hands for that purpose, by Mr. Charles Wright, a resident proprietor in this Island.

2. This letter accompanies a Petition to Her Majesty from Mr. Wright, which he desires that your Grace may lay at the foot of the Throne.

3. The prayer of Mr. Wright's Petition is, that Her Majesty will withhold Her sanction from an Act of the local Legislature of this Island, passed during the last session, and intituled, "An Act to give effect to the Report of the Commissioners on the Land Question."

4. The

The letter and petition from Mr. Wright will be found printed at page 143.

4. The object of my Government in the introduction of this Act was to give effect to the views contained in your Grace's Despatch, No. 12, of date 21st March 1860, that the Legislature of the Colony would, as far as possible, concur in any measures required to give validity to the decision of the Commissioners.

5. Mr. Wright's Memorial proceeds upon the assumption that the estates of those proprietors who were not parties to the Commission will, by this Act, be subjected to the investigations of the Commissioners, and be also bound by their award.

6. Your Grace will be able to judge whether this is the case or not. If it be so, the Petition drawn up by Mr. Wright explains the position in which he conceives himself to be placed.

I have, &c.  
(signed) *George Dundas,*  
Lieut. Governor.

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— No. 10. —

(No. 62.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K.G.

Government House, Prince Edward Island,  
12 November 1860.

My Lord Duke,

I HAVE received for transmission to your Grace from Mr. Bruce Stewart, the proprietor of an extensive landed estate in this Island, a Memorial signed by him and others owning land in this Colony.

2. This Memorial I have now the honour to enclose. The Memorialists pray that your Grace will recommend Her Majesty to withhold Her sanction from an Act of the Provincial Legislature framed to give effect to the Report of the Land Commissioners.

3. I must direct your Grace's attention to a statement in this Memorial calculated to convey an erroneous impression.

4. In the second page the Memorialists, referring to a letter addressed to your Grace, dated Bush Hill, 15th February 1860, declare that "they were no parties to this correspondence, but that, on the contrary, when certain of them were afterwards requested to become so by the Lieutenant Governor and others they refused.

5. These expressions would lead your Grace to suppose that I had solicited certain of the Memorialists to become parties to the arrangements agreed to by Sir Samuel Cunard and other large proprietors resident in England, with respect to the Land Commission.

6. Mr. Bruce Stewart was the only person whose name is attached to the Memorial with whom I had any conversation on the subject, and on one occasion I endeavoured to point out to him how desirable it was that all the large proprietors should act together harmoniously, so as to secure, if possible, the settlement of disputes injurious not only to their own interests, but to the general welfare of the Island.

7. I have already, in my Despatch, No. 61,\* of this date, addressed your Grace on the subject of the Act in question being petitioned against by a proprietor not a party to the Commission.

8. What I stated in that Despatch applies equally to the case of Mr. Bruce Stewart.

I have, &c.  
(signed) *George Dundas,*  
Lieut. Governor.

No. 10.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K.G.  
12 November 1860.

This Memorial will  
be found printed  
at page 138.

\* Page 10.

— No. 11. —

(No. 63.)

No. 11.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K.G.  
12 November 1860.

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the  
Duke of *Newcastle*, K.G.

Government House, Prince Edward Island,  
12 November 1860.

My Lord Duke,

\* Page 62.

I HAVE the honour to acknowledge Sir Frederic Rogers' Despatch, No. 39,\* of date 19th October 1860, enclosing copy of a Memorial from Mr. Bruce Stewart, and requiring a report from me on the subject.

2. Mr. Bruce Stewart's reluctance to permit his Memorial to be seen by any one here except myself, was the cause of my declining to send it officially to your Grace.

† Page 11.

3. Mr. Bruce Stewart's scruples having been overcome by the return of his Memorial, I have addressed your Grace on the subject of it, in my Despatch, No. 62,† of this date.

4. With regard to Mr. Bruce Stewart's complaint of injustice inflicted on him by the Honourable Joseph Howe, in his capacity of Land Commissioner, I have already, in my Despatch, No. 59, of date 15th October 1860, informed your Grace that I cannot believe that Mr. Howe acted towards Mr. Bruce Stewart in an unjust manner.

I have, &amp;c.

(signed) *George Dundas*,  
Lieut. Governor.

— No. 12. —

(No. 64.)

No. 12.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K.G.  
12 November 1860.

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the  
Duke of *Newcastle*, K.G.

Government House, Prince Edward Island,  
12 November 1860.

My Lord Duke,

1. A MEMORIAL from Lady Georgiana Fane has been placed in my hands for transmission to your Grace.

2. This I have now the honour to enclose.

3. Lady Georgiana Fane is possessed of a considerable landed estate in this Island. She was not a party to the appointment of the Land Commission, and she declines being bound by its award.

4. She fears that the Act of the Local Legislature, intituled, "An Act to give effect to the Report of the Commissioners to be appointed on the Land Question," if it receive the Royal sanction, may constrain her with regard to her estate.

5. She therefore prays that this Act may not be submitted for Her Majesty's confirmation.

\* Page 10.

6. I have already in my Despatch, No. 61,\* of this date, addressed your Grace on the subject of Mr. Charles Wright's protest against the Act in question.

The case of Lady Georgiana Fane is one so nearly parallel to Mr. Wright's, that it demands no additional notice.

I have, &amp;c.

(signed) *George Dundas*,  
Lieut. Governor.

## Enclosure in No. 12.

To His Grace the Duke of *Newcastle*, K.G., Her Majesty's Principal Secretary of State  
for the Colonial Department.

Encl. in No. 12.

The Memorial of *Cecily Georgiana Fane*,

Respectfully sheweth,

THAT your memorialist is possessed of an estate consisting of township lands, situate in Prince Edward Island.

That the greater portion of this estate is held by tenants under leases for the term of 900 years, reserving an annual rent of 9*d.* British sterling per acre.

That on the 5th day of July last past a Commission was issued under the Royal sign manual and signet, appointing John Hamilton Gray, Joseph Howe, and John W. Ritchie, Esqrs., Commissioners, for the purpose of inquiring into the differences relative to the rights of landlords and their tenants in Prince Edward Island, and adjusting them upon fair and equitable principles.

That the said Commission was granted, as memorialist has understood, at the request of the Legislature of the Colony, and with the consent and approbation of Sir Samuel Cunard and a few other proprietors of land in the Island, who had been consulted by Her Majesty's Colonial Minister on the subject, and who nominated one of the Commissioners above named.

That your memorialist understands that the proprietors who, with Sir Samuel Cunard, have signed a communication, dated "Bush Hill, Edmonton, 13th February 1860," and addressed to your Grace, are willing that the Commissioners shall fix and declare a price per acre, on payment of which their tenants may be entitled to conveyances of the fee-simple of the lands held by them, and also that the Commissioners shall have power to remit the whole or any portion of the rents in arrear and unpaid by the tenants.

That an Act was passed by the Legislature of the said Island in May last, intituled, "An Act to give effect to the Report of the Commissioners to be appointed on the Land Question." That your memorialist is advised that this Act, if assented to by the Queen, may have the effect of subjecting your memorialist's estates to the jurisdiction and award of the said Commissioners.

That your memorialist is unwilling to place her lands at the disposal of the Commissioners, or to alien an estate which she inherited from her ancestors, the original grantees thereof.

Your memorialists therefore prays that the "Act to give effect to the Report of the Commissioners to be appointed on the Land Question" may not be submitted for Her Majesty's confirmation.

And your memorialist will ever pray.

(signed) *C. Georgiana Fane.*

Prince Edward Island,  
8 November 1860.

## — No. 13. —

(No. 65.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace  
the Duke of *Newcastle*, K. G.

Government House, Prince Edward Island,  
12 November 1860.

My Lord Duke,

(Answered, No. 52, 13 February 1861, page 64.)

I HAVE the honour to transmit to your Grace a letter from Mr. Bruce Stewart, in which he desires to be informed whether "the Lieutenant Governor may, at his option, show or communicate to his Council, or others, any or every memorial or letter addressed by a resident in the Colony to Her Majesty's Secretary of State for the Colonies."

2. I have assured Mr. Bruce Stewart of my readiness to assist him by transmitting at any time such letters or memorials as he may wish to send to your Grace; but I claim a discretionary power with respect to communicating the same to the Leader of my Government, or to such Members of my Council as I may consider desirable.

No. 13.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K.G.  
12 November 1860.

3. I have no wish in doing this to place any restraint on the expression of the opinions of Mr. Stewart, or any other resident in the Colony, appealing to your Grace; but in such a case as Mr. Stewart's memorial, in which a public measure—an act of the Legislature—is protested against, it would lead to much inconvenience were I debarred, at the pleasure of the memorialist, from consulting my Constitutional Advisers, should I require further information to enable me to convey to your Grace an accurate report on the statements such a document might contain.

I have, &c.  
(signed) *George Dundas,*  
Lieutenant Governor.

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Enclosure in No. 13.

Encl. in No. 13.

My Lord Duke,

Charlotte Town, Prince Edward Island,  
6 November 1860.

YESTERDAY I received a communication from Sir Frederic Rogers, of the Colonial Office; I have also learned from his Excellency the Lieutenant Governor, that the memorial, signed by me and others respecting the Land Commission, having been sent back to his Excellency from the Colonial Office, is now in his Excellency's hands, and that he will again transmit it to your Grace. The letter from myself which accompanied that memorial, stated that a second communication would follow it, and mentioned the names of some of those noblemen and gentlemen to whom my late father, Mr. David Stewart, of Great Russell-street, London, had the honour of being well known. My last communication to your Grace explained the cause of the two first having been sealed after they had been read by his Excellency, Mr. Dundas. May I now beg respectfully to inquire whether it be your Grace's intention that the Lieutenant Governor may, at his option, show or communicate to his Council or others any or every memorial or letter addressed by a resident in the Colony to Her Majesty's Secretary of State for the Colonies, and placed open in his Excellency's hands for the purpose (if I rightly understand the rule in such case made and provided) of receiving such comments as his Excellency himself may see occasion to make, and (as I respectfully venture to hope your Grace may consider) not for the purpose of being seen and made use of by other persons, whether members of the Council or not.

Your Grace's reply on this point will greatly oblige,

Your Grace's, &c.  
(signed) *Robert Bruce Stewart.*

To His Grace the Duke of Newcastle.

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— No. 14. —

(No. 4.)

No. 14.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K.G.  
1 February 1861.

COPY of a DESPATCH from Lieutenant Governor *Dundas*, to His Grace the Duke of Newcastle, K.G.

Government House, Prince Edward Island,  
1 February 1861.

My Lord Duke,

I HAVE the honour to transmit, for your Grace's information, copy of a communication I recently received from Messrs. Gray, Howe, and Ritchie, the Commissioners appointed to investigate the land question of this island.

2. Your Grace will observe that these gentlemen, after devoting the labour of a fortnight at Halifax to the arrangement of the mass of materials collected during the sitting of their court here last autumn, have adjourned their meeting until April, shortly after which period they hope to be in a position to make their report.

I have, &c.  
(signed) *George Dundas,*  
Lieutenant Governor.

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## Enclosure in No. 14.

Sir,

Halifax, 11 January 1861.

Encl. in No. 14.

We have the honour to report that Mr. Gray having visited Halifax for the purpose of enabling us to resume our labours in connection with the Land Commission, we have been engaged during the past fortnight; and though we have thus been enabled to make some progress in the investigation, the mass of materials before us renders it impossible for us to complete our report at the present sitting.

It is not probable that we can meet again till April, as Mr. Howe will presently be engaged in the business of the session; but, in the meantime, there is much work that we can subdivide; and your Excellency may be assured of our anxious desire to resume our labours, and to report as early in the ensuing summer as may be practicable.

We have, &amp;c.

(signed) *J. Hamilton Gray,*  
*Joseph Howe,*  
*T. W. Ritchie.*

Lieutenant Governor Dundas,  
&c. &c. &c.

## — No. 15. —

(No. 54.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K.G.

No. 15.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K.G.  
24 June 1861.

My Lord Duke,

Government House, Prince Edward Island,  
24 June 1861.

I HAVE the honour to inform your Grace that Messrs. Howe, Gray, and Ritchie, the Commissioners appointed on the land question of this Colony, have assembled at Rothsay, in New Brunswick, for the purpose of completing the business of the Commission, and making their final award.

2. As these gentlemen have been already some days at Rothsay, and are devoting all their time and attention to the matter of the Land Commission, I am led to expect that I shall be able shortly to submit their decisions to your Grace.

I have &amp;c.,

(signed) *George Dundas,*  
Lieut. Governor.

## — No. 16. —

(No. 80.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K.G.

No. 16.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K.G.  
2 September 1861.

Government House, Prince Edward Island,  
2 September 1861.

My Lord Duke,

(Answered, No. 94, 7 February 1862, page 65.)

I AM informed by Mr. Gray, the Chairman of the Land Commission, appointed last year, that he has transmitted to your Grace, by the mail of the 5th August, the unanimous report and award of Mr. Howe, Mr. Ritchie, and himself,

himself, on the different subjects arising out of the land question here, submitted to them by Her Majesty.

2. No copy of this report was furnished to me, as the Commissioners determined to place this document in the hands of your Grace only.

3. One of the Commissioners, however, in the course of conversation, divulged the chief features of the award, which appeared in a garbled form, shortly afterwards, in one of the public journals of the Island.

4. It was, therefore, desirable to obtain and publish, with the least possible delay, a true statement of the award; and the opportune arrival of Mr. Howe in the Island afforded an opportunity for him to correct the garbled account I have above alluded to, as also to justify, before a large audience of tenants, and their delegates, the unanimous report at which he and his fellow Commissioners had arrived.

5. I have the honour, herewith, to enclose a report of Mr. Howe's remarks on this occasion, as also a summary of the award, published under Mr. Howe's indorsement in the "Islander" of 23rd August.

6. I would venture to direct your Grace's attention to a difficulty, which, judging from the above summary, may arise, unless provided for in the award.

7. A loan of 100,000 *l.* will not be sufficient to purchase out all the large proprietors. In the event, therefore, of this sum being obtained and expended in the purchase of land, will the tenants on the unpurchased estates be excluded from the advantages offered in the other alternative, recommended by the Commissioners, namely, a compulsory power of purchase at 20 years' rent (or 18 years' of cash down), and in case of the farm not being worth 20 years' purchase, a valuation to decide its price?

8. I observe with satisfaction that decided opinions are expressed by the Commissioners on the long agitated questions of titles, escheat quit rents, and fishery reserves. These opinions, coming from unprejudiced and impartial men, cannot fail, in a great measure, to satisfy the minds of the people of this Island, and to terminate agitation on these points for ever.

I have, &c.  
(signed) *George Dundas,*  
Lieut. Governor.

Enclosure 1, in No. 16.

LAND COMMISSION.

Honourable Mr. *Howe's* Exposition of the Award.

(From the "Examiner," 26 August 1861.)

Charlotte Town, Tuesday, 20 August 1861.

MR. HOWE said that his visit to the Island at the present time was unconnected with the land question; he had come solely with a view to render the steamboat service on the Gulf more perfect and useful to both Provinces. On his arrival here, however, he had seen in one of the papers what appeared to be a garbled and inaccurate report of the award, and had thought it due to his brother Commissioners and to the people of the Colony to correct those errors, which he had done in a letter, over his own signature, which they would find in the "Examiner." He had yesterday received a note from Benjamin Davies, Esq., chairman of a committee of delegates, enclosing a copy of a letter which that gentleman had addressed on the 16th of August to the Hon. John H. Gray, requesting to be favoured with an outline of the Commissioners' Report. He thought it his duty under all the circumstances, and to satisfy the very natural anxiety of the people, to intimate to Mr. Davies that if the delegates would call upon him he would be happy to give them any information in his power. This meeting had grown out of those communications; he saw no necessity for mystery in the matter; on the contrary, the sooner the general principles embodied in the Report of the Royal Commissioners were universally known in the Island, the sooner all parties would prepare for the legislation which would be required to give effect to it. The Report itself had been sent to His Grace the Duke of Newcastle to be laid at the foot of the Throne. The Commissioners would have been glad to have sent

forward.

forward a copy for the information of the people whose interests were so deeply involved, but in our monarchical country there were certain forms, which, however they might sometimes seem to retard public business, it was graceful and prudent to observe. In accordance with official etiquette, therefore, it had been deemed proper that the Report should be transmitted to the Lieutenant Governor through the Secretary of State. He had no doubt that it would be printed in England and sent to the Island without any unnecessary delay; he had no copy with him, and of course could not pretend to give them from memory more than an outline of a document that covered hundreds of pages; he would do his best, however, to explain the general views and decisions propounded by the Commissioners.

In the "Examiner" of yesterday there was an abstract that was in the main very accurate; there was one paragraph, however, which though correct so far as it went, did not convey the entire judgment of the Commissioners. The paragraph read thus:—

"The Commission consider that the original grants were improvident, and the conditions not complied with; but owing to the lapse of time, it is deemed inexpedient to interfere with them. The Commission are of opinion that the Government of the Colony have always had and still possess the power to establish a court of escheat."

This is true, so far as it goes. The Government of Prince Edward Island always had, like all the other Colonial Governments, the right to escheat lands as part of its constitution. But the Commissioners decide, that as this right has not been exercised for 43 years, that as the Crown had expressly instructed the governors not to sanction any such measures, as though power had changed hands, no political party had resorted to this remedy, it was now too late to talk about escheat, and that a solution of the difficulties must be sought in other directions. Besides, the Commissioners were opposed to escheat, because if the original grants were annulled all title would be swept away; freehold and leasehold would be alike unsettled, and it did not follow, even if juries could be got to despoil the grantees, that the lands would belong to those who occupied them. For these and other reasons, it would be seen by the Report that the Commissioners while recognizing the abstract power of the Government, put aside the plan of escheating the lands as impracticable and absurd at the present day.

On one point Mr. Howe said that he wished to offer an explanation; it was very natural that the people of Prince Edward Island should be impatient of delay, and anxious for an early decision, but he had known a chancery suit involving the title to a single estate to last for 14 years; it was no uncommon thing for a suit about land in our common law courts to run over two or three terms. The Commissioners were all busy men, surrounded by public and personal engagements. A million of acres were involved in the land question, and the rights and interests of 70,000 or 80,000 people. It could hardly be said that the Commissioners, in adjudicating upon the varied and momentous questions covered by their Commission, in 18 months, could be charged with want of zeal, decision, and industry. For himself he would have preferred to have had another year, because although he believed that they had exhausted the evidence, and carefully examined the bearings of every question, still another year might have been well spent in reviewing the whole case, and in giving to the language of the Report greater condensation and precision. But the Commissioners had felt from the first that every hour's delay was fatal or injurious to some existing interest; they had, therefore, not only given to the Commission all their leisure hours when separated, but when together had laboured most assiduously. At Rothsay he was rarely in bed after four o'clock, and the daily labours of the Commission never closed till six; he trusted, therefore, that all parties would be satisfied that there had been no unnecessary delay.

Upon another point it was due to all parties that an explanation should be made. When the Commissioners were here last summer they held an open court for weeks together in all parts of the Island, and heard everybody, either personally or by delegate. A vast body of testimony was thus accumulated, but as almost everybody was a witness for himself, or gave testimony under strong party or personal bias, it became indispensable that the Commissioners should be in a position to check the statements by returns and information collected by a competent person whose errand to the Island nobody knew. To perform this service Mr. George Wightman was selected, and as that gentleman was perhaps not much known here, it might be satisfactory to the people to know something about him. George Wightman was born on the banks of the Shubenacadie, and has been familiar with farms and farming from his boyhood; having a natural turn for science, he taught himself engineering, and when Sir James Kempt came to our province from the battle fields of the Continent, where he had seen Napoleon's great roads, he brought with him M'Adam's Treatise, and began to turn the public attention to the improvements suggested; at that time all our great roads ran over the hills. Wightman was employed to re-survey them, and many of the best roads of our country we owe to his skill and to that of the young men who he trained in this service. When the St. Andrew's Railroad was commenced he sought employment on that work, where he learned and taught a good deal. When the line from St. John to Shediac was commenced, Mr. Light, who knew Wightman's value, took him there, and has assured me that in the completion of that great work Wightman's practical knowledge and experience were of the utmost value; a man so trained was just the man we wanted, particularly when we knew that his character and simple habits placed him above all temptation. The value returns, tables, and observations, appended to their report, would justify the selection; these contained a vast deal of information touching the soil, timber, sales of land, fertilizers and productive power of the Island, which would be found of great value, and the scientific deductions drawn from the Census Returns would be

found of great use to all parties who might be called upon to fix hereafter the value of the farms. It had been objected that Mr. Wightman's mission had not been announced, but if it had been, the very object would have been defeated, because he would have been liable, as we were, to be misled by those whose interests coloured or exaggerated their statements.

Mr. Howe said that he was happy to be able to assure the Delegation that the Commissioners had acted in a spirit of harmony; they had discussed every point with the most perfect frankness, had never decided anything by a vote, but had invariably come to a common conclusion; the Report was of course unanimous. It was due to his brother Commissioners to say that both Mr. Gray and Mr. Ritchie had, from the first, acted in an elevated and fair spirit. Had the Commissioners merely represented opposite interests, antagonism, and a majority and a minority report, ending in no practical advantage, would have been the result of their labours. That in a document so voluminous some errors might be found was more than probable; that the whole would be sharply criticised he well knew, but he had no fears but what that, when carefully read and fairly weighed, justice would be done to the Commissioners by the great body of the people.

The first part of the Report contained a history of the Land Question, down to the appointment of the Commission. To understand the question and to prepare this narrative had cost a deal of labour; public correspondence and documents of various kinds, scattered over old journals, newspaper files, and pamphlets, embracing a period of 70 or 80 years, had to be searched for, read, and collated. Their thanks were due to gentlemen on all sides, who had directed their attention to many of these documents; but they had to be studied, and the study of them necessarily took up much time. The Commissioners did not consider that they were in a condition to decide till these old files had been searched, till the evidence collected here had been digested, and until Mr. Wightman's labours had also been brought to a close. When all these sources of information had been exhausted, not a moment had been lost in deciding upon general principles, and preparing and signing the award.

Gentlemen present would readily comprehend the heavy responsibility which rested upon the Commissioners; as jurors they would not decide upon the title to a single fellow subject's estate without grave doubt and deliberation, and a sense of heavy obligation to do what was just and right. How much more onerous the burthen when a million of acres, and the rights of thousands, were involved. It was relief to feel the burthen off the mind; it was, perhaps, too much to hope that the verdict would give universal satisfaction.

Coming to the main question referred to them, the Commissioners decided that the granting away of the whole Island in blocks of 20,000 acres each was an improvident exercise of the prerogative of the Crown; but even improvident grants can only be revoked by a legal process, which had never been resorted to. There was no doubt that all the grants were forfeited for breach of conditions in not settling the lands with foreign Protestants. There is little doubt that they were forfeited over and over again for non-settlement and non-payment of quit rents, but as the Crown was the sole judge in all these cases; as the Crown not only did not avail itself of the laches of the subject, but actually forgave them, and confirmed their titles by authoritative declarations over and over again, the Commissioners justly decide, yielding everything that Mr. Cooper and other gentlemen have ever claimed, that the title of the proprietors cannot now be disturbed. With respect to the leases it is equally clear, that when a man had signed a lease, and in a written document had signed an acknowledgment of title, it was too late for him to ask the Commissioners to pronounce that bad which he had himself confirmed. All leases must, therefore, be regarded as valid and binding on all parties.

As regarded the quit rents the Commissioners considered the Treasury Minute binding, and that all arrears were remitted up to that period. As long as the Land Tax Act remained on the Statute Book, no quit rents could be collected; when that Act was repealed the quit rent of course revived.

It was apparent then that the conversion of the leasehold tenure into freehold could only be accomplished by a compromise, and it appeared to the Commissioners that an extension of the principles of the Land Purchase Act, passed by the Island Legislature some years ago, offered the fairest basis of compromise, the best solution of the difficulty that could be devised. The Commissioners, therefore, strongly recommend to Her Majesty's Government to guarantee a loan to the Colony of 100,000 £ sterling, to be loaned on the pledge of the general revenue of the Island, to be applied to the purchase of the estates, and repaid out of the money paid by the tenants for the conversion of their tenures. With a cash account to this extent at the disposal of the Government, the competition of proprietors for the money would determine the value of lands; there would be no necessity for coercion; the estates would be bought at prices which would enable the Government to resell them low, and to remit all the arrears as had been done in respect of the Selkirk and Worrell estates. If the prices paid for those properties formed any criterion, then, for about 2 s. 6 d. sterling per acre 800,000 acres could be relieved from the leasehold tenure. Adding what was already free, there would remain but about 160,000 acres, which could easily be purchased as the proceeds of the Selkirk and Worrell estates came in. If the prices demanded were higher, the operations might take a longer time; but far and above all other solutions of the difficulty this mode was certainly to be preferred.

This was the first solution of existing difficulties recommended by the Commissioners, and it was in their opinion, far above and beyond all others, the best. But should the Imperial Government decline to guarantee a loan, or the Provincial Government refuse to tender the securities, then other remedies were provided; there were two. It was in evidence

before

before the Commissioners that some leasehold properties are selling at high prices, and that for others the landlords had refused from the tenants 1*l.* sterling an acre. It was clear that however valuable these properties might be, the landlord's interest in them was but 20 years' purchase. The Commissioners then award, that when any tenant shall tender to his landlord 20 years' purchase, or 100*l.*, the landlord shall be bound to give him a deed, and if the tenant pays in cash, a deduction of 10 per cent.; under this clause tenants can at once, and without delay, convert their farms, and become freeholders; if the tenant is not prepared to pay the money down, he may pay by instalments of 10*l.* a year for 10 years, the rent diminishing as the instalments are paid.

But many farms are not worth 20 years' purchase, and many are worth very little. To provide for all such cases, the Commissioners award, that any tenant who wants to purchase, may tender to his landlord what he conceives to be the value of his farm, say 30*l.* or 40*l.*; if the landlord accepts, there is an end of the matter; if he declines, he must appoint an arbitrator; the tenant appoints another, and if these two cannot agree, they appoint a third; these three men fix the price to be paid for the farm; if it exceeds the tenant's offer, the tenant pays the expense of the arbitration; if it does not, the expenses are to be paid by the landlord. The award is final and binding on all parties without appeal. The expenses could not exceed a few pounds. By this simple machinery, said Mr. Howe, every lease in the Island may be converted into freehold, should the British Government, which I trust it will not, decline to guarantee a loan.

The process of arbitration was common in all our courts; the people were familiar with it. There would of course be decisions as various as the localities, and the materials of which these simple tribunals were comprised; but that could not be helped. The Commissioners would much have preferred a skilful valuer for the whole of the Island, but they had no power to appoint or pay such an officer, and it was quite clear that a valuer appointed by the Government would not give satisfaction. There might be, under the system proposed, some eccentric valuations; a farm at one end of the Island may be valued too high, and one at the other too low, but, after all, the system was the best that could be devised, and no system was perfect. Tenants, whose price was fixed by arbitration, would be entitled to a discount of 5 per cent. for cash, and could pay by instalments if they preferred that mode.

The Commissioners, for a time, clung to the belief that they could fix some medium price, which could be applied to the whole Island; but they were compelled to abandon that idea. Some lands were worth \$10 an acre, some were not worth 5*s.*; no medium price could have been fixed that would not have worked frightful injustice. If fixed too low, the best properties would be sacrificed; if too high, the poorer class of tenants could not purchase at all.

As respected the arrears of rent, the Commissioners had been most anxious to act fairly between man and man. Very large arrears had accumulated on many of the estates. After anxious deliberation, the Commissioners had decided to strike off all the arrears which had accrued prior to 1858; this left to the landlord as much as in most cases he could ever collect, and it freed the tenant from a heavy burthen. Arrears of rent must of course be paid up before the landlord was bound to sell, but the tenant would have no difficulty in borrowing what he wanted when his title to the farm was confirmed by the transaction.

Mr. Howe said he had seen it stated in the "Examiner," that proprietors and their agents had, since the appointment of the Land Commission, been exerting themselves by the exaction of judgment bonds, promissory notes, and other securities from such of the tenants as were in arrears. That might be the case, and the Commissioners might regret that it was so, but they had no power to prevent them, or to arrest the ordinary course of law; all that they could do was to hasten their decision, and now it was quite clear that the sooner that the award was confirmed by legislation, the sooner would the tenantry be protected from any pressure of this kind.

On reviewing the actions of our ancestors we sometimes think them great fools, as our posterity will think us hereafter; of all the acts of folly committed in relation to this Island, perhaps there was none greater than that of drawing a cordon of 500 feet all round the Island, and calling it a fishery reserve. In Nova Scotia, where no such reserve existed, a resident fishery had sprung up all round the coast; in Prince Edward Island, with the reserve, the fisheries were of comparatively little value. The Commissioners abolish this absurd reservation, and allow the lands to merge into the adjoining properties, whoever may own them. But, that a resident fishery may spring up, they provide that any man wanting to carry on the fishery may purchase from the Government a lot below high-water mark, and be entitled to purchase from the owner of the upland an acre immediately behind it. If there is any dispute about the price of the acre, which in nine cases out of ten there is not likely to be, then the value is to be fixed by arbitration. Of course, a man's orchard or barn-yard is not to be taken. But he had no doubt that the good sense of the Legislature would regulate the mode in which the general views of the Commissioners were to be carried out, and he had as little doubt that a valuable resident fishery would be the result of this policy.

The loyalists' claims had not been forgotten; it was apparent that some of the proprietors had in good faith and in a generous and patriotic spirit, dedicated portions of their lands to the relief of the loyalists. There was too much reason to suspect that others merely made the tender to evade the payment of their quit rents; but after the lapse of more than half a century, the Commissioners could not distinguish between them, nor could they compel those who owned the lands now to appropriate them for the benefit of others without their own consent. But the matter as it stood in the papers was not creditable, and these old claims ought to be set at rest; that they might be, the Commissioners recommend that out

of any Crown lands that now are or hereafter may be in possession of the Government, they shall be satisfied, the burthen of proof that his claims are valid resting upon the applicant.

The claims of the French had seriously engaged the attention of the Commissioners; but the facts of history were against them. When the French had forfeited Louisburg and possessed Cape Breton, Prince Edward Island was their granary; and the French here, no doubt, aided and abetted in all those hostile incursions and breaches of treaty which led to the expulsion of the Acadians from Nova Scotia. Small blame to them for adhering to their own flag and fighting for their own nation; but as they did so, they must accept the misfortunes and casualties of war; they lost their lands, as many other worthy people did before them, by adhering to the falling cause. In Nova Scotia and New Brunswick, though the French, who are everywhere a worthy and amiable people, now own lands and have thriving and populous settlements, it does not appear that any of the lands confiscated in 1758 were ever restored to them. However much, therefore, the Commissioners might regret that it was so, it was quite apparent that the French in Prince Edward Island must follow the fortunes of those upon the mainland.

The right of the Indians to the undisturbed possession of Lenox Island and the bay lands that surround it, had been confirmed by the Commissioners.

"Having run over as briefly as I can, speaking from memory, the outlines of the Report, permit me to observe," said Mr. Howe, "that upon the public men of the Island it now depends whether any good shall result from the labours of the Land Commission. If you, laying aside all personal rivalries, party considerations, give legislative sanction to this report, I believe that these old vexed questions will be adjusted, and the prosperity of the Island secured. We have discharged our duty. Do yours, and all will be well. I do not mean to say that our report is perfect. I am prepared for disappointment in many quarters where people have been taught to expect too much. But I am quite confident that when the award comes to be carefully read and pondered by the people, they will do us justice, and that rational men will say that we have, under all the circumstances presented, dealt fairly and justly by all parties.

"In the absence of my brother Commissioners, it may not be out of place for me to say that both these gentlemen discharged their very delicate duties with a degree of thoughtful appreciation of the magnitude of the great interests committed to their care, and in a spirit so independent and yet so conciliatory, that they are entitled to your highest respect. Permit me also, in their names and my own, to acknowledge the obligations which we are under to the people of this Island for the confidence, courtesy, and kindness shown to us on all occasions, and in every part of it. In mixing freely with the public men of the province we have carefully abstained from the expression of any opinions upon the mere party questions of the hour, nor do I wish to touch them now. Parties, and party strife, and even party acrimony and injustice, are the prices we pay for freedom. You will always have these. The land question is not indispensable as a battle ground. There are others of sufficient magnitude and importance to engage your attention and employ all your energies when this is swept from the field of controversy. Let me implore you then to approach this great subject in a becoming spirit, and to lend to your country your best abilities to give vitality and security to this award by practical legislation. If you do, trust me when I say that Prince Edward Island will enter upon a new era, and that her industrial development and social elevation will be rapid and strongly marked in the happier future before her.

"I have said that there are many questions to engage the attention of thoughtful public men. I will refer but to one—the fisheries. As I stand upon the shores of the Strait of Canso, and see the white sails of hundreds of American fishermen gliding into this gulf to carry away the treasures that surround you—when I know that out of a single county of my province a hundred beautiful schooners are sent here every summer on the same errand, I am smitten with wonder that the people of Prince Edward Island appear so indifferent to the value of treasures which all the rest of the world so highly prize; and if I were a native of this Island I would never rest till my countrymen had vindicated their right to largely appropriate the resources of the surrounding seas, which God has so abundantly enriched. From the prosecution of the fisheries will spring more of foreign trade and the steady growth of a mercantile marine. Towns will rise up along the sea coast, giving a domestic market for the produce of the soil. Questions such as these are worthy of the consideration of your public men, and the development of the resources of the Island, moral, intellectual, and industrial, will, I trust, task their highest powers when these old questions have been adjusted and forgotten. I trust, at no distant day, to see these maritime provinces more closely united—their great lines of communication strengthened and improved; and at some more appropriate season it will give me pleasure to explain to you how all this may be brought about."

Here the Hon. Mr. Howe would have concluded his remarks, but the Hon. Mr. Whelan having stepped forward and apologetically requested to know, for the information of the people, what course, if any, the Commissioners in their award had recommended to be pursued with respect to those proprietors who had not been consenting parties to the appointment of the Commission, and whom the Duke of Newcastle had said, in one of his Despatches, would not therefore be bound by the award of the Commissioners:—

The Hon. Mr. Howe.—"Yes, the Duke of Newcastle had certainly said that the Commissioners had no power to bind the proprietors who were not parties to the reference; but at the same time, his Grace had given a most significant hint that they must, if they refused, expect no aid from him if difficulties arose hereafter. The view taken by the Commissioners

sioners was this: That as the Crown had overlooked all the laches of these people—had forgiven them their arrears and paid the civil list, which they ought to have paid out of the treasury of Great Britain, that they were bound to submit to any policy that had the sanction of the Imperial and Provincial Government. If they did not, the Commissioners thought they ought to be constrained by legislation. Whatever their rights were, they should bend before the public interests, as those of the seigneurs of Canada, of the slave owners in the West Indies, or of the owners of the encumbered estates in Ireland had been made to bend, when great interests or high moral considerations were at stake.

Benjamin Davies, esq., then came forward, and apologising to the Hon. Mr. Howe for the trouble he was about to impose upon him, by presuming to require from him some information on a point to which he had not adverted in the explanation which he had so fully and kindly given, said—Public interests, as well as private, were in his opinion, to a certain extent, placed before the Royal Land Commission, to be adjudicated upon by them; and he conceived it to be the duty of public men to look, in an especial manner, with a careful and jealous eye to the preservation of public rights when they were in any way called in question; for if they suffered public rights to be invaded and infringed upon, the invasion and diminution of private rights could scarcely fail to follow, as an inevitable consequence. In listening to the information which his Excellency had so kindly afforded, he had failed to discover that any arrangement had been made for the protection or satisfaction of the claims which the people had upon the lands held by the proprietors. On the contrary, his Excellency had said that the Commission, induced thereto by various considerations, had confirmed the original grants, and that lapse of time, and the tenor of various despatches from the Colonial Office, had confirmed them in the propriety of remitting the quit-rents also to the proprietors; and he also understood his Excellency to say, that the Colonial Government had not, as guardians of the sacred trust reposed in them by the people, taken any action to lead the Commissioners to believe otherwise than that the Government admitted the validity of the proprietary claims. As such was the case, he would just beg leave to state, that the people very generally and their friends laboured under the opinion that the Royal Commission would point out the forfeited and other lands which were the property of the people, as well as state the amount of debts due to the Colony, in the shape of quit-rents and otherwise. When, in the year 1854, that part of the civil list of the Colony which had been borne and paid by the Imperial Government ceased to be so paid, and the people, through the action of their Parliamentary representatives, took upon themselves the burthens of the whole civil list, they did so on the express condition and with the assured understanding that, in return for their so doing, there would, over and above the concession of self government, be surrendered and placed at the disposal of the Colonial Legislature all the quit-rents, Crown lands, and permanent revenues belonging to the Crown in the Colony; and, therefore, the people and their friends had confidently expected that the Royal Commission would fully make good to them all that, at the period of which he had just spoken, had been promised to them on the part of Her Majesty, through Lieutenant Governor Bannerman. But his Excellency (Hon. Mr. Howe) had said, if he (Mr. Davies) had comprehended him aright, that in consequence of the Government's having declared that there were no public interests of a nature likely to clash with the proprietary claims to the lands of the Colony, the promises so sacredly guaranteed at the time he (Mr. Davies) had just referred to had not been or could not be entertained.

The Hon. Mr. Howe.—No decision of ours could affect the Civil List Bill. All the rights acquired under it belong of course to the Colony; but what was legally remitted prior to the passage of that Act could not have been transferred by it. This is the view we take, but the legal rights of the province could at any time be tested under the Civil List Bill independent of our award. The Crown was to decide what it did or meant to transfer. A court of law might decide even against the Crown, but the Commissioners had no power to reinvest the Crown with rights or revenues that they thought had been remitted.

George Beer, esq., M.P., then presenting himself to the notice of Mr. Howe, thanked him for the very elaborate explanation of the award which he had been kind enough to give. He (Mr. Beer) could have wished that the purchase money had been fixed by the Commissioners at a more moderate rate. Twenty years' purchase would certainly be a high valuation for farms in general, although some might be worth it. He was, however, glad to find that the award provided machinery, by the operation of which tenants would have it in their power to decline compliance with such valuation, or any other on the part of their landlords which they might think too high; and he believed much benefit to the tenantry would result from the arbitration clause of the award. There was great diversity as to the quality of the soil in different parts of the Island; but under the operation of the arbitration clause, that fact would in every case receive due consideration, and the award as to the value of the farm be made accordingly. In the matter the Commissioners had, he thought, gone quite as far as it was possible for them to go, with due and impartial regard to all the interests concerning which it had been their important duty to deliberate and decide; and as the people in general were becoming quite impatient to know the result, he was pleased to think that the report of his (Hon. Mr. Howe's) exposition of it would, in a great measure, relieve the public mind from anxiety on account of it. He again thanked Mr. Howe for the satisfactory manner in which he had explained the most important particulars of the award, from which, he doubted not, a great deal of good would ultimately result to the tenantry. The duties of the Commissioners had certainly been of a very onerous nature.

Hon. Mr. Whelan, M.P., having previously consulted with the other members of the

deputation, came forward and said—He begged leave to tender him the thanks of the deputation for the very full and minute information which, at their request, he had been pleased so candidly and courteously to communicate to them for the information of the people. Such information had for some time back been most anxiously looked for by them, and he would undertake that it should, as soon as possible, be transmitted to every quarter of the Island. They would doubtless be glad to receive it; for although the decisions by which they would learn the Royal Commissioners had arrived might not equal their expectations, it would yet afford them relief from the anxiety and suspense to which they had so long been doomed respecting it. He hoped, however, he should be excused from saying that he much regretted that etiquette should have been thought to prescribe that a duly authenticated copy of the award should not reach the people in any other way than by the circuitous route through Downing-street; for, owing to official delays and other causes, it might yet be several months before the transmission of it to the Island would be made from the office of the Secretary of State. Mr. Whelan then concluded, by again, for himself and brother delegates, thanking Mr. Howe for the very full and particular information which he had communicated, and for the very kind and candid spirit in which he had given it.

And so the audience terminated.

(signed) *R. B. Irving*, Reporter.

Encl. 2, in No. 16.

Enclosure 2, in No. 16.

(From the "Islander," Friday, 23d August 1861.)

Dear Sir,

Charlotte Town, 21 August 1861.

I HAVE much pleasure in transmitting you, for publication in the "Islander," the following particulars of the award of the Commissioners on the land question, obtained by me, since the arrival here of the Hon. Mr. Howe. I also enclose a note just received from Mr. Howe, to whom the manuscript had been submitted, in which that gentleman testifies to its correctness.

John Ings, Esq., Queen's Printer.

Yours, &c.  
(signed) *W. H. Pope*.

Dear Sir,

21 August 1861.

I HAVE run my eye over your notes, written after our conversation; they are substantially correct, and contain, I presume, some details which I overlooked in my explanations to the delegates yesterday.

W. H. Pope, Esq., Col. Secretary.

Yours, &c.  
(signed) *Joseph Howe*.

The best mode of quieting the disputes between the proprietors and their tenants, and of converting the leasehold into freehold tenures, is the first question discussed in the award.

This matter is gone into very fully, and the reasons set forth for the conclusions at which the Commissioners arrived, and the difficulties of almost any settlement pointed out.

A loan from the Imperial Government of 100,000 £. is recommended as the best and most expeditious mode.

Failing an arrangement between the Imperial and Local Governments on this point, the Commissioners enter upon the question of valuation. They refer to the conflicting nature of the evidence in the Island, the employment of Mr. Wightman, his returns, &c.; and then the impossibility of fixing any general rate to operate throughout the whole Island; and after pointing out that a specific valuator could alone do exact justice in each particular case, but whom they had no power to appoint owing to the time and remuneration required, they declare that the leases must be regarded as valid, but that there shall be a compulsory power of purchase, that the tenant shall have that right, the rent stipulated for in the leases being taken as the basis of the compromise. The Report then provides that in all cases where the tenant chooses to pay 20 years' purchase, he shall be entitled to a deed of the fee simple (if all arrears allowed by the award are paid up); if he pays cash down, 10 per cent. discount; if not, 10 years to pay; no payment to be less than 10 £., and no payment to be credited to purchaser while any arrears of rent shall be due.

Secondly.—If the lands are not considered by the tenant worth 20 years' purchase, the tenant may offer what he considers the value; if landlord refuses to accept the price offered, the amount to be settled by valuation, tenant to name one valuator, landlord another, and these two to name a third as umpire, the valuation of any two to be accepted as the value of the land; if price awarded be not greater than price offered, landlord to pay costs of valuation; if greater, tenant to pay them. If amount settled at be paid in cash down, tenant entitled to discount of five per cent.; if not, 10 years' credit; payments subject to conditions before mentioned. In both cases rents to be reduced in proportion to payments made.

Thirdly.—Proprietors of not more than 1,500 acres not to be affected by the award; and any

any proprietor desirous of retaining 1,500 acres exempt from operation of the award shall have that right.

Fourthly.—Leases under 40 years not to be affected.

*Arrears of Rent.*—All arrears prior to 1st May 1858 remitted.

Fishery reserves to be abolished. Proprietors of lands, of which they form the sea front, to be entitled to them, subject to any right acquired by lessees; that is treating them exactly as if the fishery reserves had passed by the original grants without any restriction. Provision is made for persons wishing to carry on the fisheries to have compulsory power of purchase of one acre by appraisalment.

Escheat of original grants declared impracticable; and that every Government of the Island for the last 40 years has practically ignored that solution, for none of them when in power ever tried to accomplish it.

*Quit Rents.*—Declared that all arrears previous to 11 Geo. 4, c. 17 (Land Tax Act) have been remitted, and are not now reasonable.

Claims of descendants of loyalists are not now to interfere with proprietors' rights. If claimants can make out a case for redress, local Government to afford relief out of public lands now or hereafter to be acquired.

Claims of descendants of original French cannot be entertained.

*Indian Claims.*—Lennox Island confirmed to Indians.

— No. 17. —

(No. 3.)

COPY of a DESPATCH from Lieutenant Governor *Dundas*, to His Grace the Duke of Newcastle, K. G.

No. 17.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K. G.  
10 January 1862.

Government House, Prince Edward Island,  
10 January 1862.

(Answered, No. 94, 7 February 1862, page 65.)

My Lord Duke,

I HAVE the honour to inform your Grace that I have fixed the 20th February, as the day on which the Legislature of this Island will assemble.

2. Much disappointment will be felt, if I am unable at the opening of the Session to give any information respecting the award of the Land Commissioners.

3. My Government have requested me to ask your Grace to furnish me with a copy of the Report of the Commissioners, in order that their decision may be communicated to the House of Assembly.

4. I would therefore venture to request, that, if possible, your Grace would place me in possession of a copy of the award before the 20th February.

I have, &c.  
(signed) *George Dundas*,  
Lieut. Governor.

— No. 18. —

(No. 15.)

COPY of a DESPATCH from Lieutenant Governor *Dundas*, to His Grace the Duke of Newcastle, K. G.

No. 18.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K. G.  
3 March 1862.

Government House, Prince Edward Island,  
3 March 1862.

(Answered, No. 97, 21 March 1862, page 65.)

My Lord Duke,

I HAVE the honour to acknowledge the receipt, this day, of your Grace's Despatch, No. 94,\* of date, 7th February 1862, enclosing a copy of the Report of the Land Commissioners. I have to thank your Grace for the promptitude with which your Grace has responded to my request to be furnished with it.

2. I regret, however, that it is not accompanied by an Appendix, which is referred to in the Report.

\* Page 65.

3. It is understood that the Appendix contains, *inter alia*, the report of Mr. Wightman, C.E., who was sent by the Commissioners to collect additional information for them.

4. My Government is particularly desirous that the Report or Returns made by this gentleman, should be laid before the House of Assembly. I would, therefore, venture to request that your Grace will furnish me with a copy of this Appendix.

5. I trust that this Despatch may reach England in time to allow your Grace to send this Appendix (should your Grace think fit to comply with my request) by the mail which leaves England on the 22d instant, as I shall thereby be enabled to lay it before the Legislature, previous to its closing.

6. I trust that the extreme importance of the subject warrants me in respectfully requesting your Grace's immediate attention to it.

I have, &c.  
(signed) *George Dundas*,  
Lieut. Governor.

— No. 19. —

No. 19.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K. G.  
24 April 1862.

(No. 26.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K. G.

Government House, Prince Edward Island,  
24 April 1862.

My Lord Duke,

\* Page 66.

I HAVE the honour to acknowledge the receipt, yesterday, of your Grace's Despatch of the 5th inst.,\* enclosing a Draft Bill which you had received from Sir Samuel Cunard, embodying a plan for giving the tenants in Prince Edward Island the power of purchasing their holdings on certain terms therein laid down.

2. This Bill did not arrive in time to be laid before the Legislature during the late Session, which I closed on the 17th instant.

3. I have laid before my Government your Grace's Despatch, together with the Draft Bill enclosed in it, and I shall have the honour to communicate fully on the subject as soon as they have decided on the course they intend to pursue on this subject.

I have &c.  
(signed) *George Dundas*,  
Lieut. Governor.

— No. 20. —

No. 20.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K. G.  
25 June 1862.

(No. 45.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K. G.

Government House, Prince Edward Island,  
25 June 1862.

My Lord Duke,

(Answered No. 120, 9 August 1862, page 66).

I HAVE the honour to transmit, herewith, in triplicate, authenticated copies of two Bills passed last Session.

No. 1.

No. 2.

2. These Bills have reference to the award or report made by the Commissioners on the land question. Suspending clauses are attached to both.

3. These Bills are intituled respectively

1. "An Act to give Effect to the Report of the Commissioners on the Land Question."

2. "An Act to facilitate the Operation, in certain Particulars, of the Award or Report made by certain Commissioners to settle and adjust Differences respecting certain of the Township Lands of this Colony."

4. The

4. The Attorney-General has furnished me with a statement explanatory of the objects of these Bills. This statement I now also enclose.

5. A Minute of Council on the subject of these two Bills is being prepared by my Government. In this Minute my Government will state their reasons for framing these measures and carrying them through the Legislature.

6. When this Minute is placed in my hands, I shall at once forward a copy to your Grace.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

Enclosure 1, in No. 20.

CAP. IV.

AN ACT to give effect to the Report of the Commissioners on the Land Question.  
[Passed 17 April 1862.]

Encl. 1, in No. 20.

WHEREAS the lands of this colony, shortly after it was ceded to Great Britain, were granted by his late Majesty King George the Third, in large tracts, generally containing twenty thousand acres each, to divers British subjects, and their heirs and assigns respectively, in fee simple, and in the grants or patents by which the said tracts of land were so conveyed, there were contained certain clauses and conditions, respecting the time and manner of settling the said lands, and also respecting certain quit rents therein reserved to his said Majesty, and his heirs, as well as certain reservations and rights intended for the benefit and encouragement of persons engaged in carrying on the fisheries of this Island. And whereas at different times since the issuing of the said grants, and often during the last thirty years, the legal interpretation and construction of the conditions and reservations, contained in the said grants, respecting the settlement of the said lands, the right of enjoyment of the said fishery reserves, and the payment of the said quit rents have been much questioned, and have greatly occupied and agitated the minds of large numbers of inhabitants of this colony. And whereas the final settlement and adjustment of these questions, with a due regard to the rights of all persons whomsoever interested therein, will conduce much towards the peace and contentment of the inhabitants of this Island. And whereas on the ninth day of May, in the year of our Lord one thousand eight hundred and fifty-nine, the House of Assembly of this Island agreed to an address to Her Most Gracious Majesty the Queen, wherein it was prayed that Her Majesty would be pleased to appoint some fit and proper person or persons as Commissioner or Commissioners, to inquire into the relations of landlord and tenant, in this Island, and negotiate with the proprietors of township lands, for the fixing of some certain rate of price at which every tenant might at any time have the option of purchasing his land, or of paying instalments of such purchase, and thereby gradually reducing the yearly rent until the whole price thereof be paid, and also to negotiate with the respective proprietors for a remission of the arrears of rent in such cases, and on such townships, as the said Commissioner or Commissioners, from the circumstances of the tenantry, or otherwise, might deem reasonable and expedient; and also to make such report respecting the fishery reserve question, and other questions relating to the township lands of this Island, as the House of Assembly confidently hoped would effect a final settlement thereof, and prevent all agitation regarding the same in future, which said address was duly forwarded to England, and laid at the foot of the Throne. And whereas a copy of the said address having been communicated by his Grace the Duke of Newcastle, Her Majesty's principal Secretary of State for the Colonial Department, to the proprietors of certain of the said township lands or estates in this Island, the same proprietors, by a certain communication in writing, dated from "Bush Hill House, Edmonton," on the thirteenth day of February, in the year of our Lord one thousand eight hundred and sixty, subscribed with their hands, and addressed to his Grace the said Duke of Newcastle, proceeded to state, and did state, and agree as follows, namely:—

"My Lord Duke,

"We have been furnished with a copy of a memorial addressed to Her Majesty, by the House of Assembly of Prince Edward Island, on the subject of the questions which have arisen in connexion with the original grants of land in that Island, and the rights of proprietors in respect thereof.

"We observe that the House of Assembly have suggested that Her Majesty should appoint one or more Commissioners, to inquire into the relations of landlord and tenant in the Island, and to negotiate with the proprietors of township lands, for fixing a certain rate of price at which every tenant might have the option of purchasing his lands; and also to negotiate with the proprietors for a remission of the arrears of rent, in such cases as the Commissioners might deem reasonable, and proposing that the Commissioner should report the result to Her Majesty.

"As large proprietors of land in this Island, we beg to state that we shall readily acquiesce in any arrangement that may be practicable for the purpose of settling the various questions alluded to in the memorial from the House of Assembly, but we do not think that the appointment of Commissioners, in the manner proposed by them, would be the

most desirable mode of procedure, as the labours of such Commission would only terminate in a report which would not be binding on any of the parties interested.

“We therefore beg to suggest that instead of the mode proposed by the House of Assembly, three Commissioners or referees be appointed, one to be named by Her Majesty, one by the House of Assembly, and one by the proprietors of land, and that these Commissioners should have power to enter into all the inquiries that may be necessary, and to decide upon the different questions which may be brought before them, giving of course to the parties interested an opportunity of being heard.

“We should propose that the expense of the Commission should be borne by the three parties to the reference, that is to say, in equal thirds, and we feel assured that there will be no difficulty in securing the adhesion of all the landed proprietors to a settlement on this footing.

“The precise mode of carrying it into execution, if adopted, would require consideration and upon that subject we trust that your Grace would lend your valuable assistance.

“We have, &c.

“S. Cunard,

“E. Cunard, per S. Cunard,

“Graham Montgomery,

“Selkirk,

“James Montgomery,

“Laurence Sullivan.”

“To His Grace the Duke of Newcastle,  
&c. &c. &c.”

And whereas a certain other agreement or paper writing, bearing date in the year one thousand eight hundred and sixty, was subscribed at Charlottetown, in the said Island, by certain other landowners, namely, Thomas Heath Haviland, Daniel Hodgson, and William Cundall, all of Charlottetown, Esquires; also John Roach Bourke, of Township Number Fifty, Esquire, John Archibald McDonald, of Tracadie, Esquire, and Charles Palmer, of Charlottetown aforesaid, Esquire, on behalf of himself, and the other proprietors of the western half of Township Number One, by which said last-mentioned agreement or paper writing, the said persons above named submitted and agreed to be bound by the award, or report of the said Commissioners, in like manner and effect as they the said hereinbefore named persons who subscribed the said recited letter, dated at “Bush Hill House, Edmonton,” the thirteenth day of February, in the year one thousand eight hundred and sixty, which said other agreement or writing of the said year one thousand eight hundred and sixty, was also forwarded to his Grace the Duke of Newcastle, and it is just and reasonable that the said landowners who, either by themselves or agents, subscribed the said last above-recited agreement or paper writing, should be bound by the said report or award.

And whereas by a Despatch from his Grace the said Duke of Newcastle, bearing date the twenty-first day of March, in the year of our Lord one thousand eight hundred and sixty-one, and addressed to his Excellency the Lieutenant-Governor of this Island, a copy of which has been laid before the Legislature of this colony, his Grace, after referring to the prayer of the said address of the House of Assembly, and also to the above-recited communication from the above-named proprietors of township lands or estates in this Island, was pleased to state as follows, namely: “They, (the above-named proprietors) therefore, instead, suggest that three Commissioners or referees should be appointed, one by Her Majesty, one by the House of Assembly, and the third by the proprietors, and that they should be invested with power to hear and determine all the questions in dispute. It is further suggested that the expense of the Commission should be divided equally between the Crown, the tenants and the proprietors. If the consent of all the parties can be obtained to this proposal, I believe that it may offer the means of bringing these long-pending disputes to a determination. But it will be necessary, before going further into the matter, to be assured that the tenants will accept as binding the decision of the Commissioners, or a majority of them, and as far as possible, that the Legislature of the colony would concur in any measures which might be required to give validity to that decision.” And whereas, in pursuance of the suggestions contained in the said recited Despatch, the House of Assembly on the fourteenth day of April, in the year of Our Lord one thousand eight hundred and sixty, passed the following resolutions, namely:—

“Resolved, That this house deem it expedient to concur in the suggestions offered for the consideration of the House of Assembly, as set forth in the Despatch from his Grace the Duke of Newcastle, dated Downing-street, the twenty-first day of March, in the year of our Lord one thousand eight hundred and sixty, on the subject of the proposed appointment of a Commission of Inquiry for the arrangement of the long-pending disputes between landlords and tenants of this Island, the House of Assembly, therefore, agree to the appointment of three Commissioners, one by Her Majesty, one by the House of Assembly, and the third by the proprietors, the expense of the Commission to be equally divided between the Imperial Government, the general revenue of the colony, and the proprietors; the House of Assembly also agree, on the part of the tenantry, to abide by the decision of the Commissioners, or the majority of them, and pledge themselves to concur in whatever measures may be required to give validity to that decision.”

And whereas, in order to carry into effect the agreement or arrangement constituted by the above recited communication of the above-named proprietors, and the said last above-recited

recited Resolution of the House of Assembly, as well as by the said last-recited Despatch of his Grace the said Duke of Newcastle, Her Majesty's said Colonial Minister, Her Majesty was pleased to issue a Commission under Her Seal and Royal Sign Manual, in the words following; namely:

(L. s.) VICTORIA R.

"Victoria by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

"To all to whom these presents shall come, greeting:

"Whereas, we have been moved by the Assembly of our Island of Prince Edward, to appoint Commissioners to inquire into the differences now prevailing in our said Island, relating to the rights of landowners and tenants in our said Island, with a view to the settlement of the same, on just and equitable principles. And whereas the said Assembly has further, by a resolution dated the fourteenth day of April last, set forth its agreement to abide by the decision of any such Commissioners, or the majority of them, and to concur in whatever measures may be requisite for giving validity to their decision. And whereas it is highly desirable that the said differences should be adjusted. Now know ye that we taking the premises into our Royal consideration, are graciously pleased to nominate and appoint, and do by these presents nominate and appoint our trusty and well-beloved John Hamilton Grey, Esquire, our trusty and well-beloved Joseph Howe, Esquire, and our trusty and well-beloved John William Richie, Esquire, to be our Commissioners for inquiring into the said differences, and for adjusting the same, on fair and equitable principles.

"Given at our Court at Buckingham Palace, this twenty-fifth day of June, one thousand eight hundred and sixty, in the twenty-fourth year of Our reign.

"By Her Majesty's Command.

(signed) "Newcastle."

And whereas the said Commissioners having accepted the office conferred upon them by the said Commission, and taken upon themselves the duties imposed thereby, and having conjointly, at a court held by them in the said Island, proceeded to inquire and examine into the various questions and matters referred to them, as aforesaid, and having heard counsel on behalf of the landowners who submitted to the said Commission of Inquiry, and subscribed to the hereinbefore-recited letter of the thirteenth day of February, one thousand eight hundred and sixty, addressed to his said Grace, the Duke of Newcastle, by the said Sir Samuel Cunard and others, as well as on behalf of the said landowners who subscribed the said last hereinbefore-recited agreement; and having also heard counsel on behalf of the tenants of the said landholders, and heard and examined numerous witnesses on behalf of both parties, as well as divers other persons, inhabitants of the said Island, interested in the final settlement and adjustment of the said questions and differences referred to the said Commissioners, they the said Commissioners did thereafter, namely, on the eighteenth day of July, in the year one thousand eight hundred and sixty-one, at Rothsay, in the Province of New Brunswick, make their report or award in writing, of and concerning the various questions and matters referred to them, and did subscribe the said report or award with their respective names, and in their respective handwriting, a true and examined copy of which said report or award is to this Act annexed, marked Schedule (A).

And whereas, in order to maintain that good faith subsisting between Her Most Gracious Majesty the Queen and Her Imperial Government, and all those tenants and other inhabitants of this colony, interested in the award or report of the said Commissioners, and emanating from the reciprocal Acts of the said-recited Despatch of his Grace the Duke of Newcastle, bearing date the twenty-first day of March, in the year one thousand eight hundred and sixty, and the Resolutions of the House of Assembly of the said Island, passed on the fourteenth day of April in the same year, it is necessary that an Act of the Legislature should be passed to give validity to the said decision, or report of the said Commissioners:

1. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the report or award of the said Commissioners, the hereinbefore-named John Hamilton Gray, Joseph Howe, and John William Richie, so made and subscribed by them, on the said eighteenth day of July, in the year one thousand eight hundred and sixty-one, and by them transmitted to his Grace, the said Duke of Newcastle, Her Majesty's Principal Secretary of State for the Colonial Department, shall be, and the same is hereby declared to be final and conclusive, and the rights, interests, franchises, uses, trusts and estates of Her Most Gracious Majesty, the Queen, of in, and to the aforesaid township lands, severally owned by the respective proprietors thereof, who, by themselves or agents severally, submitted to the said commission of inquiry; and subscribed to the hereinbefore-recited letter, dated the thirteenth day of February, in the year one thousand eight hundred and sixty, addressed to his said Grace, the Duke of Newcastle, and also the said agreement or paper writing, dated in the year one thousand eight hundred and sixty, in so far as Her Majesty stands seised thereof, vested therewith, or otherwise interested therein, on behalf of the Government or inhabitants of this Island, and so far as the said rights, interests, franchises, uses, trusts and estates have been submitted to the consideration and determination of the said Commissioners, and all and singular the rights, uses,

trusts, and estates, rents, issues and profits of such estates, liberties, franchises and interests of all and every the aforesaid landowners or proprietors who, by themselves or their agents, severally, subscribed to the said recited letter of the thirteenth of February, in the year last aforesaid, as well as of those landowners or proprietors who subscribed the aforesaid agreement or paper writing, dated in the year one thousand eight hundred and sixty, as aforesaid, of, in, to or out of the said township lands, tenements, and hereditaments, owned by them respectively, their heirs and assigns, shall be, and the same are hereby declared to be subject to, charged and chargeable with, and bound by, the said report or award of the said Commissioners, in such manner and to such extent, and for such time as in and by the said award is awarded, ordered, expressed, or required. Every tenant of any land, part or parcel of the said township lands, mentioned in the preceding clause of this Act, and every other person whomsoever, whose estate, property, or interest shall in any manner be, or become affected by, or according to the meaning of the said award or report, be intended to be affected thereby, shall and may be at liberty to plead the same in any court of law or equity in this Island; and every such court shall admit, and allow to every such person, as regards the estate, interest, claim or demand of such person, the full force and effect of the said award or report, according to the true intent, meaning, and operation thereof.

II. This Act shall be deemed to be a public Act, and the printed copy of the said award or report of the said Commissioners, appearing in Schedule (A), as aforesaid, and printed by the Queen's printer, in this Island, along with, and as part of this Act, shall be deemed and taken to be evidence of the said award, in all courts in this Island, touching any question arising from or out of the same, and shall have the same force and effect therein, as the said original award or report, bearing the actual signatures of the said Commissioners, would or could have were the same original award actually produced and proved in evidence.

III. Nothing in this Act contained shall have any force or effect until Her Majesty's pleasure therein shall be known.

(A true copy, which I certify.)

Charlottetown, Prince Edward Island,  
19 June 1862.

*Frederick Brechen,*  
Attorney General.

Enclosure 2, in No. 20.

Encl. 2, in No. 20.

CHAPTER XII.

AN ACT to facilitate the operation in certain particulars of the Award or Report made by certain Commissioners, to settle and adjust Differences respecting some of the Township Lands of this Colony.

[Passed 17 April 1862.]

WHEREAS on the twenty-fifth day of June, in the year of Our Lord One thousand eight hundred and sixty, Her Majesty was pleased to issue to John Hamilton Gray, Joseph Howe, and John William Ritchie, Esquires, Her Royal Commission, in form and to the effect hereinafter set forth, namely:

(L. S.)

“ VICTORIA R.

“ Victoria by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

“ To all to whom these Presents shall come, Greeting:

“ Whereas, we have been moved by the Assembly of our Island of Prince Edward, to appoint Commissioners to inquire into the differences now prevailing in our said Island, relating to the rights of landowners and tenants in our said Island, with a view to the settlement of the same, on just and equitable principles. And whereas the said Assembly has further, by a resolution, dated the fourteenth day of April last, set forth its agreement to abide by the decision of any such Commissioners, or a majority of them, and to concur in whatever measures may be requisite for giving validity to their decision. And whereas it is highly desirable that the said differences should be adjusted. Now know ye that we taking the premises into our Royal consideration, are graciously pleased to nominate and appoint, and do by these presents nominate and appoint our trusty and well-beloved John Hamilton Gray, Esquire, our trusty and well-beloved Joseph Howe, Esquire, and our trusty and well-beloved John William Ritchie, Esquire, to be our Commissioners for inquiring into said differences, and for adjusting the same, on fair and equitable principles.

“ Given at our Court at Buckingham Palace, this twenty-fifth day of June, one thousand eight hundred and sixty, in the twenty-fourth year of our reign.

“ By Her Majesty's Command.

(signed) “ Newcastle.”

And whereas the said Commissioners having taken upon themselves the burthen of the said Commission, did proceed fully to inquire and examine into the various matters to them thereby referred, and afterwards, that is to say, on the eighteenth day of July, in the year one thousand eight hundred and sixty-one, at Rothsay, in the Province of New Brunswick, they, the said Commissioners, did make and subscribe their report or award, in writing, of and concerning the various matters to them referred, and by them examined into, a true copy of which said report or award is set forth in the Schedule to an Act made and passed by the Legislature of this Island, during the present Session, intituled, "An Act to give effect to the Report of the Commissioners on the Land Question:" And whereas the said Commissioners, in their said report or award have suggested as one mode of settling the differences between the landowners and their tenants, named or referred to in the said report or award, or intended to come within the operation thereof, that a loan of one hundred thousand pounds should be obtained to enable the Government of this Colony to purchase the lands of the said landowners, and sell them to the said tenants, and that Her Majesty's Imperial Government should guarantee the repayment of the said loan, in the manner and upon the conditions in the said report or award mentioned or expressed; and the said Commissioners did therein, and thereby, further suggest and report, that in case the Imperial Parliament should refuse to guarantee such a loan, or the Government of the said Island should decline to tender the securities therefor, then, as another mode of adjusting the disputes between the aforesaid landowners and their said tenants, the said Commissioners did, by their said report, award that every tenant of the said township lands, owned by the aforesaid landowners, except as in the said report is excepted, should have the right to purchase from his landlord the land held by him, and that every landlord and tenant should have the security of a fair valuation of the land, in case of a difference.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows: In the event of any such tenant or lessee of township lands, as aforesaid, not agreeing to pay the price or sum fixed by his landlord, at which he, the said landlord, shall be willing to sell to such tenant the fee simple of the farm or land held by him, and the tenant shall have offered a lesser sum for the same, which the landlord has refused to accept, such tenant shall then have the right to demand an arbitration to be holden for the purpose of fixing a price or sum at which he may purchase the fee simple of his farm, as aforesaid, and thereupon it shall be the duty of such landlord, and he is hereby required, within ten days from the time when the tenant shall have named his arbitrator, for the purpose aforesaid, and shall have given notice of such nomination in writing to his said landlord, to name a person to act as such on behalf of him the said landlord (the said two arbitrators to be both residents in Prince Edward Island), and he shall signify such nomination to such tenant, in writing; and in case the parties so named, or either of them respectively, refusing to serve, they the said landlord and tenant, or either of them, as the case may be, shall proceed to name other person or persons to act as such arbitrator or arbitrators, as the case may be, and so proceed, until two arbitrators willing to serve are obtained, and give notification thereof in like manner as hereinbefore prescribed. And the parties so nominated as such arbitrators shall, in every case, be notified thereof, in writing, by the said landlord and tenant, respectively; and such notice shall be in the form in the Schedule to this Act annexed, marked (A.), or to the like effect.

II. The persons to be chosen and appointed arbitrators in manner, and for the purpose aforesaid, being notified of such their appointment, by notice under the hands of them the said landlord and tenant respectively, or those of their agents, in manner as hereinbefore prescribed, and upon their consenting to act in that capacity, such consent to be also made known in writing by them, under their hands, to the said landlord and tenant respectively, they shall be allowed ten days from the time of being so notified of such their appointment within which to decide upon the price or sum at which such tenant as aforesaid shall have the right or privilege of purchasing the fee-simple of his said farm, and to make their award or decision, which, when made, shall be in writing, under the hands of the said arbitrators, and shall be in substance as in the form in the Schedule to this Act annexed, marked (B.), and shall be in duplicate, one copy for the landlord and the other for the tenant; and such award, when so made, shall be binding and conclusive on each of the last-named parties, and the price or sum fixed upon in said award shall be the price or sum at which such tenant shall have the right of purchasing the fee-simple of his said farm or land; and upon such tenant paying, or tendering the price or sum so awarded to his said landlord, or to the agent of such landlord, less five pounds per centum discount, in terms of the said in part recited report or award of the Commissioners appointed in manner, and for the purposes aforesaid, he shall be entitled to receive from his said landlord an absolute conveyance of his said farm or land: Provided always, that nothing herein contained shall take from such tenant the right or privilege of paying the said price or sum for the purchase of his said farm, in yearly instalments, in manner pointed out in the said, in part, recited report or award of the aforesaid Commissioners.

III. Immediately after the expiration of the ten days hereinbefore specified, if said arbitrators shall not have agreed upon the price or sum at which such tenant as aforesaid shall have the privilege of purchasing the fee-simple of his farm or land, and if they shall not have mutually agreed upon the choice of an umpire, it shall be the duty of such arbitrators thereupon forthwith to attend at the residence of a justice of the peace, residing in the vicinity of the farm or land in question, and shall then and there proceed to appoint an umpire, who shall be chosen in manner following: each of the said arbitrators shall proceed

ceed to name alternately six persons who shall be freeholders, resident on the township lands of the county wherein such tenant's farm shall be situate, but who shall not have any tenants under them; and from the names of the twelve persons so to be chosen as aforesaid, the said landlord, or his agent, and the said tenant, shall each strike off four names, and each of the remaining four names shall be placed on a separate slip of paper, folded up and placed in a ballot box; and the first name drawn therefrom, the same to be drawn by the said justice at whose residence they, the said arbitrators, shall have met, as aforesaid, shall be the umpire.

IV. It shall be the duty of the aforesaid justice of the peace, immediately after having drawn the one name from the ballot box, as hereinbefore mentioned, to seal up the said ballot box, with the three remaining names therein, and keep it in safe custody.

V. The said arbitrators are hereby required to notify the person so to be appointed umpire, as aforesaid, which notice shall be in substance as in the form in the Schedule to this Act annexed, marked (D), within three days after such his appointment (and such notification shall in like manner be given to each person successively appointed umpire as hereinafter pointed out, in the event of the person previously appointed refusing to serve), and it shall be the duty of such umpire, within ten days after having been so notified as aforesaid, to decide upon a valuation, and make his final award or umpirage in the premises; which award or umpirage shall be in writing, under the hand and seal of the said umpire, in duplicate, one copy for the tenant and the other for the landlord, and shall be in the form in the Schedule to this Act annexed, marked (C.), or to the like effect, and which award when so made shall be binding on each of them, the said landlord and tenant aforesaid, and the price or sum fixed upon in such award shall be the price at which such tenant shall have the right of purchasing the fee-simple of his said farm; and upon his paying, or tendering such price or sum so awarded, to his said landlord, or to the agent of such landlord, in such manner, and subject to such deductions as is hereinbefore prescribed, for cases where such arbitrators as aforesaid shall themselves decide upon a valuation, he shall in like manner as therein mentioned be entitled to receive from his said landlord an absolute conveyance of his said farm or land, provided always as in the last case mentioned.

VI. If the umpire so to be appointed as aforesaid shall refuse to take upon himself that office, and shall signify such refusal to the said arbitrators, the said arbitrators shall forthwith attend at the residence of the aforesaid justice of the peace, as in the first instance, and make the same known to him, who shall thereupon, in the presence of the said arbitrators, draw from the aforementioned ballot box one from the three names remaining therein, and which process in case of further refusal shall again be repeated until all the four names first placed in the ballot box shall have been drawn; and in case of all four whose names shall have thus been drawn, refusing to act as umpire to the said arbitrators, for the purpose aforesaid, it shall be the duty of the said arbitrators and such justice of the peace as aforesaid to follow and repeat the same process, until the person so chosen shall consent to act as such umpire.

VII. Provided always, and it shall be the duty of the justice of the peace before whom the said two arbitrators shall attend before proceeding to act in the appointment of the said umpire, to make a note or entry of the price offered by the tenant to the landlord, or his agent, for the purchase of the land in question. Each arbitrator and umpire who shall be appointed in manner and for the purposes aforesaid, and who shall discharge the duties hereinbefore prescribed to him respectively, shall be entitled to receive twenty shillings for his services in that behalf; that the said justice of the peace before whom the umpire shall be chosen and appointed, shall receive for his services the sum of ten shillings; and that every person who shall serve any paper or notice required by this Act, shall be allowed one shilling for every such service, together with mileage for the distance travelled in making such service, such distance to be calculated from the place where said person shall receive such paper or notice for service to the place where the same shall be served, and such mileage shall be the same as is allowed to constables under the Small Debt Act.

VIII. If any such landlord as aforesaid shall neglect or refuse to name or appoint an arbitrator, as hereinbefore required, the tenant in such case shall be entitled to receive an absolute conveyance of his land or farm, upon his tendering to his said landlord, or his agent, the price or sum first offered by said tenant for the same, as hereinbefore mentioned, provided that nothing herein contained shall take from such tenant or lessee the right or privilege of paying in instalments the sum last named for the purchase of the fee-simple of his said farm or land.

IX. Any person resident in this Island who shall hold a power or letter of attorney from any proprietor, authorising him to collect or receive rents in this Island, shall be competent and eligible to appoint an arbitrator for such proprietor; and to act for the said proprietor under this Act, in all respects as fully and effectually to all intents and purposes as the said proprietor himself, if present, might or could do.

X. Any proprietor of township lands who has already submitted himself to said award, if under the provisions thereof, he shall desire to retain particular lands to the extent of one thousand five hundred acres, shall within six months after this Act shall go into operation, file in the office for the registry of deeds, in Charlottetown, a plan and description of the lands which he shall so desire to retain; and any such proprietor who shall hereafter submit himself and his lands to the provisions of said award, shall file a like plan and description in said office, within six months after he shall so have submitted himself; and the lands specified in such plans and descriptions, shall be the only lands in each

225

each case which the proprietor filing the same shall be entitled to retain free from the provisions of this Act, and if no such plan and description shall within such time as aforesaid be filed by any such proprietor, he shall not be entitled to retain any such land free from the provisions of this Act.

XI. Nothing in this Act contained shall have any force or effect until Her Majesty's pleasure therein shall be known, and notification of Her Majesty's assent thereto shall have been published in the "Royal Gazette" newspaper of this Island.

SCHEDULE (A.)

To G. H. and J. K. of . Take notice that we, the undersigned, have appointed you our arbitrators to decide and adjudge the price or sum at which the undersigned C. D. shall have the privilege of purchasing the fee-simple of his farm of acres of land held by him of the undersigned A. B., under lease for forty years and upwards.

Dated this                      day of                      A. D. 186 .

A. B.  
C. D.

SCHEDULE (B.)

To all to whom these presents shall come.

We, the arbitrators, of township number                      in                      County (as the case may be) send greeting.

WHEREAS A. B., of                      , owner or proprietor of township, or part of township (as the case may be) number                      , by E. F. his agent (if such be the case) and C. D. of said township, number                      , have mutually agreed, in accordance with the provisions of the Act of the 25th Victoria, chapter                      , to appoint us arbitrators to award and determine the price or sum at which the said C. D. shall have the right or privilege of purchasing the fee-simple of his farm of                      acres of land situate on said township number                      , and owned by him the said A. B., and held under lease by the said C. D. for the term of forty years and upwards. Now know ye, that we the said arbitrators having taken upon ourselves such arbitration, and having viewed and examined the said farm or land so held by him, the said C. D. as aforesaid, and fully considered the matters submitted to us as such arbitrators, do by these presents, in writing, under our hand award, adjudge and determine that the said C. D. his executors, administrators, or assigns, shall have the right or privilege of purchasing the fee-simple of his said farm of                      acres of land so held by him, under lease as aforesaid, from the said A. B., at the price or sum of                      pounds of lawful current money of the said Island.

Dated                      A. D. 18 .

As witness our hands,

G. H.  
J. K.

SCHEDULE (C.)

To all to whom these presents shall come.

I,                      , the umpire, of township number                      , in                      County send greeting.

WHEREAS G. H. and J. K., arbitrators mutually appointed by A. B., of                      owner or proprietor of township, number                      , in                      county in this Island (by E. F., his agent, if such be the case), and C. D., of said township, number                      , farmer, for the purpose of fixing and awarding a price or sum at which the said C. D. should have the privilege of purchasing the fee-simple of his farm of                      acres of land, situate on said township number                      owned by the said A. B., and held under lease by the said C. D. for the term of forty years and upwards; and whereas the said arbitrators have not been able to agree to an award in the premises, and have appointed me their umpire in the matters so referred the same as aforesaid, and have referred the same to the judgment and final determination of me the said (umpire's name) accordingly. Now know ye, that I the said (umpire's name) having taken upon me the burthen of the said umpirage, and having heard and duly weighed the allegations of both the said arbitrators concerning the matter or difference between them, and having viewed and examined the said farm or land, so held by him the said C. D. as aforesaid, do by these presents, in writing under my hand award, adjudge and determine that the said C. D., his executors, administrators or assigns, shall have the right or privilege of purchasing the fee-simple of his said farm of                      acres of land so held by him under lease as aforesaid, from the said A. B., at the price or sum of                      pounds of lawful current money of Prince Edward Island.

Witness my hand this                      day of                      , A. D. 186 .

S. T.

## PAPERS RELATING TO

## SCHEDULE (D.)

To S. T., of

Take notice that we, the undersigned, who were appointed arbitrators to decide and award the price or sum at which C. D., of township, number , farmer, should have the privilege of purchasing the fee-simple of his farm of acres of land situate on the aforesaid township, and held by him of A. B., owner or proprietor of said township, under lease for forty years and upwards, not being able to agree to an award in the premises, have appointed you our umpire, and hereby refer to your judgment and final determination the matter or question submitted to us as aforesaid for our decision.

Witness our hands, this day of A. D. 186 .

G. H.  
J. K.

Charlottetown, Prince Edward Island,  
19 June 1862.

(A true copy, which I certify.)

Frederick Brecken,  
Attorney General

Enclosure 3, in No. 20.

Encl. 3, in No. 20.

## CAP. IV.

"AN ACT to give effect to the Report of the Commissioners on the Land Question."

THIS Act was introduced and carried through the Legislature by the Government in order to confirm by Statute the award of the Royal Commissioners on the Land Question in all its parts, without any variation or alteration, and contains a suspending clause.

## CAP. XII.

"AN ACT to facilitate the operation in certain particulars of the Award or Report made by certain Commissioners to settle and adjust Differences respecting some of the Township Lands in this Colony."

THIS Act was passed through the Legislature as a Government measure, for the purpose of facilitating the working of the Arbitration Clause in the Award of the Royal Commissioners on the Land Question.

The Act provides that, in case a tenant or lessee cannot agree with his landlord as to the amount of the price to be paid for the purchase of the fee-simple of the farm or land held by him, and the tenant has offered a lesser sum than the landlord demands, which the landlord has refused to accept, such tenant shall have the right to demand an arbitration to be holden for the purpose of fixing a price or sum at which he may purchase the fee-simple of his farm.

The first clause of the Act sets forth the mode in which the arbitrators are to be selected by the respective parties.

The second section provides the mode of conducting the arbitration, and the form and effect of the award.

The third section provides that if the two arbitrators cannot agree upon the price or sum at which the tenant shall have the privilege of purchasing the fee-simple of his farm, and have not mutually agreed upon the choice of an umpire, it shall be the duty of such arbitrators thereupon forthwith to attend at the residence of a justice of the peace residing in the vicinity of the farm or land in question, and shall then and there proceed to appoint an umpire, who shall be chosen in the mode set forth in the said section, and in the 4th, 5th, 6th, and 7th sections.

The eighth section declares that if the landlord neglects or refuses to appoint an arbitrator the tenant shall be entitled to receive an absolute conveyance of his land or farm upon his tendering to his landlord or his agent the price or sum first offered by the tenant for the same.

The ninth section declares that an agent, resident in this island, holding a power of attorney from any proprietor, authorising him to collect or receive rents in this island, shall be competent to appoint an arbitrator for such proprietor, and to act as effectually as if the proprietor himself were present.

The tenth section sets forth the time and manner in which a proprietor shall lay off the 1,500 acres he is entitled to reserve from the operation of the award.

The eleventh clause suspends the operation of the Act until Her Majesty's pleasure therein shall be known.

Frederick Brecken, Attorney General,  
Prince Edward Island.

— No. 21. —

(No. 46.)

Copy of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of *Newcastle*, K.G.

No. 21.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K. G.  
25 June 1862.

Government House, Prince Edward Island,  
25 June 1862.

My Lord Duke,

(Answered, No. 120, 9 August 1862, page 66.)

MR. ROBERT POORE HAYTHORNE has placed in my hands, for transmission to your Grace, a memorial or petition against an Act of the Local Legislature passed last Session, intituled, "An Act to facilitate the operation, in certain particulars, of the Award or Report made by certain Commissioners to settle and adjust differences respecting some of the Township Lands of this Colony."

2. I have now the honour to enclose Mr. Haythorne's Memorial.

3. Mr. Haythorne is not a consenting party to the Commission, but he fears that his property will sustain injury, should the above-named Act, to which a suspending clause is attached, receive Her Majesty's assent.

I have, &amp;c.

(signed) *George Dundas*,  
Lieutenant Governor:

Enclosure in No. 21.

Encl. in No. 21.

THE Memorial of *Robert Poore Haythorne*, Esquire, of Marshfield, in Queen's County, Prince Edward Island, to his Grace the Duke of *Newcastle*, Her Majesty's Principal Secretary of State for the Colonies,

Humbly Showeth,

THAT your Grace's memorialist has resided upwards of 20 years in this Colony, and is the proprietor of certain township lands, the whole of which are let on leases for 999 years, the rents reserved being 1s. sterling per acre per annum on 1,800 acres, and 1s. 6d. (one shilling and sixpence) currency per acre per annum on 3,500 acres, or thereabouts, with some unimportant exceptions with which it is unnecessary to trouble your Grace.

That your memorialist believes that the value of his property will be greatly deteriorated, the income thereof diminished, or rendered precarious, if a certain Bill passed by the Legislature of this island during the recent Session, entitled "An Act to facilitate the Operation of the Report or Award of certain Commissioners to settle and adjust Differences respecting some of the Township Lands of this Colony," should become law and go into operation.

Your memorialist begs leave respectfully to set forth for your Grace's consideration, the following reasons for advising Her Majesty to withhold the Royal assent from the before-mentioned Bill.

And, first, your memorialist desires to disclaim any intention of retarding or obstructing the settlement of the long-vexed land question, which has been the prolific source of so much disquietude and annoyance. On the contrary, your memorialist has evinced his desire to promote a just and equitable settlement of these unhappy differences, having appeared as a witness before the court of Her Majesty's Commissioners, and there declared his willingness to abide by their decision, or to accept a sum of money for his estate, which would have been equal to 15s. currency per acre, and to 15 years' purchase on the 3,500 acres let at 1s. 6d. currency per acre, and to 15 years' purchase, or thereabouts, on the 1,800 acres let at 1s. sterling; stipulating only for prompt payment in Government securities, bearing six per cent. interest, which would have produced an income about equal to that your memorialist now receives from his estate. Your memorialist has since met his tenants by appointment, and formally renewed the same offers, which however have not been accepted, perhaps from a fear on the part of some of the tenants that the expenses of management, and the necessity of punctual payments, if the Government stood in the position now occupied by your memorialist, would render their position little if at all more desirable than it is at present. These facts are thus respectfully set forth to prove that your Grace's memorialist is not actuated by factious or obstructive motives.

Up to the present time your memorialist has been unable to obtain a copy of the Bill in question, only an abstract thereof having hitherto appeared in the public papers; but from that abstract he learns that the Bill contains a provision that if, at the expiration of a certain period therein mentioned, "two arbitrators, one appointed by the landlord or his agent, and the other by the tenant (desiring to purchase), shall not have agreed upon the price at which the said tenant shall have the right to purchase the fee simple of his farm, and if they shall not have agreed on the choice of an umpire, the said two arbitrators shall then attend at the residence of a justice of the peace, and proceed to the appointment of an umpire in manner following:—Each of the said arbitrators shall proceed to name alternately six persons who shall be freeholders resident on the township lands of the county wherein such tenant's farm is situated (but who shall not have any tenants under them), and from the names of the twelve persons so to be chosen, the said landlord or his agent and the said tenants shall each proceed to strike off four, and each of the four remaining names shall be placed on a separate slip of paper, folded up and placed in a ballot box, and the first name drawn therefrom by the said justice of the peace shall be the umpire."

Further provision is made for the repetition of this process in case the party first appointed refuses to serve, and for other purposes which are unimportant if the principle above set forth is negatived.

Your memorialist objects to these provisions, inasmuch as the class of freeholders differs little in education or intelligence from the tenants amongst whom they dwell, and with whom they are connected by ties of consanguinity, of marriage, and of neighbourhood, and are thus identified with the cause of the tenants in a manner which, without casting any imputation on their integrity, must, your memorialist believes, completely disqualify them from forming an impartial decision in cases where a landlord's interests are concerned. Your memorialist also believes he would experience insuperable difficulties in finding amongst the class of freeholders a sufficient number of persons holding his own views, and disposed to support his interests, to be put in nomination as umpires; and even if such could be found, the price of farms would still in most cases be decided, not on the basis supplied by Her Majesty's Commissioners (with such reasonable exceptions as would appear on inquiry), but on the mere chance whether the umpire should be friendly to the landlord's interests, or the reverse, an anomaly which your memorialist believes is yet without precedent in British legislation. Your memorialist fears that if the Bill in question becomes law, that arbitrations will be called for in most cases, as the tenants will not be slow to perceive the great advantage they will possess in the appointment of umpires from amongst their friends and neighbours; the proprietors' field of choice being further narrowed by that provision of the Bill which precludes them from selecting any freeholder having tenants under him. The remedy provided by the Commissioners, and intended to meet exceptional cases only, and which would (your memorialist believes) be found to answer that purpose when the parties concerned were acting in good faith, would thus become of universal application, plunging the country into endless disputes, and embarrassing the proprietors in a manner they have not deserved, their honest endeavours to effect a settlement of the land question being taken into consideration.

Your memorialist also desires to draw your Grace's attention to a provision of the Bill enabling those proprietors only to retain particular lands to the extent of 1,500 acres who have submitted themselves to the award. He has been told that not being a consenting party to the award (that is, he supposes), his name not having appeared in the same list with the Cunards, the Montgomerys, and other large proprietors, he is not entitled to the benefit of that provision; a proposition certainly not borne out by your Grace's Despatch, which, while admitting the insufficiency of the award to bind non-consenting proprietors, tells them, at the same time, they need expect no support or countenance from the Home Government on any future dispute with their tenants. The power to retain 1,500 acres is a valuable boon to small proprietors, and would to a certain extent secure them from destitution, a not improbable event perhaps in some cases, if the best portions of their estates were taken under arbitrations conducted on the principles laid down in this Bill, leaving them a residue which possibly might do little more than pay the expenses of collection.

Your memorialist, for the reasons thus respectfully and, he trusts, candidly set forth, trusts your Grace will be induced to advise Her Majesty to withhold Her Royal assent from this measure, and your memorialist will ever pray the Almighty to prosper your Grace's efforts to effect a settlement of the land question in this Island on just and equitable principles.

Marshfield, near Charlotte Town,  
Prince Edward Island,  
9 May 1862.

— No. 22. —

(No. 52.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to his Grace the Duke of *Newcastle*, K.G.

Government House, Prince Edward Island,  
23 July 1862.

My Lord Duke,

(Answered, No. 120, 9 August 1862, page 66.)

I HAVE the honour to enclose a Minute of the Executive Council, to which I referred in my Despatch, No. 45,\* of date 25th June 1862.

2. This Minute has reference to two Bills passed by the local Legislature on the subject of the award of the Land Commissioners.

I have, &amp;c.

(signed) *George Dundas*,  
Lieutenant Governor.

No. 22.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K.G.  
23 July 1862.

\* Page 24.

Enclosure in No. 22.

Encl. in No. 22.

THE Board having taken into consideration the proposed Bill, intituled "A Bill for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to Purchase the Reversion of their Farms," submitted by Sir Samuel Cunard, in behalf of himself and certain other proprietors of lands in this island, and transmitted to his Excellency the Lieutenant Governor in a Despatch from his Grace the Duke of Newcastle, bearing date the 5th day of April 1862, have to report that they cannot consistently recommend his Excellency to hold out any expectations by which Sir Samuel Cunard and his associate proprietors, or his Grace the Duke of Newcastle might be induced to believe that the Legislature of this Colony would sanction any measure respecting the land question reported upon by the Land Commissioners, which might differ essentially from the principles embodied in their report.

The House of Assembly, at its last Session, deeming the faith of Her Majesty's Government pledged to this Colony, to maintain and carry out the award of the Commissioners, in its true meaning and spirit, have, by an overwhelming majority, passed a Bill for its confirmation. The Legislature at the same time passed a Bill to facilitate the execution of the award in that part which provides for ascertaining, by the medium of an arbitration, the price of land, in cases where the proprietor and tenant cannot mutually agree between themselves, a provision of this nature appearing indispensable to give full effect to the method of valuation in this respect awarded by the Commissioners.

In the Bill proposed by Sir Samuel Cunard, above referred to, it is recited that the said Commissioners "exceeded the authority intended to be given to them by the Assembly and the said proprietors."

This assumption on the part of the proprietors appears to be founded upon rules of construction merely applicable to instruments of a certain and well-defined legal character, but which rules would appear to be totally inapplicable to a report or adjudication proceeding from a Commission acting under the extraordinary powers conferred upon the Land Commissioners. These powers were never intended to be restrained or limited by any formal or arbitrary legal rules.

By reference to the words of the Commission, it will appear that the Commissioners were empowered to inquire into the existing differences between landowners and tenants, and to adjust "the same on fair and equitable principles." From the language here employed the powers conferred upon the Commissioners were of an unlimited description, and, in the opinion of the Board, amply sufficient to enable them to define any mode of settlement, even one of a purely equitable character. The Board know of no more equitable principle than that of an impartial valuation of each tenant's farm.

For the Commissioners to have attempted this by their own personal labours would have been a work of almost endless duration and incalculable expense. Having then established clearly the principle of valuation, they found that the object could be accomplished in a shorter time, and at much less expense, by the intervention of valuers; in whose judgment, also, more confidence would likely be reposed, from the circumstance of their being judges chosen by the parties themselves. In order that this, the principal element in the award, might not in any instance be rendered ineffective by the obstinacy of either party in the issue refusing to nominate an arbitrator, the Legislature provided a means as simple and just as could be devised, by which the intentions of the Commissioners might be carried out.

These enactments on the part of the local Legislature, it will be observed, do not in any manner vary or trench upon the principles of the award; and they have been passed, not only for the purpose of carrying out the provisions of the award in fuller detail, but as being essentially necessary in view of the Despatch of his Grace the Duke of Newcastle to his Excellency the Lieutenant Governor, of the date of the 21st March 1860.

By a passage contained in the Despatch of the Duke of Newcastle to his Excellency the Lieutenant Governor, dated the 7th February 1862, his Grace appears to apprehend

that the arbitration system prescribed by the Commissioners would necessitate a multiplicity of separate land arbitrations, which, in the estimation of his Grace, would constitute insuperable objections against this mode of adjustment. The Board, however, see no reason to apprehend that in the practical working of the measure many of these arbitrations would be called for; on the contrary, they are of opinion that, should arbitrations be resorted to, two or three cases on a township would have the effect of establishing a price or prices that would become the respective standards of value on that township.

The Board feel impelled to express their hope that his Grace the Duke of Newcastle, in considering the Bills which have been passed by the Legislature of this Colony for the purpose of giving effect to the award of the Commissioners, will bear in mind that the differences which the Commissioners were appointed to finally determine have, for upwards of a half century, exercised a most baneful influence upon this Colony, and that the people generally hailed with much satisfaction the prospect of having these differences adjusted by a mode to be pointed out by the very talented Commissioners to whom they were referred; and that should anything occur to prevent such adjustment, and the confirmation of their unanimous, able, and impartial report, to which the Legislature by these Bills seek to give effect, the consequences will be of a very serious nature and result in causing much anxiety to Her Majesty's Ministers, and also to those to whom may be entrusted the government of the Colony.

## — No. 23. —

(No. 61.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to his Grace the Duke of *Newcastle*, K.G.

Government House, Prince Edward Island,  
3 September 1862.

My Lord Duke,

I HAVE the honour to acknowledge your Grace's Despatch, No. 120,\* of 9th August 1862, informing me that you are unable to advise Her Majesty to give Her assent to two Acts of the local Legislature, passed during last Session on the subject of the award of the Land Commissioners.

2. Immediately on the arrival of this Despatch, I communicated it to the Leader of my Government; and, at a meeting of the Executive Council on the 2d instant, it was laid before the other Members of the Government. It will be published in the "Gazette" of this day's date.

3. I am not yet able to inform your Grace what course my Government will pursue respecting the Bill forwarded by Sir Samuel Cunard's request.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

## — No. 24. —

(No. 65.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to his Grace the Duke of *Newcastle*, K.G.

Government House, Prince Edward Island,  
17 September 1862.

My Lord Duke,

IN compliance with the instructions conveyed to me in your Grace's Despatch No. 120,\* 9th August 1862, I immediately brought under the reconsideration of my Government the proposal of Sir Samuel Cunard, embodied in the Draft Bill transmitted to me by your Grace.

2. I have now the honour to enclose copy of the Minute of Council, in which my Government express their opinion on this subject.

3. Your Grace will observe that my Responsible Advisers do not regard the terms offered by the proprietors as sufficiently favourable to the tenantry to justify their acceptance of them.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

No. 24.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K.G.  
3 September 1862.

\* Page 66.

No. 26.  
Lieut. Governor  
*Dundas* to the Duke  
of *Newcastle*, K.G.  
17 September 1862.

\* Page 66.

## Enclosure in No. 24.

EXTRACT from Minutes of the Executive Council.

Encl. in No. 24.

Council Chamber, 16 September 1862.

At a meeting of Council.—Present:

His Excellency the Lieutenant Governor,

The Honourable Mr. Palmer,

The Honourable Mr. Laird,

,, Mr. Gray,

,, Mr. Pope,

,, Mr. Longworth,

,, Mr. Simpson,

His Excellency directed the attention of the Board to a paragraph in the Despatch of his Grace the Duke of Newcastle, No. 120, of date 9th August 1862, in which his Grace desires the Lieutenant Governor to bring under the reconsideration of the Government the proposal made by Sir Samuel Cunard, embodied in a Draft Bill previously transmitted by his Grace to the Lieutenant Governor, at Sir Samuel's request.

The Board, having maturely reconsidered the same, are clearly of opinion that the said Bill is not sufficiently favourable in its provisions to the tenantry to warrant the Board in recommending its adoption.

A true extract, which I certify,

(signed)

Charles Desbrisay,

Assistant Clerk to Council.

— No. 25. —

(No. 66.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of Newcastle, K. G.

No. 25.  
Lieut. Governor  
Dundas to the Duke  
of Newcastle, K.G.  
17 Sept. 1862.

Government House, Prince Edward Island,  
17 September 1862.

My Lord Duke,

I HAVE received from the Commissioners, Messrs. Gray, Howe, and Ritchie, communications expressing their several opinions on Sir Samuel Cunard's Draft Bill, copies of which I had sent for their perusal.

2. As these opinions may interest your Grace, I transmit herewith extracts from their letters on the subject. These are marked respectively 1, 2, and 3.

3. For convenience of reference, I enclose also a copy, in a printed form, of Sir Samuel Cunard's Draft Bill, marked 4, and, for the same purpose, extracts from the Appendix to the Commissioners' Report, which have been printed from time to time in the "Islander" newspaper, marked 5.\*

4. A copy of this Appendix\* was supplied by the Commissioners, at the request of my Government. \* Not printed.

I have, &amp;c.

(signed)

George Dundas,

Lieutenant Governor.

Enclosure 1, in No. 25.

OPINION of John Hamilton Gray, Esq. on Sir Samuel Cunard's Draft Bill.

Encl. 1, in No. 25.

IN some respects the proposed Bill is better for all parties; in other respects better for a particular class of the tenantry; in others again it is worse for a large number, but as a whole, it is far more injurious to the proprietors themselves. Such a proposition might emanate from them; it could not with impartiality come from us. Such a scheme, substantially the same, was discussed by us, and rejected upon the very ground of the injustice it would do to the proprietors, and also that it would be unavailing to relieve a large body of the tenantry. The sole advantage it possesses over the award is that of finality. The best and the worst is known at once; it is unjust towards the proprietors.

1st. Because the best farms will be immediately taken at 15 years' purchase, and the worst, with all the wild lands, expenses of management, collection, and taxes, be left on their hands.

2dly. Because a large portion of the farms are well worth the 20 years' purchase, and in such instances the proprietors are losing 25 per cent. of their capital, without any corresponding return in benefit to the rest of the estate.

3dly. It makes no distinction between good and bad estates. Practically there would be no difference between the landlord who has managed well and made his estate valuable, in fact self-sustaining, and one who has not. The former carries the latter on his back.

4thly. The value of location is entirely overlooked.

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5thly. It

5thly. It makes no exception in favour of the small proprietor. It was before the Commissioners that there were many such in the Island, to the extent of 1,000 or 1,500 acres, whose dependence was entirely upon the rent roll from their small holdings. These parties having but small estates, managed them well, were personally on the spot, and were not open to any of the objections urged against the absent and larger proprietors. To take from such parties at 15 years' purchase would be unjust. The reinvestment after loss of 25 per cent. might not only be difficult, but entail ruinous loss. It is true they are not named in the schedule, but they must be affected by the Bill.

6thly. In the first section there is no limitation as to the quantity of land held by the tenant; I presume it intended to apply to 100 acre holdings, but it is not sufficiently comprehensive to take in smaller holdings, such, for instance, as at Caseumpec, where a man may have rented a small piece of ground for fishing purposes, at a rent entirely inadequate to the value of that holding, in case of a town or trading village centring round that spot. Such leases may be for short periods, 25 or 30 years, and yet have an unexpired term of 21 years (see 5th Section); the value of the holding from the increasing trade of the place may be worth a great deal more than 15 years' purchase. The award enabled the proprietors to reserve such lands to the extent of 1,500 acres. It might be as well to call the attention of Sir Samuel Cunard to this point. If the non-exception in the Draft Bill is intentional, no harm is done; if it is not, the omission may be rectified.

7thly. The 8th Section is a very proper one, but I think it might go a little further. It should be shown, if possible, that the Bill was intended only to meet the present emergency. The tenant should have the right *but once* of exercising his choice; he is not to make his election, then break off, and then claim it again.

Inasmuch as on the above points the Bill is prejudicial to the proprietors, it may be said to be to such extent favourable to the tenantry. Its finality is to some extent a recommendation; the right of purchase is conceded: that of itself is a great boon. To those whose farms are worth more than the 15 years' purchase it is unnecessarily liberal; but it is unfavourable, first to the large class whose farms are not worth the 15 years' purchase; for them it makes no provision. In their case also the payment of the cash down is an additional difficulty. Secondly, the latter part of the 5th Section is also unfavourable, and will exclude a large number. Justice to the proprietor certainly requires that the buildings, &c., if his should be paid for, in addition to the 15 years' purchase, unless the rent at the time of making the lease was based on them as well as on the land, they being at the time the proprietor's property. In such case, if the principle of the Bill is to be carried out, the exception should not be there. There must be many cases where the lands have fallen into the proprietor with buildings, &c., thereon, and have been subsequently relet.

In reality the only parties to whom the proposed Bill is more favourable than the award are just the parties who ought not to be so benefited.

The arbitration clause in the award, notwithstanding the reception it has met with, is the fairest after all. The arbitration we contemplated was to be conducted according to the broad English practice, the fairest play on both sides, when the whole proceedings could be reviewed in the courts of justice, and where collusion, partiality, falsehood, or fraud, would have vitiated any outrageous decision, and entailed punishment on the guilty party.

However, the Commissioners have never been called upon to defend their award; my observations are therefore unnecessary; but I do not admit the Commissioners exceeded their power; they acted within the spirit and letter of their commission.

Upon the whole, I do not think the proposed Bill will extend even-handed justice, or quiet the agitation as certainly or as quickly as the award would have done.

St. John, 11 August 1862.

(signed) *J. Hamilton Gray.*

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Enclosure 2, in No. 25.

Encl. 2, in No. 25.

OPINION of *Joseph Howe, Esq.*, on Sir *Samuel Cunard's* Draft Bill.

I THINK the Proprietors' Draft Bill very much less equitable than our award, because good and bad lands are to be parted for at one price; but if the tenants prefer it, and the Legislature are content to make it law, we have no right to complain.

Halifax, 6 August 1862.

(signed) *Joseph Howe.*

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Enclosure 3, in No. 25.

Encl. 3, in No. 25.

OPINION of *J. W. Ritchie, Esq.*, on Sir *Samuel Cunard's* Draft Bill.

It appears to me that the terms offered by the proprietors in their Draft Bill are highly favourable to the lessees of such of the farms as are intrinsically worth anything like what the rent reserved would indicate, and the members of the late Commission would not have felt justified, without the consent of the proprietors, in affording to that class of tenants the privilege of purchasing so much below the actual value of their reversionary interest in the lands; and I shall be a good deal surprised if every tenant who has the means, and whose

whose land is worth the money, does not take the same view of the Bill, and show his appreciation of the right conferred by purchasing under it.

But though this will be the case with the better class of tenants, I fear the larger class will derive no benefit from it, for while the landlords will sell their best lands below their value, I cannot see that the Bill holds out any prospect of relieving the Island of the present tenure of land which is deemed so objectionable; on the contrary, it seems rather calculated to perpetuate it; for if the tenants should be unable to purchase at the lower rate within the first, there seems little hope that they will be able to do so at the higher rates, at the later periods; and anyone at all conversant with the state of the Island must know that there are large tracts of poor land, and large portions so exhausted by bad farming as to be all but valueless, and these, of course, are tenanted by indigent people, and yet the same rent is reserved on them as on the best farms. For the landlords to expect 15 years' purchase for these lands is out of the question, nor would they have any better prospect of getting such a price if they were to eject the present tenants and sell the freehold to strangers.

The main difficulty, therefore, does not seem to me to be met by the Bill, and it was only because the Commissioners could see no other way to meet it that they resorted to arbitration, the objections to which they fully appreciated; but after giving the subject the deepest consideration they could see no other course open, and since then neither the advocates of the proprietors nor of the tenants appear to have been able to suggest one.

Halifax, 4 August 1862.

I have, &c.  
(signed) *J. W. Ritchie.*

— No. 26. —

(No. 34.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of Newcastle, K.G.

Government House, Prince Edward Island,  
9 April 1863.

No. 26.  
Lieut. Governor  
*Dundas* to the  
Duke of New-  
castle, K. G.  
9 April 1863.

My Lord Duke,

(Answered, No. 24, 11 July 1863, page 67.)

I HAVE been requested by the Legislative Council and House of Assembly to transmit, with my "favourable recommendation," an Address which has been passed by those bodies to Her Majesty on the Land Question.

2. This Address I have accordingly the honour herewith to transmit.

3. Its prayer is that Her Majesty's assent may be given to an Act, passed during the Session of 1862, to confirm the award of the Land Commissioners, unless the proprietors to be affected by that award prove its illegality before a Judicial Tribunal.

4. The argument on which the Legislature grounds its appeal, are therein fully expressed.

I have, &c.  
(signed) *George Dundas,*  
Lieutenant Governor.

Enclosure in No. 26.

ADDRESS to the Queen's Most Excellent Majesty on the subject of the Land Commission. Encl. in No. 26.

House of Assembly, 16 March 1863.

Most Gracious Sovereign,

WE, your Majesty's loyal and devoted subjects, the Legislative Council and House of Assembly of Prince Edward Island, in Parliament assembled, beg leave to approach your Majesty and most humbly to submit to your Royal consideration, that in the year 1859, the House of Assembly of Prince Edward Island submitted to your Majesty an humble address, in which it was represented that—

"In certain Despatches from one of your Majesty's Ministers, the Right Honourable Sir Edward Bulwer Lytton, Baronet, Secretary of State for the Colonies, dated Downing-street, 20th October and 3d December 1858, the Right Honourable Baronet therein states that the whole question of the land tenures in this Island is engaging his most anxious attention, and that it would give him unfeigned pleasure to receive such suggestions for their amicable settlement as could be accepted by your Majesty's Government.

"Having taken these Despatches into consideration, after mature deliberation, and with an earnest design to terminate the disputes which have so long disturbed the peace and harmony of the Colony, the House have adopted the following resolutions:—

"Whereas certain questions arising out of the original grants of the lands in this Island, severally called the escheat question, the fishery reserve question, and the quit-

rent question, have for many years caused much discussion and difference of opinion amongst the people of this Island, and many delusive projects and impracticable measures have been and are from time to time enunciated respecting such questions, whereby the tenantry have been and are greatly imposed upon and induced to support the propounders of such measures, under the delusive hope that by doing so they will be relieved of the payment of rent; and the attention both of the people and Legislature being occupied with such deceptive schemes, measures intended to develop the resources of the Colony are not only neglected, but a state of society equally opposed to the moral, social, and political welfare of the people and their true interests, is produced: And whereas various Despatches have for a great number of years declared that Her Majesty's Government will not consent to any compulsory interference with the lands and rights of the proprietors, and which has been strongly reiterated in the Despatch of Sir Edward Bulwer Lytton, now Her Majesty's Principal Secretary of State for the Colonies, dated 20th October 1858, and 3d December 1858, from which it is clear that any measures for the benefit of the tenantry must result from an amicable arrangement with the proprietors: And whereas the agitation of hostile measures, such as escheat, fishery reserves, and quit-rents, must not only result, as they always have done, in leading the tenantry into costs and trouble, without in any way ameliorating their condition, but will also engender a feeling in the proprietors, rendering them disinclined to listen to proposals, which, if such agitation were at an end, they would be likely to entertain: And whereas Sir Edward Bulwer Lytton in his Despatches above referred to, while refusing to sanction measures which in England are considered inconsistent with the rights of property, has expressed the readiness of Her Majesty's Government to co-operate with the Legislature in furthering measures for the settlement of the land tenures, if conceived in a spirit of fairness and conciliation to all parties;

"Therefore *resolved*, 1st, That an humble address be presented to Her Majesty, praying that Her Majesty will be pleased to direct a Commission to some discreet and impartial person, not connected with the Island, or its affairs, to inquire into the existing relations between landlord and tenant, and to negotiate with the proprietors for such abatement of present liabilities, and for such terms for enabling the tenantry to convert their leaseholds into freeholds, as, without infringing on the rights of the landlords, may be fairly and reasonably asked for, to ameliorate the condition of the tenantry.

"2d. *Resolved*, That, in the opinion of this House, the basis of any such arrangement should be a large remission of arrears of rents now due; and secondly, the giving every tenant holding under a long lease an option of purchasing his land at a certain rate, at any time he might find it convenient to do so.

"3d. *Resolved*, That a remission of arrears of rent may be reasonably asked, inasmuch as the existence of these arrears, although it is due partly to an unwillingness of the tenants to pay rent, under the idea that escheat or some other delusive scheme would enable them to evade; yet it is also due in part to the laches and remissness of the landlords and their agents in not enforcing it, and because in many cases the arrears, however incurred, amount to so large a sum that the exacting them would prove ruinous to a large number of loyal and industrious people, and would further entirely put it out of their power to avail themselves of the plan suggested in subsequent resolutions for purchasing their farms.

"4th. *Resolved*, That, as the circumstances of the tenantry would not in general enable them to pay down any large portion of the purchase money, the best and only means for converting the tenures into freeholds lies in the adoption of the plan which would practically constitute every farm a savings bank for its owner, in which he could from time to time invest his savings at interest towards the purchase of his farm; an arrangement which could be effected by the following means, viz.: that the landlords should agree to permit the tenants to purchase their farms for such sum per acre as shall be fixed upon; and, providing further, that when any tenant (whose rent was paid up) should be desirous of paying any sum, not being less than 10*L.*, towards the purchase of his land, he should have the option of doing so, and that the interest on the 10*L.*, or other amount so paid, should thenceforth go in reduction of his yearly rent, and so on for every payment on account of purchase until the whole was paid, when he should receive his deed; and that similar covenants should be inserted in all future leases for terms over 40 years; such an arrangement would not only give the tenant the advantage of paying an instalment of his purchase money, and at the same time reducing his rent whenever he chose, without subjecting himself to the vexation and costs incident to cases of inability to meet instalments agreed to be paid at a particular day, but would, in the opinion of this House, gradually, but certainly, change the tenures into freeholds, without the aid of loans, and the expensive subsistence of public offices, by which heavy liabilities have already been and would, if persevered in to a much greater extent, be imposed on the public finances.

"We do therefore humbly pray, that your Majesty will be pleased to take the foregoing matters into your Royal consideration, and to appoint some fit and proper person or persons, Commissioner or Commissioners, to inquire into the relations of landlord and tenant in this Island and negotiate with the proprietors of township lands for the fixing some certain rate of price at which every tenant may at any time have the option of purchasing his land, or of paying instalments of such purchase, and thereby gradually reducing the yearly rent until the whole price thereof is paid; and also to negotiate with the proprietors for a remission of the arrears of rent in such cases, and on such townships as  
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the said Commissioner or Commissioners, from the circumstance of the tenantry or otherwise, may deem reasonable and expedient; and also to make such report respecting the Fishery Reserve question, and other questions relating to the township lands of this Island, as we confidently hope will effect a final settlement thereof, and prevent all agitation regarding the same in future.

(signed) "Donald Montgomery,  
"House of Assembly, Prince Edward Island,  
"9 May 1859."  
"Speaker."

That subsequently to the transmission of this address to your Majesty's Principal Secretary of State for the Colonies, the following correspondence took place, and was duly transmitted by his Grace the Duke of Newcastle to the Lieutenant Governor of this Island:—

(No. 11.)

"Sir,

"Downing-street, 6 September 1859.

"I have to acknowledge Sir D. Daly's Despatch, No. 29, of the 13th May last, addressed to Sir E. B. Lytton, transmitting an address to Her Majesty from the House of Assembly, in pursuance of certain resolutions of the House, praying that Her Majesty would direct a Commission to inquire into the existing relations of landlord and tenant in the Island, with a view to the passing of remedial measures. The House of Assembly also propose that this Commission should direct its attention to the Fishery Reserve question.

"The resignation of Her Majesty's late Government has prevented an earlier answer to your Despatch.

"The Assembly, in their address, not only pray for the appointment of a Commission, but they likewise indicate, in detail, the measures which, in their opinion, should form the basis of that arrangement between landlord and tenant which the Commission should endeavour to bring about. Now, without expressing any opinion adverse to the appointment of such a Commission, I am convinced that any prospect of a beneficial result from its labours would be nullified if its action were fettered by such conditions as the Assembly would thus impose.

"I cannot advise Her Majesty to entertain the question, unless it is fully understood that the Commission are at liberty to propose any measure which they may themselves deem desirable.

"I have communicated this correspondence to Sir S. Cunard, as representing the landowners in this country, with a letter, of which I enclose a copy.

"I have, &c.  
(signed) "Newcastle."

"Sir,

"Downing-street, 6 September 1859.

"I AM directed by the Duke of Newcastle to transmit to you a copy of a correspondence between the Government of Prince Edward Island and this Department, upon the subject of the appointment of a Commission to propose measures of arrangement between landlords and tenants in Prince Edward Island.

"With reference to this communication, I am to suggest that you will call a private meeting of such landowners as may be in this country, and ascertain whether there are any concessions which they are ready to make, with a view of bringing these questions to an amicable issue.

"Sir S. Cunard."

"I am, &c.  
(signed) "H. Merivale."

"Sir,

"Downing-street, 21 March 1860.

"WITH reference to my Despatch, No. 11, of the 6th September last, in which I informed you that I had communicated to Sir Samuel Cunard the correspondence which had taken place upon the subject of the appointment of a Commission to propose measures of arrangement between landlords and tenants in Prince Edward Island, I transmit to you the copy of a letter which has been addressed to me by Sir Samuel Cunard, and several other proprietors of land in the Island.

"The proprietors, it will be seen, do not think that the appointment of a Commission in the manner proposed by the House of Assembly, in their Address of the 9th of May last, would be the most desirable mode of proceeding, as the labours of such a Commission could only terminate in a report, the conclusions of which would not be binding on any of the parties interested. They suggest, therefore, instead, that three Commissioners, or referees, should be appointed, one by Her Majesty, one by the House of Assembly, and the third by the proprietors; and that they should be invested with power to hear and determine all the questions in dispute. It is further suggested, that the expense of the Commission should be divided equally between the Crown, the tenants, and the proprietors.

"If the consent of all the parties can be obtained to this proposal, I believe that it may offer the means of bringing these long-pending disputes to a determination. But it will be necessary, before going further into the matter, to be assured that the tenants will accept,

as binding, the decision of the Commissioners, or the majority of them; and, as far as possible, that the Legislature of the Colony would concur in any measures which might be required to give validity to that decision. It would be very desirable also that any Commissioner who might be named by the House of Assembly, on behalf of the tenants, should go into the inquiry unfettered by any conditions, such as were proposed in the Assembly last year. I have, therefore, to request that you will ascertain and report to me, whether the tenants of Prince Edward Island, or the House of Assembly on their behalf, are prepared to agree to the proposed reference.

“Licutenant Governor Dundas.”

“ I have, &c.  
(signed) “Newcastle.”

“ Bush Hill House, Edmonton,  
13 February 1860.

“ My Lord Duke,

“ We have been furnished with a copy of a memorial, addressed to Her Majesty by the House of Assembly of Prince Edward Island, on the subject of the questions which have arisen in connection with the original grants of land in that Island, and the rights of proprietors in respect thereof.

“ We observe that the House of Assembly have suggested that Her Majesty should appoint one or more Commissioners to inquire into the relations of landlord and tenant in the Island, and to negotiate with the proprietors of township lands for fixing a certain rate of price at which every tenant might have the option of purchasing his lands; and also to negotiate with the proprietors for a remission of the arrears of rent in such cases as the Commissioners might deem reasonable, and proposing that the Commissioners should report the result to Her Majesty.

“ As large proprietors of land in this Island, we beg to state that we shall readily acquiesce in any arrangement that may be practicable, for the purpose of settling the various questions alluded to in the memorial from the House of Assembly, but we do not think that the appointment of Commissioners in the manner proposed by them would be the most desirable mode of procedure, as the labours of such Commission would only terminate in a report, which would not be binding on any of the parties interested.

“ We, therefore, beg to suggest, that instead of the mode proposed by the House of Assembly, three Commissioners or referees be appointed—one to be named by Her Majesty, one by the House of Assembly, and one by the proprietors of land—and that these Commissioners should have power to enter into all the inquiries that may be necessary, and to decide upon the different questions which may be brought before them, giving, of course, to the parties interested, an opportunity of being heard.

“ We should propose that the expense of the Commission should be borne by the three parties to the reference, that is to say, in equal thirds; and we feel assured that there will be no difficulty in securing the adhesion of all the landed proprietors to a settlement on this footing.

“ The precise mode of carrying it into execution, if adopted, would require consideration, and upon that subject we trust that your Grace would lend your valuable assistance.

“ We have, &c.

(signed) “ S. Cunard. E. Cunard per S. Cunard.  
“ Graham Montgomery. Selkirk.  
“ James Montgomery. Laurence Sulivan.”

“ To his Grace the

“ Duke of Newcastle, &c. &c. &c.”

The foregoing correspondence having been received in the Island, on the 14th April, the following resolutions were passed by the Assembly:—

“ Prince Edward Island, House of Assembly,  
“ Saturday, 14 April 1860.

“ Resolved,—That this House deems it expedient to concur in the suggestions offered for the consideration of the House of Assembly, as set forth in the Despatch from his Grace the Duke of Newcastle, dated ‘Downing-street, 21st March 1860,’ on the subject of the proposed appointment of a Commission of Inquiry for the arrangement of the long-pending disputes between landlords and tenants of this Island.

“ The House of Assembly therefore agree to the appointment of three Commissioners, one by Her Majesty, one by the House of Assembly, and the third by the proprietors, the expense of the Commission to be equally divided between the Imperial Government, the general revenue of the Colony, and the proprietors.

“ The House of Assembly also agree on the part of the tenantry to abide by the decision of the Commissioners, or the majority of them, and to pledge themselves to concur in whatever measures may be required to give validity to that decision.

“ Resolved,—That in order to carry into effect the suggestions of his Grace the Duke of Newcastle, as set forth in his Despatch to his Excellency Licutenant Governor Dundas, of the 21st March last, for settling the long-pending questions between landlords and tenants in this Island, this House do hereby name the Honourable Joseph Howe, of Nova Scotia, as referee or arbitrator on behalf of the tenantry of this Island, to act under the  
Commission

Commission to be issued by Her Majesty's Government, as set forth in the Despatch referred to, the other two referees or arbitrators under the said Commission to be named, as intimated in the said Despatch, one by Her Majesty's Imperial Government, and the other by the proprietors.

(Attest.) "John McNeill,  
"Clerk of the Assembly."

That the receipt of the said resolutions was acknowledged by his Grace the Duke of Newcastle in the following Despatch:—

"(No. 23.)

"Sir,

Downing-street, 16 June 1860.

"I HAVE had under my consideration your Despatches, No. 15, of the 16th of April, and No. 22, of the 30th April. In the former Despatch you enclose a resolution, in which the Assembly agrees to the proposed appointment of Commissioners on the subject of tenures of lands, binds itself to abide by the decision of those Commissioners, or the majority of them, and pledges itself to concur in whatever measures may be required to give validity to that decision. In the second Despatch you inform me that a short Act has since passed through both Houses, giving effect to the foregoing resolution.

"I cannot do otherwise than express my sense of the promptitude and completeness with which the House of Assembly has thus given its support to the plan devised, in the hope of putting an end to the differences which have prevailed in Prince Edward Island.

"In Mr. Howe the Assembly, acting on behalf of the tenantry, have selected a Commissioner whose known ability and prominent public position must well qualify him for the proposed inquiry.

"From Sir Samuel Cunard I have received a letter, of which a copy is enclosed, naming, as the Commissioner selected by the proprietors, Mr. John William Ritchie, of Halifax, who, I doubt not, will honourably discharge his functions.

"I have written, in exercise of the choice belonging to Her Majesty's Government, to request Mr. John Hamilton Gray, of New Brunswick, to undertake the remaining office of Commissioner. Mr. Gray has recently conducted another public inquiry, with a degree of ability, carefulness, and justice which entitles him to the confidence of all concerned in the intended investigation.

"Although the privilege of selecting each Commissioner has been conferred on a separate authority, so as the better to ensure satisfaction with the composition of the Commission, yet it is my view, and I doubt not will be that of the Commissioners themselves, that none of them ought to be regarded as the special advocate of one interest, but rather that the whole should devote their efforts to framing such recommendations as shall be demanded by the equity of the case, and be conducive to the general good of all classes of the community. Their conclusions, whatever they may be, will possess double weight if happily they should be unanimous.

"The time of meeting in Prince Edward Island will be best determined by the Commissioners themselves, who will be able to communicate with you upon any points which they may wish to ascertain, as bearing on the subject of the most convenient period for the purpose.

"It will be desirable that previous arrangements should be made, as far as practicable, for having at hand all the witnesses and all documentary evidence which the Commission is likely to require, so that the time needed for the actual sitting in the Island may be reduced within the most moderate compass, consistent with the due and complete accomplishment of the inquiry.

"I shall take an early opportunity of forwarding to you a Commission, under the Royal Sign Manual, containing the appointment of the several gentlemen named to serve on the Commission.

"Lieutenant Governor Dundas."

"I have, &c.  
(signed) "Newcastle."

That, on the 25th of June, Your Majesty was pleased to issue the following Commission:—

(L. S.) "VICTORIA R.

"Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith. To all to whom these presents shall come, greeting:

"WHEREAS, We have been moved by the Assembly of Our Island of Prince Edward to appoint Commissioners to inquire into the differences now prevailing in Our said Island, relating to the rights of landowners and tenants in Our said Island, with a view to the settlement of the same on just and equitable principles: And whereas the said Assembly has further, by a resolution dated the 14th day of April last, set forth its agreement to abide by the decision of any such Commissioners, or the majority of them, and to concur in whatever measures may be requisite for giving validity to their decision: And whereas it is highly desirable that the said differences should be adjusted:

"Now know ye, that We, taking the premises into Our Royal consideration, are graciously pleased to nominate and appoint, and do by these presents nominate and appoint,

Our trusty and well-beloved John Hamilton Gray, Esq., Our trusty and well-beloved Joseph Howe, Esq., and Our trusty and well-beloved John William Ritchie, Esq., to be Our Commissioners for inquiring into the said differences, and for adjusting the same on fair and equitable principles.

“ Given at Our Court at Buckingham Palace, this 25th day of June 1860, in the 24th year of Our reign.

“ By Her Majesty’s Command,  
(signed) “ Newcastle.”

That the said Commissioners duly executed Your Majesty’s said Commission, and on the 18th day of July 1861 transmitted to his Grace the Duke of Newcastle their report and award. That therein the said Commissioners, among other matters, reported and awarded as follows:—

“ 1st. That tenants who tender 20 years’ purchase to their landlords, in cash, shall be entitled to a discount of 10 per cent., and a deed conveying the fee-simple of their farms. Where the tenant prefers to pay by instalments he shall have the privilege, but the landlord shall not be bound to accept a less sum than 10*l.* at any one time; nor shall the tenant have a longer term than 10 years to liquidate the debt.

“ 2d. That tenants whose lands are not worth 20 years’ purchase, and who therefore decline to pay that amount, may tender to their landlords what they consider the value of their farms. If the landlord declines to accept the amount offered, the value shall be adjusted by arbitration. If the sum tendered is increased by the award, the tenant shall pay the expenses; if it is not, they shall be paid by the landlord. If the sum awarded is tendered in cash, a discount of five per cent. to be allowed; if not, payment to be made by yearly instalments of not less than 10*l.*, the term of payment in no case to exceed 10 years.

“ 3dly. That the rent shall be reduced in proportion to the instalments paid, but no credit shall be allowed for any such instalments, until the three years’ arrears allowed by this award have been paid, nor while any rent accruing after the adjustment of the value of the farm remains due.

“ 4thly. That proprietors who hold not more than 1,500 acres, or those who desire to retain particular lands to that extent, shall not be compelled to part with such under this award.

“ 5thly. That leases under a term of less than 40 years shall not be affected by this award.

“ 6thly. That all arrears of rent due by the tenants previous to the 1st of May 1858, be remitted.”

The award having been thus duly transmitted to Your Majesty, his Grace the Duke of Newcastle forwarded a Despatch, bearing date, Downing-street, April 5th, 1862, to the Lieutenant Governor of this Island, covering a draft bill, from certain proprietors who were parties to the said Commission, as a substitute to be taken in lieu of the award; the said proprietors objecting to be bound by the decision of the Commissioners.

That the Legislature of this Island passed, during the session of 1862, two Acts, intituled respectively, “ An Act to give effect to the Report of the Commissioners on the Land Question,” and “ An Act to facilitate the operation in certain particulars of the Award or Report made by certain Commissioners, to settle and adjust differences respecting some of the Township Lands in this Colony;” and a Minute of the Executive Council of this Island, dated 22 July, 1862, was forwarded to his Grace the Secretary of State, of which the following is a copy:

[EXTRACT from Minutes of the Executive Council.]

“ Council Chamber, 22 July 1862.

“ At a Meeting of Council—Present:

“ His Excellency the Lieutenant Governor.

|                        |  |                     |
|------------------------|--|---------------------|
| “ The Hon. Mr. Palmer. |  | The Hon. Mr. Laird. |
| “ Mr. Gray.            |  | “ Mr. Pope.         |
| “ Mr. Yeo.             |  | “ Mr. Simpson.      |
| “ Mr. Haviland.        |  |                     |

“ The Board having taken into consideration the proposed Bill, intituled, ‘ A Bill for settling differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Reversion of their Farms,’ submitted by Sir Samuel Cunard, on behalf of himself, and certain other proprietors of lands in this Island, and transmitted to his Excellency the Lieutenant Governor, in a Despatch from his Grace the Duke of Newcastle, bearing date the 5th day of April 1862, have to report that they cannot consistently recommend his Excellency to hold out any expectations by which Sir Samuel Cunard, and his associate proprietors, or his Grace the Duke of Newcastle, might be induced to believe that the Legislature of this Colony would sanction any measure respecting the land question reported upon by the Land Commissioners, which might differ essentially from the principles embodied in their report.

“ The

“The House of Assembly at its last session, deeming the faith of Her Majesty’s Government pledged to this Colony to maintain and carry out the award of the Commissioners in its true meaning and spirit, have, by an overwhelming majority, passed a Bill for its confirmation. The Legislature, at the same time, passed a Bill to facilitate the execution of the award in that part which provides for ascertaining, by the medium of an arbitration, the price of land, in cases where the proprietor and tenant cannot mutually agree between themselves; a provision of this nature appearing indispensable to give full effect to the method of valuation, in this respect, awarded by the Commissioners.

“In the Bill proposed by Sir Samuel Cunard, above referred to, it is recited that the said Commissioners ‘exceeded the authority intended to be given them by the Assembly and the said proprietors.’ This assumption on the part of the proprietors appears to be founded upon rules of construction merely applicable to instruments of a certain and well-defined legal character, but which rules would appear to be totally inapplicable to a report or adjudication proceeding from a Commission acting under the extraordinary powers conferred upon the Land Commissioners. These powers were never intended to be restrained or limited by any formal or arbitrary legal rules. By reference to the words of the Commission it will appear that the Commissioners were empowered to inquire into the existing differences between landowners and tenants, and to adjust ‘the same on fair and equitable principles.’ From the language here employed, the powers conferred upon the Commissioners were of an unlimited description; and, in the opinion of the Board, amply sufficient to enable them to define any mode of settlement, even one of a purely equitable character. The Board know of no more equitable principle than that of an impartial valuation of each tenant’s farm.

“For the Commissioners to have attempted this, by their own personal labours, would have been a work of almost endless duration, and incalculable expense. Having, then, established clearly the principle of valuation, they found that the object could be accomplished in shorter time, and at much less expense, by the intervention of valuers, in whose judgment, also, more confidence would likely be reposed, from the circumstance of their being judges chosen by the parties themselves. In order that this, the principal element in the award, might not in any instance be rendered ineffective by the obstinacy of either party in the issue, refusing to nominate his arbitrator, the Legislature provided a means as simple and just as could be devised, by which the intentions of the Commissioners might be carried out.

“These enactments on the part of the local Legislature, it will be observed, do not in any manner vary or trench upon the principles of the award; and they have been passed, not only for the purpose of carrying out the provisions of the award in fuller detail, but as being essentially necessary, in view of the Despatch of his Grace the Duke of Newcastle to his Excellency the Lieutenant Governor, of the date of the 21st March 1860.

“By a passage contained in the Despatch of the Duke of Newcastle to his Excellency the Lieutenant Governor, dated the 7th of February 1862, his Grace appears to apprehend that the arbitration system prescribed by the Commissioners would necessitate a multiplicity of separate local arbitrations, which, in the estimation of his Grace, would constitute insuperable objections against this mode of adjustment. The Board, however, see no reason to apprehend that in the practical working of the measure many of these arbitrations would be called for. On the contrary, they are of opinion that should arbitrations be resorted to, two or three cases on a township would have the effect of establishing a price or prices that would become the respective standards of value on that township.

“The Board feel impelled to express their hope that his Grace the Duke of Newcastle, in considering the Bills which have been passed by the Legislature of this Colony, for the purpose of giving effect to the award of the Commissioners, will bear in mind, that the differences which the Commissioners were appointed to finally determine have for upwards of half a century exercised a most baneful influence upon this Colony, and that the people generally hailed with much satisfaction the prospect of having these differences adjusted by a mode to be pointed out by the very talented Commissioners to whom they were referred, and that should anything occur to prevent such adjustment, and the confirmation of their unanimous, able, and impartial report, to which the Legislature, by these Bills, seeks to give effect, the consequences will be of a very serious nature, and result in causing much anxiety to Her Majesty’s Ministers, and also to those to whom may be intrusted the government of the Colony.”

“A true extract, which I certify,

“Charles Desbrisay, C.E.C.”

That the said Bills were not submitted by Your Majesty’s Secretary of State for the Colonies for your Royal allowance, for the reasons set forth in the following Despatch:—

“Sir,

“Downing-street, 9 August 1862.

“I HAVE received your Despatch, No. 45, of the 25th of June, enclosing two Bills, passed with suspending clauses, by the Legislature of Prince Edward Island, intituled, ‘Cap. IV., An Act to give effect to the Report of the Commissioners on the Land Question,’ and ‘Cap. XII. An Act to facilitate the operation in certain particulars of the Award or Report made by certain Commissioners to settle and adjust differences respecting some of the Township Lands in this Colony.’

“In forwarding these Acts you informed me, that you would shortly communicate to me a Minute of your Responsible Advisers, explaining the reason for framing these measures;

and this you have since done in your Despatch, No. 52, of the 23d of July; I am, therefore, now in a position to communicate to you the conclusion to which I have been led.

"It appears from the Minute of your Ministers, that they consider the so-called award of the Land Commissioners to be binding on the proprietors and the Legislature, and on this ground they state that they are unable to entertain Sir Samuel Cunard's proposal for enabling the tenants in Prince Edward Island to acquire freehold interest in their holdings, which was transmitted to you in my Despatch of the 5th of April last, No. 103.

"I very much regret that it is not in my power to concur in the views by which your Government have been led to prepare those Bills; or to advise Her Majesty to bring them into operation by giving Her assent to them.

"Your Advisers appear to consider that Her Majesty's Government had proposed to the proprietors of land, and that those proprietors had consented to place themselves and their interests absolutely in the hands of the Commissioners. This, however, was far from being the case.

"The proprietors consented that Commissioners should be appointed 'to enter into all the inquiries that might be necessary, and to decide upon the different questions which might be brought before them, giving, of course, to the parties interested an opportunity of being heard.'

"The main questions thus to be decided upon were, first, at what rate tenants ought to be allowed to acquire freehold interests in their property; and next, what amount of arrears of rent should be remitted by the landlords.

"On the first and most important of these questions, the Commissioners professed themselves unable to come to any conclusion, and instead of deciding it, they recommended, virtually, that it should be decided by other arbitrators, to be hereafter nominated. This, however, is not what they were charged to do; they were authorised by the proprietors to make an award themselves, but they were not authorised to transfer the duty of making that award to others. The trust confided to them was evidently a personal one. The proprietors relied on the skill, knowledge, and fairness of the three gentlemen appointed in 1860; but they could not, therefore, be called upon, in deference to these gentlemen's opinion, to confide their interests even to arbitrators specially designated in the award, much less to persons whose very mode of appointment is undetermined by it.

"This objection might, of course, be waived by the proprietors, but it is not waived, and being insisted upon, I am obliged to admit that it is conclusive; and I am bound further to say, that it is, in my opinion, an objection founded not on any technical rule of law, but on a sound and indisputable principle of justice,—the principle, namely, that a person who has voluntarily submitted his case to the decision of one man cannot, therefore, be compelled, without his consent, to transfer it to the decision of another.

"It is, therefore, impossible for me to advise Her Majesty to sanction the two Acts which you have forwarded, and which, of course, are intended to render the award obligatory on all who consented to the reference.

"I must instruct you, therefore, however unwillingly, to treat the Commissioners' award only as an expression of opinion, which, however valuable as such, cannot be made legally binding on the parties concerned; and which, therefore, ought not to be allowed to stand in the way of any other proposal which promises an amicable settlement of the question.

"It was under these circumstances, and with these impressions, that I forwarded to you the proposal made by Sir Samuel Cunard, in hopes that it might be found to furnish a basis of agreement in lieu of the recommendations of the Commissioners.

"Your Government refuse to consider this proposal, not, as I understand, because they think it in itself inadmissible, but because they consider themselves as bound to give effect to the Commissioners' award.

"This award being now out of the way, I have to request that you will bring Sir Samuel Cunard's proposal under their re-consideration. I do not think it desirable that I should myself express any opinion upon its merits. I will only observe, that it is in some respects more favourable to the tenants than the Commissioners' award; and that it will give me great pleasure to learn that it is likely to furnish a solution of these difficulties, which, so long as they are unsolved, must continue to obstruct the progress of the Colony.

"This conclusion which I have adopted respecting these Acts renders it unnecessary that I should do more than acknowledge your Despatch, No. 46, of the 25th of June, enclosing a memorial from Mr. Haythorne against the Act (cap. 12) to facilitate the operation of the award.

"I have, &c.

"Lieutenant Governor Dundas, &c. &c."

(signed) "Newcastle."

That from the foregoing Despatch of his Grace the Duke of Newcastle we conclude that the inability of his Grace to submit for Your Majesty's Royal allowance the Act of the Legislature passed to give effect to the award of the Commissioners on the land question, is grounded solely upon the objection set forth in his Grace's Despatch, as being urged against the said award by the proprietors who had agreed to be bound thereby; and also, that the said objection is one which, in the opinion of his Grace, might be waived by the said proprietors.

Under these circumstances, the Legislative Council and the House of Assembly beg respectfully to submit to Your Majesty, that in the negotiations conducted by Your Majesty's

Majesty's Secretary of State for the Colonies, and the Lieutenant Governor of this Island, respecting the Land Commission, it was expressly stipulated by his Grace the Duke of Newcastle, in his Despatch of the 6th September 1859, already referred to, that it should be "fully understood that the Commissioners are at liberty to propose any measure which they may themselves deem desirable." And that in the letter of Sir Samuel Cunard and other proprietors, addressed on the 13th February 1860 to his Grace the Duke of Newcastle, it was expressly agreed to by the said proprietors, that they would "readily acquiesce in any arrangement that may be practicable for the purpose of settling the various questions alluded to in the memorial of the House of Assembly. That, viewing these declarations in connection with the authority conferred by Your Majesty's Commission, wherein the Commissioners were empowered to inquire into the said differences, and to adjust the same on fair and equitable principles, the Legislative Council and House of Assembly most humbly conceive that no competent legal tribunal would decide that the equitable principles agreed to and determined upon by the Commissioners, as above recited, were not within the fair scope of the authority conferred upon them.

That Your Majesty's loyal subjects, the Legislative Council and House of Assembly of Prince Edward Island, most humbly submit to Your Majesty, that the award of the said Commissioners, who were appointed by warrant under the Royal sign manual and signet, was made under a reference solemnly agreed to by Your Majesty, by the proprietors, and by the House of Assembly of this Island, and that, therefore, according to the well-known legal maxim, "*Omnia præsumuntur rite et solenniter esse acta donec probetur in contrarium,*" the said award should be considered to be good and valid in law.

That we do not seek by the passing of the law to compel compliance on the part of the proprietors to an award which is in itself liable to an objection founded on any principle of justice or equity; but we most humbly submit, that the question as to whether the award of the Commissioners can or cannot be made legally binding on the parties concerned, is one proper for the consideration of Your Majesty's judicial tribunals.

We therefore humbly pray, that Your Majesty will cause it to be notified to the proprietors to be affected by the said award, that unless cause to the contrary be shown before a judicial tribunal, to be provided by Your Majesty, Your Majesty's allowance will be given to a Bill to give effect to the said award of Your Majesty's Royal Commissioners.

## — No. 27. —

(No. 68.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of Newcastle, K.G.

Government House, Prince Edward Island,  
5 August 1863.

My Lord Duke,

1. I HAVE the honour to acknowledge your Grace's Despatch, No. 24,\* of 11 July 1863, in which your Grace suggests a plan for the final settlement of the land question.

2. I have laid your Grace's Despatch before my Council, and I have been requested by the Members to convey to your Grace their grateful acknowledgments for the deep interest evinced by your Grace for the people of this Colony.

3. I am disposed to think that your Grace's plan will be gladly adopted by the Government.

I have, &c.  
(signed) *George Dundas,*  
Lieutenant Governor.

No. 27.  
Lieutenant  
Governor Dundas  
to the Duke of  
Newcastle, K.G.  
5 August 1863.

\* Page 67.

## — No. 28. —

(No. 73.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace the Duke of Newcastle, K.G.

Government House, Prince Edward Island,  
19 August 1863.

My Lord Duke,

1. IN acknowledging, in my Despatch, No. 68, of the 5th instant, your Grace's Despatch containing a plan for the settlement of the land question, I took occasion to remark that I had laid that Despatch before my Council, and

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that

No. 28.  
Lieutenant  
Governor Dundas  
to the Duke of  
Newcastle, K.G.  
19 August 1863.

that I was disposed to think that your Grace's plan would be gladly adopted by the Local Government.

2. This supposition is, I find, likely to be erroneous, as the feeling against your Grace's suggestions is undoubtedly increasing. As, however, I am unable at present to give your Grace any definite information, I shall not in the present Despatch enter into the question, merely availing myself of the earliest opportunity to withdraw an opinion which the first reception of the plan induced me to convey to your Grace, and which will probably prove incorrect.

\* Not printed.

3. I enclose, for your Grace's information, extracts\* from the "Islander" and "Examiner," two of the local newspapers.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

— No. 29. —

(No. 76.)

No. 29.  
Lieutenant  
Governor Dundas  
to the Duke of  
Newcastle, K.G.  
2 September 1863.

COPY of a DESPATCH from Lieutenant Governor *Dundas* to His Grace  
the Duke of *Newcastle*, K.G.

Government House, Prince Edward Island,  
2 September 1863.

My Lord Duke,

1. I HAVE the honour to report that Mr. Edward Palmer, Attorney General, and Mr. William H. Pope, Colonial Secretary of this Island, leave for England by the present mail as a Delegation from the Government of this Province to Her Majesty's Government on the land question.

2. A meeting of the supporters in the Legislature of the Local Government has recently been held; at this meeting I understand that the land question was fully discussed, and more particularly your Grace's recent suggestions respecting it. The Delegates, are, therefore, in possession of the views of the majority in the Council and in the Assembly, and with the grounds on which the party in power object to your Grace's suggestions.

3. The Delegates are prepared, with your Grace's permission, to discuss the whole question, and to endeavour on the part of the Local Government to arrive at some solution of its difficulties.

4. The Delegates will deliver to your Grace, as their credentials, a letter, copy of which I have the honour to enclose.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

Enclosure in No. 29.

Government House, Prince Edward Island,  
2 September 1863.

Encl. in No. 29.

My Lord Duke,

THE bearers of this letter, the Hon. Edward Palmer, Attorney General, and the Hon. William Henry Pope, Colonial Secretary of this Island, have been nominated by the Executive Council to proceed to London as a delegation from the Government of this Province to Her Majesty's Government on the land question.

The Delegates are in possession of the views of the party in power on the subject, and are prepared, with your Grace's permission, to enter into the whole question.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

His Grace the Duke of Newcastle, K.G.

— No. 30. —

(No. 43.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to the Right Honourable *Edward Cardwell*, M.P.Government House, Prince Edward Island,  
6 May 1864.

Sir,

IN accordance with the wish of his Grace the Duke of Newcastle, I laid before the Legislature, during the late Session, Despatch, No. 24\*, of 11th July 1863, in which his Grace suggested a plan for the settlement of the land question.

I enclose an extract from the Journals of the House of Assembly, containing a Resolution on the subject.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

No. 30.

Lieutenant  
Governor Dundas  
to the Right Hon.  
E. Cardwell, M.P.  
6 May 1864.

• Page 67.

## Enclosure in No. 30.

EXTRACT from Journals of the House of Assembly of Prince Edward Island, 6th April 1864. Encl. in No. 30.

THE Resolution reported from the Committee was then read by the clerk, and is as followeth:—

WHEREAS the scheme proposed by the Duke of Newcastle in his Despatch of the 11th July 1863, even if assented to by the proprietors, and confirmed by an Act of the Legislature of this Island, would not to any extent effect the enfranchisement of the leaseholders of the Island, inasmuch as it did not anticipate the remission of arrears of rent accrued and due prior to the 1st of May 1858, except in cases in which the tenants should purchase the freeholds of their farms; and as it would not render it compulsory upon the landlords to sell at any rate of price; but, on the contrary, would have left it optional with them to sell or not, as they might see fit; therefore, Resolved, that the said scheme is one such as this House cannot entertain; and further, that the course pursued by the Executive Government as expressed by the Minute of Council of the 27th August last, appointing a delegation for the purposes therein named, which was laid before this House on the 31st ultimo, meets with the unqualified approval of this House.

And the said Report being again read,—

The Honourable G. Coles moved, seconded by the Honourable J. Warburton, to amend the same, by striking out all after the word "Whereas," to the end of the Report, and substituting the following:—

"The Despatch of his Grace the Duke of Newcastle, dated the 11th July last, on the land question, although open to some objections—but which might have been pointed out and their removal suggested—is, on the whole, one far more calculated to relieve the large majority of the tenantry of this Island from their embarrassments, than the proposals made by the Delegates, by order of the Executive Government, as laid before this House in a Minute of Council, dated the 27th August last: therefore, Resolved, that in the opinion of this House, the delegation offer has proved detrimental to the best interests of the tenantry, and ought not to have been ordered by the Executive Council until the Despatch of the 11th July 1863 had been submitted to the Legislature."

The House divided on the motion of amendment.

## Yeas:

Hon. G. Coles,  
Hon. E. Whelan,  
Hon. F. Kelly,  
Hon. D. Beaton,

Hon. J. Warburton,  
Hon. J. Hensley,  
Mr. Sinclair,  
Mr. Sutherland,

Mr. Howlan,  
Mr. Walker,  
Mr. Conroy,  
—11.

## Nays:

Hon. J. H. Gray,  
Hon. Col. Secretary,  
Hon. J. Longworth,  
Hon. J. C. Pope,  
Hon. D. Kaye,

Hon. D. Davies,  
Hon. R. Macaulay,  
Mr. MacLennan,  
Mr. Haslam,  
Mr. Brecken,

Mr. Howat,  
Mr. Montgomery,  
Mr. Ramsay,  
Mr. Duncan,  
—14.

So it passed in the negative.

And the question being then put, "Shall the report of the committee be agreed to"?

The House again divided:

Yeas:

Hon. J. H. Gray,  
Hon. Col. Secretary,  
Hon. J. Longworth,  
Hon. J. C. Pope,  
Hon. D. Kaye,

Hon. D. Davies,  
Hon. R. Macaulay,  
Mr. Maclennan,  
Mr. Haslam,  
Mr. Brecken,

Mr. Howat,  
Mr. Montgomery,  
Mr. Ramsay,  
Mr. Duncan  
—14.

Nays:

Hon. G. Coles,  
Hon. E. Whelan,  
Hon. F. Kelly,  
Hon. D. Beaton,

Hon. J. Warburton,  
Hon. J. Hensley,  
Mr. Sinclair,  
Mr. Sutherland,

Mr. Howlan,  
Mr. Walker,  
Mr. Conroy,  
—11.

So it was carried in the affirmative.

— No. 31. —

No. 31.  
Lieut. Governor  
Dundas to the  
Right Hon.  
E. Cardwell, M.P.  
7 May 1864.

(No. 44.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to the  
Right Hon. *Edward Cardwell*, M.P.

Government House, Prince Edward Island,  
7 May 1864.

Sir,

I HAVE the honour to transmit herewith three authenticated copies of an Act passed during the late session of the Legislature "for Settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee-simple of their Farms;" and also the Attorney General's Report thereon.

2. This Act, reserved by a suspending clause for the signification of Her Majesty's pleasure, received my assent on the 2d instant.

3. The voluminous correspondence on the land question of this Island, and more particularly that which has taken place since the appointment of the Royal Commission, renders it unnecessary for me to enter into the subject. It is sufficient for me to remark, that the enclosed Act is intended to settle this embarrassing question, in so far as the proprietors who consented to the commission are concerned.

4. The terms of the enclosed Act are, shortly, as follows:—

All tenants (on the estates of these proprietors) who have unexpired leases of not less than 40 years, are to have the right to purchase the fee-simple of their farms at 15 years' purchase of the annual rent, for a period of 10 years from the time when this Act shall come into operation.

All arrears of rent which accrued previous to 1st May 1858 are to be *bond fide* remitted by these proprietors, as recommended by the Commissioners, except only in the case of tenants who have not complied with the recommendation of the Commissioners to pay the annual accruing rent, and against whom judgments have been entered up in the Supreme Court.

The decision of the Commissioners, as regards fishery reserves and quit-rents, is to be declared binding in law and equity, in respect of these proprietors.

5. Such is the substance of the enclosed Act, to which I venture to ask your early attention.

6. I heartily trust that the proprietors will consent to these terms, and that you will be able to advise Her Majesty specially to confirm this Act.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

## Enclosure 1, in No. 31.

AN ACT for Settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee-simple of their Farms. Encl. 1, in No. 31.

[Passed 2 May 1864.]

WHEREAS by a certain address of the House of Assembly, pursuant to certain resolutions, passed by the said House, it was prayed that Her Majesty's Government would be pleased to direct a commission to inquire into the existing relations between landlord and tenant, and to negotiate with the proprietors for abatement of arrears of rent, and also for terms to enable the tenants to purchase the fee-simple of their farms :

And whereas Sir Samuel Cunard, Baronet, Edward Cunard, Sir Graham Montgomery, Baronet, James Montgomery, the Right Honourable Lawrence Sullivan, Daniel Hodgson, William Cundall, John Roach Bourke, the Honourable Thomas Heath Haviland, John A. Macdonald, and the Honourable Edward Palmer, and Henry Palmer, proprietors of the several township lands, mentioned in the schedule to this Act, marked (A), did agree to the issuing of such commission ; and whereas a Royal Commission was thereupon issued, and whereas the Commissioners thereby appointed, by their report, did find and declare that no arrears of quit-rents, by the original grants reserved, are now due or recoverable from the proprietors, tenants or occupiers of such lands ; and also that the proprietors, their tenants or occupiers, should be quieted in their possession of certain parts of the said lands, called or known as the "Fishery Reserves;" and did also declare and award that all arrears of rent, which accrued due to the said proprietors, in respect of any of the said lands, previous to the 1st day of May 1858, should be remitted to the tenants ; and did also give certain rates at which they should have a right to purchase the fee-simple of their farms ; and whereas the said Commissioners did also, by their report, direct and provide that in certain cases the value of the land should be ascertained by arbitrators or valutors, to be chosen by the landlords and their tenants respectively :

And whereas the validity of such last-mentioned direction or provision of the said Commissioners hath been questioned, and it hath been made to appear that such direction or provision exceeded the authority of the said Commissioners, and rendered the said award ineffective ; and whereas it is nevertheless expedient that the questions concerning the land tenures of this Island, and which have been publicly agitated for so many years, should be set at rest by such legal provisions as will enable the tenantry to convert their leasehold tenures into fee-simple estates, upon such terms and conditions as Her Majesty may deem just and reasonable :

And whereas the said proprietors have intimated to Her Majesty's Government their willingness to remit to their tenants, on their respective estates, certain arrears of rent hereinafter mentioned ; and also that the tenants on the said estates shall have the right to purchase the fee-simple of their farms at the rate hereinafter expressed :

1. Be it therefore enacted by the Lieutenant Governor, Council and Assembly,—That, first, every tenant now holding under lease, or demise, from any of the proprietors in the said schedule named, or their ancestors, or any other person or persons from or through whom they derive title, their, or any of their heirs or assigns, having, at the time of his desiring to exercise the right of purchaser hereinafter given, an unexpired term of not less than 40 years, under written demise, in any of the township lands of such proprietors therein mentioned, shall have a right or option to purchase the fee-simple of the lands so held by him under lease or demise at the rates hereinafter mentioned, that is to say, during the period of 10 years from the day when this Act shall come into force, every such tenant shall have a right or option to purchase such fee-simple at 15 years' purchase, of the yearly rent reserved and made payable by and under such demise : Provided always that in any case where the said yearly rent, during the first portion or years of the term, shall be less than the yearly rent reserved during the residue of such term, the amount of the purchase-money shall be computed by multiplying the maximum or full rent reserved, during the residue of such term, by the number of years purchase at which such tenant may, under the provision aforesaid, be entitled to purchase.

2. That the hereinbefore recited declarations or award of the said Commissioners, respecting the arrears of quit-rents, and also concerning the lands known as the "Fishery Reserves," be, and the same are hereby declared to be, binding in law and equity, in respect of the estates of the proprietors of township lands, whose names are set forth in the schedule hereunto annexed.

3. All arrears of rent which have accrued due to any of the said proprietors from any tenant of such township lands, previous and up to the 1st day of May 1858, and unpaid at the passing of this Act, whether secured by bond, judgment, cognovit, promissory note, or other species of security, are hereby remitted, released and given up, whether such tenant shall purchase his farm under the provisions of this Act or otherwise, save as hereinafter excepted ; and no action, execution, or other proceeding in law or equity, shall be had or taken for any such arrears of rent : Provided always, that where any such arrears of rent shall have been secured by judgment at law recovered and entered up in the Supreme Court of Judicature in this Island, against any tenant or tenants of the said proprietors respectively, who have refused or neglected to pay their yearly accruing rents in

accordance with the recommendation of the aforesaid Royal Commissioners, such judgments having been entered up, upon, or at any time previously to the 1st day of October 1863, shall stand good and may be enforced as well for such arrears as for rent which may have accrued since the 1st day of May 1858, if any such shall be included in such judgments; and provided further, and it is hereby declared, that nothing in this Act shall be construed to entitle any tenant, who, subsequent to the 1st day of May 1858, shall have paid a sum larger than was sufficient to cover or liquidate the rent accruing due between the said 1st day of May 1858 and the time of the passing of this Act, to have the overplus or amount remaining, after deducting the rent so accruing, between the said 1st day of May 1858, and the time of the passing of this Act, applied in or towards the liquidation or payment of any rent accruing after the date of the passing of this Act; but such overplus shall be taken and held to have been appropriated by the landlord in payment of arrears that accrued due previous to the said 1st day of May 1858.

4. In any action, hereafter to be brought by any of the said proprietors, their heirs, or assigns, against any such tenant for the recovery of rent, which may have accrued due, previous to the 1st day of May 1858, under any such demise as aforesaid, this Act (as to so much of the demand as relates to rent accrued due previous to such last-mentioned date), shall be a good defence, under the general issue, without the same being specially pleaded in bar thereto.

5. That no tenant shall be entitled to claim the right or option to purchase under this Act, unless all arrears of rent, and which might have been recovered before the passing of this Act, and are not released or barred by the provisions hereof, shall be fully paid and satisfied.

6. That nothing in this Act shall extend to any lease made after the passing of this Act.

7. That no landlord shall be compelled to sell under the provisions of this Act, unless the whole of the purchase-money be tendered or offered to be paid.

8. That in case the tenant shall desire to purchase between the periods or days on which the rent falls due, the same shall be apportioned, and the portion there found to be due, added to the purchase-money payable by such tenant under the provisions of this Act.

9. In all cases where leases have been granted subsequent to the period when the Act passed in the 17th year of the reign of Her present Majesty, chap. 6, intituled, "An Act relating to certain Leases and Monetary Obligations entered into before the passing of the Currency Act," came into force and operation, such leases having the rent therein reserved in sterling; and the tenant shall have been accustomed to pay his rent reserved by such his lease, with the addition of one-ninth part thereof, every such tenant shall be entitled to have the purchase-money computed, in the same manner as the rent has been accustomed to be computed when paid.

10. Nothing in this Act shall have any force or effect until Her Majesty's pleasure therein shall be known.

#### SCHEDULE (A.)

Sir SAMUEL CUNARD, proprietor of townships numbers Two (2), Fourteen (14), Twenty-one (21), Thirty-two (32), Forty-four (44), Sixty-three (63), Sixty-four (64), and of halves of townships numbers Twenty (20), Forty-five (45), Forty-six (46), Forty-nine (49), and parts of townships Eight (8), Forty-eight (48), Fifty-four (54), and Sixty-five (65); also, one-third part of township Twenty-seven (27).

Mr. Edward Cunard, proprietor of townships numbers Four (4), Five (5), Six (6), and half of township number One (1).

Right honourable Lawrence Sullivan, proprietor of townships numbers Nine (9), Sixteen (16), Twenty-two (22), and Sixty-one (61).

Sir Graham Montgomery, of one-third ( $\frac{1}{3}$ ) part of township Thirty-four (34).

Honourable Thomas Heath Haviland, proprietor of townships numbers Fifty-six (56), and parts of townships numbers Forty-three (43), Forty (40), and Eight (8).

Henry and Edward Palmer, proprietors of one-half of townships number One (1).

Mr. Daniel Hodgson, proprietor of part of townships number Twenty-three (23).

Mr. William Cundall, proprietor of part of township number Twenty (20).

Mr. John A. Macdonald, proprietor of parts of townships numbers Thirty-five (35), and Thirty-six (36).

Mr. John R. Bourke, proprietor of half of township number Thirty-seven (37).

James Montgomery, Esq., proprietor of one-third part of townships numbers Fifty-one (51), Fifty-nine (59), and Thirty-four (34).

(A true copy, which I certify.)

(signed) *Edward Palmer*, Attorney General.

## Enclosure 2, in No. 31.

ATTORNEY GENERAL'S REPORT on "An Act for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee Simple of their Farms." Encl. 2, in No. 31.

THIS Act has been passed as a substitute for the award of the Commissioners appointed by Her Majesty's Commission to settle differences between certain proprietors of land in Prince Edward Island and their tenants; which award having been declared void by Her Majesty's Law Officers, the present Act is intended and expected to operate as a compromise between the said parties touching all matters relative to the right of the tenant to purchase, and the conditions of purchase.

Prince Edward Island,  
7 May 1864.

(signed) *Edward Palmer,*  
Attorney General.

## — No. 32. —

(No. 50.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to the  
Right Honourable *Edward Cardwell*, M. P.

Government House, Prince Edward Island,  
6 June 1864.

No. 32.  
Lieut. Governor  
Dundas to the  
Right Hon.  
E. Cardwell, M.P.  
6 June 1864.

Sir,

I HAVE the honour herewith to enclose a Petition to Her Majesty, which has been placed in my hands for transmission to you.

2. This Petition prays that Her Majesty will withhold Her consent from the Act of the Local Legislature passed last Session, intituled, "An Act for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee Simple of their Farms."

3. I observe that the last paragraph of this Petition states, "that another petition on this subject is in course of preparation for the signatures of the people generally." I shall therefore reserve any observations which I may have to offer on this subject to a future period.

I have, &c.  
(signed) *George Dundas,*  
Lieutenant Governor.

## Enclosure in No. 32.

To The Queen's most Excellent and Gracious Majesty.

Encl. in No. 32.

THE humble and dutiful petition of the undersigned, Her Majesty's loyal subjects, inhabitants of Prince Edward Island, met together in Charlotte Town, as Delegates, chosen at various public meetings throughout the Island, to consult on the present state of the tenantry, and the measures lately passed through the Legislature affecting their interests, and through them the interests of the Island generally.

That in the last session of the General Assembly of this Island an Act was introduced by the Government, and passed, professing to be an Act for the settlement of differences existing between landlords and tenants in this Island, but such Act cannot go into force and operation until Your gracious Majesty's assent shall be given thereunto.

That the title of such Act is, "An Act for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee Simple of their Farms."—Passed 2d May 1864.

That such Act has been passed without the sense of the tenants and other electors of this Island being taken upon its provisions, and contrary, as petitioners believe, to their wishes, as expressed and embodied in resolutions passed at various public meetings recently held on the subject.

That petitioners do not accept the said Bill as any just settlement of the differences so existing, nor do they conceive that the tenantry at large will derive any benefit from it, as very few indeed would be able, or, if able, would it be, in petitioners' opinion, of any advantage to them to purchase at so high a rate as that of 15 years' purchase, named in the said Bill.

That the above measure is not at all calculated to remove the grievances under which this Island generally, and the tenant portion thereof particularly, have suffered, and do suffer, on account of the original improvident granting away of the land, and the evils entailed upon it and them under the pernicious system of landlordism.

That no settlement of the land question will be just or beneficial unless on a much more liberal and extensive footing than the measure above alluded to; and the petitioners, Your Majesty's loyal subjects, approaching Your Majesty with every feeling of devotion and loyalty, therefore humbly petition Your Majesty not to give Your Majesty's assent thereunto.

And Your Majesty's petitioners humbly submit that another petition on this subject is in course of preparation for the signatures of the people generally, and will be forwarded, to be laid at the foot of the throne with as little delay as possible.

And your petitioners, as in duty bound, will ever pray, being Your Majesty's most loyal subjects.

19 May 1864.

(signed) *James B. Gaz*, Chairman,  
(And 51 other signatures.)

— No. 33. —

No. 33.

(No. 59.)

Lieut. Governor  
Dundas to the  
Right Hon.  
E. Cardwell, M.P.  
3 August 1864.

COPY of a DESPATCH from Lieutenant Governor *Dundas* to the  
Right Honourable *Edward Cardwell*, M. P.

Government House, Prince Edward Island,  
3 August 1864.

Sir,

1. I HAVE the honour to acknowledge your Despatch, No. 13,\* of date 8th July 1864, in which you acquaint me that, in a letter which you have received from Lady Georgina Fane, her Ladyship informs you, that Mr. Henry Palmer, of this Island, assures her that he never gave his assent to the provisions of the recent Act of the Provincial Legislature for settling the differences between landlords and tenants, and that his name had been inserted in the Schedule to the Act without his knowledge, and against his consent.

2. You request that I will furnish you with a full explanation upon this point at as early a period as possible, and you inform me that, in the meantime, the final confirmation of the Act will be suspended.

3. I regret that the absence, in England, of Mr. Henry Palmer prevents my giving you as much information regarding this matter as I desire.

4. I have the honour, however, to enclose a letter, addressed to me by Mr. Attorney General Palmer, on the subject. He has entered so fully into it, that little necessity exists for amplification on my part.

5. After the failure of the various modes that from time to time had been proposed of adjusting the land differences, the present measure was introduced by my Ministers as a settlement, which, although open to objection, was deemed by them to be a reasonable compromise between the conflicting interests of landowner and tenant.

6. The proprietors named in the Schedule were not consulted by the local Government previous to the introduction of the Act in question. They are those who consented to the Commission of 1860, and who were subsequently named in the Schedule of Sir Samuel Cunard's draft Bill, transmitted to me by the Duke of Newcastle, in his Despatch No. 103, of 5th April 1862.

7. Mr. Henry Palmer, one of these proprietors, was resident in Charlottetown during the whole of last session, when the Act in question was introduced, carried through the Legislature, and received my assent. He must have been acquainted with all the provisions of this Act, which his brother, the Attorney General, had drawn up, and aware that his name, with that of his brother, was in the Schedule.

8. The Act received my assent on the 2d May, and, with the Schedule annexed, was published in the "Royal Gazette" of 11th May 1864. Mr. Henry Palmer did not leave this Island for England until the 4th June; up  
to

\* Page 74.

to that period he did not make any protest against his name having been inserted in the Schedule to the Bill; and I gather from your Despatch that, since his arrival in England, he has not made any direct appeal against it.

9. I am therefore led to conclude that Lady Georgina Fane has misunderstood Mr. Palmer's sentiments on the subject, and that Mr. Palmer does not wish to throw any obstacle in the way of the confirmation of this Act.

10. I have therefore directed that a communication be addressed to Mr. Palmer, who is still in England, requesting that he will, in order to avoid loss of time, correspond directly with the Colonial Office.

11. I may add, that I understand that Mr. Henry Palmer's interest in Lot 1 of this Island is of the value of about 25 *l.* sterling per annum.

I have, &c.  
(signed) *George Dundas*,  
Lieutenant Governor.

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Enclosure in No. 33.

Prince Edward Island, Charlotte-town,  
2 August 1864.

Encl. in No. 33.

Sir,

I HAVE had the honour to receive from your Excellency the copy of a Despatch dated 8th July 1864, from the Colonial Minister, respecting Mr. Henry Palmer's reported dissent from the Bill recently passed here for settling differences between landlord and tenant.

In compliance with your Excellency's wish to be furnished with my observations on this subject, I beg leave to state that I was not previously apprised that Mr. Henry Palmer had not given his sanction to this Bill, as much, at least, as any other of the proprietors whose names appear in the Schedule attached to it.

In preparing the draft of the Bill for the purpose of being introduced into the Legislature last session, I, in compliance with the instructions of the Colonial Government, adopted the Schedule which contained the names of those proprietors who were originally parties to the Commission in 1860.

This list was altered only as regarded those proprietors who had sold estates to the local Government between the periods of the Commission being issued and the framing of the Bill last spring.

As the Draft Bill prepared by me was liable to amendment in its passage through the Legislature, where indeed it underwent considerable alteration, no advantage would have resulted in previously obtaining the formal consent of the proprietors to a draft liable to important changes.

The views of those proprietors resident in England, and named in the Schedule, have not yet been officially made known, and with their opinions I am consequently unacquainted.

As to the other proprietors named in the Schedule resident in this Island, I can speak with greater confidence; they were on the spot when the Bill was introduced into the House of Assembly, and must have been fully aware of their names being in the Schedule. It was open to them at any time to protest against a measure, the provisions of which were well known and freely canvassed in this community; but no remonstrance to the local authorities was made, nor, as far as I am aware of, was any petition against the final confirmation of the Act forwarded by them to the Colonial Minister.

All those gentlemen named in the Schedule, and resident in the Island, may therefore have been reasonably supposed to acquiesce in the Bill, and, as it was published in the "Royal Gazette" within 10 days from the time when your Excellency gave your assent to it, none can plead ignorance of its provisions, or of his name appearing in the Schedule.

With regard to Mr. Henry Palmer, all I have stated as applying to the other resident proprietors applies with equal force to him. I never heard him express any objection to the Bill, nor from any other person that he had done or intended to do so, and I fully believed that the Bill met his approbation as it had my own.

Mr. Henry Palmer is at present in England, as your Excellency is aware; I am unable therefore to obtain from him at once his sanction personally given to the Bill.

I shall transmit to him, however, by this mail a duplicate of the certified copy of the Act, which I annex to this letter. To prevent the possibility of any further misunderstanding, these two certified copies of the Act bear the signature, as assenting parties, of every resident proprietor named in the Schedule, and at present in the Island.

I feel confident that Mr. Henry Palmer will not hesitate to subscribe his name formally to the document I have enclosed him, and that he will, by forwarding it without delay to Downing-street, obviate the objection which Lady Georgina Fane has apparently raised to the passing of an Act which is looked forward to with the deepest anxiety by such a large number of the tenantry of the landed estates in this Colony.

His Excellency Lieut. Governor Dundas, &c. &c. &c. I have, &c.  
(signed) *Edward Palmer,*  
Attorney General.

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Sub-Enclosure.

Sub-Enclosure. "AN ACT for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee Simple of their Farms."\*

\* *Note.*—This Act will be found printed as an enclosure in Governor Dundas' Despatch, No. 44, 7th May 1864, page 50.

The following sentence and signatures were appended to it:

"We, the undersigned proprietors in Prince Edward Island, agree to the provisions of this Act.

(signed) " *J. R. Bourhe.*  
*T. H. Haviland.*  
*Wm. Cundall.*  
*D. Hodgson.*  
*John A. M'Donald.*  
*Edward Palmer.*"

No. 34.  
Lieut. Governor  
Dundas to the  
Right Hon.  
E. Cardwell, M. P.  
15 August 1864.

(No. 61.)

— No. 34. —

COPY of a DESPATCH from Lieutenant Governor *Dundas* to the  
Right Honourable *Edward Cardwell*, M. P.

Government House, Prince Edward Island,  
15 August 1864.

Sir,

REFERRING to my Despatch, No. 50,\* of 6th June 1864, I have the honour to enclose two Petitions against the Act 27 Vict. c. 2, "for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee Simple of their Farms."

A Minute of Council on the subject is being prepared by my Ministers; I therefore reserve any remarks I may have to make until I am able to forward that Minute.

I have, &c.  
(signed) *George Dundas,*  
Lieutenant Governor.

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Enclosure 1, in No. 34.

To The Queen's most Excellent and Gracious Majesty.

Encl. 1, in No. 34.

WE, Your Majesty's loyal and dutiful subjects, the fishermen of Prince Edward Island, beg leave to approach Your Majesty with feelings of affection and devotion, to unite with the tenants and others on said Island, in praying Your Majesty to withhold Your Royal assent to a Bill, passed May 2d, 1864, intituled "An Act for settling Differences between Landlord and Tenant."

The reason for petitioning Your Majesty against the above-mentioned Bill is twofold, namely:

First. As inhabitants of Prince Edward Island, we think the said Bill unjust, as it resigns the fishery reserves to the proprietors, on those (32) thirty-two townships in which the reserves remained in the Crown, and by the Crown were transferred to the local Government of this Island, without any concessions on the part of said proprietors in return for the same.

Second. As fishermen we wish the fishery reserves on the above-named townships to remain in the Government of this Island, to be disposed of by them according to the spirit and meaning of the original grants.

And your petitioners, as in duty bound, will ever pray.

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## Enclosure 2, in No. 34.

To The Queen's most Excellent and Gracious Majesty.

Encl. 2, in No. 34.

THE humble and dutiful petition of the undersigned, Her Majesty's loyal subjects, inhabitants of Prince Edward Island, sheweth :

That, in the last session of the General Assembly of this Island, an Act was introduced by the Government, and passed, professing to be an Act for the settlement of differences existing between landlords and tenants in this Island, but such Act cannot go into force or operation until your Gracious Majesty's assent shall be given thereunto.

That the title of such Act is, "An Act for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee Simple of their Farms," passed 2d May 1864.

That such Act has been passed without the sense of the tenants, and other electors of this Island, being taken upon its provisions, and contrary, as petitioners believe, to their wishes.

That petitioners do not accept that portion of said Bill which relates to the purchase of the said lands at so high a rate as the 15 years' purchase, named in said Bill, nor do they conceive that the tenantry at large will derive any benefit from it, as very few indeed would be able, or if able, would it be, in petitioners' opinion, any advantage to them to do so.

Although they believe that that portion of said Act which grants them a remission of arrears of rent up to 1st May 1858, might be an advantage to a very few of your petitioners, yet your humble petitioners do not accept said Bill (as a whole) as any just settlement of the said differences so existing.

And your petitioners believe that the above measure is not at all calculated to remove the grievances under which this Island generally, and the tenant portion thereof particularly, have suffered and do suffer, on account of the original improvident granting away of the lands, and the evils entailed upon it, and upon them, under the pernicious system of landlordism.

That no settlement of the land question will be just, or of any benefit, unless on a much more liberal and extensive footing than the measure above alluded to; and the petitioners, your Majesty's loyal subjects, approaching your Majesty with every feeling of devotion and loyalty, therefore humbly petition your Majesty not to give your Majesty's assent thereunto.

And your petitioners, as in duty bound, will ever pray.

— No. 35. —

(No. 65.)

COPY of a DESPATCH from Lieutenant Governor *Dundas* to the  
Right Honourable *Edward Cardwell*, M.P.

Government House, Prince Edward Island,  
7 September 1864.

Sir,

1. WITH reference to my Despatch, No. 61,\* of 15th ultimo, I have the honour to enclose the Minute of my Advisers, which I informed you was being prepared.

2. I also enclose a printed copy of the Petitions (transmitted with that Despatch) praying Her Majesty to disallow the Act passed last Session "for settling Differences between Landlord and Tenant."

3. With regard to the Petition of the fishermen, praying that the Act be disallowed, because by it the Fishery Reserves are conceded to the proprietors, I cannot do better than refer you to the remarks made on the subject of these reserves by the Land Commissioners in their report, transmitted to me with the Duke of Newcastle's Despatch, No. 94, of 7th February 1862.

4. On the objections generally, I may remark, that my Ministers never expected that the measure which they introduced last Session, and which was approved by the Legislature, was one which would meet with the entire approval of either tenants or proprietors. It was intended as a compromise between the conflicting interests of the two parties, and not as a measure which would be proposed by either, if possessed of unlimited powers to legislate for their own advantage.

5. From these Petitions it appears that some tenants object to this Act. I have reason to believe that its terms are not such as satisfy all the proprietors.

I have, &amp;c.

(signed) *George Dundas*,  
Lieutenant Governor.

No. 35.  
Lieut. Governor  
Dundas to the  
Right Hon.  
E. Cardwell, M.P.  
7 September 1864.  
\* Page 56.

Enclosure.

## Enclosure in No. 35.

(Extract.)

Encl. in No. 35.

Council Office, 7 September 1864.

HIS Excellency having laid before the Board a petition from divers inhabitants of this Island, praying Her Majesty the Queen may not give her assent to the Act of the Colonial Legislature of this Island, passed on the 2d day of May 1864, intituled "An Act for settling Differences between Landlord and Tenant, and to enable Tenants in certain Townships to purchase the Fee Simple of their Farms."

The Board thereupon expressed its regret that any number of the tenantry of the landed estates in this Colony should be so misguided as to raise any opposition to a measure which has been passed by a large majority of both branches of the Legislature, and by those bodies considered of especial advantage to a vast number of the tenantry of the Colony.

The petition states "that such Act has been passed without the sense of the tenants and other electors of this Island being taken upon its provisions, and contrary, as petitioners believe, to their wishes."

The Board feel it impossible to determine what number or proportion of the petitioners are tenants, inasmuch as there is nothing in the petition to distinguish which of the petitioners are tenants, and which are not; nor does it, in fact, appear what number of the petitioners of any class have actually signed or subscribed the petition, as many parts of the list of signatures exhibit numerous names signed in succession by the one hand.

The Board is of opinion that in proceeding to legislate upon any principle or measure, with a view of settling the long-agitated land question of this Colony, the Legislature, of whatsoever party composed, must be guided and restrained by that regard for the rights of property, which are secured to all classes by the long-established principles of our constitution. Were it to depart from this, and to be guided merely by the suggestions of the tenantry in their own case, emanating directly from them as a class, and to yield entirely "to their wishes," it would be in vain to expect that a law embodying and framed substantially upon their own opinions and wishes, would ever receive the sanction of the Sovereign.

The Act of Assembly, to which the the petitioners object, secures to all the tenants of the estates which come within its operation, the freehold of their farms at 15 years' purchase, keeping that right open to them for 10 years, and it provides for a remission of all back rents up to the year 1858.

The petitioners allege this to be a high rate, and that they conceive the tenantry at large will derive no benefit from it. From the public newspapers it appears that the same committee who have waited on his Excellency with the petition, have lately negotiated a purchase from Robert P. Haythorne, Esq., of his estate on Township No. 49, on the behalf of the tenants thereof, the terms of which purchase are 12 s. 6 d. per acre, payable by equal yearly instalments in five years, each bearing interest at six per cent., and in addition thereto, payment of the back rent as a sixth instalment, with interest on the same until paid; and if the tenant fails to fulfil these conditions, by nine days default, in payment of any one instalment, or the interest thereon, he forfeits his right to purchase, and the payments he has made are placed to the account of past and future rent. Thus, a tenant of 100 acres of land, who owes 30 l. of back rent, will have to pay on this estate 92 l. 10 s. for the freehold of his farm, besides five years' interest on his back rent, making the sum 101 l. 10 s., exclusive of what interest he may have to pay on his instalments. Under the Land Purchase Bill complained of, a tenant of 100 acres, who pays one shilling sterling yearly per acre (and the exceptions of those who pay a higher rent are comparatively very few), who owes 30 l. arrears of rent, or who might owe 50 l. of arrears prior to 1858, instances of which latter case are very common, will be enabled to purchase his farm at any time within 10 years, for the sum of 83 l. 6 s. 8 d. currency. Thus, there appears to the Board a most singular inconsistency in their opinions on the merits of the Bill, of those persons who, as representing the body of petitioners, have accepted terms for such of them as are Mr. Haythorne's tenants, in the purchase of the freehold of their farms.

A true extract from the Minutes of the Executive Council, which I certify.

*Charles Desbrisay,*  
Clerk to the Executive Council.

## Despatches from the Secretary of State.

— No. 1. —

(No. 11.)

COPY of a DESPATCH from His Grace the Duke of *Newcastle* to  
Lieutenant Governor *Dundas*.No. 1.  
Duke of  
Newcastle  
to Lieut. Governor  
Dundas.  
6 September 1859.  
\* Page 1.

Sir,

Downing-street, 6 September 1859.

I HAVE to acknowledge Sir D. Daly's Despatch, No. 29,\* of the 13th May last, addressed to Sir E. B. Lytton, transmitting an address to Her Majesty from the House of Assembly, in pursuance of certain resolutions of the House, praying that Her Majesty would direct a Commission to inquire into the existing relations of landlord and tenant in the Island, with a view to the passing of remedial measures.

The House of Assembly also propose that this Commission should direct its attention to the Fishery Reserves question.

The resignation of Her Majesty's late Government has prevented an earlier answer to your despatch.

The Assembly in their address, not only pray for the appointment of a Commission, but they likewise indicate in detail the measures which, in their opinion, should form the basis of that arrangement between landlords and tenants which the Commission should endeavour to bring about. Now, without expressing any opinion adverse to the appointment of such a Commission, I am convinced that any prospect of a beneficial result from its labours would be nullified if its action were fettered by such conditions as the Assembly would thus impose.

I cannot advise Her Majesty to entertain the question, unless it is fully understood that the Commission are at liberty to propose any measures which they may themselves judge desirable.

I have communicated the correspondence to Sir S. Cunard, as representing the landowners in this country, with a letter, of which I enclose a copy.

I have, &c.  
(signed) *Newcastle*.

— No. 2. —

(No. 13.)

COPY of a DESPATCH from His Grace the Duke of *Newcastle* to  
Lieutenant Governor *Dundas*.No. 2.  
Duke of  
Newcastle  
to Lieut. Governor  
Dundas.  
17 September 1859.  
† Page 3.

Sir,

Downing-street, 17 September 1859.

I HAVE to acknowledge the receipt of your Despatch, No. 21,† of the 8th August, containing your views on the subject of the appointment of a Commission to inquire into the relations of landlord and tenant in Prince Edward Island.

I have to refer you to my recent Despatch on this subject, No. 11, of the 6th of September, and to express my willingness to assent to the appointment of a Commission, if both the parties interested can be brought to agree to it, and if the House of Assembly consent to forego the conditions proposed in their address to the Queen, transmitted in Sir D. Daly's Despatch, No. 29,‡ of the 13th May last.

I have, &c.  
(signed) *Newcastle*.

‡ Page 1.

— No. 3. —

No. 3.

(No. 12.)

Duke of  
Newcastle to  
Lieut. Governor  
Dundas.

21 March 1860.

\*Page 59.

13 February 1860,  
page 75.

COPY of a DESPATCH from His Grace the Duke of *Newcastle* to  
Lieutenant Governor *Dundas*.

Sir,

Downing-street, 21 March 1860.

WITH reference to my Despatch, No. 11,\* of the 6th of September last, in which I informed you that I had communicated to Sir Samuel Cunard the correspondence which had taken place upon the subject of the appointment of a Commission to propose measures of arrangement between landlords and tenants in Prince Edward Island, I transmit to you the copy of a letter which has been addressed to me by Sir S. Cunard and several other proprietors of land in the Island.

The proprietors, it will be seen, do not think that the appointment of a Commission in the manner proposed by the House of Assembly in their address, of the 9th May last, would be the most desirable mode of proceeding; as the labours of such a Commission could only terminate in a Report, the conclusions of which would not be binding on any of the parties interested. They suggest therefore, instead, that three Commissioners or referees should be appointed, one by Her Majesty, one by the House of Assembly, and the third by the proprietors, and that they should be invested with power to hear and determine all the questions in dispute. It is further suggested that the expense of the Commission should be divided equally between the Crown, the tenants, and the proprietors.

If the consent of all the parties can be obtained to this proposal, I believe that it may offer the means of bringing these long-pending disputes to a termination. But it will be necessary, before going further in the matter, to be assured that the tenants will accept as binding the decision of the Commissioners or the majority of them, and as far as possible that the Legislature of the Colony would concur in any measures which might be required to give validity to that decision. It would be very desirable also that any Commissioner who might be named by the House of Assembly on behalf of the tenants should go into the inquiry unfettered by any conditions such as were proposed in the Assembly last year.

I have therefore to request that you will ascertain and report to me whether the tenants of Prince Edward Island, or the House of Assembly on their behalf, are prepared to agree to the proposed reference.

I have, &c.  
(signed) *Newcastle*.

— No. 4. —

No. 4.

(No. 23.)

Duke of  
Newcastle to  
Lieut. Governor  
Dundas.

16 June 1860.

\* Pages 5, 6.

COPY of a DESPATCH from His Grace the Duke of *Newcastle* to  
Lieutenant Governor *Dundas*.

Sir,

Downing-street, 16 June 1860.

I HAVE had under my consideration your Despatches, No. 15 of the 16th April, and No. 22 of the 30th April.\* In the former despatch you enclose a resolution, in which the Assembly agrees to the proposed appointment of commissioners on the subject of the tenures of land, binds itself to abide by the decision of those commissioners, or the majority of them, and pledges itself to concur in whatever measures may be required to give validity to that decision. In the second despatch you inform me that a short Act has since passed through both Houses, given effect to the foregoing resolution.

I cannot do otherwise than express my sense of the promptitude and completeness into which the House of Assembly has thus given its support to the plan devised in the hope of putting an end to the differences which have prevailed in Prince Edward Island.

In Mr. Howe, the Assembly, acting on behalf of the tenantry, have selected a commissioner whose known ability and prominent public position must well qualify him for the proposed inquiry.

From

From Sir Samuel Cunard I have received a letter, of which a copy is enclosed\* naming as the commissioner selected by the proprietors, Mr. John William Ritchie, of Halifax, who I doubt not will honourably discharge his function.

\* 14 May 1860,  
page 76.

I have written, in exercise of the choice belonging to Her Majesty's Government, to request Mr. John Hamilton Gray, of New Brunswick, to undertake the remaining office of commissioner. Mr. Gray has recently conducted another public inquiry with a degree of ability, carefulness, and justice, which fully entitles him to the confidence of all concerned in the intended investigation.

Although the privilege of selecting each commissioner has been conferred on a separate authority, so as the better to ensure satisfaction with the composition of the Commission, yet it is my view, and I doubt not will be that of the commissioners themselves, that none of them ought to be regarded as the special advocate of one interest, but rather that the whole should devote their efforts to framing such recommendations as shall be demanded by the equity of the case, and be conducive to the general good of all classes of the community. Their conclusions, whatever they may be, will possess double weight if, happily, they should be unanimous.

The time of meeting in Prince Edward Island will be best determined by the commissioners themselves, who will be able to communicate with you on any points which they may wish to ascertain, as bearing on the question of the most convenient period for the purpose. It will be desirable that previous arrangements should be made, as far as practicable, for having at hand all witnesses, and all documentary evidence, which the Commission is likely to require, so that the time needed for their actual sittings in the Island may be reduced within the most moderate compass consistent with a due and complete accomplishment of their inquiry.

I shall take an early opportunity of forwarding to you a Commission under the Royal Sign Manual, containing the appointment of the several gentlemen named to serve on the Commission.

I am, &c.  
(signed) *Newcastle.*

— No. 5. —

(No. 28.)

COPY of a DESPATCH from His Grace the Duke of *Newcastle* to  
Lieutenant Governor *Dundas*.

No. 5.

Duke of  
*Newcastle* to  
Lieut. Governor  
*Dundas*.

3 July 1860.

\* Page 60.

Sir,

Downing-street, 3 July 1860.

WITH reference to my Despatch, No. 23\*, of the 16th of June, I have the honour to transmit to you a Commission, under the Royal sign manual, appointing the gentlemen, named in my former Despatch, to inquire into and adjust the differences which have prevailed in Prince Edward Island relative to the tenure of land.

You will have the goodness to deliver this instrument to the Commissioners upon their arrival in the Colony.

I have, &c.  
(signed) *Newcastle.*

Enclosure in No. 5.

(L. S.) " VICTORIA R.

Encl. in No. 5.

" VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To all to whom these Presents shall come, greeting.

" Whereas We have been moved by the Assembly of Our Island of Prince Edward, to appoint Commissioners to inquire into the differences now prevailing in Our said Island, relating to the rights of landowners and tenants in Our said Island, with a view to the settlement

settlement of the same on just and equitable principles: And whereas the said Assembly has further, by a resolution, dated the 14th day of April last, set forth its agreement to abide by the decision of any such Commissioners, or the majority of them, and to concur in whatever measures may be requisite for giving validity to their decision: And whereas it is highly desirable that the said differences should be adjusted:

“ Now know ye, that We, taking the premises into Our Royal consideration, are graciously pleased to nominate and appoint, and do by these presents nominate and appoint, Our trusty and well-beloved John Hamilton Gray, Esquire, Our trusty and well beloved Joseph Howe, Esquire, and Our trusty and well-beloved John William Ritchie, Esquire, to be Our Commissioners for inquiring into the said differences, and for adjusting the same on fair and equitable principles.

“ Given at Our Court at Buckingham Palace, this 25th day of June 1860, in the 24th year of Our reign.

“ By Her Majesty’s command,  
(signed) “ Newcastle.”

— No. 6. —

No. 6.

(No. 33.)

Right Hon.  
G. C. Lewis, M.P.,  
to Lieut. Governor  
Dundas.

COPY of a DESPATCH from the Right Honourable Sir *George Cornwall Lewis*, M.P., to Lieutenant Governor *Dundas*.

28 July 1860.

Sir,

Downing-street, 28 July 1860.

\* Pages 60, 61.

WITH reference to the Despatches which were addressed to you on the 16th ultimo and 3d instant Nos. 23 and 28\*), I have to acquaint you that Mr. John Hamilton Gray, of St. John, New Brunswick, has accepted, as was anticipated, the offer which was made to him to act as one of the three Commissioners appointed to inquire into the tenures of land in Prince Edward Island.

I have, &c.  
(signed) *G. C. Lewis*.

— No. 7. —

No. 7.

(No. 39.)

Secretary of State  
to Lieut. Governor  
Dundas.

EXTRACT from a DESPATCH from the Secretary of State to Lieutenant Governor *Dundas*.

19 October 1860.

Sir,

Downing-street, 19 October 1860.

I HAVE received from Mr. Robert Bruce Stewart and other proprietors of land in Prince Edward Island, a memorial, of which copy is annexed, protesting against the confirmation of the Act transmitted with your Despatch No. 56,† of the 1st instant, entitled (No. 1026) “ An Act to give effect to the Report of the Commissioners to be appointed on the Land Question.”

The Secretary of State would be glad to receive a report from you on the subject of this remonstrance.

\* \* \* \* \*

Mr. Stewart has been informed that if he wishes the matter to be considered by the Secretary of State, he must forward a fresh communication through you, in accordance with the prescribed regulations, which will enable the Secretary of State to receive at the same time those explanations and remarks from the Lieutenant Governor, without which no conclusion can be adopted.

I have, &c.  
(signed) *Frederic Rogers*.  
(In the absence, and by the authority of,  
the Duke of Newcastle.)

Printed at p. 138.

† Page 9.

## — No. 8. —

(No. 40.)

COPY of a DESPATCH from the Secretary of State to Lieutenant Governor  
*Dundas.*

No. 8.  
Secretary of State  
to Lieut. Govern or  
Dundas.

22 October 1860.

• Page 7.

Sir,

Downing-street, 22 October 1860.

I AM directed by the Secretary of State to acknowledge the receipt of your Despatch, No. 55,\* of the 1st instant, enclosing the report of the proceedings of the Commissioners appointed to investigate the land question in Prince Edward Island.

I have, &amp;c.

(signed) *C. Fortescue,*

(In the absence, and by the authority of, the Duke of Newcastle.)

## — No. 9. —

(No. 45.)

COPY of a DESPATCH from His Grace the Duke of Newcastle, K.G., to  
Lieutenant Governor *Dundas.*

No. 9.  
Duke of  
Newcastle, K.G.,  
to Lieut. Govern or  
Dundas.

2 January 1861.

† Page 9.

Sir,

Downing-street, 2 January 1861.

I HAVE had under my consideration the two Acts passed by the Legislature of Prince Edward Island, and enclosed in your Despatch, No. 56,† of the 1st October last, intituled (No. 1025) "An Act to authorise Grants of the Shores of this Island;" and (No. 1026) "An Act to give effect to the Report of the Commissioners to be appointed on the Land Question."

I feel some doubt as to the object with which the first of these Acts was passed. I do not see what lands it will affect, at least above high-water mark, unless it was intended to operate on the fishery reserves.

At the same time, as the treatment of those reserves is a question on which Her Majesty's Government have expressed a decided opinion, and which, at the instance of the Prince Edward Island Legislature, is now under reference to the recently appointed Commission, I can hardly imagine that the Legislature would have passed an Act calculated to anticipate the judgment of their own referees, or that you would have submitted it for Her Majesty's confirmation, without any notice of its intended effect.

I have therefore to request, that you will furnish me with information on the following points:—

1. Whether there is in the Island any land above high-water mark upon which the Act will operate, except the fishery reserves; and, if so, what, in general terms, may be supposed to be its extent?

2. Whether it is intended or supposed that the operation of the Act would be confined to those lands, if any, and to the land below high-water mark, or whether the Act was intended to apply to some or all of the fishery reserves?

3. What are understood to be the present powers of the Crown respecting shore lands not comprised in those reserves, and what the additional powers which it is intended to confer, in respect to those lands, by the proposed law?

4. What effect, if any, the Act is intended to have upon the fishery reserves?

5. And lastly, whether there is in the present circumstances of the Island any ground for expecting that "commercial enterprise" will be much encouraged (as stated in the preamble of the Act) by making such grants on the sea shore as would be authorised by the proposed Act, and would not be authorised without it?

I must add, however, that whatever answer may be furnished to these questions, I cannot advise the Queen to assent to the Act while the subject on which it legislates is under the consideration of the Commissioners.

With regard to the Act for giving effect to the award of the Commissioners,

I gladly acknowledge the promptitude with which the Provincial Legislature has hastened to give effect to what they have supposed to be the desire of Her Majesty's Government, conveyed in my Despatch of the 21st of March last, and I very much regret that an apparent misconception of my meaning has led the Legislature to pass a law which appears to me premature.

My object was not to require immediate legislation for the purpose of giving prospective effect to the award of the Commissioners, but only to obtain from the House of Assembly, as representing the whole body of the tenants, an unequivocal acceptance of the proposed reference, and from the Legislature a pledge that the laws necessary to give effect to the Commissioners' award should be passed when it appeared what legislation would be necessary for that purpose.

But the present Act, or any other Act which could be passed at the present moment, might, in the event, prove either too sweeping, or too limited, for that object. It would be too sweeping, if it were found that the referees promulgated decisions respecting lands belonging to persons who have not consented to the reference, or if they made awards respecting questions (like that of escheat) which did not fall within the scope of their inquiry.

It would be too limited, or, at least, inadequate for its purpose, if it failed to make such provisions of detail as were necessary to give practical effect to the general principles laid down by the Commissioners.

For these reasons it appears to me impossible to advise Her Majesty to assent, at the present moment, to any such general law as that which has now been forwarded. Nor do I see that any present legislation could be valuable, except such as may be based upon suggestions to be made by the Commission with the view of defining the persons and questions to which their inquiry was to extend, or of conferring on them the powers (like those of compelling the attendance of witnesses, and of examining on oath) which are requisite to enable them to carry on their inquiries to the satisfaction of all concerned.

I trust you will impress upon the Commissioners (if requisite) the necessity of avoiding, as far as possible, any steps calculated to excite unreasonable expectations, or to stimulate agitation.

On the other hand, while assuring the proprietors that the award of the Commissioners will not be enforced by Her Majesty's Government against any persons who have not either personally, or by their representatives, consented to refer their claims to arbitration, I should wish you also to observe to them, that their refusal to concur frankly in a measure which was intended to compose existing differences, and which, so far as it has yet proceeded, has been assented to by a large portion of their body, may materially influence the conduct of Her Majesty's Government, if called upon hereafter to support them in any future disputes with their tenants.

I have, &c.  
(signed) *Newcastle.*

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— No. 10. —

No. 10.

(No. 52.)

COPY of a DESPATCH from His Grace the Duke of *Newcastle*, K.G., to Lieutenant Governor *Dundas*.

Duke of  
Newcastle, K.G.,  
to Lieut. Governor  
Dundas.

Sir,

Downing-street, 13 February 1861.

I HAVE had under my consideration your Despatch, No. 65\* of the 12th of November, informing me of a correspondence which had taken place with you on the question whether the Lieutenant Governor may at his option communicate to his Council any letter or memorial furnished to him by a resident in the Colony for transmission to the Secretary of State.

I agree with you that the Lieutenant Governor must claim and exercise a discretionary power on the subject. In many cases he could not, without consulting one or more members of his Council, obtain the information necessary to enable him to report to the Secretary of State. And, again, if private individuals could place him under an absolute interdict from communicating with

13 February 1861.

Page 13.

with his advisers on their letters sent through his hands, it is obvious that this might afford an opportunity to endeavour to create distrust between him and his ministers. On the other hand, the Lieutenant Governor should be ready to receive and weigh any reasons which the writer of a letter to the Secretary of State might have to urge for wishing it not to be disclosed, and should then decide to the best of his judgment whether or not these reasons were valid. This, indeed, is merely to say in other words, what I stated at the outset that, without laying down any absolute rule, he should retain and exercise a discretion on the subject.

I have, &c.  
(signed) *Newcastle.*

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— No. 11. —

(No. 94.)

COPY of a DESPATCH from His Grace the Duke of *Newcastle*, K.G., to  
Lieutenant Governor *Dundas*.

Sir,

Downing-street, 7 February 1862.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 3,\* of the 10th of January, requesting that you may be furnished with a copy of the Report of the Commissioners appointed to inquire into the Land Tenures of Prince Edward Island.

I have much pleasure in being able to comply with your request, and I forward to you a copy of the report with this Despatch.\* I am desirous at the same time to express my appreciation of the painstaking, able, and impartial report which the Commissioners have furnished; a report which must derive additional weight from its unanimity, and which is the result of an investigation so complete that it has exhausted the materials for inquiry into the facts of the case. The difficulties that remain are those which are inherent in the subject, and which have for a long course of years baffled every attempt at solution.

I fear that I cannot hold out to you the prospect of an Imperial guarantee to a loan of 100,000 £, in order to buy up the estates of Prince Edward Island from their present owners; and, on the other hand, there appear to me to be insuperable objections to that multiplicity of separate local arbitrations, which would be the effect of the alternative measure alluded to in the Commissioners' Report. I shall be very glad if I shall find it possible at a future opportunity to offer any fresh suggestions for meeting the difficulties of the case; but, in the meanwhile, I forward the report, accompanied by the few foregoing general remarks, which are all that it is at present in my power to make, in order that you may be able to say the document before the Legislature as soon as possible after its meeting.

I am &c.  
(signed) *Newcastle.*

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-- No. 12. —

(No. 97.)

COPY of a LETTER from His Grace the Duke of *Newcastle*, K.G., to  
Lieutenant Governor *Dundas*.

Sir,

Downing-street, 21 March 1862.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 15\*, of the 3d of March, requesting that you may be furnished with the Appendix referred to in the Report of the Commission of Inquiry into the Land Tenures of Prince Edward Island.

I have to acquaint you that this Appendix, in consequence of its bulk, has not been printed, and there is, therefore, only one copy of it in this country which is necessarily retained here for the use of Her Majesty's Government in deliberating on this subject. I regret, therefore, that it is not at present in my power to comply with your wishes.

I have, &c.  
(signed) *Newcastle.*

No. 11.

Duke of  
*Newcastle*, K.G.,  
to Lieut. Governor  
*Dundas*.

7 February 1862.

\* Page 23.

\* This Report has  
been deposited in  
the Library of the  
House of Com-  
mons.

No. 12.

Duke of  
*Newcastle*, K.G.,  
to Lieut. Governor  
*Dundas*.

21 March 1862.

\* Page 23.

— No. 13. —

No. 13.  
Duke of  
Newcastle, K.G.,  
to Lieut. Governor  
Dundas.

(No. 103.)

COPY of a DESPATCH from His Grace the Duke of *Newcastle*, K.G., to  
Lieutenant Governor *Dundas*.

Sir,

Downing-street, 5 April 1862.

5 April 1862.

\* Page 88.

I HAVE been requested by Sir Samuel Cunard to forward to you the enclosed draft Bill \* embodying a plan for giving the tenants in Prince Edward Island the power of purchasing their holdings on certain terms there laid down. Sir S. Cunard expresses to me a confident hope that these terms will be found to satisfy the expectations of the tenants and will be well received by the Legislature.

I have not had time since receiving this document to examine the full bearings of the proposal, nor in any case should I pronounce a confident opinion on a matter depending so much on questions of local detail. But I need hardly say that it will give me great pleasure to find that Sir S. Cunard's anticipations are well founded.

The letter in which the draft Bill was first communicated to me was signed by Sir Samuel Cunard, Mr. E. Cunard, Mr. L. Sullivan, and Mr. Graham Montgomery for himself and Mr. James Montgomery, who, therefore, may be taken as having unquestionably concurred in it. But the Schedule to the Bill (I do not know on what authority) contains various other names. I think that if the Bill were to be passed by the Legislature, the only proprietors on whom it could be made at once compulsory are the gentlemen whose names I have above given. I should have little doubt, however, that the other gentlemen named in the Schedule to the Bill are, in fact, consenting parties, though it has not been practicable to forward their actual signatures to the Colonial Office.

I have, &c.  
(signed) *Newcastle*.

— No. 14. —

No. 14.  
Duke of  
Newcastle, K.G.,  
to Lieut. Governor  
Dundas.

(No. 120.)

COPY of a DESPATCH from His Grace the Duke of *Newcastle*, K.G.,  
to Lieutenant Governor *Dundas*.

Sir,

Downing-street, 9 August 1862.

9 August 1862.

\* Page 24.

I HAVE received your Despatch, No. 45,\* of the 25th of June enclosing two Bills passed with suspending clauses by the Legislature of Prince Edward Island, intituled, cap. IV., "An Act to give effect to the Report of the Commissioners on the Land Question."

And cap. XII., "An Act to facilitate the Operation in certain Particulars of the Award or Report made by certain Commissioners to settle and adjust Differences respecting some of the Township Lands in this Colony."

In forwarding these Acts, you informed me, that you would shortly communicate to me a Minute by your Responsible Advisers, explaining the reasons for framing these measures; and this you have since done in your Despatch, No. 52,\* of the 23d of July. I am, therefore, now in a position to communicate to you the conclusion to which I have been led.

It appears from the Minute of your ministers, that they consider the so-called award of the Land Commissioners to be binding on the proprietors and the Legislature, and on this ground they state that they are unable to entertain Sir S. Cunard's proposal for enabling the tenants in Prince Edward Island to acquire freehold interests in their holdings, which was transmitted to you in my Despatch of the 5th April last, No. 103.†

I very much regret that it is not in my power to concur in the views by which your Government have been led to prepare these Bills, or to advise Her Majesty to bring them into operation by giving Her assent to them.

Your advisers appear to consider that Her Majesty's Government had proposed to the proprietors of land, and that those proprietors had consented to place themselves and their interests absolutely in the hands of the Commissioners; this however was far from being the case.

The proprietors consented that Commissioners should be appointed "to enter

† Page 35.

† See above.

enter into all the inquiries that might be necessary, and to decide upon the different questions which might be brought before them, giving of course to the parties interested an opportunity of being heard."

The main questions thus to be decided upon were, first, at what rate tenants ought to be allowed to acquire freehold interests in their property, and next what amount of arrears of rent should be remitted by the landlords.

On the first and most important of these questions the Commissioners professed themselves unable to come to any conclusion; and instead of deciding it, they recommended virtually that it should be decided by other arbitrators to be hereafter nominated; this however is not what they were charged to do. They were authorised by the proprietors to make an award themselves, but they were not authorised to transfer the duty of making that award to others. The trust confided to them was evidently a personal one. The proprietors relied on the skill, knowledge and fairness of the three gentlemen appointed in 1860.

But they could not therefore be called upon in deference to these gentlemen's opinion to confide their interests even to arbitrators, specifically designated in the award, much less to persons whose very mode of appointment is undetermined by it.

The objection might of course be waived by the proprietors, but it is not waived; and being insisted upon, I am obliged to admit that it is conclusive; and I am bound further to say, that it is, in my opinion, an objection founded not on any technical rule of law, but on a sound and indisputable principle of justice, the principle, namely, that a person who has voluntarily submitted his case to the decision of one man, cannot therefore be compelled without his consent to transfer it to the decision of another.

It is therefore impossible for me to advise Her Majesty to sanction the two Acts which you have forwarded, and which of course are intended to render the award obligatory on all who consented to the reference.

I must instruct you, therefore, however unwillingly, to treat the Commissioners' award only as an expression of opinion, which, however valuable as such, cannot be made legally binding on the parties concerned, and which therefore ought not to be allowed to stand in the way of any other proposal which promises an amicable settlement of the question.

It was under these circumstances and with these impressions that I forwarded to you the proposal made by Sir S. Cunard, in hopes that it might be found to furnish a basis of agreement in lieu of the recommendations of the Commission.

Your Government refuse to consider this proposal not, as I understand, because they think it in itself inadmissible, but because they consider themselves as bound to give effect to the Commissioners' award. This award being now out of the way, I have to request that you will bring Sir S. Cunard's proposal under their reconsideration. I do not think it desirable that I should myself express any opinion upon its merits. I will only observe that it is in some respects more favourable to the tenants than the Commissioners' award, and that it will give me great pleasure to learn that it is likely to furnish a solution of these difficulties which, so long as they are unsolved, must continue to obstruct the progress of the Colony.

This conclusion which I have adopted respecting these Acts, renders it unnecessary that I should do more than acknowledge your Despatch, No. 46,\* of the 25th of June, enclosing a memorial from Mr. Haythorne against the Act (cap. XII.) to facilitate the operation of the award.

\* Page 33.

I have &c.  
(signed) Newcastle.

— No. 15. —

(No. 24.)

COPY of a DESPATCH from His Grace the Duke of Newcastle, K.G., to Lieutenant Governor Dundas.

No. 15.  
Duke of Newcastle,  
K.G., to Lieut.  
Governor Dundas.

Sir,

Downing-street, 11 July 1863.

I HAVE received your Despatch, No. 34,\* of the 9th of April, transmitting an address to Her Majesty from the Legislative Council and Assembly of Prince Edward Island, on the subject of the recent Land Commission.

11 July 1863.

\* Page 39.

The Council and Assembly, after stating at length the appointment of a Commission to examine into the land question, the nature of the recommendation or award

award submitted by them to Her Majesty, and the circumstances under which certain Bills based upon that recommendation failed to receive Her Majesty's allowance, proceed to observe that the question whether this award can or cannot be made legally binding on the parties concerned is one proper for the consideration of Her Majesty's legal tribunals; and they conclude by praying Her Majesty to inform the proprietors of land in Prince Edward Island that unless cause to the contrary be shown before a legal tribunal to be provided by Her Majesty, a Bill giving effect to the Commissioners' award will receive the Royal sanction.

As I am not aware of any method by which this question could be submitted to any court of justice, and as the Council and Assembly have not suggested any such method, I considered that the course most satisfactory to them would be that of ascertaining from the law officers of the Crown, first, whether the so-called award were in itself liable to any objection founded upon any principle of law or equity: and next, whether it were possible by any proceeding in law or equity to give effect to the wish of the Prince Edward Island Legislature, by enabling the proprietors or tenants to show cause why Her Majesty's assent should or should not be given to the proposed Bill.

I transmit a copy of the answer which I have received to my question.

You will observe that, in the opinion of Sir W. Atherton and Sir R. Palmer, the report of the Commissioners is not properly to be called an award at all; and in particular, "that a recommendation that the price to be paid by a tenant for the purchase of his land should be settled in each particular instance in which the landlord and tenant may differ about the same, by arbitration, is not either literally or substantially within the scope of" [the Commissioners] "authority."

They further state that any Act for the settlement of this question must be judged of upon its own merits, and "not upon any supposition of an award, legally or morally binding, having been made in this case."

I trust that this opinion, embracing the legal and moral aspects of the question, and founded on the plainest principle of law and common sense—the principle that a man who has agreed to refer his case to one tribunal cannot therefore be forced to submit it to another—will satisfy the Legislature of Prince Edward Island that the course which they have suggested must be dismissed as impracticable, and will lead them to consider, with patience and moderation, some other means of settling a question which is at present productive of so much public inconvenience.

The Government of the Colony, acting in the interests of the tenants, have already rejected a proposal made by the proprietors that their lessees should be allowed to purchase a fee-simple in their holdings, at 15 years' purchase, of the reserved rent, the purchase-money being paid at once in cash. I can imagine that they may have had good reasons for that refusal; but I cannot help observing that as the Commissioners had suggested a maximum rate of 20 years' purchase, the proprietors' proposal must, in some instances, have involved a considerable sacrifice on their part, and that its rejection by the tenantry transfers to them the obligation of suggesting some reasonable basis of compromise.

The ground being thus cleared for a fresh proposal, I think myself bound to bring before the Colonial Government the views which I have been led to form on the subject.

As to the general principles on which this matter ought to be settled, I feel little difficulty.

In the first place, I dismiss the idea of imposing on the proprietors by law any general rate of commutation. The inquiries of the Commissioners were pointedly directed to this object, and they have pronounced it unattainable.

I think that the objections to a compulsory arbitration are equally insuperable. The expense would probably be so large, and the practical difficulty of securing a fair adjudication, and compelling a tenant to perform the terms of an unfavourable award, would, in the present state of public opinion, be so great, that the proprietors could not with any justice be required to submit to them.

I also dismiss the notion of any Imperial guarantee or advance of money. The Legislature of Prince Edward Island must take it as certain that Her Majesty's Government cannot propose any such measure to Parliament.

As however the project of a loan under an Imperial guarantee has met with universal favour, I assume that means might be found in the Colony to pay interest on a loan of less amount without such a guarantee.

I also infer from the tone of the Commissioners that any general rate of commutation

9 June 1863.

mutation which is adopted or indicated by authority should hinge more or less upon the reserved rent.

From the eagerness with which I have been pressed to confirm the award of the Commissioners, I infer that the award is acceptable to the tenants; that is to say that the tenants are ready to pay the fair price of their lands (as settled by impartial arbitrators) in instalments spread over ten years, and to continue the payment of rent (or rather of interest on the unpaid instalments) until the land is thus enfranchised.

From the scheme of the proprietors I infer that they on their side are in all cases ready to sell their rights for 15 years' purchase of the reserved rent, paid at once in cash; but I conceive that basis of commutation to have been defective, for two reasons: first, that it required an immediate cash payment in full, which the tenants cannot make; and secondly, that it based the price of an estate solely on the rate of reserved rent without reference to the question whether that rent had been or could be collected. It could not be expected that tenants who had never paid their rents would buy off their obligation to do so at the rate of 15 years' purchase.

With these preliminary observations, I desire to consider the present condition of the question with a view to determine, not what is just or legal, on which of course no agreement can be expected, nor yet what would be most advantageous to the tenants or landlords if either of them were possessed of unlimited power to effect what they wished (which is an easy but unpractical question); but to the more useful and difficult inquiry, can these tenures be extinguished on terms which under present circumstances are mutually advantageous to tenant and proprietor?

It must steadily be borne in mind, that in calling upon the proprietor to relinquish his present claims, the Colony is calling upon him to sacrifice admitted legal rights. By what inducement can he be reconciled to that sacrifice? Plainly by giving increased security to those rights which he retains. Payment in cash would dispose of all question of security, but this the tenant cannot effect; payment by instalments gives the landlord no fresh security, it is merely the substitution of one promise to pay for another, the parties remaining the same.

It appears to me, however, that in many cases, at least, the position of the landlord would be materially bettered if he received the security of the Colony instead of the security of the tenant for his annual income, or, in other words, if the purchase-money were paid down at once, but were paid either wholly or partially in debentures.

I will assume, in order to facilitate the explanation of my meaning, that the purchase-money is paid one-third in cash and two-thirds in debentures.

I should then in the first place propose that the Government should be authorised to issue annually a certain amount of debentures bearing six per cent. interest (say not exceeding 15,000 £. a year for five years), and to apply those debentures in buying up or in assisting to buy the landlords' rights with their consent at a fixed rate of purchase, which I will call the Government price. When a tenant is prepared to pay down in cash one-third of this Government price, I would propose that the Government should issue debentures to the amount of the remaining two-thirds, and that the purchase being thus completed, the tenant should receive a conveyance in fee of the land, subject to the liability to pay the interest on the debentures, and ultimately, by contribution to a sinking fund or otherwise, to discharge the principal.

If the tenant could not advance this proportion of the purchase-money, the Government might buy the property on its own account (as has been done with the Selkirk and Worrall Estates), and recover its advances as it could, either by re-sale of the land or by the recovery of rent from the tenant, in which the Government, with full power of legislation at its command, ought not to find any difficulty. In this case, however, it might be necessary for the Government to raise, by sale of debentures, perhaps at a loss, the proportion of the purchase-money which was to be paid in cash.

This being the machinery of redemption, it follows to inquire what shall be the Government price; the assessed rate of purchase which will regulate the amount of assistance to be given in each case from public funds, and which may be viewed as receiving a certain moral support from Government; although this rate is not compulsory, and may therefore be increased or diminished in particular cases by private arrangements between landlord and tenant, it is

highly desirable that it should be so fixed as to be tolerably applicable to the majority of sales, and to inform landlords with some precision what they have to expect, and what terms of escape (for so I will call it) from their very invidious position are practically open to them.

In this inquiry I shall assume the rate of interest in Prince Edward Island to be that at which the debentures are issued, namely 6 per cent. A rent reserved on land would at this rate be worth about 16 years' purchase. And considering that two-thirds of the purchase-money is to be paid in Government debentures, I do not think that a landlord who has looked after his property, and is in the receipt of the full reserved rent, could be expected to part with his interest (including a more or less valuable reversion at the expiration of the lease) for a less amount. Nor do I see why the tenant should be disinclined to redeem at that rate.

But in many cases landlords have not looked after their interests and have not received their full rents. In proportion as this has been the case the tenant will be unwilling to redeem at a high rate a rent which he has never paid; while the landlord will be ready to sell at a low rate a rent which he has never received. In all these cases therefore a proportionate reduction must be made in order to satisfy the tenant, and may be made without dissatisfying the landlord. In all these cases I would propose (to use an ordinary phrase) to "split the difference" between the strict rights of the landlord and his actual receipts.

It would be easy to ascertain in any case of intended commutation the average payment of the tenant for the eight years preceding the 1st of May 1858, being the date up to which the Commissioners propose to remit arrears. Having done this I would propose to take as the Government price a sum equal to eight years' purchase of the reserved rent, plus eight years' purchase of the average actual receipts.

I will illustrate the proposal by three cases of farms rented at 50 *l.* a year each. In one I will suppose that the full rent has been regularly paid, in the second that it has been half paid, in the third that it has not been paid at all.

|   | £.     |
|---|--------|
| I.—Eight years' purchase of reserved rent (50 <i>l.</i> )   | 400    |
| Eight years' purchase of average receipts (50 <i>l.</i> )   | 400    |
| Government Price  | £. 800 |
| II.—Eight years' purchase of reserved rent (50 <i>l.</i> )  | 400    |
| Eight years' purchase of average receipts (25 <i>l.</i> )   | 200    |
| Government Price  | £. 600 |
| III.—Eight years' purchase of reserved rent (50 <i>l.</i> ) | 400    |
| Eight years' purchase of average receipts                   | 0      |
| Government Price  | £. 400 |

Of this sum I have already said one-third would be paid in cash by the tenant. The remaining two-thirds would be advanced by Government in debentures. A payment for 25 years of 8 per cent. on the amount borrowed, would probably suffice to meet the annual interests of the debentures and to pay off the principal, if the terms of the loan rendered it possible to invest the annual payment, towards the sinking fund in the redemption of the debentures, *i. e.* at 6 per cent. interest. If not, the slight loss might possibly be borne by the Public Treasury, in consideration of the public benefit which this commutation might be expected to effect.

If this were so, the result to the tenant in each of the three preceding cases will be as follows:—

When a rent of 50 *l.* had been paid in full,\* the landlord would receive 800 *l.* the tenant would pay 266 *l.* 13 *s.* 4 *d.* down, and an annuity, say for 25 years, of 42 *l.* 13 *s.* 4 *d.*

When the reserved rent was 50 *l.* and 25 *l.* had been actually paid,\* the landlord would receive 600 *l.* and the tenant would pay 200 *l.* down, and an annuity of 32 *l.*

When nothing had been paid,\* the landlord would receive 400 *l.* and the tenant would pay 133 *l.* 6 *s.* 8 *d.* down, and an annuity of 21 *l.* 6 *s.* 8 *d.*

I suggest.

|   | Government Price. | Paid down. | Remaining due. | Annual Payment for 25 years, 8 per Cent. |
|---|-------------------|------------|----------------|--|
|   | £. s. d.          | £. s. d.   | £. s. d.       | £. s. d.                                 |
| * I. £. 50 rent paid in full                    | 800 - -           | 266 13 4   | 533 6 8        | 42 13 4                                  |
| II. £. 50 reserved rent, £. 25 actually paid    | 600 - -           | 200 - -    | 400 - -        | 32 - -                                   |
| III. £. 50 reserved rent, nothing actually paid | 400 - -           | 133 6 8    | 266 13 4       | 21 6 8                                   |

I suggest the payment by way of annuity because I suppose this to be the most convenient to the tenant. But of course arrangements might easily be made to enable those who preferred it, to pay their money more promptly.

In any case, however, it must be distinctly understood (as this is the basis of the whole arrangement) that the obligation to pay the principal and interest of the debentures as between the Government and the debenture holder, rests exclusively on the Public Treasury, and is in no degree whatever affected by the failure or neglect of the Government to recover the money from the tenant.

As these sales will not be compulsory, it is not necessary to enter upon any question as to the nature and duration of the leases to which the right of purchase should apply. But with regard to arrears, I assume that in any case of commutation the tenant and landlord will be alike satisfied to abide by the commissioners' recommendation, that arrears which accrued prior to May 1, 1858, should be remitted, but that all subsequent arrears should be paid up.

I have heard two objections raised to that part of the scheme which relates to tenants who have not hitherto paid their rents. The one is, that, so large a remission professedly depending on the fact that rent has been withheld, is in fact an encouragement to dishonesty. The other is that those who have hitherto successfully resisted the payment of any rent whatever, will not be willing to pay the proposed commutation in order to get rid of an obligation which they have never performed.

The one objection is that the indulgence to non-paying tenants is immorally large, the other that it is suicidally small.

These objections to a certain extent answer each other. But the truth is, that any practicable arrangement must be open to both of them. The state of things is this: the landlords cannot seriously hope to recover their strict legal rights in full, while the tenants who have not paid rent cannot without extravagance expect to be supported in their present refusal to do so. It is assumed (for without that assumption all hope of a pacification is impossible) that the landlords will find it their interest to waive their right to much that they are entitled to, if the Legislature of Prince Edward Island will honestly assist them to obtain more than they at present receive. This is the only possible basis of compromise. The real question is not whether the proposed arrangement is free from objection, but whether it will not in a large number of cases be for the advantage alike of landlord and tenant to secure their own interests by closing with such terms as I have indicated. My own hope and impression is that it will be so, and I therefore cannot but hope that the terms would be largely accepted if put forward with the support of Government, though I am bound to add that some at least of the landlords are not satisfied with them. There would of course remain a few special cases to be dealt with separately. But the experience of this country has shown that when a reasonable principle of voluntary commutation is once put forward, it is before long freely accepted by the majority of those concerned, while the minority either establish a fair ground of exception or are eventually compelled to follow the stream.

I am under the necessity of requesting you to inform the Legislature that Her Majesty has not been able to comply with the prayer conveyed in their address. But I wish you in so doing to lay the present Despatch before them, and invite their attention to the suggestions which it contains, being I can assure you, the result of much anxious consideration, and of an earnest desire to promote the interests of Prince Edward Island and its inhabitants.

I have, &c.  
(signed) Newcastle.

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Enclosure in No. 15.

My Lord Duke,

Temple, 9 June 1863.

Encl. in No. 15.

WE are honoured with your Grace's commands, signified in Sir Frederic Rogers' letter of the 5th May ultimo, stating that he was directed by your Grace to request that we would take into consideration the enclosed copy of an address to the Queen, from the Council and Assembly of Prince Edward Island.

Sir Frederic Rogers was also pleased to state, that that Island was granted during the last century to certain persons, by whom a large portion of it was let to the present occupiers. The tenants are very desirous to obtain a fee-simple interest in their lands, and to escape payment of rent, and this desire has produced a series of disputes of various kinds.

That in 1860 a proposal was made to appoint a Commission to investigate the matter, and the proprietors suggested, as a preferable method, that "three commissioners or referees be appointed, one to be named by Her Majesty, one by the House of Assembly, and one by the proprietors of land, and that these commissioners should have power to enter into all the inquiries that may be necessary, and to decide upon the different questions which may be brought before them, giving, of course, to the parties interested an opportunity of being heard." This proposal was accepted by the Assembly of Prince Edward Island, who agreed "on the part of the tenantry, to abide by the decision of the commissioners, or the majority of them, and to pledge themselves to concur in whatever measures may be required to give validity to that decision."

That three commissioners were appointed "for inquiring into the said differences, and for adjusting the same on fair and equitable principles;" and in a report (of which a copy was enclosed) "awarded" *inter alia*, that the tenants should receive a certain remission of arrears, that they should be entitled to purchase their holdings at 20 years' purchase of the reserved rent, and that any tenant who thought this rate of commutation too high, might tender what he choose, and that on the refusal of the landlord to accept that tender the value should be adjusted by arbitration.

That to this the landlords objected, through Sir S. Cunard in a letter (of which a copy was annexed), that they were ready to be bound by the decision of the three commissioners, that they were not prepared to hand over their interests to the proposed arbitrators, and to embark in the expense and dispute consequent on a multitude of petty arbitrations. On this ground they refused to accept the award, and your Grace on the same ground refused to advise that Her Majesty should concur in the legislation which was necessary for enforcing it.

That the landlords, however, offered terms not including an arbitration, but giving to the tenants the remission of rent proposed by the commissioners, and the right to purchase the fee-simple of their land at 15 years' purchase of the reserved rent.

That the Council and Assembly of Prince Edward Island state that they do not seek, by the passing of a law, to compel compliance with an award liable to an objection founded on any principle of justice or equity; but submit that the question as to whether that award can or cannot be made legally binding on the parties concerned, is one proper for the consideration of Her Majesty's judicial tribunals.

That they, therefore, pray that, unless cause to the contrary be shown before a judicial tribunal, Her Majesty's allowance may be given to a Bill to give effect to the said award of Her Majesty's Royal Commissioners.

Sir Frederic Rogers was further pleased to state that there is, in Prince Edward Island, a supreme court invested with the usual powers appertaining to the English supreme courts of equity and common law; and that under these circumstances, he was directed to request our opinion on the following questions:—

1. Whether the award is, in itself, liable to any objection founded on any principle of law or equity.
2. Whether there is any proceeding in law or equity by which it would be possible that the proprietors or tenants in Prince Edward Island could show cause why Her Majesty's assent should or should not be given to a Bill to be passed by the Prince Edward Island Legislature, for giving effect to the award of the commissioners.
3. Whether there is any proceeding at law or equity by which that award can be enforced upon the recusant proprietors.
4. Whether in case there is no such proceeding the Legislature of Prince Edward Island could, with justice and propriety, pass a law giving effect to that award.

In obedience to your Grace's commands, we have taken this matter into consideration, and have the honour to report,—

1. That we do not think the term "Award" applicable, with any propriety, to the Report of the Commissioners of Inquiry, appointed by Her Majesty's Commission of the 25th June 1860; for there was no reference or submission, properly so called; the gentlemen who signed the letter to your Grace, dated the 13th February 1860, having been incompetent to bind the general body of proprietors of land in Prince Edward Island, and not having professed or attempted to do so; while, on the other hand, it is clear that they did not propose or intend, by that letter, to bind themselves individually, unless the general body of proprietors would be also bound.

Passing, however, by this point (which is, nevertheless of the greatest importance, with reference to the two following questions), we are of opinion, upon the substance of the case, that the commissioners have not executed the authority, which alone was proposed to be conferred upon them, on the part of the landowners who signed the letter of the 13th February 1860, so far as the proprietary interests of those or other landowners are concerned, viz., "to negotiate with the proprietors of township lands, for fixing a certain rate of price, at which every tenant might have the option of purchasing his lands; and also to negotiate with the proprietors for a remission of the arrears of rent in such cases as the commissioners might deem reasonable;" and we think, that a recommendation that the price to be paid by a tenant for the purchase of his land, should be settled, in each particular instance in which the landlord and tenant might differ about the

267

the same, by arbitration, is not, either literally or substantially, within the scope of that authority.

We are confirmed in this view by the perusal of the Act of Assembly, passed on the 2d of May 1860, which, although not assented to by Her Majesty (for the reasons stated in your Grace's Despatch of the 2d January 1861), appears to us to show, both by its preamble and by its second and third enacting clauses, that an award by the commissioners, which, without any delegation to other arbitrators, should itself settle all matters in difference between each particular landlord and tenant, and should thenceforth determine and govern the title to the land in each township, was what the Assembly, as well as the landowners, really had in contemplation.

2 and 3. Our answer, to both these questions, is in the negative.

4. This is a question of public policy. Such an Act if passed by the Colonial Legislature and assented to by Her Majesty, must be founded and justified, not upon any supposition of an "award," legally or morally binding, having been made in this case, but solely for reasons of public advantage, such as those which have at various times induced the Imperial Legislature to pass statutes for the enfranchisement of copyholds at the option of the tenant, for the enfranchisement of perpetually renewable leaseholds in Ireland, for the commutation of tithes, for the compulsory acquisition of lands for railway and other public works, at prices to be fixed by a jury or by arbitration, and for other similar purposes, involving, for the general good, more or less interference with the tenure of private property.

We have, &c.

(signed) *W. Atherton,*  
*Roundell Palmer.*

His Grace the Duke of Newcastle, K. G.,  
&c. &c. &c.

— No. 16. —

(No. 1.)

COPY of a DESPATCH from his Grace the Duke of *Newcastle*, K. G., to  
Lieutenant Governor *Dundas*.

Sir,

Downing-street, 9 January 1864.

I HAVE the honour to transmit to you for your information the enclosed copy of a correspondence which has passed between this Department and Sir Samuel Cunard, respecting a proposal made by the Prince Edward Island delegates on the land question, that such tenants, holding under leases of 40 years and upwards, as shall be indebted to the extent of more than one year's rent shall, at any time within 20 years from the 1st instant, be entitled to acquire the fee-simple of their respective holdings at 16 years' purchase, on the basis of the reserved rent.

I have, &c.

(signed) *Newcastle.*

— No. 17. —

(No. 3.)

COPY of a LETTER from his Grace the Duke of *Newcastle*, K. G., to Lieutenant  
Governor *Dundas*.

Sir,

Downing-street, 27 January 1864.

WITH reference to my Despatch, No. 1, of the 9th of January, I have the honour to transmit to you a copy of a letter from Mr. Pope, in reply to Sir Samuel Cunard's letter of the 4th of January, already in your possession. I have to request that you will acquaint Mr. Pope that I have received this communication, but that it does not appear to be one which calls for any comment on my part.

I have, &c.

(signed) *Newcastle.*

No. 16.

Duke of Newcastle,  
K. G., to Lieut.  
Governor Dundas.  
9 January 1864.

Colonial Office to  
Sir S. Cunard,  
1 January 1864,  
page 93.  
Sir S. Cunard to  
Colonial Office,  
4 January 1864,  
page 94.

No. 17.

Duke of Newcastle,  
K. G., to Lieut.  
Governor Dundas,  
27 January 1864.

13 January, p. 134.

— No. 18. —

(No. 2.)

No. 18.  
Right Hon.  
Edward Cardwell,  
Esq., M.P., to  
Lieut. Governor  
Dundas.  
8 April 1864.

COPY of a DESPATCH from the Right Honourable *Edward Cardwell*, M.P.,  
to Lieutenant Governor *Dundas*.

Sir,

Downing-street, 8 April 1864.

WITH reference to your Despatch, No. 6, of the 27th February, enclosing printed copies of the correspondence between this Department and the Delegates from the Government of Prince Edward Island on the subject of the Landed Tenure question, I have the honour to transmit to you a copy of a letter from Sir S. Cunard, and a copy of the reply which has been returned to it.

From this reply you will learn that, as the previous correspondence has been printed by authority of Government, a similar course should be taken with these further communications. But I am desirous that it should be distinctly understood that I cannot permit this Department to be any further made, by either party, the medium of this kind of controversy.

I have, &c.  
(signed) *Edward Cardwell*.

Sir S. Cunard,  
26 March, p. 94.  
Colonial Office,  
6 April, p. 98.

— No. 19. —

(No. 13.)

No. 19.  
Right Hon.  
Edward Cardwell,  
M.P., to Lieut.  
Governor Dundas.  
8 July 1864.

COPY of a DESPATCH from the Right Honourable *Edward Cardwell*, M.P.,  
to Lieutenant Governor *Dundas*.

Sir,

Downing-street, 8 July 1864.

I HAVE the honour to acquaint you that in a letter which I have received from Lady Georgina Fane, her Ladyship informs me that Mr. Henry Palmer, of Prince Edward Island, assures her that he never gave his assent to the provisions of the recent Act of the Provincial Legislature for settling the differences between landlords and tenants, and that his name had been inserted in the schedule to the Act without his knowledge and against his consent.

I have to request that you will furnish me with a full explanation upon this point at as early a period as possible, and in the meantime the final confirmation of the Act will be suspended.

I have, &c.  
(signed) *Edward Cardwell*.

— No. 20. —

(No. 28.)

No. 20.  
Right Hon.  
Edward Cardwell,  
M.P., to Lieut.  
Governor Dundas.  
15 Nov. 1864.

COPY of a DESPATCH from the Right Honourable *Edward Cardwell*, M.P.,  
to Lieutenant Governor *Dundas*.

Sir,

Downing-street, 15 November 1864.

I HAVE had under my consideration the petitions against the "Act for settling Differences between Landlord and Tenant, &c.," of which copies were transmitted to me with your Despatch, No. 65,\* of the 17th of September, together with a Minute of your Executive Council upon them.

I have to request that you will inform the petitioners that I have been unable to advise a compliance with their petition.

I have, &c.  
(signed) *Edward Cardwell*.

\* Page 36.

## Correspondence with Landowners and others.

— No. 1. —

COPY of a LETTER from Sir S. Cunard, Bart., and others, to His Grace the Duke of Newcastle, K.G.

No. 1.  
Sir S. Cunard,  
Bart., and others,  
to the Duke of  
Newcastle, K.G.  
13 February 1860.

Bush-hill House, Edmonton,  
13 February 1860.

My Lord Duke,

WE have been furnished with a copy of a memorial, addressed to Her Majesty by the House of Assembly of Prince Edward Island, on the subject of the questions which have arisen in connection with the original grants of land in that Island, and the rights of proprietors in respect thereof.

We observe that the House of Assembly have suggested that Her Majesty should appoint one or more Commissioners to inquire into the relations of landlord and tenant in the Island, and to negotiate with the proprietors of township lands for fixing a certain rate of price at which every tenant might have the option of purchasing his lands, and also to negotiate with the proprietors for a remission of the arrears of rent in such cases as the Commissioners might deem reasonable, and proposing that the Commissioners should report the result to Her Majesty.

As large proprietors of land in this Island, we beg to state that we shall readily acquiesce in any arrangement that may be practicable, for the purpose of settling the various questions alluded to in the memorial from the House of Assembly, but we do not think that the appointment of Commissioners in the manner proposed by them would be the most desirable mode of procedure, as the labours of such Commission would only terminate in a report which would not be binding on any of the parties interested.

We, therefore, beg to suggest, that instead of the mode proposed by the House of Assembly, three Commissioners or referees be appointed,—one to be named by Her Majesty, one by the House of Assembly, and one by the proprietors of land,—and that these Commissioners should have power to enter into all the inquiries that may be necessary, and to decide upon the different questions which may be brought before them, giving, of course, to the parties interested, an opportunity of being heard.

We should propose that the expense of the Commission should be borne by the three parties to the reference, that is to say, in equal thirds; and we feel assured that there will be no difficulty in securing the adhesion of all the landed proprietors to a settlement on this footing.

The precise mode of carrying it into execution, if adopted, would require consideration, and upon that subject we trust that your Grace would lend your valuable assistance.

We have, &c.  
(signed) S. Cunard.  
E. Cunard, per S. Cunard.  
Graham Montgomery.  
Selkirk.  
James Montgomery.  
Laurence Sullivan.

## — No. 2. —

No. 2.  
C. Fortescue, Esq.,  
M.P., to Sir S.  
Cunard, Bart.  
11 May 1860.

COPY of a LETTER from C. Fortescue, Esq., M.P., to Sir S. Cunard, Bart.

Sir,

Downing-street, 11 May 1860.

WITH reference to the correspondence which has passed on the subject of the appointment of a Commission to inquire into the relations of landlord and tenant in Prince Edward Island, I am directed by the Duke of Newcastle to forward to you the copy of a Despatch from the Lieutenant Governor, enclosing the copy of a Resolution of the House of Assembly, signifying the assent of that House to the suggestions contained in the Duke of Newcastle's Despatch of the 21st March\* last (of which I am to send you a copy) for the settlement of the questions that have been so long in dispute between the proprietors and tenants in Prince Edward Island.

I am directed to request you to communicate these documents to the proprietors who are in this country, and ascertain from them the name of the gentleman whom they may think proper to associate, on their behalf, with the two other Commissioners.

I am, &c.  
(signed) C. Fortescue.

Printed at p. 1.

\* Page 60.

## — No. 3. —

No. 3.  
Sir S. Cunard,  
Bart., to C. Fortescue, Esq., M.P.  
14 May 1860.

COPY of a LETTER from Sir S. Cunard, Bart., to C. Fortescue, Esq., M.P.

Sir,

Bush-hill House, Edmonton,  
14 May 1860.

I HAVE to acknowledge the receipt of your letter of the 11th instant, on the subject of the proposed Commission for Prince Edward Island, and in reply, I beg to state, that I have consulted with the principal proprietors in this country, and I am duly authorised by them to name John William Ritchie, of Halifax, Nova Scotia, Barrister, as the Commissioner on the part of the proprietors.

I have, &c.  
(signed) S. Cunard.

## — No. 4. —

No. 4.  
C. Fortescue, Esq.,  
M.P., to Sir S.  
Cunard, Bart.  
30 June 1860.

COPY of a LETTER from C. Fortescue, Esq., M.P., to Sir S. Cunard, Bart.

Sir,

Downing-street, 30 June 1860.

I AM directed by the Duke of Newcastle to transmit to you, for your information, the enclosed copies of two Despatches which have been addressed to the Governor of Prince Edward Island, on the subject of the forthcoming inquiry into the tenures of land in that colony.

The Earl of Mulgrave has been furnished with copies of these Despatches, and has been requested to communicate them both to Mr. Ritchie and to Mr. Howe; and a letter has been addressed in similar terms to Mr. Hamilton Gray, who has been selected, in virtue of the choice belonging to Her Majesty's Government, to complete the members of the Commission of Inquiry.

I am, &c.  
(signed) C. Fortescue.

No. 23.  
16 June, P. 60.

— No. 5. —

COPY of a LETTER from Sir S. Cunard, Bart. to His Grace the Duke of Newcastle, K.G.

No. 5.  
Sir S. Cunard,  
Bart., to the Duke  
of Newcastle, K.G.  
8 October 1860.

Bush-hill House, Edmonton,  
8 October 1860.

My Lord Duke,

I HAVE just received the enclosed copy of an Act passed by the Legislature of Prince Edward Island, entitled, "An Act to give Effect to the Report of the Commissioners to be appointed on the Land Question."\*

• Page 25.

I have no wish to withdraw from the reference agreed to, or in any way to limit the matters to be discussed before the Commissioners, but this Act appears to me to give powers to the Commissioners far greater than it was the intention either of the proprietors or Her Majesty's Government to confer.

Your Grace will observe, that by the Resolutions of the Assembly, as well as in the Despatch of Sir E. Bulwer, the liability of the lands to escheat is ignored.

In the answer to the communication of Mr. Merivale to me of the 6th September 1859, myself, and the other proprietors object to the mode proposed by the House of Assembly, as it seemed to contemplate only a report which would not be binding on any one, and we suggest that the Commissioners should be named, one by the Imperial Government, one by the Assembly, and one by the proprietors, and that they should have power to decide on the questions which should be brought before them. These questions being, as stated in the resolutions to which we refer, for the amelioration of the condition of the tenantry; whether the grants were liable to forfeiture, could only be a question between the proprietors and Her Majesty's Government, which the Despatches from the different Colonial Secretaries, conveying the decision of the Government have shown not to be the case. In agreeing to this reference, therefore, we did not contemplate that we were agreeing to abrogate the decision of Her Majesty's Government contained in the Despatches on this question.

The present Act, though very vague and uncertain in its powers, appears to give the Commissioners absolute authority to declare the lands forfeited. It must be obvious to your Grace, that had it been so understood, we never would have consented to a reference, which would place it in the power of persons who might not be lawyers, to decide on the purely legal objections which might be urged against the validity of the grants.

If under the reference contained in resolutions and communications to which we have referred, the Commissioners entered into this question, all they could have done would have been to recommend in their reports, that the validity of the grants should be tried by action in the ordinary courts, from which an appeal would of course lie to the Privy Council; but under this Act, the report of the Commissioners would have the effect of a legal decision, against the validity of the grants founded on evidence not under oath, and the correctness of which could not be tried before the highest court of appeal.

Another objection to the Act is, that any legislation before the report is premature. Many different subjects will be dealt with by the Commissioners to give effect to which the passage of statutes will be required. In legislating under our constitution, the great safeguard against mistakes and inaccuracies is, that when a Bill is introduced into the Lower House, its provisions are discussed, and the same thing takes place in the Upper House, and after this it can be criticised and examined by the law officers of the Crown before it is assented to, by which means clauses, uncertain in their provisions or omissions, which may defeat the legislator's intention, are less likely to occur.

Should the Commissioners attempt to deal with this matter, as contemplated by the Act, by making a general report, it is almost impossible but that their intentions will, in some instances, be defeated, simply from the difficulty of moulding a law embracing such complex questions free from errors, or which will not give rise to doubts, opening a wide field for litigation. This objection becomes the more grave when it is recollected that under this Act the moment the report is delivered to the Governor, it becomes law, no opportunity for

canvassing its provisions being allowed, and no power to the Commissioners to amend mistakes being given.

I trust, therefore, your Grace will see the propriety (where such large interests are involved) of withholding the Royal Assent to this Act, and leaving the authority of the Commissioners to rest on the safe and more constitutional power conveyed to them by the Royal Commission.

I have, &c.  
(signed) *S. Cunard.*

— No. 6. —

COPY of a LETTER from Sir *F. Rogers*, Bart. to Sir *S. Cunard*, Bart.

Sir, Downing-street, 13 October 1860.

I AM directed by the Secretary of State to acknowledge the receipt of your letter of the 8th instant,\* on the subject of an Act which has been lately passed by the Legislature of Prince Edward Island, with a suspending clause, "to give Effect to the Report of the Commissioners to be appointed on the 'Land Question.'"

I am to acquaint you, that the Act in question has not yet been transmitted by the Lieutenant Governor to this office, but that as soon as it arrives, it will, together with your representation respecting it, receive the careful consideration of the Secretary of State.

I am, &c.  
(signed) *F. Rogers.*

— No. 7. —

COPY of a LETTER from Sir *F. Rogers*, Bart. to Sir *S. Cunard*, Bart.

Sir, Downing-street, 23 January 1861.

WITH reference to my letter of the 13th of October last, I am directed by the Duke of Newcastle to transmit to you a copy of a Despatch which his Grace has addressed to the Lieutenant Governor of Prince Edward Island, on the subject of the Acts passed by the Provincial Legislature, entitled, "An Act to authorize Grants of the Shores of this Island," and "An Act to give Effect to the Report of the Commissioners to be appointed on the same Question."

I am to request that you will communicate this Despatch to the proprietors of lands in Prince Edward Island, resident in this country, who are interested with yourself in this matter.

I am, &c.  
(signed) *F. Rogers.*

— No. 8. —

COPY of a LETTER from Sir *S. Cunard*, Bart., to His Grace the Duke of Newcastle, K.G.

My Lord Duke,

Bush-hill House, Edmonton,  
2 October 1861.

THE Commissioners appointed by Her Majesty to investigate certain questions at issue between the proprietors and tenants in Prince Edward Island, having submitted their report to your Grace, the substance of it has been published in the Island newspapers. Assuming that the publication, which is stated to be semi-official, is correct, I have to request that your Grace will permit me, as one of the largest proprietors in the Island, to submit a few remarks for your information.

I should

No. 6.  
Sir *F. Rogers*,  
Bart., to Sir *S.*  
*Cunard*, Bart.  
13 October 1860.  
\* Page 77.

No. 7.  
Sir *F. Rogers*,  
Bart., to Sir *S.*  
*Cunard*, Bart.  
23 January 1861,

No. 45 of  
2 January 1861,  
page 63.

No. 8.  
Sir *S. Cunard*,  
Bart., to the Duke  
of Newcastle, K.G.  
2 October 1861.

I should state that a township of land consists of 20,000 acres; that any person wishing to take a lease has the right of selecting such land as he chooses; that by this means the best land is taken, and the swamps and marshes are left to the proprietor; that having made his selection, the applicant receives from my agent a lease for 999 years, rent-free for a certain number of years, then at a very low rate until the full rent of 1 s. per acre is reached; and, by a clause in the lease, the tenant has the right to the fee-simple, at 20 years' purchase; that the leases are generally for 50 or 100 acres, so that the full rent is from 2 l. 10 s. to 5 l.

It is reported that, by the award of the Commissioners, the tenant, although he has taken a lease from my agent on the terms set forth, may compel me to have his farm valued by arbitrators, and then take it at the price they fix. I will endeavour to show your Grace that this clause is illegal, and would be ruinous to the proprietor. It is, I think, illegal, because, though the Commissioners were authorised to fix a rate of commutation, they were not authorised to delegate their authority to others, much less to compel the proprietors to appoint others to do what was referred to the Commissioners to decide. It is illegal, because it is contrary to the principles of the Resolution of the House of Assembly on which the reference was based, viz. that the persons selected should be unconnected with the Island, the award leaving the most important subject of the reference still to be decided, and by persons objectionable as being residents of the Island.

It would be ruinous to the proprietor, because it holds out an inducement to every tenant to demand an arbitration, for while he cannot have a maximum of more than 20 years' purchase to pay, he may, by the decision of an arbitration, have only two or three. It would subject the proprietor to enormous costs, amounting in many instances to one-half of the value of the farm. As the proprietor could hardly be expected to agree to arbitrators selected from among the tenants, two persons would have to be selected in Charlotte Town to proceed to the farm: supposing the distance to be 70 miles, the travelling expenses, at 4 d. per mile going and returning for two persons, would be 4 l. 13 s. 4 d.; they could not go and return in less than five days, and you would have to pay any competent person 20 s. per diem, which would be 10 l., making 14 l. 13 s. 4 d.; to this would have to be added the expenses of the agent of the proprietor, who must attend to uphold his interest (an expense which the tenant, being on the spot, would be spared), say 7 l. 6 s. 8 d., or 22 l. in all. Should the arbitrators not agree, the additional expense of an umpire, or 7 l. 6 s. 8 d., would have to be added. These costs would have to be paid by either the proprietor or the tenant, and the number of tenant farmers in the Island being about 7,300, you would have at least 7,000 arbitrations, and if the taxable costs amounted to only 10 l., which would, I think, be far within the average, there would be 70,000 l. of costs to be paid by proprietor or tenant. If, after the arbitrators had decided upon the rate of purchase, the tenant should decline to take the farm at the price named, by what means are the costs incurred to be collected except by lawsuits and fresh expenses. The tenant might insist upon having one of his neighbours, a tenant, as an arbitrator; this would diminish the travelling expenses stated, but would lead to a system of annoyance and wrong to the proprietor which would render the land valueless.

I have no knowledge of the mode by which the Commissioners have decided that the various questions submitted to them should be settled, but the clause respecting arbitration, which it is reported that the Commissioners have suggested, appears to me not only to be illegal, and fatal to the interests of the proprietors, but so certain to produce litigation between landlord and tenant, that I trust your Grace will excuse my having submitted my view to your notice. I have not been able to see any of the other proprietors, or I should have requested them to join me in this remonstrance to your Grace.

I have, &c.  
(signed) S. Cunard.

## — No. 9. —

No. 9.  
Sir S. Cunard,  
Bart., to Duke of  
Newcastle, K.G.  
14 November 1861.

COPY of a LETTER from Sir S. Cunard, Bart., to his Grace the Duke of  
Newcastle, K.G.

Bush Hill House, Edmonton,  
14 November 1861.

• Page 78.

My Lord Duke,

IN the letter I had the honour to address to your Grace on the 2d October\* relative to Prince Edward Island affairs, I made a mis-statement, which I wish to correct: I said, that "by a clause in the lease the tenant has the right to the fee-simple at 20 years' purchase." My agent informs me that the clause is not inserted in the lease, but that each tenant was informed, at the time of taking the lease, that such were the terms, and many of them have availed themselves of these conditions, upwards of 30 of my tenants having, within the last few years, come forward and paid the 20 years' purchase, and have received deeds conveying to them their farms in fee-simple. No one has been refused; the tenants are therefore quite in as good a position as if the clause were inserted in the lease, and I am confident that they do not entertain any doubt about it.

I have, &c.  
(signed) S. Cunard.

## — No. 10. —

No. 10.  
C. Fortescue, Esq.,  
M.P., to Sir S.  
Cunard, Bart.  
28 November 1861.

COPY of a LETTER from C. Fortescue, Esq., M.P., to Sir S. Cunard, Bart.

Sir,

Downing-street, 28 November 1861.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letters of the 2d of October and 14th of November last, and to acquaint you that the important subject of the Commissioners' Report on the land tenures of Prince Edward Island, will not fail to receive in all its bearings the careful consideration of Her Majesty's Government.

I am, &c.  
(signed) C. Fortescue.

## — No. 11. —

No. 11.  
T. F. Elliot, Esq.,  
to Sir S. Cunard,  
Bart.  
22 March 1862.

COPY of a LETTER from T. Frederick Elliot, Esq., to Sir S. Cunard, Bart.

Sir,

Downing-street, 22 March 1862.

I AM directed by the Duke of Newcastle to refer you to a letter dated the 13th of February 1860,† signed by yourself and by Mr. Edward Cunard, Sir Graham Montgomery, Lord Selkirk, Mr. James Montgomery, and Mr. Laurence Sullivan, expressing the concurrence of yourself and the other gentlemen, as proprietors of land in Prince Edward Island, in the contemplated commission of inquiry into the land question in that colony, and proposing that the expense should be borne in three equal shares by Her Majesty's Government, by the Assembly, and by the proprietors. I am further desired to refer to a letter to you from this department, dated the 30th of June 1860, which enclosed a Despatch to the Governor of Prince Edward Island, naming the sum of 200 l. as the indemnity to be paid to each of the Commissioners for his labours. The inquiry afterwards proved so much longer and more laborious than was expected, that Her Majesty's Government have doubled the amount of this remuneration, besides which a variety of miscellaneous expenses occurred in the investigation. Her Majesty's Government do not propose, however, to call on the other parties to the inquiry for any of the unforeseen and surplus expenditure; this will be undertaken by the Imperial Treasury, which will also issue the required amounts to all the Commissioners and other persons having claims in respect of this service. But I am to request that you, and the other gentlemen associated with you, will pay into the hands of the Paymaster General, Whitehall, the sum of 200 l. which

275

which was originally named as the remuneration to the Commissioners, named on their behalf, in order to reimburse Her Majesty's Government to that extent for the issues made by them to liquidate the accounts of the Commission.

I am, &c.  
(signed) *T. Frederick Elliot.*

## — No. 12. —

COPY of a LETTER from Sir *S. Cunard*, Bart., to *C. Fortescue*, Esq., M.P.

Sir, Bush Hill House, Edmonton, 24 March 1862.

I BEG to acknowledge the receipt of your letter of the 22d instant, requesting the proprietors of Prince Edward Island who signed a letter addressed to his Grace the Duke of Newcastle, dated the 13th February 1860, with reference to the contemplated commission of inquiry into the land question in that Island, to pay the sum of 200 *l.* for their portion of the expense of the Commission, Her Majesty's Government having most liberally agreed to pay the remainder of the expense incurred by the Commissioners.

I beg to enclose a cheque for 200 *l.* in favour of the Paymaster General. I have not seen any of the proprietors, but I feel satisfied that they will approve of what I have done.

I have, &c.  
(signed) *S. Cunard.*

No. 12.  
Sir S. Cunard,  
Bart., to C. Fortescue,  
Esq., M.P.  
24 March 1862.

## — No. 13. —

COPY of a LETTER from *C. Fortescue*, Esq., M.P., to Sir *S. Cunard*, Bart.

Sir, Downing-street, 31 March 1862.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 24th instant, and of the cheque therein enclosed for the sum of 200 *l.*, in payment of the charge allotted to the proprietors of land in Prince Edward Island, in respect of the Commission of Inquiry into the Land question in that Colony. The cheque has been forwarded to the Paymaster General to be carried to the public credit.

I am, &c.  
(signed) *C. Fortescue.*

No. 13.  
C. Fortescue, Esq.,  
M.P., to Sir S.  
Cunard, Bart.  
31 March 1862.

## — No. 14. —

COPY of a LETTER from Sir *S. Cunard*, Bart., and others, to His Grace the Duke of *Newcastle*, K.G.

My Lord Duke,

THE suggestion that we should adopt the rates of commutation offered by Her Majesty's Government in 1833 for the redemption of the quit rents, has received our consideration.

In agreeing to the Commission asked by the Assembly, we were influenced by a sincere desire for the termination of all disputes, and the removal of all causes of discontent as far as it could be accomplished without the entire surrender of rights in all parts of Her Majesty's dominions secured to Her subjects.

We heard without apprehension of the extraordinary arbitration clause stated by Mr. Howe to be contained in the report of the Commissioners, because we felt convinced that in making it the Commissioners had exceeded their authority, and that, even had its legality been doubtful, its consequences would have been so mischievous, and its operation so injurious to both landlord and tenant, that neither could sincerely desire its confirmation. Its being now pronounced illegal renders further comment respecting it on our part unnecessary.

We refrain from expressing any opinion on that part of the award which sweeps away thousands of pounds of arrears of rent as justly due to us as any

No. 14.  
Sir S. Cunard,  
Bart., and others,  
to Duke of New-  
castle, K.G.  
28 March 1862.

debt due from a customer of a banker or tradesman is due to them, because being a matter within the submission, we know that whether just or not it would be binding; nor do we now stop to consider how far we might avail ourselves of the illegality of the arbitration clause, to resist the confirmation of an award containing provisions so detrimental to our interests, because we feel, that after the trouble your Grace has taken to bring the matter to a satisfactory conclusion a resort to objections of that kind on our part would be unbecoming.

Great as is the sacrifice, we have determined to acquiesce in the suggestion of your Grace by the following offer:--

"We will permit our tenants during the period of five years from the 1st of May 1862, to buy at 15 years' purchase, during the next period of five years at 18 years' purchase, and at all subsequent periods at 20 years' purchase; the right to extend to unexpired terms of 21 years."

We do not oblige ourselves to receive the purchase-money by instalments, an arrangement which (besides being otherwise objectionable) would, we think, in practice give rise to difficulties, outweighing any benefits that would accrue to the tenants from its adoption; indeed, your Grace will observe, that as the two periods during which the tenants under the proposed arrangement will have the right to purchase at 15 and 18 years respectively, covers the whole of the 10 years during which by the award they would be entitled to purchase at all; and as the rate during the last of such two periods is the same as that fixed in the award when all is paid down, and the first much less, it will evidently be more advantageous to the tenants than the award itself. The right to purchase not to extend to lands comprising mill sites, and of course not to farms which may have been let with the houses and buildings of the landlord on them.

We think the power to select 1,500 acres over which the right to purchase shall not extend, might render many uncertain whether the privilege would be allowed them; we feel that in any arrangement certainty of the right to purchase as well as of the amount to be paid should be secured to the tenants, and we therefore waive any advantage which the adherence to this provision might confer on us.

During the pendency of this matter, we have observed with regret that the Island papers have endeavoured to impress the people with the most incorrect notions of the effect of the different provisions in the award; by the one they have been told that no rent was to be paid till its publication or confirmation; by another that as all arrears previous to 1858 were remitted, those who were not in arrear would be entitled to an allowance for rent paid previous to that period; and the same paper generally understood to be the organ of the Island Government, has industriously laboured to persuade them that the arbitration clause would be so modified in the Legislature as to enable them to purchase in most cases for sums so small as would amount to a confiscation of our property. Absurd as such misrepresentations may appear, they have had the effect of proving seriously injurious to us, compelling our agents in many instances to resort to actions to enforce payment of the current rent, and seriously curtailing the aggregate amount of the ordinary income.

We fear that should any general proposition be submitted, and the framing of the Act necessary to give effect to it left to the Island Government, it would be so distorted for election or political purposes, that it would in the end prove abortive, while a course similar to that already pursued would inflict on us a continuance of the evils we now experience.

Under these circumstances we must request your Grace to consider our offer subject to this condition, viz., that a Bill containing the provisions necessary for carrying it into effect shall be prepared, under the direction of your Grace, and sent out to the Governor to be laid before the Island Legislature, it being understood that no further concession on our part will be made.

We have, &c.  
 (signed) *S. Cunard.*  
*E. Cunard.*  
*Laurence Sullivan.*  
*G. Graham Montgomery,*  
 for Self and *James Montgomery.*

## Enclosure in No. 14.

A BILL for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Reversion of their Farms.

Encl. in No. 14.

WHEREAS by a certain address of the House of Assembly of this Island, pursuant to certain Resolutions passed by the said House, it was prayed that Her Majesty's Government would be pleased to direct a Commission to inquire into the existing relations between Landlord and Tenant, and to negotiate with the proprietors for abatement of arrears of rent, and also for terms to enable the tenants to purchase the reversion of their farms: And whereas Sir Samuel Cunard, Baronet, Edward Cunard, Sir Graham Montgomery, James Montgomery, the Right Honourable Laurence Sullivan, Daniel Hodgson, William Cundall, John Roach Bourke, the Honourable Thomas Heath Haviland, John A. McDonald, and the Honourable Edward Palmer, and Henry Palmer, proprietors of the several township lands mentioned in the Schedule to this Act marked (A.), did agree to the issuing of such Commission: And whereas a Royal Commission was thereupon issued, which is as follows:

“ VICTORIA R.

“ Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen Defender of the Faith:—To all to whom these Presents shall come, greeting. Whereas We have been moved by the Assembly of Our Island of Prince Edward to appoint Commissioners to inquire into the differences now prevailing in Our said Island relative to the rights of landowners and tenants in Our said Island, with a view to the settlement of the same on just and equitable principles: And whereas the said Assembly has further by a Resolution, dated the 14th day of April last, set forth its agreement to abide by the decision of any such Commissioners or the majority of them, and to concur in whatever measures may be requisite for giving validity to their decision: And whereas it is highly desirable that the said differences should be adjusted: Now know ye that We, taking the premises into Our Royal consideration, are graciously pleased to nominate and appoint Our trusty and well-beloved John Hamilton Gray, Esquire, our trusty and well-beloved Joseph Howe, Esquire, and Our trusty and well-beloved John William Ritchie, Esquire, to be Our Commissioners for inquiring into the said differences, and for adjusting the same on fair and equitable principles.

“ Given at Our Court at Buckingham Palace, this twenty-fifth day of June 1860, in the twenty-fourth year of Our reign.”

“ By Her Majesty's Command,

“ Newcastle.”

And whereas the said Commissioners, by their report, did find and declare that the said township lands were not liable to forfeiture in consequence of any omission to perform, or any non-performance of any of the conditions in the original grants thereof; and also that no arrears of the quit-rents by the said grants reserved are now due or recoverable from the proprietors, tenants or occupiers of such lands; and also, that the proprietors, their tenants or occupiers, should be quieted in their possession of certain parts of the said lands called or known as “The Fishery Reserves,” and did also declare and award that all arrears of rent which accrued due to the said proprietors in respect of any of the said lands previous to the 1858 should be remitted to the tenants, and did also fix certain rates at which they should have a right to purchase the reversion of their farms: And whereas the said Commissioners did also, by their report, direct and provide that in certain cases the value of the lands should be ascertained by arbitrators to be appointed by the landlords and their tenants, in making which last direction or provision the said Commission exceeded the authority intended to be given them by the Assembly and the said proprietors; and the same, if confirmed by Act, might give rise to many disputes and much litigation between landlords and tenants, and such a direction or provision cannot be allowed or confirmed: And whereas it is nevertheless expedient, for preventing the tenants being deluded by the agitation of impracticable projects based on certain questions called in the said resolutions “The Escheat Question,” “The Fishery Reserve Question,” and the “Quit-rent Question,” as well as for securing to them the benefit arising from the remission of arrears of rent and the right to purchase the reversion of their farms; that the declarations, provisos or directions relative thereto should be confirmed in the manner and under the provisos hereinafter mentioned: And whereas the said proprietors have agreed, during the several periods hereinafter mentioned, to adopt the rates of commutation fixed by Her Majesty's Government for the commutation of the quit-rents as the rates at which they will permit their tenants to purchase the reversion of their respective farms, and which rates are more advantageous to the tenants than the rates fixed in the said award.

1. Be it therefore enacted, by the Lieutenant Governor in Council and Assembly, that from and after the passing of this Act, every tenant of any of the proprietors in the said schedule named, having, at the time of his desiring to exercise the right of purchase hereinafter given, an unexpired term of not less than 21 years' under written demise in any of the township lands of such proprietors therein mentioned, shall have a right or option to purchase the reversionary interest of such proprietor, his heirs or assigns therein, at the rates hereinafter mentioned (that is to say): during the first period of five

years from the 1st day of May 1862, every such tenant shall have a right or option to purchase such reversionary interest at 15 years' purchase of the yearly reserved rent; during the next period of five years every such tenant shall have a right or option to purchase such reversionary interest at 18 years' purchase of the said yearly reserved rent; and during all subsequent periods every such tenant shall have a right or option to purchase such reversionary interest at 20 years' purchase of the said yearly reserved rent: Provided always, that in any case where the reserved yearly rent during the first portion or years of the term shall be less than the yearly rent reserved during the residue of such term, the amount of the purchase-money shall be computed by multiplying the maximum or full rent reserved during such residue of such term by the number of years' purchase at which such tenant may, under the provisions aforesaid, be entitled to purchase.

2. Be it further enacted, that the hereinbefore recited declarations or award of the said Commissioners respecting the escheat or forfeiture of the lands and the arrears of quit-rents, and the lands called or known as the Fishery Reserve, and also concerning the remission to tenants of arrears of rent which have accrued due previous to the day of 1858, and which are now unpaid, be and the same is hereby declared to be valid and binding at law and in equity.

3. Be it further enacted, that in any action hereafter to be brought by any of the said proprietors, their heirs or assigns against any such tenant, for the recovery of rent which may have accrued due previous to the day of 1858, under any such demise as aforesaid, this Act (as to so much of the demand as relates to rent accrued due previous to such last-mentioned date) shall be a good defence under the general issue, without the same being specially pleaded in bar thereto.

4. That nothing in this Act shall be construed to entitle the tenant of any farm or lands comprising any mill site or water power capable of being used for the driving of any saw or grist mill, to claim any such remission of arrears of rent, or a right to purchase the reversion thereof as aforesaid.

5. That this Act shall not extend to any lease or demise, where the unexpired term shall be less than 21 years; nor to any lease or demise of any farm or lands having at the time of the granting thereof, any houses, buildings or other improvements of that description thereon, unless such houses, buildings or other improvements shall have been erected or placed thereon by such lessee, or some person from whom he may have received possession thereof before the granting of such lease.

6. That no tenant shall be entitled to claim the right or option to purchase under this Act, unless all arrears of rent, and which may be recoverable by action, shall be first fully paid and satisfied.

7. That in case the tenant shall desire to purchase between the periods or days on which the rent falls due, the same shall be apportioned and the portion there found to be due added to the purchase-money payable by such tenant under the provisions of this Act.

8. That nothing in this Act shall extend to any lease made after the passing of this Act.

9. That no landlord shall be compelled to sell under the provisions of this Act unless the whole of the purchase-money be tendered or offered to be paid.

#### SCHEDULE (A.)

Sir *Samuel Cunard*—Proprietor of townships, numbers Two (2), Fourteen (14), Twenty-one (21), Thirty-two (32), Forty-four (44), Sixty-three (63), Sixty-four (64), and of halves of townships numbers Twenty (20), Forty-five (45), Forty-six (46), Forty-nine (49), and parts of townships, Eight (8), Forty-eight (48), Fifty-five (55), and Sixty-five (65), also one-third part of township Twenty-seven (27).

Mr. *Edward Cunard*—Proprietor of townships numbers Four (4), Five (5), Six (6), and half of township number One (1).

Right Honourable *Laurence Sullivan*—Proprietor of townships numbers Nine (9), Sixteen (16), Twenty-two (22) and Sixty-one (61).

Sir *Graham Montgomery*—Proprietor of the one-third ( $\frac{1}{3}$ ), parts of townships numbers Fifty-one (51), Fifty-nine (59), and Thirty-four (34).

Honourable *Thomas H. Haviland*—Proprietor of township number Fifty-six (56), and parts of townships numbers Forty-three (43), Forty (40) and Eight (8).

*Henry* and *Edward Palmer*—Proprietors of half of township number One (1).

Mr. *Daniel Hodgson*—Proprietor of part of township number Twenty-three (23).

Mr. *William Cundall*—Proprietor of part of township number Twenty (20).

Mr. *John A. McDonald*—Proprietor of parts of townships numbers Thirty-five (35) and Thirty-six (36).

Mr. *John R. Bourke*—Proprietor of half of township number Thirty-seven (37).

*James Montgomery, Esq.*—One-third part of townships numbers Fifty-one (51), Fifty-nine (59) and Thirty four (34).

COPY of a LETTER from *C. Fortescue, Esq., M.P.*, to Sir *Samuel Cunard, Bart.*

No. 14\*.  
C. Fortescue, Esq.,  
M.P., to Sir S.  
Cunard, Bart.  
28 March 1862.

Sir,

Downing-street, 28 March 1862.

I AM directed by the Duke of Newcastle to inform you, that he has had under his most serious consideration the report made by the Commissioners appointed to inquire into the differences prevailing in Prince Edward Island relative to the rights of landowners and tenants. In considering that report, his Grace has also given careful attention to the representation made by you as one of the principal landowners in your letter of \*2d October last.

\* Page 78.

Your knowledge of the Report of the Commissioners was derived from a statement made by Mr. Howe at a public meeting, which was published in the local papers. The Duke of Newcastle considers that the landowners of Prince Edward Island should now be put fully and formally in possession of the Report; I am therefore directed to enclose a printed copy of it for your and their information.

The suggestions of the Commissioners for the settlement of the landowner and tenant question are two. First, that the operation of the Land Purchase Act should be extended to the whole island, the British Treasury assisting the Local Treasury by a guarantee to the extent of 100,000 *l.* Second, if that cannot be done, that a system of compulsory sale under arbitration should be organised.

To the first suggestion, the Duke of Newcastle is unable to accede. He does not consider that the condition of Prince Edward Island is such as to justify an application to Parliament for the guarantee of a loan on its behalf; and even if such a guarantee were given, and a loan raised, it does not appear certain that it would be effectual for the purpose.

To the second suggestion, you have as a landowner stated certain grave objections. You object that the arrangement proposed is not an award by the Commissioners, but the suggestion of a mode of obtaining an award through others; that consequently it is not in conformity with the agreement between Her Majesty's Government and the proprietors, nor with the address of the Assembly to the Crown, and that it would place the landowners at the mercy of the opposite party, and would probably involve an extravagant expense, which would fall exclusively on them. His Grace cannot deny the weight of these objections, nor assuming that they would be adopted by other landowners, could he feel entitled in the face of them to claim the landowners' acceptance of the Commissioners' recommendation, by virtue of the assent which they gave to the appointment of the Commission.

But his Grace would regret extremely if the difficulty of adopting either course suggested by the Commissioners should involve the necessity of abandoning all hope of compromising the differences which have so long distracted the Colony, and he has accordingly directed his attention to the possibility of devising some other scheme by which those differences might be reconciled without injustice, or too great a sacrifice on either side. The project to which his Grace has been led, I am now to convey to you, and to request that it may receive the careful consideration of yourself and the other owners of estates in Prince Edward Island. His Grace would be glad to be informed as soon as convenient of the result of your deliberations. It would be evidently desirable that he should have the opportunity of weighing any suggestions which you may offer before communicating the scheme to the Governor of Prince Edward Island for the consideration of the Local Legislature.

The object to be aimed at is to secure to the landowner, if not all to which he is legally entitled, yet all that he has hitherto received, on a safer footing than before, and to place the tenant in a more definite and encouraging position, in which he may know exactly, once for all, the terms on which he may acquire his land. It occurs to the Duke of Newcastle that this might be accomplished by enabling the Local Government to treat for the purchase of the landowners' rights, and their subsequent sale to the tenant, thus interposing the Government between the two parties, making it debtor to the one for the price of his land, and creditor to the other for the amount of his rent. The mode in which the Duke of Newcastle would propose to work out the arrangement, is as follows:—

He would propose that a tribunal should be constituted to which the owners and tenants on an estate should be at liberty to apply whenever they should

agree to desire the commutation of their tenure; that on such application the tribunal should ascertain the amount of rent reserved in the lease of the land in question, and the amount actually paid for a period of (say) 14 years; that the mean between the two should be taken as the actual rent, and that the price of the fee-simple should be 16 years' purchase of the rent so ascertained. If the tenant could pay that price at once the transaction might be at once completed; if he could not, the Government should issue to the landowner debentures for the amount, bearing interest at 6 per cent., secured, as I shall hereafter explain, on the colonial revenues, and a mortgage for the amount at the same interest should be taken by the Government over the land so enfranchised. The effect would be, where rents had been regularly paid, to give the landlord 16 years' purchase of the amount reserved in his lease; where they had been irregularly paid, 16 years' purchase of more than he had received, but less than he was legally entitled to claim; and where they had not been paid at all, 8 years' purchase of his legal rent. The number of years purchase has been fixed with reference to the interest of money in Prince Edward Island, which is assumed to be 6 per cent.

To provide the interest of the debentures so to be issued would not, judging from the Commissioners' Report, involve any difficulty; but to ensure perfect security his Grace would propose to the Legislature that the amount of debentures to be issued in any one year should not exceed 30,000 *l.*; that some special tax should be exclusively appropriated by Act to the liquidation of the interest upon them, and that they should moreover form a first charge on the colonial revenues generally. The interest on the mortgages to be taken by the Government over enfranchised land would form a further security, and would provide the means of gradually paying off the principal. The selection of properties to be enfranchised, if they should in any year exceed the value of the debentures to be issued, should as far as possible, by priority of application, and the decision as to the debentures to be from time to time paid off should be made by lot; these minor points, however, the Duke of Newcastle would be disposed to leave generally to the decision of the local legislature. The debentures or money to be received in payment for land, must of course be made subject to whatever liabilities or obligations the land itself was subject to, and provision must be made for ascertaining the title of the reputed owner of land to be dealt with, and for verifying the returns of rents said to have been paid; it would be for the local legislature to decide whether these duties should be delegated to one of the existing courts of the island, or whether an officer should be specially appointed for the purpose; whichever were adopted would evidently be the tribunal to which applications for the benefit of the scheme should be addressed in the first instance.

This is a general outline of the scheme which the Duke of Newcastle would propose. You will observe that, for the present at least, his Grace desires to leave its operation voluntary; he trusts, however, that it would not for that reason, be less widely resorted to; the benefit to the landowners would be that it would relieve them from the delay and expense involved in any arbitration scheme; that it would enable them to ascertain exactly the price for which they might be required to sell their land, and that if this price were not paid down it would substitute a Government annuity receivable without delay or difficulty for a precarious and uncertain rent; to the tenant it would bring certainty and confidence, and, by putting an end to the irritation which has so long distracted the Colony, would enable him to devote himself undisturbed to his appropriate occupations.

It will be a source of sincere satisfaction to the Duke of Newcastle, if through his intervention the agitation of past years may be put an end to in Prince Edward Island, and the Colony be enabled to pursue the career of prosperity for which its position and capabilities eminently adapt it.

I am, &c.  
(signed) C. Fortescue.

## — No. 15. —

COPY of a LETTER from Sir *S. Cunard*, Bart., to His Grace the Duke of Newcastle, K.G.

No. 15.  
Sir S. Cunard,  
Bart., to the Duke  
of Newcastle, K.G.  
2 April 1862.

My Lord Duke,

London, 2 April 1862.

I HAVE just received a letter from the Governor of Prince Edward Island, in which he says that a Bill "allowing the tenants permission to purchase at 15 years' rent would settle the long-vexed question in a week."

The Bill that I submitted to your Grace, not only allows that permission, but gives five years to the tenants to enable them to provide the money.

If your Grace could therefore send out the Bill by the packet on Saturday next, it would be in time to be passed by the Legislature now in Session, but if it is deferred until the next packet, it will be too late, and another year of agitation will take place, during which no rent will be paid.

I therefore entreat your Grace to be so good as to send out the Bill by this packet; it will be of great service to the proprietors, and to the tenants also.

I have, &c.  
(signed) *S. Cunard*.

## — No. 16. —

COPY of a LETTER from Sir *F. Rogers*, Bart., to Sir *S. Cunard*, Bart.

No. 16.  
Sir F. Rogers,  
Bart., to Sir S.  
Cunard, Bart.  
5 April 1862.

Sir,

Downing-street, 5 April 1862.

I AM directed by the Duke of Newcastle to acknowledge your letter of the 2d instant, in which you request that he will forward to Prince Edward Island by to-morrow's mail a draft Bill, enclosed in a letter of the 28th ultimo\*, signed by yourself and other proprietors of land in that Colony.

This request is not exactly the same as that which concludes your letter of the 28th, which was to the effect that he would cause a Bill to be framed and sent out to the Governor.

His Grace readily acquiesces in the request contained in your letter of the 2d. He will therefore forward the draft Bill by the mail of to-day. And it will become unnecessary that the Prince Edward Island proprietors should take into consideration the proposals contained in my letter to you of the 28th\* ultimo, until it appears how the draft Bill is received by the Prince Edward Island Legislature.

I am to observe that the schedule to the Bill contains the names of several proprietors who have not signed the letter of the 28th. It would be very desirable that the Governor should be authoritatively informed who are the consenting parties to the Bill besides yourself, Sir Graham Montgomery, and Messrs. E. Cunard, James Montgomery, and L. Sullivan.

I have, &c.  
(signed) *Frederic Rogers*.

\* Page 81.

\* Page 83\*.

## — No. 17. —

COPY of a LETTER from Sir *F. Rogers*, Bart., to Sir *S. Cunard*, Bart.

No. 17.  
Sir F. Rogers,  
Bart., to Sir S.  
Cunard, Bart.  
3 December 1862.

Sir,

Downing-street, 3 December 1862.

I AM directed by the Duke of Newcastle to transmit to you the enclosed copy of a Despatch from the Lieutenant Governor of Prince Edward Island, containing the decision of his Government on the draft Bill, embodying a plan for enabling the tenants to purchase their holdings, which was forwarded to the Colony at the request of yourself and other principal proprietors in the Island.

The decision of the local Government in this matter has been delayed to the present time because the Council declined to entertain the measure so long as the Acts of the Legislature for giving effect to the award of the Commissioners were under consideration. Those Acts having been disallowed by Her Majesty, your

proposals were, by his Grace's desire, again submitted to the Council. It will be seen, however, that they decline to recommend their adoption.

A second Despatch from the Lieutenant Governor is also enclosed, which contains the opinions of Messrs. Gray, Howe, and Ritchie on the Bill.

I am desired to request that you will inform the Duke of Newcastle whether under these circumstances the proprietors intend to press their proposal any further. Should that not be their intention it would rest with his Grace to make some suggestion to the Legislature, which he would desire if possible to be made with their concurrence, and with regard to which he would be ready to enter into communication with them, remembering, of course, that nothing can be worse for all parties than the continuance of the present state of uncertainty on the subject.

I am, &c.  
(signed) *Frederic Rogers.*

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— No. 18. —

COPY of a LETTER from Sir S. Cunard, Bart., to Sir Frederic Rogers, Bart.

Sir,

26 Prince's Gardens, 30 January 1863.

I HAVE to acknowledge your communication of the 3d December,\* enclosing copy of a Despatch from the Governor of Prince Edward Island with the decision of the Government, refusing to entertain the Bill for enabling tenants to purchase their farms; also opinions of Messrs. Howe, Gray, and Ritchie on the Bill, and requesting me to inform his Grace the Duke of Newcastle, whether the proprietors intend to press their proposal any further.

In reply I beg to say, that in making that proposal, myself, and the other proprietors who acted with me, conceived ourselves making very great sacrifices in favour of our tenants; as they, through their Government, have thought fit to reject the boon we offered, it is neither our interest nor desire to press the matter on them. I conceive we now stand as we were before we agreed to the Commission. The very imprudent and unjust conduct of the Commissioners in sweeping away almost all the arrears of rent, will, I find, involve a much greater pecuniary loss than I ever contemplated; but had not the absurd arbitration clause rendered the whole proceedings void, having given the Commissioners power over the arrears, we should have submitted to the loss without remonstrance.

Aware of the disappointment that would be felt on the award being found to be illegal, we offered the Bill, without altering any portion of the decision, except substituting for the illegal arbitration clause, a rate of commutation lower than otherwise we should have thought of granting.

The rejection of our offer has absolved us from all conventional arrangements; it would require consideration, before agreeing to renew our offer, even if it were desired. I need hardly say that any suggestions which his Grace may see fit to make to us, will receive our most respectful attention, and while, I trust, the manner in which myself, and the other proprietors, have acted from the first, will be viewed as a pledge of our readiness to acquiesce in any reasonable proposal, I must observe, that being now free from all conventional obligations, I must disclaim all right on the part of the Island Legislature, or the Imperial Government (without our concurrence) to interfere with our property, in any manner different from that in which private estates in England could be dealt with. With respect to the opinions of the Commissioners, I may remark that they only confirm what appears on the face of the report, namely, that they have acted on principles utterly opposed to right and justice. In their report, page 25, they say, "that industry or idleness, good health or sickness, a sick family, or a barren bed, or many children, may affect the value of farms." Now, though these circumstances might render one person less able to purchase than another, I cannot see that the marketable value of productive land can be depreciated by the sterility of the tenant's wife, or the industry or idleness, health or sickness, of himself or his family.

The Commissioners remark, that it would be unfair to demand as much for a farm worn out by cropping as for one skilfully managed.

If

No. 66.  
17 Sept. p. 37.

No. 18.  
Sir S. Cunard,  
Bart., to Sir F.  
Rogers, Bart.  
30 January 1863.  
\* Page 85.

If farms are given to two individuals, and one by proper management grows rich, while the other by his management runs his out and remains poor, it is not the landlord's fault, nor should he on that account receive less for his reversionary interest, because, if the tenant pays his rent, the landlord is not injured, and if he does not, he can enter and sell, and let the farm to one who will.

The assertion of these gentlemen, that if the landlord re-entered, he could not, in many cases, sell the farm for 15 years' purchase of the rent, is entirely contrary to the fact.

I believe there is not an improved farm on my estate, which, if surrendered to-morrow, would not sell for 15 years' purchase, and I believe very few indeed which would not realise double that amount.

They have evidently acted on the monstrous principle that the amount of commutation should be proportioned to the circumstances of the tenant, and not to the beneficial interest of the landlord.

My tenants hold under duly executed leases, and can compel me to fulfil my engagements to them, and I hope and trust that his Grace the Duke of Newcastle will not give his sanction to an act of the Island Legislature calculated to deprive me, and the other proprietors, of our property.

I remain, &c.  
(signed) S. Cunard.

— No. 19. —

COPY of a LETTER from T. Frederick Elliot, Esq., to Sir S. Cunard, Bart.

No. 19.  
T. F. Elliot, Esq.,  
to Sir S. Cunard,  
Bart.  
14 February 1863.

Sir,

Downing-street, 14 February 1863.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 30th ultimo.

As it appears from the contents of that letter that the proprietors who are co-operating with you consider "their offer of the 28th of March last to be now finally disposed of," his Grace desires me to inquire if you have any observations to make on the letter addressed to you from this Department on the 28th March 1862, which has hitherto received no answer.

I am, &c.  
(signed) T. Frederick Elliot.

— No. 20. —

COPY of a LETTER from Sir S. Cunard, Bart., to T. Frederick Elliot, Esq.

No. 20.  
Sir S. Cunard,  
Bart., to T. F.  
Elliot, Esq.  
24 February 1863.

Sir,

26, Prince's Gardens, 24 February 1863.

I HAVE to acknowledge the receipt of your letter of the 14th instant, requesting to be informed if I have any observations to make on the letter addressed to me on the 28th March 1862, which has hitherto remained unanswered.

I beg to say, that I thought the letter from the proprietors, dated the 28th March,\* which would be received at the Colonial Office the same day on which the letter referred to was sent to me, would be considered as embracing a reply to that letter, as it contained the sentiments of the proprietors on the subject.

I have not seen any of the proprietors lately, but I am sure they could not agree to the proposals contained in the letter of the 28th March; it suggests the constitution of a tribunal to deal between owners and tenants, which could not be entertained. It proposes that a tenant who has paid his rent regularly for 14 years, should be entitled to the fee-simple at 16 years' purchase, to which there would be no objection, but it further proposes, that the tenant who does not pay his rent shall be entitled to purchase at eight years, which would operate as a premium against paying rent at all.

There is no tenant on the Island who cannot pay his rent, if he is industrious and sober, and he can also lay past in a few years, as much money as will enable

him to purchase his farm; many of my tenants have done so, paying me in terms of their leases, being 20 years' purchase, and they are now thriving men.

But while the agitation is kept up by designing people, rent will not be paid, nor money laid up to purchase farms; time is wasted and money spent in attending political meetings.

The tenants are told that if they continue to agitate, the Colonial Office will support them, and that they will, in the end, obtain their object; but I feel confident that his Grace will not give his sanction to such unjust proceedings.

The Bill proposed by the proprietors last year contained a most liberal offer to the tenants, and I think the Colonial Government did not study the interest of the tenants in rejecting it.

I have, &c.  
(signed) S. Cunard.

## — No. 21. —

No. 21.  
Sir F. Rogers,  
Bart., to Sir S.  
Cunard, Bart.  
11 July 1863.

COPY of a LETTER from Sir *Frederic Rogers*, Bart., to Sir *S. Cunard*, Bart.

Sir, Downing-street, 11 July 1863.

I AM directed by the Duke of Newcastle to send you the copy of a Despatch, with an enclosure, which his Grace has this day addressed to the Lieutenant Governor of Prince Edward Island, on the subject of the land tenures in that Island, and I am to request you to be so good as to communicate the same to the proprietors in this country, who are interested in the question.

I have, &c.  
(signed) *Frederic Rogers*.

No. 24.  
1863, p. 67.  
11 July

## — No. 22. —

No. 22.  
Sir F. Rogers,  
Bart., to Sir S.  
Cunard, Bart.  
28 October 1863.

COPY of a LETTER from Sir *Frederic Rogers*, Bart., to Sir *S. Cunard*, Bart.

Sir, Downing-street, 28 October 1863.

I AM directed by the Duke of Newcastle to transmit to you for any observations which the landed proprietors of Prince Edward Island may have to offer, the copy of a proposal\* for the settlement of the land question, which has been submitted to his Grace by the Delegates who have come over to this country for that purpose.

I am, &c.  
(signed) *Frederic Rogers*.

\* Printed at p. 120.

## — No. 23. —

No. 23.  
Sir S. Cunard,  
Bart., to Sir F.  
Rogers, Bart.  
31 October 1863.

COPY of a LETTER from Sir *S. Cunard*, Bart., to Sir *F. Rogers*, Bart.

Sir, 26, Prince's Gardens, 31 October 1863.

I HAVE to acknowledge the receipt of your letter of the 28th instant (it was incorrectly addressed to Edmonton, and the delivery thereby delayed) enclosing copy of proposals submitted by the Delegates from Prince Edward Island.

I will endeavour to see some of the proprietors, and ascertain their views on the subject.

I am, &c.  
(signed) *S. Cunard*.

— No. 24. —

COPY of a LETTER from Sir *S. Cunard*, Bart., to his Grace the Duke of  
*Newcastle*, K.G.

No. 24.  
Sir *S. Cunard*,  
Bart., to Duke of  
*Newcastle*, K.G.  
14 November 1863.

My Lord Duke,

26, Prince's-gardens, 14 November 1863.

IN replying to the proposals made by the Delegates from Prince Edward Island, as set forth in their letter of the 13th ultimo,\* it may not be out of place to advert to the original granting of the Island, about 90 years ago, in large lots, which has been so much and so severely commented upon. It was an act of necessity, the Island at that time being derelict, and it was absolutely necessary to make arrangements for taking possession of it. The grantees have all lost very heavily by accepting the grants; but no individual on the Island at present has been injured by that proceeding; on the contrary, these grants have been made a fruitful source of profit to the present generation, for when money is required, for any purpose, a law is passed to raise the amount by a tax on the proprietors' land.

\* Printed at p. 120.

I can recollect the following taxes; viz., one for making the great roads in the Island, another for the encouragement of education, and another for erecting in Charlotte Town a large building for the Parliament to assemble in, and for all other Government purposes. This was a most costly edifice, being constructed of cut stone, imported into the Island; and I believe the tax was continued after a sufficient sum had been raised to cover the cost.

In the adjacent colonies all these services are defrayed out of the general revenues of the country; but in Prince Edward Island they have been raised by taxes, levied chiefly upon unproductive property, the cultivated paying only half the rate of the uncultivated land. There are many tracts of poor land which have been taxed in this way to four times the amount that the land would sell for, and in very many instances, where the agent had not sufficient money from the produce of the land to pay such tax, parcels of the best land have been sold under execution to satisfy the claim, with the addition of heavy costs.

I have paid for land taxes on my own and my son's wilderness lands, between the years 1841 and 1862, the sum of 8,641 *l.* It may be said that there has not been land for new settlers, but that is not correct; the proprietors have always been willing to supply any quantity upon most easy terms, and the Island Government have now also large quantities of land which cost only 2 *s.* 2 *d.* per acre; and as the Government are too liberal to make money by the poor settlers they will of course sell the land to them at cost price, so that persons wishing to procure land are not dependent on the proprietors. I therefore repeat that the grants so much complained of have not been an injury to the present inhabitants, but a profit to them.

In my leases the rent and purchase money are made payable in British sterling money, and were so paid for many years, until an Act was passed reducing the 1 *l.* sterling to 16 shillings; for instance, if a tenant owes me 5 *l.* sterling for rent under his lease, and I owe him five sovereigns for any article purchased of him, he would pay me 3 *l.* 15 *s.*, and I should have to pay him 5 *l.*; thus the Act reduced the value of my rent and sales 25 per cent.

A landlord is not allowed to proceed in the Small Debts Court for the recovery of rent, while all debts under 5 *l.* are recoverable in that court; and he cannot sue in the Supreme Court for a debt under 10 *l.*, and, as the rent is frequently from 2 *l.* to 2 *l.* 10 *s.*, four or five years must elapse before he can proceed in the Supreme Court; and there are also difficulties placed in the way of recovering rent in the Supreme Court.

I mention these circumstances to show the vexatious Acts that have been passed to injure the proprietors; they have been most unjustly deprived of one-fourth of their property, and difficulties placed in the way of the collection of the remainder.

Some of the propositions of the Delegates appear to be complicated and difficult to be understood, but all of them interfere with the written agreements between landlord and tenant, and go to deprive the landlord of his just rights. One proposal is for remission of arrears of rent prior to May 1858; another to reduce the term of purchase from 20 to 15 years; this would not appear to be a very just proposition when it is considered that an Act has already been passed reducing the sterling money, in which the rents and purchases are payable, to the extent of 25 per cent., so that this further demand is a further additional reduction of 25 per cent. Another proposal is that land leased originally at 1 s. per acre, and now paying a higher rate, should be reduced to 1 s. Some of my tenants are in that position. Any changes that have taken place have been matter of agreement between my agent and the tenants, and always at the request of the tenant, and for his interest. I happen to recollect an instance that will serve to illustrate the case: two tenants, on adjoining farms, owed each 50 l. for rent; one paid the debt, the other proposed to pay sixpence addition per acre, as commutation for the 50 l., to which my agent agreed, and granted him a new lease, the current interest of the Island being 6 per cent.; the 50 l. gave him 3 l., and he paid for additional rent only 2 l. 10 s. It was therefore to the advantage of the tenant, and he wished to have the use of the money; these two farms would now sell in the market for 600 l. or 700 l. each. Can it be just to ask to disturb such arrangements?

I will now state the terms upon which land can be at all times had. A poor man applies to my agent for 50 acres of land; he obtains it on the following terms:—

|          |   |   |   |   |   |   |                   |
|----------|---|---|---|---|---|---|-------------------|
| One year | - | - | - | - | - | - | at 3 d. per acre, |
| „        | - | - | - | - | - | - | at 6 d. per acre, |
| „        | - | - | - | - | - | - | at 9 d. per acre; |

and thereafter, at 1 s. per acre (I having previously made a road to the land). The tenant has the privilege of cutting timber for building his house and out-houses, as well as for fuel, and also to sell for ship-building and other purposes; if he be an industrious man he will have a comfortable homestead at the end of four years, together with his 50 acres of land, and for which he is to pay annually 37 s. 6 d. sterling, or at the rate of 9 d. per week, and the privilege of purchasing the fee-simple at any time for 37 l. 10 s.; his agreement is for 50 l.; but by the Act of the Legislature the money value is reduced to 37 l. 10 s.

Now compare or contrast the situation of this man with the farm labourer in Great Britain, who cannot get a shelter for his family for double that rate per week, and is liable to be turned out at any moment by the omission to pay only one week's rental.

I have granted 1,496 leases within the last 25 years; many of the parties are comparatively rich, while some of them have purchased their freeholds, others would do so, but prefer retaining the money, being aware that they have the privilege of purchasing at any time.

I have not been able to consult with any of the proprietors; they are out of town, and I have also been away. I am therefore only now expressing my own sentiments; but I will take the earliest opportunity of seeing them, and I hope to be enabled to submit to your Grace some proposals in the form of a Bill, which I trust may meet your approbation, and be the means of producing a better feeling in the Island.

I have, &c.  
(signed) S. Cunard.

## — No. 25. —

Copy of a LETTER from *T. Frederick Elliot, Esq.*, to *Sir S. Cunard, Bart.*

No. 25.  
*T. F. Elliot, Esq.,*  
to *Sir S. Cunard,*  
*Bart.*

23 November 1863.

\* Page 89.

Sir,  
I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 14th instant,\* communicating to his Grace your views with respect to the proposals of the Delegates on the Prince Edward Island land question.

Downing-street, 23 November 1863.

I have, &c.  
(signed) *T. Frederick Elliot.*

## — No. 26. —

Copy of a LETTER from *T. Frederick Elliot, Esq.*, to *Sir S. Cunard, Bart.*

No. 26.  
*T. F. Elliot, Esq.,*  
to *Sir S. Cunard,*  
*Bart.*

26 Nov. 1863.

Sir,  
I AM directed by the Duke of Newcastle to acquaint you that his Grace has received from Mr. Pope, one of the Delegates from Prince Edward Island on the land question, a letter pressing for an early reply to the proposal submitted by himself and his colleague.

Downing-street, 26 November 1863.

His Grace deems it proper to communicate this circumstance to you although, from the tenor of the concluding paragraph of your letter of the 14th instant,† he has no doubt that no time will be lost in arriving at a decision on the subject.

I have, &c.  
(signed) *T. Frederick Elliot.*

## — No. 27. —

Copy of a LETTER from *Sir S. Cunard, Bart.*, to *Sir Frederic Rogers, Bart.*

No. 27.  
*Sir S. Cunard,*  
*Bart.,* to *Sir F.*  
*Rogers, Bart.*

5 December 1863.

‡ Page 89.

Sir,  
WITH reference to the letter which I had the honour to address to the Duke of Newcastle on the 14th November,‡ relative to the proposals made by the Delegates from Prince Edward Island, I now beg to submit, for the consideration of his Grace, the draft of a Bill to which I then alluded. I have since consulted with some of the principal proprietors in this country who have given their assent to the Bill; the greater number of the proprietors reside on the island, and I have reason to believe that they will also give their concurrence to it.

In making these concessions we do not recognise the right of Delegates or any other party to interfere with written agreements existing between landlords and tenants, but we make the concessions in the hope that they may produce peace and obedience to the laws. It is to be fully understood that this Bill shall be taken to contain the terms upon which the land question of Prince Edward Island shall be settled, and it is further expressly understood that, in case any alterations shall be made in the provisions of the said Bill by the Legislature of Prince Edward Island, the proprietors will not in anywise be bound thereby.

I have, &c.  
(signed) *S. Cunard.*

## Enclosure in No. 27.

Encl. in No. 27. A BILL for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Reversion of their Farms.

WHEREAS, by a certain address of the House of Assembly, pursuant to certain resolutions passed by the said House, it was prayed that Her Majesty's Government would be pleased to direct a Commission to inquire into the existing relations between landlord and tenant, and to negotiate with the proprietors for abatement of arrears of rent, and also for terms to enable the tenants to purchase the reversion of their farms:

And whereas Sir Samuel Cunard, Baronet, Edward Cunard, Sir Graham Montgomery, Baronet, James Montgomery, the Right Honourable Laurence Sullivan, Daniel Hodgson, William Cundall, John Roach Bourke, the Honourable Thomas Heath Haviland, John A. McDonald, and the Honourable Edward Palmer and Henry Palmer, proprietors of the several township lands mentioned in the Schedule to this Act, marked A, did agree to the issuing of such commission: And whereas a Royal Commission was thereupon issued: And whereas the said Commissioners by their report did find and declare that the said township lands were not liable to forfeiture in consequence of any omission to perform, or any nonperformance of any of the conditions in the original grants thereof. And also that no arrears of quit-rents by the said grants reserved are now due or recoverable from the proprietors, tenants, or occupiers of such lands; and also that the proprietors, their tenants or occupiers should be quieted in their possession of certain parts of the said lands called or known as "The Fishery Reserves," and did also declare and award that all arrears of rent which accrued, due to the said proprietors in respect of any of the said lands previous to the 1858, should be remitted to the tenants, and did also give certain rates at which they should have a right to purchase the reversion of their farms: And whereas the said Commissioners did also by their report direct and provide, that in certain cases the value of the land should be ascertained by arbitrators to be appointed by the landlords and their tenants; in making which last direction or provision the said Commissioners exceeded the authority intended to be given them by the Assembly and the said proprietors, and the said report or award is therefore void: And whereas it is nevertheless expedient for preventing the tenants being deluded by the agitation of impracticable projects, based on certain questions, called in the said resolutions the "Escheat Question," the "Fishery Reserve Question," and the "Quit-rent Question," that the declaration, provisos or directions, relative thereto should be confirmed in the manner, and under the provisos hereinafter mentioned:

And whereas it hath been agreed between the said proprietors and certain delegates or agents of the Government of Prince Edward Island, to remit to their tenants on their respective estates certain arrears of rent hereinafter mentioned, and also that the tenants on the said estates shall have the right to purchase the reversionary interest in their farms at the rate and in the manner hereinafter expressed:

1. Be it therefore enacted by the Lieutenant Governor, Council, and Assembly, that from and after the passing of this Act, and until the 1st day of May 1884, every tenant of any of the proprietors in the said Schedule named, having at the time of desiring to exercise the right of purchase hereinafter given, an unexpired term of not less than 40 years under written demise, in any of the township lands of such proprietors shall have a right or option to purchase the reversionary interest of such proprietor, his heirs or assigns therein at 16 years' purchase of the yearly rent reserved and made payable by and under such demise; provided always, that in any case where the said yearly rent during the first portion or years of the term shall be less than the yearly rent reserved during the residue of such term the amount of the purchase-money shall be computed by multiplying the maximum or full rent reserved during the residue of such term by 16.

2. Be it further enacted, that the hereinbefore recited declarations or award of the said Commissioners respecting the escheat or forfeiture of the said township lands, and the arrears of quit-rents, and also concerning the lands known or called the Fishery Reserves, be and the same is hereby declared to be binding in law and in equity.

3. Be it further enacted, that the arrears of rent which have accrued due to any of the said proprietors from any tenant of such township lands previous and up to the 1st day of May 1858, and which at the passing of this Act are unpaid, be and the same are hereby remitted and given up; provided always that nothing in this Act shall extend to remit or release any arrears of rent for which judgment in any court shall have been recovered against any tenant previous to the 1st day of October 1863, nor to remit or release any rent due from any tenant the unexpired term of whose lease shall not exceed 40 years; and provided further, and it is hereby declared that nothing in this Act shall be construed to entitle any tenant who, subsequent to the 1st day of May 1858 shall have paid a sum larger than was sufficient to cover or liquidate the rent accruing due between the said 1st day of May 1858 and the time of his making such payment, to have the overplus or amount remaining after deducting the rent so accruing between the said 1st day of May 1858 and the time of such payment applied in or towards the liquidation or payment of any rent accruing after such payment, but such overplus shall be taken and held to have been appropriated by the landlord in payment of arrears that accrued due previous to the said 1st day of May 1858.

4. Be it further enacted, that any action hereafter to be brought by any of the said proprietors, their heirs or assigns, against any such tenant for the recovery of rent which may have accrued due previous to the 1st day of May 1858, under any such demise as aforesaid, that Act (as to so much of the demand as relates to rent accrued due previous to such last-mentioned date) shall be a good defence under the general issue, without the same being specially pleaded in bar thereto.

5. That nothing in this Act shall be construed to entitle the tenant of any farm or lands comprising any mill site or water power capable of being used for the driving of any saw or grist mill whereon any such mill now is, or hereafter has been erected to any such remission of arrears of rent, or a right to purchase the reversion thereof as aforesaid.

6. That no tenant shall be entitled to claim the right or option to purchase under this Act unless all arrears of rent, and which may be recoverable by action, or for which judgment previous to the 1st day of October 1863 shall have been recovered shall be fully paid and satisfied.

7. That in case the tenant shall desire to purchase between the periods or days on which the rent falls due, the same shall be apportioned, and the portion there found to be due added to the purchase-money payable by such tenant under the provisions of this Act.

8. That nothing in this Act shall extend to any lease made after the passing of this Act.

9. That no landlord shall be compelled to sell under the provisions of this Act unless the whole of the purchase-money be tendered, or offered to be paid.

## SCHEDULE (A.)

SIR SAMUEL CUNARD, proprietor of townships numbers two (2), fourteen (14), twenty-one (21), thirty-two (32), forty-four (44), sixty-three (63), sixty-four (64), and of halves of townships numbers twenty (20), forty-five (45), forty-six (46), forty-nine (49), and parts of townships eight (8), forty-eight (48), fifty-four (54), and sixty-five (65); also one-third part of township twenty-seven (27).

Mr. Edward Cunard, proprietor of townships numbers four (4), five (5), six (6), and half of township number one (1).

Right Honourable Laurence Sullivan, proprietor of townships numbers nine (9), sixteen (16), twenty-two (22), and sixty-one (61).

Sir Graham Montgomery, proprietor of the one-third ( $\frac{1}{3}$ ), parts of townships numbers fifty-nine (59), and thirty-four (34).

Honourable Thomas Heath Haviland, proprietor of township number fifty-six (56), and parts of townships numbers forty-three (43), forty (40), and eight (8).

Henry and Edward Palmer, proprietors of half of township number one (1).

Mr. Daniel Hodgson, proprietor of part of township number twenty-three (23).

Mr. William Cundall, proprietor of part of township number twenty (20).

Mr. John A. McDonald, proprietor of parts of townships numbers thirty-five (35) and thirty-six (36).

Mr. John R. Bourke, proprietor of half of township number thirty-seven (37).

James Montgomery, Esq., one-third part of townships numbers fifty-one (51), fifty-nine (59), and thirty-four.

## — No. 28. —

Copy of a LETTER from Sir Frederic Rogers, Bart., to Sir S. Cunard, Bart.

Sir,

Downing-street, 1 January 1864.

I AM directed by the Duke of Newcastle to transmit to you the enclosed extract of a letter\* from Mr. William H. Pope, and to request that you will enable his Grace to answer his inquiry as to whether the Prince Edward Island land proprietors resident in this country will be disposed to agree to the third proposition of the Delegates from the Island, contained in the letter, a copy of which was forwarded to you on the 28th of October.

His Grace requests that you will favour him with an early answer, as Mr. Pope is anxious to leave this country by the mail of the 9th instant.

I am, &c.  
(signed) Frederic Rogers.

No. 28.

Sir F. Rogers,  
Bart., to Sir S.  
Cunard, Bart.

1 January 1864.

\* 18 Dec. 1863,  
p. 124.

— No. 29. —

No. 29.

Sir S. Cunard, Bart.,  
to Sir F. Rogers,  
Bart.

4 January 1864.

\* Page 93.

COPY of a LETTER from Sir S. Cunard, Bart., to Sir Frederic Rogers, Bart.

Sir,

26, Prince's Gardens, 4 January 1864.

I BEG to acknowledge the receipt of your letter of the 1st instant,\* transmitting an extract of one from Mr. W. H. Pope, and requesting that I would enable the Duke of Newcastle to answer Mr. Pope's inquiry as to whether the Prince Edward land proprietors, resident in this country, will be disposed to agree to the third proposition of the Delegates from the Island, contained in their letter of the 28th October last.

† Page 89.

In reply, I beg to acquaint you, for the information of his Grace, that in my letter of the 14th November,† in reply to the propositions submitted by the Delegates, I was reluctant to trust myself to make any remark upon the third proposition, lest I should make some observation that might be deemed unpleasant, especially as the Delegates hold the highest official situations in the Island; I therefore passed it over, merely stating that it was difficult to be understood.

Being now called upon specially to reply to this proposition, I will endeavour to explain what would be its operation.

A tenant, holding a farm consisting of 100 acres, for which he is bound by his lease to pay 5*l.* rent per annum, and to pay it annually, would, under this proposition, avoid paying his landlord, being encouraged thereby to do so, but would deposit his rent in the bank, where he can get 6 or 7 per cent. interest, and at the end of 20 years the accumulated rent and interest would amount to more than 150*l.*; this sum should, in justice, belong to the landlord, but the tenant can then take 80*l.* of it, and demand from his landlord a deed, in fee simple, of his farm, and has the remainder of the 150*l.* as a reward for dishonesty. The only large proprietor I have been able to communicate with, fully accords with the opinion herein expressed, and I am quite satisfied that the other proprietors, who are out of town, will equally coincide with the view I have taken on the subject.

From the foregoing remarks I think his Grace will readily admit that the proprietors in this country, and in the Island, cannot agree to the third proposition made by the Delegates.

I have, &c.  
(signed) S. Cunard.

— No. 30. —

COPY of a LETTER from Sir S. Cunard, Bart., to His Grace  
the Duke of Newcastle, K.G.No. 30.  
Sir S. Cunard,  
Bart., to the Duke  
of Newcastle, K.G.  
26 March 1864.26, Prince's Gardens, Kensington,  
26 March 1864.

My Lord Duke,

‡ Page 124.  
§ Page 89.

My attention has been called to a letter of Mr. Pope's, dated the 18th December 1863,‡ in which he endeavours to make it appear that my letter of the 14th November§ last contains very great misstatements.

|| Page 120.

Though I do not think it necessary to discuss whether Mr. Pope's opinions or mine, on island affairs, are most correct, I think it due to myself to notice some of his remarks.

My letter was written in reply to that of the Delegates of the 13th October 1863,|| containing proposals for settling the land question, so me of which I thought so extraordinary that I was surprised they should have been made by a Government really desirous of an amicable arrangement.

I am glad to find a more just consideration for the rights of others has caused them to be withdrawn.

Mr. Pope

Mr. Pope first quarrels with an expression, "that when money is required for any purpose, a law is passed to raise the amount by a tax on the proprietors' lands." I do not suppose Mr. Pope thinks I intended this to be literally taken. I might better have expressed my meaning had I said that in the times to which my observation points, every pretext was resorted to for taxing the lands and oppressing the proprietors, whether the money was wanted or not, and I think, among other legislative proceedings, the rejected Rent Roll Bill and Tenants' Compensation Act would furnish pretty strong evidence of the fact.

Mr. Pope does not deny the existence of the Road Tax Act, but differs from me in his idea of its justice. He has a right to his opinion, and so have I to mine. But he alludes to a particular case, where I successfully resisted a most unjust demand, made against me under the Act, asserting that I evaded payment of a thousand pounds by a "purely captious objection."

The assessment alluded to was made before I purchased the property through which the road passed. The Act under which it was made recites that it is just and reasonable that proprietors should contribute to the formation of roads made through their lands.

The intention of the Act evidently was that the proprietors should pay only a proportion of the cost of making the road. Mr. Pope himself says that it was the great highway to the northern extremity of the Island. The public, therefore, must have been greatly benefited by it, so that if there ever was a case where the chief part of the expense should have been borne by the public, it was this. But the jury assessed 70% and 80% a mile against the proprietors, a sum nearly, or quite sufficient, to cover, I believe, the expense of making the road.

The great hardship of the Road Tax Act is that the owner of land is compelled to pay for making roads, where he does not require them, and such was the case with the road in question, along which, after a lapse of upwards of 20 years, but few persons have settled. But before taking any proceedings, my agent pointed out the defect to the Government, and offered to pay one-half of the amount, all that could, according to the intention of the Act, have been assessed, and very greatly beyond what, in justice, should, under the circumstances, have been assessed. This offer was refused, and, after the proceedings were quashed, the Assembly passed an Act to have a re-assessment. After being referred to the Law Officers of the Crown, the Act was disallowed, which, I presume, would not have been the case if my proceedings had been of the character Mr. Pope describes. All the Acts I alluded to are in existence, and can be referred to, and they will, I think, show that it is not without reason I assert that in Prince Edward Island the lands have been frequently resorted to in a manner not usual in the adjacent colonies.

What relation the quit rents, mentioned by Mr. Pope to have been remitted, have to the statement in my letter, I am unable to discover. The arrears of quit rent were remitted long before I purchased. I paid a very large sum of money for my estates, which I would not have paid had they been encumbered with the quit rents. Those from whom I purchased may have derived advantage, but it is evident that I neither did, nor could, derive any.

It is not intelligible from Mr. Pope's statement how the proprietors gained 6,014% by the Land Tax Act, nor do I see that it has anything to do with the question if it were the case.

Mr. Pope says, "The tax for the encouragement of education is not as I would have your Grace infer, levied chiefly on wilderness or unproductive land; the cultivated paying only one-half the rate of the uncultivated."

On referring to the Acts it appears that in 1830 a tax of 2s. per hundred acres was imposed. In 1837, which was before I purchased, it was fixed at 2s. improved, and 4s. for unimproved. In 1848, it was fixed at 2s. 6d. for improved, and 5s. for unimproved, and so continued down to 1852, when it appears an additional ( $\frac{1}{2}$ d.) halfpenny per acre was imposed on all lands, which reduced the proportion between cultivated and uncultivated, which before then was, as stated in my letter, double on the latter. Writing only from recollection, I fancied it still continued so. This slight inaccuracy is, I believe, the only one contained in my letter.

The next statement to which Mr. Pope alludes is, "That I say that in my leases the rent and purchase money are made payable in British sterling, and were so paid for many years, until an Act was passed reducing the 1*l.* sterling to 16*s.* Thus the Act reduced the value of my rents and sales 25 per cent." He thinks he will have no difficulty in convicting me here of a misstatement; that he desires to do so is plain, but I think he will be disappointed.

My argument on the one-ninth Bill was, that it deprived me of one-fourth of the rent to which I was legally entitled. Many of my tenants hold under leases given by former owners, long before I purchased; at the time when many of the leases were granted the currency was little, if at all, depreciated, and the payment of 1*l.* with a 1*s.* 9*d.* added, or 1*l.* 2*s.* 2*d.* currency, would be about equivalent to 1*l.* sterling. It gradually became more and more depreciated, but the landlords continued to add 1*s.* 9*d.* and received the depreciated currency in payment; but this indulgence did not deprive them of their right to the amount agreed for, as is proved by the Tender Act, 12 Vict. c. 24, passed in 1849, which, after enacting that the sovereign shall be a legal tender for 30*s.*, in the 7th section provides that the Act shall not affect leases in which the rent is reserved in sterling money.

Such were our legal and well-understood rights, when in 1851 the 14th Vict. c. 33, known as the one-ninth Bill, was passed, compelling us to receive the sovereign for 30*s.* which the Act, passed only two years before, shows we were not bound to do. The proviso alluded to by Mr. Pope, providing that, where the rent had previously been exacted in sterling, it might still be so demanded, only shows that those who had been indulgent to their tenants were worse treated by the Legislature than those who had been exacting, which is just what I complain of.

Mr. Pope alludes to an examination of my agent in the year 1840, in which he states that the mode of converting sterling into currency was by adding one-ninth. My agent was quite correct, it is the system always used in Nova Scotia, but Mr. Pope omitted to state why that system could not be continued in the Island; it was in consequence of the depreciated state of the currency, the Government having issued notes without providing specie to redeem them, and when applications were made at the Treasury, the reply was, there is no money in the Treasury.

If the Bank of England were to refuse to pay their notes in specie, they would soon be, like Prince Edward Island notes, at a great depreciation; and as landlords were not bound to receive this depreciated currency, an Act was passed to compel them to receive it, in payment for rent, at a fixed rate. Mr. Pope says that a sovereign represents 30*s.* Now, if he owes me 1*l.*, British sterling, for rent, he, under this Act, pays me 1*l.* 2*s.* 2*d.*, but, if I owe him 1*l.* British sterling, not for rent, I must pay him 30*s.*; it was a most unjust Act, defrauding me of one-fourth of my rent.

In my letter, I state, that I have given 1,496 leases in 25 years. Mr. Pope quotes this from my letter, and then quotes from a statement, furnished by my agent to the Commissioners, from which he says it appears the number of persons holding leases on Sir Samuel Cunard's estates are 971. If he intends to allege a misstatement here, the explanation is, that I always allude to my son's and my own as one property. I had before me a return of my agent up to the end of 1863, and the number of leases are, as stated, 1,496.

Mr. Pope alludes to the terms on which my lands are let. And here I find, my memory had led me into error.

I said that a tenant did not come upon full rent until after four years; I should have said until after eight years; say, two years free from rent, two at 3*d.*, two at 6*d.*, and two at 9*d.*, and thereafter at 1*s.*; and I may repeat that every industrious man should, before that time, have a comfortable homestead with 50 acres of land, at the annual rent of 1*l.* 17*s.* 6*d.*, or less than 9*d.* per week, with the privilege of purchasing the fee simple for 37*l.* 10*s.* at any time within 999 years.

Mr. Pope's remarks would lead to the supposition that there is great destitution and distress in the Island.

293

I annex a statement from the "Islander" newspaper, of the 1st January 1864, of the exports from the Port of Charlotte Town alone during the past autumn, which is a sufficient refutation of Mr. Pope's assertion.

I do not think a country, having such a vast quantity of agricultural produce to export, can be in a very impoverished condition. If there be so large a class whose lands do not yield them a subsistence, it only shows that the Island soil, properly worked, must be wonderfully productive, as then this vast surplus must be produced by a moiety of the people.

My last misstatement, according to Mr. Pope, is that the small debt courts of the Island are closed against the proprietors; this, Mr. Pope says, is incorrect, because, if the landlord can make oath there is not sufficient distress to countervail half a year's rent, he may sue. In other words, because, where it appears the tenant has nothing to pay with, you may sue; where he has, you shall not. Your Grace will recollect that a copy of the Small Debt Act, with this section specially marked, accompanied my letter.

If I had been furnished with a copy of Mr. Pope's letter, I should have replied to his charges immediately, so that my refutation would have appeared at the same time with Mr. Pope's charges.

I have, &c.  
(signed) S. Cunard.

Enclosure in No. 30.

Extract from the "Islander," of 1 January 1864.

Encl. in No. 30.

As for ourselves, we have much to be grateful for. Favoured by a fine season, the crops have been abundant, and in addition there has been an unusual requisition for portions of them. Oats have been in good demand. We are not enabled to give the whole quantity or value of the produce shipped during the past year from the Island in general, but the following account of what has been sent from the port of Charlotte Town alone will give some idea of how great has been the export trade in the articles enumerated.

Cleared at the Custom House, as exported from the port of Charlotte Town, as nearly as can be ascertained at present, the following articles, viz.:

|                 |                             | Estimated Value. |    |    |
|-----------------|-----------------------------|------------------|----|----|
|                 |                             | £.               | s. | d. |
| 665,599 bushels | oats - - 2s. 6d. per bushel | 66,559           | 18 | -  |
| 210,297         | potatoes - 1s. 6d. " - - -  | 15,239           | 18 | -  |
| 18,138          | barley - 4s. 6d. " - - -    | 3,627            | 12 | -  |
| 10,626          | turnips - 1s. " - - -       | 5,318            | -  | -  |
| 806 barrels     | oatmeal - 30s. per barrel   | 1,209            | 10 | -  |
| 26,029 dozen    | eggs - 7d. per dozen        | 758              | 18 | 4  |
| 10,173          | sheepskins - 5s. per skin   | 2,543            | 5  | -  |
| 21,958 lbs.     | wool - 2s. 3d. per lb.      | 2,470            | 5  | 6  |
| £.              |                             | 107,727          | 6  | 10 |

The above articles enumerated are independent of timber, deals, lathwood, horses, horned cattle, sheep, poultry, pearl barley, beef, pork, dry fish, mackerel, herrings, oil, oysters, parsnips, carrots, hay, &c. &c.

— No. 31. —

No. 31.  
Sir F. Rogers, Bart.,  
to Sir S. Cunard,  
Bart.

6 April 1864.

\* Page 94.

COPY of a LETTER from Sir *Frederic Rogers*, Bart., to Sir *S. Cunard*, Bart.

Sir,

Downing-street, 6 April 1864.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 26th of March,\* and to acquaint you that, as Mr. Pope's letter to which you refer had not left on his Grace's mind any impression unfavourable to you, and as it appeared that the controversy was one which was perfectly useless in itself, and calculated to obstruct a settlement which it was for the interests of all parties to effect as speedily as possible, his Grace did not think it necessary to send you a copy of it. But as Mr. Pope's letter appears to have been published in Prince Edward Island, it is the Duke of Newcastle's intention to furnish the Governor with a copy of your present letter and of this reply, with an intimation of his Grace's desire that, as the previous correspondence had been printed by authority of Government, a similar course should be taken with respect to these further communications.

But the Duke of Newcastle will, at the same time, intimate to the Governor that he cannot allow this Department to be any further made, by either party, the medium of a controversy of this kind.

I have, &c.  
(signed) *Frederic Rogers*.

— No. 32.—

No. 32.  
Sir F. Rogers, Bart.,  
to Sir S. Cunard,  
Bart.

4 June 1864.

\* Page 50.

COPY of a LETTER from Sir *Frederic Rogers*, Bart., to Sir *S. Cunard*, Bart.

Sir,

Downing-street, 4 June 1864.

I AM directed by Mr. Secretary Cardwell to transmit to you the enclosed copy of a Despatch from Lieutenant Governor Dundas,\* accompanied by an Act of the Legislature of Prince Edward Island, entitled, "An Act for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee-simple of their Farms;" and I am desired to request that you will ascertain and inform Mr. Cardwell whether the provisions of this Act are acceptable to the proprietors concerned.

I have, &c.  
(signed) *Frederic Rogers*.

— No. 33. —

No. 33.  
Sir S. Cunard,  
Bart., to Sir F.  
Rogers, Bart.

6 June 1864.

COPY of a LETTER from Sir *S. Cunard*, Bart., to Sir *Frederic Rogers*, Bart.

Sir,

26, Prince's Gardens, 6 June 1864.

I HAVE to acknowledge the receipt of your letter of the 4th instant, enclosing copy of a Despatch from the Lieutenant Governor of Prince Edward Island, and of an Act of the Legislature of the Island, entitled, "An Act for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee-simple of their Farms," and requesting to be informed whether the provisions of this Act are acceptable to the proprietors.

In reply, I beg to state that Mr. Sullivan, Sir James Montgomery, and Mr. James Montgomery, have given their assent; and the proprietors residing in the Island named in the Act have likewise given their assent, and I hereby give my own and Mr. Edward Cunard's assent.

I have, &c.  
(signed) *S. Cunard*.

## — No. 34. —

COPY of a LETTER from Sir *S. Cunard*, Bart., to Sir *Frederic Rogers*, Bart.No. 34.  
Sir *S. Cunard*,  
Bart., to Sir *F.*  
*Rogers*, Bart.

Sir,

10 June 1864.

I BEG to enclose you certain documents \* which will show you that all the persons named in the Bill transmitted from Prince Edward Island have given their assent to the Bill, with the exception of Mr. Henry Palmer and Mr. Edward Palmer, and Mr. John A. McDonald; they are resident in the Island, and I know were concurring parties to the passing of the Bill.

10 June 1864.

\* These documents  
were returned to  
Sir *S. Cunard*.Yours, &c.  
(signed) *S. Cunard*.

## — No. 35. —

COPY of a LETTER from Sir *F. Rogers*, Bart., to Sir *S. Cunard*, Bart.No. 35.  
Sir *F. Rogers*,  
Bart., to Sir *S.*  
*Cunard*, Bart.

Sir,

Downing-street, 13 June 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your letters of the 6th and 10th instant, and to acquaint you that the Act passed by the Legislature of Prince Edward Island, "for settling Differences between Landlord and Tenant, and to enable Tenants to purchase the Fee-simple of their Farms," will be submitted for the confirmation of the Queen at the next Council.

13 June 1864.

I am, &c.  
(signed) *Frederic Rogers*.

## — No. 36. —

COPY of a LETTER from Sir *F. Rogers*, Bart., to Sir *S. Cunard*, Bart.No. 36.  
Sir *F. Rogers*,  
Bart., to Sir *S.*  
*Cunard*, Bart.  
29 June 1864.

Sir,

Downing-street, 29 June 1864.

WITH reference to my letter of the 13th instant, I am directed by Mr. Secretary Cardwell to acquaint you that remonstrances have been received from Prince Edward Island against the Act for settling the differences between landlord and Tenant, and that until these representations have been considered the Act will not be submitted for Her Majesty's confirmation.

I am, &c.  
(signed) *Frederic Rogers*.

## — No. 37. —

COPY of a LETTER from Sir *S. Cunard*, Bart., to the Right Honourable  
*Edward Cardwell*, M.P.No. 37.  
Sir *S. Cunard*,  
Bart. to Rt. Hon.  
*E. Cardwell*, M.P.  
6 July 1864.

Sir,

26, Prince's-gardens, 6 July 1864.

I BEG to acknowledge the receipt of Sir *Frederic Rogers*' communication, informing me, that in consequence of some remonstrances, the Bill relating to lands in Prince Edward Island will not be laid before Her Majesty until further consideration.

Looking at the state of parties in Prince Edward Island, it is not surprising that any measure relating to lands should find numerous opponents, but as any remonstrance from that quarter will, of course, be accompanied by comments from the Lieutenant Governor, any remarks from me are unnecessary.

With respect to the opposition of proprietors who never assented to the Commission, and who have taken no part in the proceedings, I would respectfully

submit that, as the Bill does not pretend to be in any way binding on them, it seems unreasonable that their objections should be entertained.

I understand some objection is made that Mr. Henry Palmer, whose name appears in the schedule to the Bill, does not seem to have given his assent to it. I have had no communication with this gentleman, but he is a brother of Mr. Edward Palmer, the Attorney General, and I know they were, and I presume still are, jointly interested in the lands held by them on lot 1. Mr. Edward Palmer is also a Member both of the Legislative and Executive Council. The Bill now sent home was entirely redrawn in the Island by, I assume, Mr. Edward Palmer, the Attorney General, who also voted for it, and has signed. I cannot believe that he would have inserted his brother's name without being satisfied of his acquiescence. Besides this, Mr. Henry Palmer was residing in Charlotte Town during the discussion of the Bill in the Legislature, and must have known that his name was inserted in it. Under all these circumstances, I think if he really was dissatisfied he should have communicated his dissent to the Lieutenant Governor in order that the Bill might be amended by striking out his name before its final passing, and which, as Mr. Henry Palmer's share consists of only a few hundred acres, would have been of little importance.

Neither myself or the other assenting proprietors would be desirous of carrying out the present arrangement, if we had not originally agreed to the Commission; but by it and the subsequent proceedings, hopes have been raised in the minds of our tenantry, and I believe the disallowance of this Bill would cause great disappointment, and probably result in resistance to the law, as well as be productive of much political disturbance. Under these circumstances, I trust any objections of this kind will not be deemed of sufficient importance to prevent the Bill receiving the Royal Assent.

I have, &c.  
(signed) *S. Cunard.*

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— No. 38. —

Copy of a LETTER from Sir *Frederic Rogers*, Bart., to Sir *S. Cunard*, Bart.

Sir,

Downing-street, 8 July 1864.

I HAVE laid your letter of the 6th instant\* before Mr. Secretary Cardwell, and I am directed by him to acquaint you, that in view of certain remonstrances which are expected from Prince Edward Island, and to the distinct allegation of Lady G. Fane, that Mr. H. Palmer is not a consenting party to the Bill for settling the differences between landlord and tenant, Mr. Cardwell does not feel himself at liberty to depart from the intimation in my letter of the 29th ultimo, that he could not at present submit the Bill for the decision of the Queen.

He has referred to the Governor Lady G. Fane's statement that Mr. H. Palmer had not consented to the Act.

I have, &c.  
(signed) *Frederic Rogers.*

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— No. 1. —

Copy of a LETTER from Lieutenant Colonel *Cumberland* to the Right Hon. *Edward Cardwell*, M.P.

Sir,

Old Government House, Guernsey, 16 June 1864.

I TAKE the liberty to address you in consequence of recent accounts that have reached me from Prince Edward Island, in which colony I am interested in a considerable landed property. It is with great reluctance, sir, that I trespass on your time, and particularly on a subject which, I am well aware, has proved the

No. 38.

Sir F. Rogers,  
Bart., to Sir S.  
Cunard, Bart.

8 July 1864.

\* Page 99.

No. 1.

Lieut. Colonel  
*Cumberland* to the  
Right Hon. E.

*Cardwell*, M.P.  
16 June 1864.

297

the source of much trouble and annoyance to Her Majesty's Government. I mean "the land question," so termed; but by the public papers, brought by the last mail thence, I have been afforded an opportunity of seeing, for the first time, a Bill, which has lately passed the Local Legislature, entitled "An Act for settling Differences between Landlord and Tenant, and to enable Tenants to purchase the Fee-simple of their Farms."

I do not dispute the right of those gentlemen who signed for "the Land Commission," and who may have since submitted to the conditions set forth in this Bill, to act as they may have thought fit with regard to their own estates, but I wish to draw your attention to the consequences which have already resulted from this piece of, as I consider it, injudicious, injurious legislation.

In the same Island papers I observe, that even the concessions gained by this Bill do not, by any means, satisfy the tenantry, that far greater sacrifices from the landlords are demanded, and that "tenant leagues" are forming in all parts of the Colony, to resist the payment of any rent until such concessions are obtained; in short, until the tenants are allowed to purchase and hold land on their own terms.

I was not a party to "the Land Commission," and was assured, with the other non-signing proprietors, by his Grace the Duke of Newcastle, that our interests were not to be affected by it; I also understand that this recently-passed Bill is applicable only to the estates of those proprietors whose names are mentioned therein, and am likewise fully aware that the laws, as they now exist, are sufficient to sustain me in the prosecution of my proprietary rights; but I can also perceive that the spirit which the late proceedings with regard to landed property in Prince Edward Island has aroused, will lead to endless litigation, and, eventually, to the ruin of a resisting tenantry. It cannot be otherwise so long as agitation is kept up for political purposes, and rewarded by similar enactments.

It would be easy to prove that the proprietors of land in Prince Edward Island, as a class, have, from the commencement, been more "sinned against than sinning." My present purpose, however, is to solicit your attention to the Bill in question, its certain results, and to express a hope that you will not, without the most mature consideration, submit it for the Royal Assent.

These proprietors who may have consented to the terms of this Bill would, I have no doubt, feel themselves equally bound by its conditions as if the Act had passed into law, whilst the pernicious effects of such legislation would be corrected by withholding from it the sanction of Her Majesty's Government.

I have, &c.  
(signed) *B. H. Cumberland,*  
Lieutenant Colonel.

— No. 2. —

COPY of a LETTER from Sir *Frederic Rogers*, Bart., to Lieutenant Colonel *Cumberland*.

Sir,

Downing-street, 3 August 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your letter of the 16th June,\* on the subject of the Bill recently passed by the Legislature of Prince Edward Island, "for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to purchase the Fee-simple of their Farms."

Various representations on this subject have been made to Mr. Cardwell, and the result has been that he has found it necessary to make a reference to the Colony before deciding what advice he should tender to Her Majesty with regard to this Bill.

I am, &c.  
(signed) *Frederic Rogers.*

No. 2.  
Sir F. Rogers,  
Bart., to Lieut.  
Colonel Cumberland.  
land.

3 August 1864.  
Page 100.

— No. 1. —

No. 1.  
Lady G. Fane to  
the Duke of  
Newcastle, K.G.  
26 November 1861.

COPY of a LETTER from Lady *Georgina Fane* to His Grace the Duke of  
*Newcastle, K.G.*

5, Upper Brook-street,  
26 November 1861.

My Lord Duke,

*Vide*, page 13.

Your Grace may probably recollect that I am one of the proprietors of land in Prince Edward Island, who several months ago petitioned not to be included in an award to be made by Commissioners appointed to negotiate an arrangement of several questions in the Island; \* that I expressed strong objections to the appointment of the Commission, to the manner in which the business of the Court was carried on, and to the apparent intention of the Commissioners to interfere in an arbitrary way with the rights of proprietors. We have since received an assurance from your Grace that we, who were not consenting parties to the appointment of the Commission, will not be included in their award; but it is evident that though not included, we must be in a great degree affected by it. One of the Commissioners, Mr. Howe, has announced what the award is on which the Commissioners have agreed, and I therefore trouble your Grace with this letter, to express the strong objection which I feel to that award; and my conviction from all that has passed in the last year, that if it receives the Royal Assent it will add to the mischief already effected in the Island by the Commission. The opinion I formed when I was in the Island a year ago as to the mischief it would effect, has been fully confirmed by what has occurred since.

As for myself I can say that the proceedings of the Commissioners have interfered with all that I did on my property. I left the Island, having settled everything on an estate of 10,000 acres, to the apparent satisfaction of all the tenantry on it. I reduced the arrears very considerably, extended the period to which some of the recent settlers were to have their farms free, and gave a little money to the poor men to help them, and left all the arrears that still remained, to be spent on the settlement in various ways. The only difficulty I had there was in deciding to which of two old tenants I would lease some extra acres which both were anxious to have. On another estate I offered the people leases on the same terms as those held on a neighbouring township, where the tenants were so well satisfied, that they had, at a meeting held before the arrival of the Commissioners, decided that they would not appear in their Court at all, as they "had nothing to complain of," and believed "that no Court would give them better terms." The answer which the poor people on my property made was, that they wished to wait, and see what the Commissioners would do for them. These were of course squatters, and people in arrear. My agent writes to me that he has been unable to do anything since I came away (a year ago), on either estate, "owing to the difficulty occasioned by the Land Commission." I believe that if this award becomes law, this precedent of interference on the part of the Government between landlord and tenant (besides the injustice to the landlord of seizing his property in the way projected) will destroy the link which at present there is between landlord and tenant, and the last chance that there is of their coming to a friendly arrangement. Whilst I was in the United States I heard much of disturbances that had gone on for several years in some of the Dutch States, held and leased much in the same way as land in Prince Edward Island.

About four years ago the Courts of the United States pronounced that they could not interfere with the rights of proprietors, and that the landlords had a right to the arrears, and to future rents. Since that time everything has been settled between the landlords and tenants, and they go on peaceably; I believe the same would happen in Prince Edward Island if the local Government, instead of countenancing agitation, as it has done, and keeping up in the minds of the tenantry the expectation that the landlords are to be got rid of, would follow the example set in the United States, and refuse all such interference.

The people in the Island are dissatisfied, and are holding meetings to petition against the award, because it does not give them what they were led to expect, *i. e.*, does not transform them into proprietors. The landlords are dissatisfied, and feel that in making such an award the Commissioners have disregarded the assurances

299

assurances repeatedly given by the Crown that their rights as proprietors should not be interfered with.

It appears, therefore, that its rejection would not occasion displeasure to either side.

As to the loan of 100,000 £, it would have the mischievous effect of keeping up agitation, and involving the Colony in debt in addition to the injustice of the tax it would occasion. The only persons benefited would be those who are now endeavouring to depreciate property for the purpose of buying it up.

I trust your Grace will think that the objections I make to an award that gives direct encouragement to, and holds out inducements to dishonesty that not only interferes with the rights of a proprietor, but takes from him the right to the possession of his property, and compels him to part with it, are reasonable.

I have, &c.  
(signed) C. Georgina Fane.

— No. 2. —

COPY of a LETTER from Sir *Frederic Rogers*, Bart., to Lady *Georgina Fane*.

No. 2.  
Sir F. Rogers, Bart.,  
to Lady G. Fane.  
31 December 1861.

Madam,

Downing-street, 31 December 1861.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your Ladyship's letter, dated 26th November, and to acquaint you that every attention will be paid to your representations and those of other proprietors, on the landed tenure question in Prince Edward Island. The Report of the Commissioners is still under careful deliberation, and no decision will be come to without well weighing all the considerations which have been submitted in connexion with the subject.

I have, &c.  
(signed) *Frederic Rogers*.

— No. 3. —

COPY of a LETTER from Lady *Georgina Fane* to His Grace the Duke of *Newcastle*, K.G.

No. 3.  
Lady G. Fane to  
the Duke of New-  
castle, K.G.  
13 January 1862.

My Lord Duke,

Brympton House, 13 January 1862.

HAVING already troubled your Grace with a letter on the subject of the mischievous effect of the Land Commission in Prince Edward Island, I feel that I must apologise for writing again. I am induced to do so by a letter which I have recently received.

I wrote to my agent to request that he would explain to me the cause of the difficulty of obtaining payment of rents on an estate where a year and a quarter ago there was no reason to expect any difficulty. He writes to me that "the Commission will render the recovery of arrears a very difficult matter, even on estates, the tenants of which have had no difference with their landlords." As relates to the other estate, he says that "at the present day, in this Colony, the chance of a landlord obtaining a verdict against a squatter is not very bright—thanks to the Commission," and "that it has made dishonest men of thousands who, before it was mooted, never refused to pay their rents." He concludes by saying, "that if the Commission business were disposed of, there would be no difficulty, but so long as it remains uncertain the tenants will hold back in the hope of gaining by it." This being the report sent to me of the present state of the Island, your Grace will not be surprised that I should be anxious that the agitation should be put an end to by the rejection of the award. It is based on injustice and spoliation; injustice to the tenants, as it gives to the dishonest man an advantage over the honest and industrious one who has paid his rent; and spoliation of the landlord, as it is an arbitrary seizure of his property. Such legislation can never bring about peace and good conduct in any community.

I venture to express my opinions to your Grace, as I know that the same objections to the award are felt by other proprietors who have not troubled you, thinking that the onus of objecting to it should be left to those who agreed to the arbitration. I think, on the contrary, that all who are interested on the subject should make your Grace acquainted with their opinions and their reasons for wishing that the award may be rejected.

I have, &c.  
(signed) *C. Georgina Fane.*

— No. 4. —

COPY of a LETTER from *T. Frederick Elliot*, Esq., to Lady *Georgina Fane*.

No. 4.  
T. F. Elliot, Esq.,  
to Lady G. Fane.  
30 January 1862.

Madam,

30 January 1862.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your Ladyship's letter of the 13th instant,\* and to assure you that the objections which you have submitted to the Report of the Commission on the landed tenure question in Prince Edward Island will receive due consideration.

\* Page 103.

I have, &c.  
(signed) *T. Frederick Elliot.*

— No. 5. —

COPY of a LETTER from Lady *Georgina Fane* to His Grace the Duke of *Newcastle*, K. G.

No. 5.  
Lady G. Fane to  
the Duke of New-  
castle, K. G.  
22 November 1862.

My Lord Duke,

5, Upper Brook-street,  
22 November 1862.

I SEND to your Grace a newspaper from Prince Edward Island, the "Islander" of the 3d October, with the request that you will be so kind as to read a letter in it signed "Sentinel." It is to the latter part of the letter that I wish particularly to call your attention.

You will see that not only it is avowed that it is the intention of the Government of the Island to keep up the agitation that has for some time existed, and compel your Grace "to reconsider your decision on the subject of the award," but that it states that "the Government is determined to use every exertion by way of remonstrance, petitions, and otherwise, if necessary, to bring about a speedy confirmation of the award;" and that it also incites and advises the tenantry to refuse to pay rents.

The "Islander" is published under the sanction of the Government; the Colonial Secretary is the editor of it, and it is professedly the organ of the Government in the Island.

From the accounts I receive I believe the agitation among the tenantry has very much subsided. Mr. Bruce Stewart writes to me that he has collected his rents with much less difficulty than for several years past. Sir S. Cunard told me, in the winter, that he had received his rents; and from other friends I hear that the accounts they receive from their estates are satisfactory. On one estate I hear that the candidates for leases on the usual terms are numerous.

Your Grace will observe, that even according to the statement of "Sentinel," the popular feeling has gone with the proprietors, in being satisfied with the rejection of the award.

I am confirmed, by all that has passed, in the belief that it is not the tenantry who are discontented, but a set of people whose object is to deteriorate the value of land in order to obtain possession of it themselves. But how can it be expected that peace will be restored, or that any community will be contented; if the Government actually advises and incites tenantry to refuse to pay rents; tells them that such refusal will be successful, and encourages them in the expectation

expectation of being enabled to throw off their engagements, and become possessors of their farms by paying little or nothing for them? The letter of "Sentinel" is only a specimen of what is weekly published under the sanction of Government.

I feel it impossible that your Grace can approve of an endeavour to keep up in the minds (or rather, I should say, instil into the minds) of tenants a feeling of irritation against their landlords, and I venture to call your attention to the letter of "Sentinel," to the advice given therein to refuse payment of rent, and the system pursued towards us by the local Government of holding us up to our tenants as enemies that they are to get rid of. There is no country in the world in which agitation and discontent would not be occasioned by such a system.

The effect of renewed discussion on the award (as at present intended by the local Government) must be a revival of the agitation which since its rejection has been subsiding.

I have, &c.  
(signed) C. Georgina Fane.

— No. 6. —

COPY of a LETTER from Sir *Frederic Rogers*, Bart., to Lady *Georgina Fane*.

No. 6.  
Sir F. Rogers to  
Lady G. Fane.  
16 December 1862.

Madam,

Downing-street, 16 December 1862.

I AM directed by his Grace the Duke of Newcastle to acknowledge the receipt of your Ladyship's letter of the 22d ultimo, respecting the land questions in Prince Edward Island, and to thank you, in his Grace's name, for the communication.

I have, &c.  
(signed) *Frederic Rogers*.

— No. 7. —

COPY of a LETTER from Lady *Georgina Fane* to the Right Hon. *Edward Cardwell*, M.P.

No. 7.  
Lady G. Fane to  
the Right Hon. E.  
Cardwell, M.P.  
13 June 1864.

Sir,

Brympton House, 13 June 1864.

I OBSERVE that an Act has been passed by the Legislature of Prince Edward Island, and been sent to England for the Royal assent, called "An Act for the settling Differences between Landlord and Tenant," which is to apply to the estates of eight proprietors.

I venture, as one of the proprietors in Prince Edward Island, to write to you on the subject, and to protest strongly against an Act, the result of which must be injurious not only to myself and every other proprietor, but I believe will also be, in many cases, injurious to the tenantry.

I am told, and the same assurance has, I believe, been given to others, that the non-consenting proprietors are not to be affected by this Act, and that it is to apply only to the estates of those who are named in it. I understand that this is considered "settling the land question," and that it is thought that as the tenants will be more contented, I may expect a more punctual payment of rent. It appears to me completely and utterly impossible to expect that the tenants on my property can be more contented because those on the property of Sir Samuel Cunard and others will have a right to purchase land at less than its value, and cannot be called upon to pay arrears of rent due before 1858. It is, on the contrary, evident that the very reverse must be the fact, and equally evident that the agitation which has been got up (as is well known in the Island), not really to help the tenants, but for other reasons, will be continued for the purpose of bringing the estates of the non-consenting proprietors under the same law. Will the Government of the Island, and will Her Majesty's Government, which has assured us that we are not to be affected by this Act, give us a promise that this Bill will not be followed by another compelling us

to submit to that which those eight proprietors have agreed to? If such a promise is not given to us and kept we are deluded, for we are told that we are not to be affected by this Act, and that it is only to apply to the consenting proprietors. If such is the case, it would appear that no Act of the Legislature is necessary, or required. Sir Samuel and the other proprietors can make any arrangement they like with their tenants; can sell at what price they like; can sweep off arrears if they choose; there is no Bill required to enable them to do it. The fact is, that it is intended by those who have passed this Act to include us all. The organ of the Island Government tells the people so. It tells them also, that when the tenants who are best off have bought the lands at this reduced price, and the landlords have only the poorer tenants to deal with, they will dislike the trouble of exacting rent and the expense of paying agency, and will let the land go for little or nothing. It cannot, I feel convinced, be the intention of Her Majesty's Government to legislate for the purpose of rendering our property so valueless that we shall throw it up; but it is the avowed motive of the Government of the Island. This Bill is a positive and well imagined scheme for destroying and rooting out the proprietors; and I trust I shall be excused if I say, that I think negotiating with a few of the proprietors (one of whom informs me that he is not a consenting one, as his name was put down without his sanction, and against his consent), and passing such a measure without communicating with the others, would be unjust and unfair towards them.

My possessions are small as compared with Sir Samuel's; but there is one non-consenting proprietor, Mr. Bruce Stewart, who is the owner of 80,000 acres, who is not only a resident in the Island, but has a house on his property in the country, where he resides during part of the year among his tenantry; and surely he is entitled to be heard before a measure so seriously affecting him is passed.

It is not, I believe, asserted that the proprietors have acted towards their tenants with a degree of harshness that renders us deserving of having our estates confiscated.

The Bill now passed, in its immediate and eventual results, amounts to confiscation.

In fact, the amount of arrear complained of shows that we have not exacted rent with harshness from the new settlers. It would be rather hard, now that the estates are beginning to be profitable, that they should be taken from us. As regards arrears due before 1858, I am perfectly uninterested; there is not 1s. that has not been either paid or remitted; but when I know that at this moment the leaseholds of 100 acres on my property sells for 200*l.*, and that one of my tenants has refused 300*l.* for his, it seems to me that it would be intensely unjust that the Legislature should compel me to sell those leaseholds to my tenants for 75*l.* On the other hand, supposing that this Bill be passed and the promise that we are not to be affected by it kept, what can be expected will be the state of the Island? The tenants on our estates, who see what agitation has done, and the poorer tenants on the estates of the consenting proprietors, will refuse to pay any rent at all. The rich ones on the estates of the consenting proprietors will buy. Many unable to buy will borrow of the money lenders for the purpose, become ruined and sold up, as I hear that already 100 are on the Selkirk property. Discontent, distress, and agitation will be widespread throughout the Island. I have not recently written to the Duke of Newcastle, as I knew that he was in bad health; but in letters written to his Grace a year ago I protested strongly against a similar Bill that was then in question.

Believing that no good can result from an Act of the Legislature that by a general remission of arrears destroys whatever feeling of gratitude might be felt by the tenant towards the proprietor if remitted by him, and that by cancelling agreements between proprietor and tenant enables the tenant to cheat the proprietor out of a quarter of what he has engaged to pay to him, and is in every way a direct encouragement to dishonesty, I venture to pray that Her Majesty's assent may not be given to a measure that must have such mischievous results.

I have, &c.  
(signed) *C. Georgina Fane.*

## — No. 8. —

COPY of a LETTER from *T. Frederick Elliot, Esq.*, to *Lady Georgina Fane*.No. 8.  
T. F. Elliot, Esq.,  
to Lady G. Fane.  
27 June 1864.

Madam,

Downing-street, 27 June 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your ladyship's letter of the 13th instant,\* praying that Her Majesty's assent may be withheld from the Act recently passed by the Legislature of Prince Edward Island for settling the difference between landlord and tenant.

Mr. Cardwell desires me to say that the Act now passed will merely affect the lands of the proprietors named in it, and of no others. It is of course impossible for Her Majesty's Government to foretell what Acts will be hereafter passed by the Legislature of Prince Edward Island, or to say beforehand what course the Queen will be advised to take respecting such Acts.

Mr. Cardwell has been assured that all the proprietors named in the Schedule of the Act are consenting parties to it, and he will be much obliged if your ladyship will inform him of the name of the proprietor who is not so consenting.

I am, &c.  
(signed) *T. Frederick Elliot*.

\* Page 105.

## — No. 9. —

COPY of a LETTER from *Lady Georgina Fane* to *T. Frederick Elliot, Esq.*No. 9.  
Lady G. Fane to  
T. F. Elliot, Esq.  
28 June 1864.

Sir,

Brympton House, 28 June 1864.

I REQUEST you will thank Mr. Cardwell for the answer which he has been so kind as to send, through you, to my letter.

Mr. Henry Palmer is the proprietor to whom I alluded as non-consenting. He wrote to me that I was mistaken in supposing that he was a consenting proprietor; that he was not so, and found that his name had been put down as consenting without his knowledge and against his consent. I will look for the letter (received about three weeks ago), and report the exact words.

With reference to Mr. Cardwell's answer to my letter, I must remark, that I have pointed out by reasoning, which is, I think, unanswerable, that though the Act against which I remonstrate does not legislate for us non-consenting proprietors, it will affect us very seriously, and that we have some right when we see a measure in question that is certain to be very injurious to us, and certain to have the consequences that I have pointed out, to ask the Government to give us some assurance that it is not to be followed by another that will legislate for us, and include us.

I have pointed out that the natural—the certain—consequence of the Act must be agitation throughout the Island; to give to tenants in other townships the same privileges (as it will be called) as given to those on the estates now in question. I say advisedly, the certain consequence. If probable only, Mr. Cardwell's answer might be considered an answer; but it is certain; and I must suppose that the Colonial Office act on some principle, and look to the consequences of any Act of Colonial legislation that they sanction.

I therefore again say, that if, whilst telling us that we are not to be affected by this Act, the Colonial Office will not give us a promise that our estates will not be eventually placed under a similar law; we are deluded by the expression now used, that we "are not to be affected by this Bill," and that "it applies only to certain proprietors named in it."

I say further, that the Bill in question is an absurdity, if intended to bring about tranquillity and content in the Island. It must make every man who cannot put down 75 *l.* (without borrowing) to purchase the freehold of his farm, discontented—and it gives him reason to be discontented). What number of tenants on the estates of Sir Samuel, and the other consenting proprietors, will, without borrowing, be able to put down 75 *l.*? Very few, *i. e.*, few compared to the number unable to do it. Every man who cannot will be dis-

contented, and will feel that an unjust law has been passed, placing him, on account of his poverty, in a worse position than his neighbour who can put down the 75 *l.*

It appears to me that if a Government wished to plunge a country in disturbance and discontent, it could not do better than pass such a law. It must make every poor man on the estates of Sir Samuel, and the consenting proprietors, discontented; and every man, poor or not poor, on those of the non-consenting proprietors, discontented. Can any one, with common sense, suppose that this will bring peace and tranquillity to a country? Impossible! I believe that Mr. Cardwell must see, as I do, that it is impossible it should have any such effect, and therefore I ask him not to sanction a measure passed by the Legislature of the Island, because they thought they must do something (for personal reasons), and which they assure the people is not to be a final measure, but is an instalment intended to lead to further encroachment on the proprietors.

This Bill is unjust to the tenants, as it is to the proprietors; will favour the dishonest man instead of the honest one, which never can be sound legislation; and will throw uncertainty over every contract between landlord and tenant, which must always be objectionable.

I believe that landlords and tenants would arrange their affairs without difficulty if the Government at home would firmly refuse to sanction the schemes of the Local Government for spoliating the landlords. The Island was returning into tranquillity at the end of last year, and the people were paying their rents without objection or disturbance, believing the Commission was a thing "gone by," when, on the return of the delegates this spring, the agitation has recommenced; and the newspapers will show (by the discontent expressed by the tenantry at the Bill now in question) how far it is likely to bring peace and content to the Island.

I hope Mr. Cardwell will excuse my expressing my opinion that the Bill is an absurdity if it has any such object in view; to which I also add my opinion, that that (the bringing about peace and tranquillity) is not the object of the local Government.

I have, &c.  
(signed) *C. Georgina Fane.*

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— No. 10. —

No. 10.  
Lady G. Fane to  
the Right Hon. E.  
Cardwell, M. P.  
6 July 1864.

COPY of a LETTER from Lady *Georgina Fane* to the Right Honourable  
*Edward Cardwell*, M. P.

Sir,

Weymouth, 6 July 1864.

I MUST apologise for troubling you with another letter, but I trust you will excuse me, as I do so for the purpose of showing that I did not misrepresent the intention of the Act (passed by the Legislature of Prince Edward Island) against which I petition.

I beg to call your attention to a letter in the "Islander," of the 10th June, which says, that "When this Bill has passed, the well-to-do tenants will at once purchase their lands, and none but the poorer class will be left to feed hungry land agents; and so the proprietors will become heartily sick of keeping up an expensive land agency when the rent cannot be collected." This is preceded by the remark, that the Bill, "if obtained, will pave the way to more extended and liberal concessions, on the part of the proprietors, to the tenantry."

The "Islander" is the organ of the Local Government, and the Colonial Secretary is the editor. Four months ago the "Islander" advised the tenants to refuse to pay rent.

It is impossible for words to avow more distinctly than those I have quoted, a dishonest scheme for plundering the proprietors by rendering their property valueless.

The Colonial Secretary, who was my agent, has recently leased 100 acres of mine to his brother, also a member of the Local Government, at the usual rent of 5 *l.* per acre. This lease was immediately sold by him for 200 *l.*, which  
I mention

I mention solely in order to show that these gentlemen are well aware that 5 *l.* per acre is not too high a rent; or 100 *l.* (as purchase-money for the fee-simple) is not too large a sum for a proprietor to ask for a leasehold of 100 acres.

Again I pray that Her Majesty's Government will not, by giving the Royal Assent to this Bill, sanction a scheme which, being dishonest and unjust, cannot prove beneficial to the Colony.

I have, &c.  
(signed) *C. Georgina Fane.*

— No. 11. —

COPY of a LETTER from the Right Honourable *C. Fortescue*, M.P., to the Lady *Georgina Fane*.

No. 11.  
Right Hon. C. Fortescue, M.P., to Lady G. Fane.  
16 July 1864.

Madam,

Downing-street, 16 July 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your Ladyship's letters of the 28th of June and the 6th instant,\* and to acquaint you that Mr. Cardwell has thought it right to instruct the Lieutenant Governor of Prince Edward Island to obtain from Mr. Henry Palmer an explanation of the allegation contained in those letters, that that gentleman had not given his assent to the Bill for settling the differences between landlord and tenant.

\* Pages 107 and 108.

I am, &c.  
(signed) *C. Fortescue.*

— No. 12. —

COPY of a LETTER from Lady *Georgina Fane* to the Right Honourable *Edward Cardwell*, M.P.

No. 12.  
Lady G. Fane to the Right Hon. E. Cardwell, M.P.  
2 August 1864.

Sir,

Gloucester Hotel, Weymouth,  
2 August 1864.

I HAVE to-day received from Mr. Bruce Stewart the enclosed letter,\* which he requests me to forward to you.

\* 12 July 1864, page 141.

It is gratifying to me to find that Mr. Bruce Stewart, who is deeply interested in the welfare and prosperity of Prince Edward Island, coincides with me in the opinions which I expressed to you in my letter of the 13th of June,† a copy of which I sent to him, because I was anxious to know his opinion on the subject in question.

† Page 105.

I have, &c.  
(signed) *C. Georgina Fane.*

— No. 13. —

COPY of a LETTER from Sir *F. Rogers*, Bart., to Lady *Georgina Fane*.

No. 13.  
Sir F. Rogers, Bart., to Lady G. Fane.  
9 August 1864.

Madam,

9 August 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your Ladyship's letter of the 2d instant, enclosing one addressed to Mr. Cardwell by Mr. Robert Bruce Stewart, of Prince Edward Island.

I am, &c.  
(signed) *Frederic Rogers.*

— No. 14. —

No. 14.  
Lady G. Fane to  
the Right Hon. E.  
Cardwell, M.P.

18 August 1864.

COPY of a LETTER from Lady *Georgina Fane* to the Right Honourable  
*Edward Cardwell*, M.P.

Sir,

Brympton House, 18 August 1864.

I TROUBLE you with this letter, as I am anxious that there should not be any misunderstanding on the subject of any statement that I have made.

Mr. Henry Palmer is here at present. He informs me that what he wrote to me some weeks ago was the fact. He had not given his consent to the Commission, or to the Bill recently passed by the Prince Edward Island Legislature, about which I have written to you. His name had been put down by his brother without his knowledge.

He received yesterday letters from the Island, urging him now to give his consent to the Bill. The personal motive for his doing so is apparent (his brother being one of the members of the Government), and I have no doubt that he will accede to the request. I have endeavoured to learn from him what reasons there can be for supposing that the measure will have any beneficial effect in the Colony, and cannot find that there is any. He is compelled to admit that I am right in believing that almost all the tenantry are opposed to it, and discontented. He also states that very few will purchase their farms. Increased discontent throughout the Island is the only certain result of it. I need scarcely add, that he admits the non-consenting proprietors will be affected by this Act, if passed, as it is impossible that any one can doubt the increased discontent that will be occasioned by it. I venture to remark, that whether Mr. Henry Palmer becomes a consenting proprietor or not, does not lessen the injustice of a negotiation with a few of the proprietors of the Island that will be so injurious to the proprietors who are non-consenting.

I have, &c.  
(signed) *C. Georgina Fane.*

— No. 15. —

No. 15.  
Lady G. Fane to  
the Right Hon. E.  
Cardwell, M.P.

27 August 1864.

COPY of a LETTER from Lady *Georgina Fane* to the Right Honourable  
*Edward Cardwell*, M.P.

Sir

Brympton House, 27 August 1864.

I FEAR that you may think me troublesome, but having been unable to obtain from the "consenting" proprietors to the Act of the Prince Edward Island Legislature any statement of their reasons for supposing that it can have a beneficial effect in the Colony, I venture to call your attention to a Despatch from Lord Stanley to Sir Henry Huntley on the subject of facilitating and encouraging the sale of land, of which I enclose an extract, with the date.

I know that my opinion, unsupported by reasons, could not be thought of any consequence, but you will see from that Despatch that Lord Stanley did not think it could be conducive to the welfare of the Colony that landlords should be compelled to sell, or that the existing engagements between landlord and tenant should be interfered with. I know, also, that it is thought desirable that the "Land Question" should be settled, but the Act in question does not settle it. It only unsettles the arrangements now existing between some of the proprietors and their tenants, and gives an inducement to every tenant throughout the Island to withhold payment of rent in future under the expectation that the Legislature will again interfere and release him from the payment of the accumulated arrears. It is impossible that an encouragement to dishonesty can be conducive to the welfare of any country, I asked Mr. Palmer (now my agent), whose brother being one of the present Government in the Island has personal reasons for wishing the Bill to receive the Royal Assent, what the effect on my property would be. He said he thought I should have difficulty in getting any rent, and that I should be obliged to let some of my rich tenants purchase (men who can as easily pay me 100 *l.* as 75 *l.* for the freehold). My tenants have hitherto paid their rents very well; \* \* \*

\* \* \* \* \*

I am on very good terms with my tenants. Other proprietors are also with theirs. Among them Mr. Bruce Stewart, who is living in the midst of his. I venture to hope that the Government here will not sanction such an injustice as will be perpetrated by the Act now pending, the certain effect of which will be to render all these people discontented. There would be no difficulty in Prince Edward Island if the proprietors were left, as they have been in the other colonies, to settle their affairs with their tenants with respect to rent or purchase, without interference from the Government. I believe that at present the agitation is caused by a dishonest party in the Island, and would subside if the Government here firmly refused to sanction the scheme.

I have, &c.  
(signed) C. Georgina Fane.

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Enclosure in No. 15.

EXTRACT from a Despatch from Lord Stanley to Sir Henry Huntley, 11 Nov. 1842.

Encl. in No. 15.

BUT I am bound to say that I must go further, and state that a careful perusal of your Despatches, and of previous documents bearing on the case, leads me to entertain serious doubts whether the object sought to be accomplished by an increased tax, that, namely, of increasing the facilities of obtaining land, is one which is really for the benefit of the colony; and whether the difficulties under which some of the tenants confessedly labour are not rather caused by the existence already of too great a facility. I find from the papers before me that so far from cultivation being checked, the quantity of land made available for agricultural purposes is rapidly increasing, that the amount of produce has nearly doubled itself in the last nine years, that the population is increasing, and the holders of lands, of course not without exceptions, accumulating capital. And when I look to the exceptions, I find them to be a class who "having in their own country been paupers, or at least but daily labourers or journeymen tradesmen, on their arrival eagerly become tenants, taking 100 acres of forest land at 1s. per acre, without one farthing in their hands to commence upon." You state forcibly the ruin to the land, and the suffering to the occupier, arising in such cases out of his own imprudence; and you remark, most truly, that "this state of things has been induced chiefly, if not entirely, by the want of some little capital in the hands of the settler upon his first occupation of the land; that had he taken daily labour instead of a farm, he might have put by a little money, wages being from 3s. 6d. to 4s. a day, whilst the best mutton and beef is 6d., and coarser meat as low as 2½d. per pound; but the eagerness to become an independent farmer leads the pauper settler to overlook the chances of that position, when attained, placing him in a more painful dependence than when he emigrated."

Now if this be the class among whom distress and discontent prevails, and this be, as I do not doubt it is, the real cause of the distress, it appears to me that it would not only be unjust towards the proprietor, but impolitic as regards the well understood interests of the colony, to attempt to relieve them by forcing additional lands into the market for sale; lands which it is hardly necessary to observe they could not afford to purchase, and the introduction of which could not in any way affect those under present engagements, and only very circuitously the class to which they belong by the general reduction of rents. It appears to me that a wise Legislature would seek rather to diminish than to multiply the facilities of obtaining land; in such a state of things, would not interfere unnecessarily with those whose manifest interest it is to accelerate the settlement of their lands, and who do not seem to neglect or misunderstand that interest, and would not, above all, unnaturally force into the market a larger amount of land than the capital within the colony was able profitably to cultivate. For its more rapid advancement, the Island requires confessedly an influx of capital, for the employment of which there appears to be a fair opening in its agricultural capabilities; and it will be my pleasing duty, through the Commissioners of Emigration, to make known to the British public the reasonable prospects of success held out in your Despatch. But the Legislature ought not to lose sight of the fact, that the policy which, by rendering the acquisition of land too easy, tends to divert that portion of the population, who, having no means of their own, from seeking hire as labourers, to the occupation of land on their own account, has also the tendency, by raising the price of hired labour, to deter capitalists from seeking an investment in the land of the Colony, and may thus counteract the very object which is attempted to be obtained by the imposition of an additional tax on uncultivated land.

I have thus endeavoured to put you in possession of the grounds upon which, looking to the present condition of Prince Edward Island, I see no sufficient reason for an increase of the Penal Tax upon Wild Lands; and why, on the contrary, I incline to the opinion that the condition of the Province rather requires that, if any legislative measures were to be

taken, they should rather be in an opposite direction; but that on the whole the public interest will best be consulted by abstaining from interference with a state of progressive improvement which seems equally steady and healthy.

There are other points referred to in your Despatch which are manifestly not subjects for legislative interference. I shall take an early opportunity of communicating your views on these points to the general body of proprietors, and I do not doubt that they will be received with the consideration which is due at once to your authority and to the conciliatory spirit which appears likely to prevail in the present House of Assembly.

I have not made this Despatch confidential in order that you may use your own discretion in bringing it, or any part of it, before the Colonial Legislature; and, as Her Majesty's Government can have no object in view but the advancement of the general interests, I shall be prepared to receive with respect, and consider with attention, any statements or arguments which you or they may feel disposed to advance in support of a different policy from that which, on full consideration, I have felt it my duty to suggest.

I have, &c.  
(signed) *Stanley.*

— No. 16. —

No. 16.  
T. F. Elliot, Esq.,  
to Lady G. Fane.  
1 September 1864.

COPY of a LETTER from *T. Frederick Elliot, Esq.*, to *Lady Georgina Fane.*

Madam,

Downing-street, 1 September 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your ladyship's letter of the 27th ult.,\* on the subject of the Act of the last session of the Prince Edward Island Legislature, relating to the land question; Mr. Cardwell desires me to acquaint you in reply, that having ascertained that all the proprietors who are to be bound by the Act are consenting parties to its being passed, he is not aware of any sufficient reason for offering his advice to Her Majesty to disallow a law deliberately adopted by the Colonial Legislature.

I am, &c.  
(signed) *T. Frederick Elliot.*

— No. 17. —

No. 17.  
Lady G. Fane to  
the Right Hon. E.  
Cardwell, M.P.  
2 September 1864.

COPY of a LETTER from *Lady Georgina Fane* to the Right Honourable  
*Edward Cardwell, M.P.*

Sir,

5, Upper Brook-street, 2 September 1864.

I HAVE to-day received Mr. Elliot's letter of the 1st September, written by your desire, and regret to learn that you do not see in the injustice of the Bill recently passed by the Prince Edward Island Legislature, sufficient reason for advising Her Majesty that it should be disallowed. I have complained of the cruel injustice of an enactment, the certain effect of which must be to render every tenant on my estate, and on the estates of the other non-consenting proprietors, discontented. I mentioned incidentally that Mr. H. Palmer had not consented, because he wrote to me that he had not; but it appears to me that the injustice to the non-consenting proprietors is not in the least affected by the question of whether Mr. H. Palmer, the owner of a quarter (or less) of a township, is or is not a consenting party. When I mentioned what he had written to me I did not attach much importance to it, as I was aware of his relationship to Mr. E. Palmer, and that he might have reasons for becoming a consenting party; I remarked on the effect this Bill would have on the estates of the non-consenting proprietors, and on the Island generally.

I have complained of the injustice to myself of rendering all my tenantry discontented; I complain also of the injustice of this Bill to the tenants on the estates of the consenting proprietors. By far the greater number of tenants in the Island are poor men, utterly unable to purchase; is it possible to imagine anything more calculated to increase, to occasion discontent throughout the country, than an enactment by which a rich man can purchase for 75*l.*, whereas the poor man is to be compelled to pay 5*l.* per annum? The Bill is

so

309

so disliked by the tenantry, that the prospect of its being passed has occasioned tenant leagues. The only persons who will be benefited are the dishonest speculators, whose object is to plunder landlord and tenant, and who endeavour to effect this by occasioning as much confusion as they can. I see plainly what the object of these people may be, but I am utterly unable to see how a country can be rendered tranquil and prosperous by an enactment that must make three-fourths, and more, of the population discontented; it seems inconsistent with common sense to suppose it. I beg you will not think I intend to be disrespectful in expressing these opinions; I try to see reasons for thinking differently, but I am unable. I see that this Bill must have the most injurious effects on my property; I know that Mr. B. Stewart, the owner of 80,000 acres, thinks the same of the effect on his. I feel sure that it cannot be the wish or intention of Her Majesty's Government to pass measures that will injure us, and make our property almost valueless; I therefore still pray that you will delay coming to any decision on the subject, until the opinion of other non-consenting proprietors may be heard; for, from the rapidity with which this Bill was passed through the House of Assembly, we have hardly had time to communicate with each other, and then express our opinions to you as to the effects of it on our property and the Island generally; it appears to me too, for reasons too long for me now to enter upon, that the difference which this Bill will make between us and the consenting proprietors, will be unjust to us, and lead to future contention and differences. As I feel sure it would not be your wish that this should be the result, I pray that you will give the subject further consideration.

I have, &c.  
(signed) *C. Georgina Fane.*

## — No. 18. —

COPY of a LETTER from *T. Frederick Elliot, Esq.*, to *Lady Georgina Fane.*

No. 18.  
*T. F. Elliot, Esq.,*  
to *Lady G. Fane.*  
12 Sept. 1864.

Madam,

Downing-street, 12 September 1864.

MR. Secretary Cardwell desires me to acquaint you that he has received your ladyship's letter of the 2d of September,\* containing some further remarks on the Land Act lately passed in Prince Edward Island.

\* Page 112.

I am directed by Mr. Cardwell to assure you that he has duly considered your observations, but I am to state that after giving his best attention to the subject, he is unable to arrive at any different conclusion from that which he has already expressed.

I have, &c.  
(signed) *T. Frederick Elliot.*

## — No. 19. —

COPY of a LETTER from *Lady Georgina Fane* to the Right Honourable  
*Edward Cardwell, M.P.*

No. 19.  
*Lady G. Fane* to  
the Right Hon. E.  
*Cardwell, M.P.*  
15 Sept. 1864.

Sir,

Upper Brook Street, 15 September 1864.

I RECEIVED, yesterday, Mr. Elliot's letter of the 12th September, sent at your desire. I beg you will accept my thanks.

I beg also that you will excuse my troubling you again with a few words on the subject of the Act of the Prince Edward Island Legislature.

I said, at the end of my last letter, that the difference it would occasion in the position of the consenting and non-consenting proprietors would be unjust. What I alluded to is this.

I believe, but I have not the Act to refer to, that it confirms the titles of the proprietors named in it. The Imperial Government has given repeated assurances to the proprietors that their titles are secure. These assurances render a confirmation by an Act of the local Government wholly unnecessary.

I need not remind you of the incessant endeavour made to delude and excite the tenantry on the subject. What are the people to think when they see an Act passed confirming the titles of eight proprietors? Will they not at once say, and be assured by agitators, that the titles of the others are invalid?

I feel convinced that Her Majesty's Government has no wish to occasion either injury or trouble to us, but I do not feel that confidence in the local Government. I think it extremely probable that that Government sees what will be the consequence of this Act. Some of the members of it have taken an active part in occasioning agitation among the tenantry, and have assured them that the present Act is only an "instalment." It will of course assist them in their views if they can occasion uncertainty and confusion as to title.

I ventured in my last again to pray that you would postpone your decision until you heard the opinion of some of the other non-consenting proprietors; because it struck me that though we had considered the probable discontent occasioned among our tenantry, we had not considered the chance of their being told to dispute our titles. I cannot think I am mistaken in believing that this is a very probable result of an Act "confirming the titles of eight proprietors." It seems to me that it must at once give rise to the idea that the titles of the others may be disputed; and that, instead of bringing tranquillity, it will occasion strife and confusion throughout the Island.

If there is discontent in the Island now, it is quite possible that this Act may make it worse.

I have, &c.  
(signed) *C. Georgina Fane.*

— No. 20. —

No. 20.  
Sir F. Rogers, Bart.,  
to Lady G. Fane.  
28 Sept. 1864.

COPY of a LETTER from Sir *F. Rogers*, Bart., to Lady *Georgina Fane*.

Madam,

Downing-street, 28 September 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your letter of the 15th of this month,\* on the subject of the recent Land Act passed by the Legislature of Prince Edward Island, and I am to state that Mr. Cardwell sees no reason for altering the decision which was conveyed to your Ladyship in Mr. Elliot's letter of the 1st of September.

I am, &c.  
(signed) *Frederic Rogers.*

\* Page 113.

— No. 21. —

No. 21.  
Lady G. Fane to  
the Right Hon. E.  
Cardwell, M.P.  
28 Sept. 1864.

COPY of a LETTER from Lady *Georgina Fane* to the Right Honourable *Edward Cardwell*, M.P.

Sir,

5, Upper Brook-street, 28 September 1864.

I HAVE this evening received the letter sent to me, by your desire, by Sir F. Rogers. The request I made in my last letter was that you would delay your decision until the opinion of other non-consenting proprietors of Prince Edward Island might be heard. An abler pen than mine would point out more clearly than I have the mischievous effects likely to result from the proposed interference of Government with the rights of the proprietors. The delay would give time to consider whether an Act so unjust as the one in question can prove beneficial; and as the tenantry detest the Act and are petitioning against it, the delay cannot be objectionable.

It strikes me with astonishment, that when I read daily that the true and sound principle of government is to leave trade and commerce in every way as free and unfettered as possible, the experiment is to be tried in Prince Edward Island of compelling proprietors to sell their property at a fixed price, and under its value.

In some parts of the Island land now will sell at 60 l. per acre, will let at 26 s. per acre, and in some places for more. I myself have recently paid on my

314

my property 16 *l.* for a small bit of land on which to erect a cottage and give to a poor man a little garden. Can there be a semblance of justice in an enactment that, where land is of that value, would compel the proprietor to sell for 75 *l.* the lease of 100 acres, for which he now can ask 100 *l.*? If free trade is good on other subjects, it surely is as inexpedient as it is unjust to interfere in such purchases between buyer and seller, and prevent a proprietor from setting his own price on his land. I beg you will excuse me for again protesting strongly against an Act which is unjust in principle, and which must affect my property injuriously, as it will raise a spirit of discontent throughout the country. Sir Samuel and others do not require an Act of Parliament to enable them to sell their lands at a price as low as they may please. I protest against an Act of Parliament fixing that price; as such an Act is an unjust interference with the rights of a proprietor; and though he and some others have consented to it, the precedent is to be deprecated. It is difficult to suppose that an unjust Act can have a beneficial effect. In this case I feel convinced it cannot on the Island in general. The first, the immediate effect of it, will be an agitation to obtain a further interference on the part of Government to again lower the price of land, and compel proprietors to accept a smaller sum. I protest against the injustice of this first interference with our rights, and beg you to take my remarks into consideration.

I have, &c.  
(signed) *C. Georgina Fane.*

*P.S.*—I must add, with respect to my giving 16 *l.* for a small piece of ground, that it was a purchase of one-fourth or less of an acre from one of my tenants, owner of a leasehold of 100 acres. It cannot be thought a great grievance to pay 5 *l.* a-year for 100 acres, when a fraction of an acre can sell for 16 *l.*

— No. 22. —

COPY of a LETTER from Lady *Georgina Fane* to the Right Honourable  
*Edward Cardwell, M.P.*

No. 22.  
Lady G. Fane to  
the Right Hon. E.  
Cardwell, M.P.  
8 November 1864.  
\* 20 October 1864,  
p. 141.

Sir,

5, Upper Brook-street, 8 November 1864.

I HAVE to-day received from Mr. Bruce Stewart the enclosed letter,\* which he requests that I will transmit to you.

I have written to him about the Act of the Prince Edward Island Legislature, against which I have petitioned, because I believed that he, as a resident proprietor and the owner of large property, was better qualified than anyone else from whom I could seek information, to form a true opinion of the probable results of this Bill.

I try in vain to see some reason for which an Act so unjust in principle can have a beneficial effect; it is a cruel Act as regards the honest tenant who has paid his rent, and who will be liable to be ridiculed as a fool by the dishonest one, in favour of whom the Legislature interferes to relieve him from his obligation; and it is as unjust to the landowner who is to be compelled to sell for 75 *l.* what is worth 100 *l.*; dishonesty, so fostered and encouraged, must increase.

Where land may be worth 16 *l.* for a piece less than a quarter of an acre, as I know by my own experience it may, and where (as I also know for a fact) it may let at the rate of 26 *s.* per acre per annum, it can be no grievance to have to pay 100 *l.* for the freehold of 100 acres. I beg to call your attention to the report of a Canadian who visited the Island in September, from which there is an extract in the "Islander" of the 14th October. He writes, "This (the land) tenure has given rise to a great deal of dissatisfaction, but on what grounds I am not at present prepared to express an opinion, though I must say at first sight it does not appear to be reasonable, since the proprietors are said to offer a fee simple title to any purchaser on the payment of 1 *l.* per acre; if this is true, I think the tenants have little to complain of." This is the opinion of a disinterested person, and not of one whose object has been, for personal reasons,

to excite dissatisfaction among the tenantry by telling them that they ought to have the land for little or nothing. The writer of that report knows the value of land in the neighbouring Colonies, and therefore could form an opinion as to whether 1 l. per acre was a high price.

The fact is, we should have no difficulty at all with our tenants, if the Government there, and I may add here, would leave us to arrange affairs with them without interfering with us; and the agitation will subside if the Local Government become convinced that Her Majesty's Government will not sanction a scheme for spoliating the proprietors.

I feel that I must apologise for repeating remonstrances already made; and I now conclude, uniting with Mr. Bruce Stewart in the hope that, if they are made in vain, and if Her Majesty's Government has determined in favour of the Bill, that it will defend us against the mischief and the attempted injustice which we apprehend from it.

I have, &c.  
(signed) *C. Georgina Fane.*

*P.S.*—I venture to remark that the Act in question, unjust as it is, is not wished for by the tenantry; on the contrary, they dislike it, and Mr. B. Stewart, writing so recently, must be well aware that its rejection would not occasion any dissatisfaction among them. There seems no reason, therefore, why Her Majesty's Government should sanction an Act that will only benefit a dishonest fraction of the community.

— No. 23. —

No. 23.  
T. F. Elliot, Esq.  
to Lady G. Fane.  
19 Nov. 1864.

COPY of a LETTER from *T. Frederick Elliot, Esq.*, to *Lady Georgina Fane.*

Madam,

Downing-street, 19 November 1864.

WITH reference to your Ladyship's letter of the 8th instant\* on the subject of the Act of the Prince Edward Island Legislature, "for settling the Differences between Landlord and Tenant, &c.," I am directed by Mr. Secretary Cardwell to acquaint you that he is no longer in a position to interfere in the matter, the Act having been confirmed by Her Majesty in Council on the 1st instant.

I have, &c.  
(signed) *T. Frederick Elliot.*

— No. 1. —

No. 1.  
Sir F. Rogers, Bart.,  
to J. H. Gray, Esq.  
16 June 1860.

COPY of a LETTER from *Sir F. Rogers, Bart.*, to *J. H. Gray, Esq.*

Sir,

Downing-street, 16 June 1860.

I AM directed by the Duke of Newcastle to acquaint you, that it has been resolved, with the consent of all parties concerned, to appoint a Commission to inquire into and determine the tenures of land in Prince Edward Island. With this letter you will receive a copy of a Resolution of the House of Assembly, agreeing on behalf of the tenantry to the appointment of the Commissioners, and pledging itself to concur in whatever measures may be required to give validity to their decision. The object of the measure is to put an end to the differences which have so long unhappily prevailed between landlords and tenants in Prince Edward Island.

Mr. Howe, you will observe, has been named by the Assembly to be one of the Commissioners; Mr. John William Ritchie, of Halifax, has been selected by the proprietors for the same function; and I am directed to state to you that the Duke of Newcastle is so fully impressed with the ability, carefulness and justice which were lately displayed by you in another important inquiry, that it will be very satisfactory to his Grace if you will serve on the present occasion.

sion as the Commissioner chosen by the Crown. The Duke of Newcastle would have been glad if there had been time to learn your assent before proceeding further in the matter. But as this is rendered impossible by the necessity of prompt action, his Grace will cause your name to be inserted in the Commission to be issued for this purpose, subject to its revocation, and the substitution of another, if any circumstances should render you unable or unwilling to undertake the office.

Although the privilege of selecting each Commissioner has been conferred on a separate authority, in order the better to ensure satisfaction with the composition of the Commission, yet it is the Duke of Newcastle's view, and he doubts not will be that of the Commissioners themselves, that none of them ought to be regarded as the special advocate of one interest, but rather that the whole should devote their efforts to framing such recommendations as shall appear to be demanded by the equity of the case, and to be conducive to the general good of all classes of the community.

The time of meeting in Prince Edward Island will be best determined by the Commissioners themselves, in conformity with their own convenience and with the state of affairs in Prince Edward Island. The Governor of that Colony will be happy to correspond with the Commissioners on any information which they may require, with a view to fixing the date of assembling. It has been suggested to him that he should take previous steps for having at hand all witnesses and all documentary evidence which the Commission is likely to require, in order to avoid any unnecessary prolongation of their sittings.

There remains to be considered the subject of remuneration. It is needless to say that this will be the same for each member of the Commission. As the inquiry, notwithstanding its importance, cannot be expected to last long, it would be difficult to fix any suitable payment on the footing of salary. Looking, therefore, to all the circumstances of the case, the Duke of Newcastle proposes that the remuneration should consist of one fixed payment of 200 *l.* to each Commissioner, to serve as compensation for his time, and likewise as an indemnity for those personal expenses and expenses of travelling which, under a different arrangement, would have been chargeable to the public. If the inquiry should admit of being concluded within the limits which are at present contemplated, the Duke of Newcastle trusts that this will prove to be a liberal compensation for the time it will occupy, whilst on the other hand he is certain that it cannot be more than suitable to the responsibility of the task and to the character and position of the gentlemen by whom it is to be discharged.

I am, &c.  
(signed) *F. Rogers.*

— No: 2: —

COPY of a LETTER from *J. H. Gray, Esq.*, to *Sir F. Rogers, Bart.*

St. John's; New Brunswick;  
7 July 1860.

Sir,

I HAVE the honour to acknowledge a communication from you of the 16th June last,\* conveying to me the information that His Grace the Duke of Newcastle had been pleased to insert my name as Commissioner chosen by the Crown in the Commission to inquire into and determine the tenures of land in Prince Edward Island, and expressing His Grace's desire that I should serve on the Commission.

I have addressed a letter to His Grace, herewith enclosed, expressing my acknowledgments for the honour thus conferred, and accepting the appointment; which letter I have to request you will lay before him.

I have, &c.  
(signed) *J. H. Gray.*

No. 2.  
*J. H. Gray, Esq., to*  
*Sir F. Rogers, Bart.*  
7 July 1860.

\* Page 116.

## Enclosure in No. 2.

Enclosure in No. 2.

St. John, New Brunswick,  
7 July 1860.

My Lord Duke,

I HAVE the honour to acknowledge a Despatch from Sir Frederic Rogers, under date of 16th June last, conveying to me, by your Grace's command, the information that your Grace had been pleased to insert my name as the Commissioner chosen by the Crown, in a Commission to inquire into and determine the tenures of land in Prince Edward Island, and expressing your Grace's desire that I should serve as such.

I beg to convey to your Grace my acknowledgments for the honour thus conferred, and to state that I will act on the Commission, and endeavour to discharge its duties faithfully and honourably as soon as I receive the Commission and its accompanying instructions.

I have, &c.  
(signed) *John Hamilton Gray.*

## — No. 3. —

COPY of a LETTER from *J. H. Gray*, Esq. to His Grace the Duke of  
*Newcastle*, K.G.

No. 3.  
*J. H. Gray*, Esq., to  
the Duke of New-  
castle, K. G.

23 December 1861.

St. John, New Brunswick,  
23 December 1861.

My Lord Duke,

ON the 5th of August last, I had the honour to transmit to your Grace, as Her Majesty's Principal Secretary of State for the Colonies, the Report of the Commission appointed by Her Majesty to investigate the land tenure disputes of Prince Edward Island. Accompanying the Report, I also sent to your Grace an account of the disbursements paid out by the Commissioners, amounting to 293 *l.* 14 *s.* 6 *d.* New Brunswick currency; all of which, except the mere personal expenses of Mr. Howe and Mr. Ritchie, have been borne by myself as claimant. I have not yet been honoured with any acknowledgment that this Report had reached your Grace's hands, but I trust your Grace will not regard me as wanting in proper respect, if I ask to be reimbursed the outlay referred to, the expenditure of which commenced in August 1860.

244 *l.* 15 *s.* 5 *d.*  
sterling.

Your Grace will, I hope, observe that I am not guilty of the impropriety of touching upon the question of compensation to the Commissioners for their services, but am simply referring to the expenses paid out in the prosecution of this public inquiry.

If, in addressing your Grace on this subject, I am chargeable with any undue precipitancy, I have most respectfully to beg pardon.

I have, &c.  
(signed) *John Hamilton Gray.*

## — No. 1. —

COPY of a LETTER from Messrs. *Montgomery* to His Grace the Duke of  
*Newcastle*, K.G.

No. 1.  
Messrs. *Mont-*  
*gomery* to the Duke  
of *Newcastle*, K. G.

11 December 1861.

Stobo Castle, Peebles, N. B.,  
11 December 1861.

My Lord Duke,

WE, the undersigned proprietors in Prince Edward Island, having seen the copy of a letter addressed to your Grace by Sir Samuel Cunard, dated Bush-hill House, Edmonton, 2d October 1861,\* upon the subject of the Report of the Commissioners appointed by Her Majesty to investigate certain questions at issue between the proprietors and tenants in Prince Edward Island, beg respectfully to express to your Grace our entire concurrence in the views stated by Sir Samuel Cunard in that letter.

We have, &c.  
(signed) *G. Graham Montgomery.*  
*James F. Montgomery.*  
*Wm. Montgomery.*  
*Robt. Montgomery.*

\* Page 78.

## — No. 2. —

COPY of a LETTER from the Right Honourable *C. Fortescue*, M.P.,  
to Messrs. *Montgomery*.

No. 2.  
Right Hon. *C. Fortescue*, M.P., to  
Messrs. *Montgomery*.

20 December 1861.

Gentlemen,

Downing-street, 20 December 1861.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 11th of December, and to acquaint you that the representations of the proprietors of land in Prince Edward Island will not fail to engage the careful consideration of Her Majesty's Government, in connexion with the Report of the Commissioners, on the questions at issue.

I am, &c.

(signed) *C. Fortescue*.

## — No. 1. —

COPY of a LETTER from Messrs. *Palmer and Pope* to His Grace the  
Duke of Newcastle, K.G.

No. 1.  
Messrs. *Palmer & Pope* to the Duke  
of Newcastle, K.G.

18 Sept. 1863.

My Lord Duke,

115, Jermyn-street, St. James', London,  
18 September 1863.

WE have the honour to submit to your Grace, herewith inclosed, a letter from Lieutenant Governor Dundas of Prince Edward Island, acquainting your Grace of our being appointed by the Government of that Colony a deputation to communicate to your Grace the views of the Colonial Government on the land question.

It is our intention to remain in town, in the hope that we may be favoured with an interview with your Grace on the subject of our mission, and we most respectfully solicit the favour of an intimation from your Grace of what may likely be the earliest period at which it will be convenient for your Grace to grant us that honour.

We have, &c.

(signed) *Edw. Palmer.*  
*W. H. Pope.*

## Enclosure in No. 1.

My Lord Duke,

Government House, 2 September 1863.

Enclosure in No. 1.

THE bearers of this letter, the Hon. Edward Palmer, Attorney General, and the Hon. William Henry Pope, Colonial Secretary of this Island, have been nominated by the Executive Council to proceed to London as a delegation from the Government of this Province to Her Majesty's Government on the land question.

The delegates are in possession of the views of the party in power on the subject, and are prepared, with your Grace's permission, to enter into the whole question.

To His Grace  
the Duke of Newcastle, K.G.

I have, &c.  
(signed) *George Dundas,*  
Lieut. Governor.

## — No. 2. —

COPY of a LETTER from Sir *F. Rogers*, Bart., to Messrs. *Palmer and Pope*.

No. 2.  
Sir *F. Rogers*, Bart.,  
to Messrs. *Palmer & Pope*.

24 Sept. 1863.

Gentlemen,

Downing-street, 24 September 1863.

THE Duke of Newcastle has desired me to acknowledge the receipt of your letter of the 18th instant, requesting an interview on the subject of your mission to England, and to inform you that he will be happy to see you at this office as soon as he comes to London.

I have, &c.

(signed) *Frederic Rogers.*

— No. 3. —

No. 3.  
Messrs. Palmer &  
Pope to the Duke  
of Newcastle, K. G.  
13 October 1863.

COPY of a LETTER from Messrs. *Palmer and Pope*, to His Grace the  
Duke of *Newcastle*, K. G.

115, Jermyn-street, St. James', London,  
13 October 1863.

My Lord Duke,

THE undersigned, referring to the subject discussed at the interview with your Grace, with which they were yesterday honoured, beg leave respectfully to submit for your Grace's consideration the following propositions, expressive of certain concessions and privileges, which, if granted by the proprietors of land in Prince Edward Island to their tenants, would be accepted by the Government of that Island, as a settlement of the land question, and in lieu of the award of the Land Commissioners:—

First,—The undersigned propose that in the terms of the award of the Royal Commissioners, all arrears of rent prior to May 1858 be remitted; and that in all cases, if any there be, wherein tenants have paid to their landlords, at and time since the 13th February 1860, sums of money for rent, which sums in the whole exceed the rent which has accrued due from such tenants since May 1858, the amounts by which such payments shall exceed the rent, which shall have accrued due since May 1858, shall be placed to the credit of the tenants who shall have paid the same, by the landlords to whom the same shall have been paid; the tenants, in such cases, to have the privilege of appropriating such over payments towards the purchase of the fee simple of their respective holdings; and in all cases where lands leased originally at rents not exceeding 1 s. per acre, have been re-let at rents exceeding 1 s. per acre, the rents of such lands shall be reduced to the rate of rent reserved in the original leases of such lands when leased in their wilderness state. The latter stipulation is considered by the undersigned as necessary to meet those cases, wherein arrears of rent have heretofore been remitted, on condition that the tenants owing such arrears should take new leases, reserving a rent exceeding the original rent, by a sum equivalent to the annual interest, which it is assumed such arrears would yield the landlord were they paid to him, and by him invested.

Second,—The undersigned infer from the scheme submitted by the proprietors in the draft of the Bill transmitted by your Grace to the Lieutenant Governor of Prince Edward Island, that the proprietors are in all cases willing to sell their leased lands for 15 years' purchase of the reserved rents, payable in one payment in cash. The undersigned therefore propose that all tenants holding under leases granted for terms of 40 years and upwards, and who shall not be indebted one whole year's rent, shall at all times, within 20 years from the 1st day of January next, have the right to receive a conveyance of the fee simple of their farms, on tendering to their landlords 15 years' purchase of the reserved rent, together with the rent which may be due by such tenants in respect of such lands.

Third,—That all tenants holding as in the foregoing proposition is mentioned, who shall be indebted in more than one year's rent, shall, within the like period of 20 years, have a similar right to the fee simple of their respective holdings, on payment of 16 years' purchase of their reserved rents.

The undersigned most respectfully submit to your Grace, that the compliance of the entire body of the landed proprietors of Prince Edward Island with the foregoing propositions, and the enactment of a law to carry them into effect, would work such a settlement of the land question as would satisfy the majority of the people, realise the fullest expectations of the Royal Commissioners, and for ever terminate those unhappy disputes between landlord and tenant, which for several generations have kept alive an agitation which has most materially retarded, and which, so long as it exists, must necessarily continue to retard the development of the resources of the Colony, and thereby would most amply compensate such proprietors for any sacrifice of their strict legal rights which such compliance would involve.

The

317

The conversion of the entire leasehold tenures of the Colony into freehold is the end sought to be attained.

The rate of purchase should, the undersigned suggest, be such as to present an inducement to the tenant to become a freeholder. The rate of interest received in Prince Edward Island for money, generally, materially exceeds 6*l.* per centum per annum; and if the value of the freehold be fixed at 16 years' purchase, the number of purchasers will be far less than if the rate should be fixed at 15 years' purchase.

Many tenants, it is assumed, would purchase their farms if allowed the privilege to do so at 15 years' purchase, who, rather than buy at 16 years' purchase, would continue to pay rent, and invest their money in such a manner as to give them more than sufficient to discharge the claims of their landlord. The apparent loss which the landlords would sustain by selling at 15 years' purchase would, to a very great extent, be made up to them by reason of their being enabled to procure 6*l.* per centum per annum for their money, free from the risk and expense which necessarily attend the collection of rents. The undersigned deem it not improper to state that the rate of interest charged by the bank of Prince Edward Island has not been less, for several years past, than 7*l.* 10*s.* per centum per annum; and also that the estates which have been purchased by the Government of the Colony, namely, the "Worrell Estate," "Sir Hunt Johnston Welsh's Estate," the "Selkirk Estate," the "Sandfield Estate," and portions of the "Montgomery Estates," the whole comprising an area of upwards of 170,000 acres, together with all arrears of rent due thereon, have been acquired at a rate per acre, less on the average than five years' purchase of the reserved rent. The "Selkirk Estate" comprised 62,059 acres; the arrears of rent due by the tenantry thereon exceeded 9,000*l.* sterling. This estate, together with the arrears, was purchased in 1860 for 6,612*l.* sterling, which is less than 2*s.* 2*d.* per acre, and not equal to three years' rent.

The proposal to give to tenants owing to their landlords more than one year's rent the right to acquire the freehold of their farms on payment of 16 years' purchase of the reserved rent, in other words, allowing tenants in arrear for rent to discharge themselves from all liability to pay such arrears, with the exception of one year's rent, on their paying down 15 years' purchase of the reserved rent of their holdings for the purchase of the freehold, it is submitted is one which would operate beneficially alike to landlords and tenants. The settlement of the land question, which would be the result of the acceptance by the proprietors of the foregoing propositions, the statutory confirmation of proprietary titles, the subsidence of all agrarian agitation, the general absence of sympathy with those who would resist the just demands of the landlords, and the terminating of those extravagant hopes and expectations on the part of the tenantry that they would be enabled to acquire their lands at nominal prices, which have heretofore been entertained, and which will necessarily be cherished so long as the land question remains unsettled, would necessarily have the effect of materially increasing the value of proprietary estates. Very many of the well-to-do tenants would immediately prepare to purchase their farms, and all who would be able to pay rent would do so with regularity, conscious that it would be useless to expect the proprietors to allow their rents to fall into arrear at the risk of losing them.

It is assumed by the undersigned that the Government of Prince Edward Island would adopt the suggestion contained in the Despatch of your Grace to Lieutenant Governor Dundas, No. 24, dated 11th July 1863, and be prepared to advance to all tenants desirous of purchasing their farms either seven and one-half, or 10 years' purchase of the reserved rent of such farms, on receiving from such tenants the balance of the requisite purchase money, and thus to enable such tenants to pay their landlords "in one payment in cash." Assuming that such accommodation should be offered by the Government of Prince Edward Island, it is evident that the inducement to those tenants who are indebted in arrears for rents to purchase the freehold of their farms would be very great. Take the case of the tenant indebted in six years' rent: the landlord insists upon receiving his rent, and the tenant knows that he must satisfy the demand or lose his farm; such a tenant would necessarily be driven to purchase the freehold of his farm, for, if he paid the six years' rent to his landlord as rent it would be virtually thrown away; whereas, if he paid this

money to the Government, his farm would be purchased for him, subject only to a mortgage for a sum equivalent to 10 years' purchase (this is assuming that the Government will agree to advance 10 years' purchase to the tenant). The undersigned are well aware that the increased energy with which landlords would in future insist upon the payment of their rents would be complained of as one of the results of adoption of the foregoing propositions; but they are prepared to meet this objection by showing that the benefits to the tenants generally would far exceed the evils which might result to the few. The allowing rents to accumulate the undersigned believe is, on the whole, no less injurious to the interests of the tenant than to that of the landlord.

In offering the foregoing propositions as a settlement of the land question, and in lieu of the terms proffered by the Royal Commissioners, the undersigned cannot refrain from expressing their convictions that a settlement of the land question at the present moment is a matter of the utmost importance to the proprietors and to Prince Edward Island. The differences between landlords and tenants in the Island have, in consequence of the appointment of the Royal Commission in 1860, more especially assumed the importance of a public question. A long and painstaking inquiry has been instituted into these differences, and a remedy for them has been indicated by the Royal Commissioners. The proprietors who assented to the appointment of the Commissioners, and pledged themselves to abide by their recommendations, have refused to give their tenants those privileges which the Commissioners unanimously considered should be extended to them, and now seek to nullify the proceedings of the Commissioners by urging against their legality objections which they might waive, but which they insist upon, thereby crushing those reasonable hopes of relief which the tenantry had cherished, and intensifying and extending the feelings of hostility towards the landlords, which, ere their endeavour to avoid the award, were but too general and too bitter. Should the proprietors, in addition to repudiating the award, refuse those reasonable concessions now required at their hands, the undersigned fear that disaffection among the tenantry will become very general, and that the due maintenance of good order prove a task of no ordinary difficulty in a Colony, the inhabitants of which exercise self-government, and where universal suffrage obtains.

We have, &c.  
(signed) *Edward Palmer,*  
*W. H. Pope.*

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— No. 4. —

No. 4.  
Sir F. Rogers, Bart.,  
to Messrs. Palmer  
& Pope.

COPY of a LETTER from Sir *F. Rogers*, Bart., to Messrs. *Palmer* and *Pope*.

30 October 1863

Gentlemen,

Downing-street, 30 October 1863.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 13th instant,\* submitting a proposal for the settlement of the land question in Prince Edward Island, and to acquaint you that the duplicate with which you have furnished his Grace has been forwarded to Sir S. Cunard.

\* Page 120.

I have, &c.  
(signed) *Frederic Rogers.*

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— No. 5. —

No. 5.  
T. F. Elliot, Esq.,  
to Messrs. Palmer  
& Pope.

COPY of a LETTER from *T. F. Elliot*, Esq., to Messrs. *Palmer* and *Pope*.

7 November 1863.

Gentlemen,

Downing-street, 7 November 1863.

WITH reference to Sir F. Rogers' letter of the 30th October, stating that the duplicate of your proposal for the settlement of the land question in Prince Edward

319

Edward Island had been forwarded to Sir Samuel Cunard, I am directed by the Duke of Newcastle to acquaint you that Sir S. Cunard has informed him that he will endeavour to see some of the proprietors and ascertain their views on the subject.

I am, &c.  
(signed) *T. Fredk. Elliot.*

## — No. 6. —

COPY of a LETTER from *W. H. Pope*, Esq., to His Grace the Duke of Newcastle, K.G.

No. 6.  
*W. H. Pope*, Esq.,  
to the Duke of  
Newcastle, K.G.  
21 Nov. 1863.

My Lord Duke,

115, Jermyn-street, London,  
21 November 1863.

ON the 7th instant I had the honour to receive, by direction of your Grace, the intimation that the proposal for the settlement of the land question of Prince Edward Island, submitted by Mr. Palmer and myself to your Grace, had been forwarded to Sir Samuel Cunard, and that Sir Samuel Cunard had informed your Grace that he would endeavour to see some of the proprietors and ascertain their views on the subject. I feel very reluctant to intrude, in the slightest degree, upon the attention of your Grace at the present time; I, nevertheless, venture to request that your Grace will be pleased to direct that Sir Samuel Cunard may be written to, with the view of learning whether he has as yet seen any of the proprietors, and whether it is probable that the principal proprietors will accept the proposal for the settlement of the land question now before them, and that the purport of Sir Samuel Cunard's reply may be communicated to me.

I have, &c.  
(signed) *W. H. Pope.*

## — No. 7. —

COPY of a LETTER from *T. F. Elliot*, Esq., to *W. H. Pope*, Esq.

No. 7.  
*T. F. Elliot*, Esq.,  
to *W. H. Pope*,  
Esq.  
26 Nov. 1863.

Sir,

Downing-street, 26 November 1863.

I AM directed by the Duke of Newcastle to acquaint you, in reply to your letter of the 21st instant, that his Grace is informed by Sir S. Cunard that in consequence of the absence from town of the proprietors of land in Prince Edward Island, he has not yet been able to consult with them on the proposal submitted by yourself and your colleague for the settlement of the land question, but that he will take the earliest opportunity of doing so.

I have, &c.  
(signed) *T. Fredk. Elliot.*

## — No. 8. —

COPY of a LETTER from *W. H. Pope*, Esq., to His Grace the Duke of Newcastle, K.G.

No. 8.  
*W. H. Pope*, Esq.,  
to the Duke of  
Newcastle, K.G.  
27 Nov. 1863.

My Lord Duke,

Athenæum Club, London,  
27 November 1863.

IN the communication addressed to your Grace by the Law Officers of the Crown, on the subject of the address to the Queen from the Council and Assembly of Prince Edward Island, dated, Temple, 9th June 1863, allusion is made to a letter addressed by Sir Samuel Cunard to your Grace, in which the proprietors, through Sir Samuel Cunard, state their objections to the award of the Land Commissioners.

A copy of this letter was submitted to the Law Officers of the Crown.

My object in addressing your Grace, is, respectfully to request that your Grace will be pleased to direct that I may be furnished with a copy of Sir Samuel Cunard's letter referred to.

I have, &c.  
(signed) *W. H. Pope.*

— No. 9. —

No. 9.  
Sir F. Rogers, Bart.,  
to W. H. Pope, Esq.  
5 December 1863.

COPY of a LETTER from Sir *F. Rogers*, Bart., to *W. H. Pope*, Esq.

Sir,

Downing-street, 5 December 1863.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 27th November, and to acquaint you that, as the question to which Sir S. Cunard's letter, of which you desire to have a copy, relates, has been definitively settled, his Grace does not perceive that any purpose would be answered by communicating it to you.

I am, &c.  
(signed) *Frederic Rogers.*

— No. 10. —

No. 10.  
T. F. Elliot, Esq.,  
to W. H. Pope, Esq.  
10 December 1863.

COPY of a LETTER from *T. F. Elliot*, Esq., to *W. H. Pope*, Esq.

Sir,

Downing-street, 10 December 1863.

I AM directed by the Duke of Newcastle to transmit to you, for any observations which you may have to offer, the enclosed copy of a letter\* from Sir Samuel Cunard, accompanied by the draft of a Bill for the settlement of the Prince Edward Island Land Question.

\* Page 91.

† Page 89.

I am also directed to enclose a copy of a previous letter† from Sir S. Cunard, dated the 14th ultimo, communicating to his Grace his own views on the subject; but it does not appear to his Grace that any advantage would be gained by pursuing the questions raised in this letter, which relates principally to past transactions.

I am, &c.  
(signed) *T. Fredk. Elliot.*

— No. 11. —

No. 11.  
W. H. Pope, Esq.,  
to the Duke of  
Newcastle, K. G.  
18 December 1863.

COPY of a LETTER from *W. H. Pope*, Esq., to His Grace the  
Duke of *Newcastle*, K. G.

My Lord Duke,

Athenæum Club, Pall Mall,  
18 December 1863.

I HAVE the honour to acknowledge the receipt of a communication from Mr. Elliot, dated Downing-street, 10th December instant, in which was transmitted to me, by your Grace's directions (for any observations which I might have to offer), a copy of letter from Sir Samuel Cunard, accompanied by the draft of a Bill for the settlement of the Prince Edward Island land question; and also a copy of a previous letter from Sir Samuel Cunard, dated the 14th ultimo, communicating to your Grace his own views on the subject.

Referring, my Lord Duke, to the communication of Sir Samuel Cunard to your Grace, dated 14th November last, which purports to express the sentiments of that gentleman, and to be in reply to the proposals for the settlement of the land question of Prince Edward Island, submitted to your Grace by Mr. Palmer and myself on the 13th October last, I regret to acquaint your Grace, that the character and tendency of the statements therein made by Sir Samuel Cunard

Cunard are, in my opinion, such as imperatively demand from me, on public grounds, more than a mere acknowledgment.

Sir Samuel Cunard commences his communication by adverting to the original granting of the Island in large lots; a subject not even alluded to in the proposals to which he professes to reply, in the following terms:—

“It may not be out of place to advert to the original granting of the Island, about 90 years ago, in large lots, which has been so much and so severely commented upon. It was an act of necessity, the Island at that time being derelict, and it was absolutely necessary to make arrangements for taking possession of it. The grantees have all lost very heavily by accepting the grants; but no individual on the Island, at present, has been injured by that proceeding; on the contrary, these grants have been made a fruitful source of profit to the present generation, for when money is required for any purpose, a law is passed to raise the amount by a tax on the proprietors’ land.”

Sir S. Cunard's letter, 14 November 1863, page 89.

It is not my intention, my Lord Duke, in this communication to argue the question whether the alienation of the entire lands of an infant Colony in one day to a hundred individuals by lottery was or was not a disposition of them forced by necessity upon His Majesty's Government in the year 1767, or whether it was a judicious or injudicious mode of dealing with the Colony.

The assertion of Sir Samuel Cunard, that no individual on the Island at present has been injured by that proceeding, but that the present inhabitants have been benefited by the original alienation of the lands of the Colony, “for when money is required for any purpose, a law is passed to raise the amount, by a tax on the proprietors’ lands,” is not to me very intelligible. It is undeniable, my Lord Duke, that several of your Grace's predecessors in office have declared this disposition of the public property of the Colony a fruitful source of discontent on the part of its inhabitants, as the records of the Colonial Office amply testify.

The lands of the Island generally, of the thousands of small freeholders and leaseholders, as well as of the owners of townships and of several thousand acres, who are generally intended by the designation “proprietors,” are, and for years past have been, taxed in order that a revenue might be raised for the public service; and the taxes which it is now found necessary to impose for this purpose upon the land, it is fair to assume, are greater than they would have been, had not the Colony in its infancy been deprived by the original grants of the lands which should have formed the public demesne, and, as in other Colonies, proved a fruitful source of revenue.

In support of the extraordinary statement, that “when money is required for any purpose, a law is passed to raise the amount by a tax on the proprietors’ land,” Sir Samuel Cunard instances three taxes imposed by the Legislature of Prince Edward Island. “I can recollect” (writes Sir Samuel Cunard to your Grace) “the following taxes; viz., one for making the great roads in the Island, another for the encouragement of education, and another for erecting in Charlotte Town a large building for the Parliament to assemble in, and for all other Government purposes. This was a costly edifice, being constructed in cut stone, imported into the Colony, and I believe the tax was continued after a sufficient sum had been raised to cover the cost.”

Sir S. Cunard's letter, 14 November 1863, page 89.

*First—As to the Tax for making Great Roads in the Colony.*—The only law that has, within the recollection of Sir Samuel Cunard, been in force in Prince Edward Island, rendering the lands of proprietors liable to contribute to the making of great roads, was the Act 10 Geo. 4, cap. 10, which was intitled “An Act to regulate the laying out and altering of Highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation.” This Act, together with the Acts in amendment, have been consolidated by the Act 12 Vict. cap. 1.

10 Geo. 4, c. 10.

The Act 10 Geo. 4, cap. 10, authorised the Lieutenant Governor and Council of Prince Edward Island, to open roads where necessary through cultivated or wilderness lands, and enacted, that when any road should be ordered to be opened under the Act in question, the sheriff should be directed, by a writ from the Supreme Court, to ascertain, by the oaths of a jury or juries, the injury or advantage which such road would occasion to the owners of the land through

which

which it should pass, and that the owners should be compensated, or required to contribute towards the cost of such road accordingly.

The only expensive road ever ordered to be constructed through uncultivated lands by virtue of this Act, was ordered to be opened in the year 1838; it was the great highway to the northern extremity of the Island, and was projected through lands owned chiefly by Sir Samuel Cunard.

The inquests of the juries were returned into the Supreme Court in the autumn of the year 1838; the amount thereby assessed to be paid by Sir Samuel Cunard was upwards of 1,000 *l.* No appeal was demanded against the findings of the juries, nor was any application made to have them quashed, by Sir Samuel Cunard, or his agents.

The local Government was allowed to proceed with the construction of the highway, and to finish the same, at a cost of upwards of 1,600 *l.* (the Government were by law required to make the roads before the proprietors could be called upon for the amount assessed against them); then, as will appear to your Grace, by reference to the Report of the then Attorney General (now the Chief Justice of Prince Edward Island), transmitted to your Grace's predecessor Lord Stanley, by the Lieutenant Governor of the Island, in a Despatch, No. 110, dated Government House, Prince Edward Island, 24th October 1843, for the first time objections were started to the proceedings taken under the Act, and an application was made to the Supreme Court to quash the writs, and all proceedings under them, on the ground of irregularity. The irregularity was this: the assessment was not made within the time limited therefor by the writ, but subsequently thereto. The application to the Supreme Court was successful; the writs were quashed, and Sir Samuel Cunard, by a purely captious objection, evaded the payment of upwards of a thousand pounds, and reaped the advantage of the road constructed through his property at the expense of the people of Prince Edward Island.

The effect of opening this road upon Sir Samuel Cunard's property may be inferred from the following paragraph taken from the Report of the Attorney General, transmitted to Lord Stanley in the Despatch of the 24th October 1843, before referred to:—

“As a proof of the increased value of a portion of the lands, viz., townships numbers 4, 5, and 6 (the property of Sir Samuel Cunard), it is matter of fact, that in the year 1839, before the expenditure of the public money upon the roads and bridges, they were purchased for the sum of 9,600 *l.* sterling, and subsequently, in the year 1842, after the roads and bridges were made, agreed to be resold for the sum of 25,000 *l.* sterling, affording a profit of the sum of 15,400 *l.* sterling, this gain no doubt arising in a very great degree, from the expenditure of the public money in making the roads and bridges in question.”

That Sir Samuel Cunard was the proprietor of the lands in question, and that the amount which he was assessed to pay was about the sum of 1,000 *l.*, will appear by reference to the memorial of that gentleman to Lord Stanley, dated Halifax, 2d May 1843. How far the original grants have been made a fruitful source of profit to the present generation in that Island, by reason of Sir Samuel Cunard's extensive estates, held under them, having been taxed for the making great roads, your Grace will have little difficulty in determining.

The next evidence adduced by Sir Samuel Cunard in proof of his assertion that the original grants had been made a fruitful source of profit to the present generation, is the imposition of—

*The Tax for the Encouragement of Education.*—This tax is imposed by the Acts 11 Vict. cap. 7, and 24 Vict. cap. 35, and is not, as Sir Samuel Cunard would have your Grace infer, “levied chiefly upon unproductive land, the cultivated paying only half the rate of the uncultivated land.”

The taxes to which the lands of the Colony are now subjected for education and all other purposes, are imposed by these two Acts. Cultivated land is rendered liable for the payment of 6 *s.* 8 *d.* per 100 acres; uncultivated land to the payment of 9 *s.* 2 *d.* per 100 acres; and these taxes are equivalent to the tax imposed by the Act 7 Will. 4, cap. 31, increased by the imposition of an uniform tax of one halfpenny per acre, which is especially declared to be for the purposes of education.

In the year 1861, the whole amount derived from the taxes on the uncultivated lands of the Colony was 811 *l.* 5 *s.* currency; while the cultivated land, in the same year, paid 3,819 *l.* 4 *s.* 1 *d.* The penal or differential tax upon wilderness land in 1861, was equivalent to the small sum of 221 *l.* 15 *s.* currency, or less than 150 *l.* sterling.

I shall now, my Lord Duke, consider the third evidence adduced by Sir Samuel Cunard in proof of this extraordinary assertion, viz., the imposition of the—

*“Tax for erecting in Charlotte Town a large Building for the Parliament to assemble in, and for all other Government purposes.”*—The only taxes ever levied upon the lands of the Colony for the purpose of erecting public buildings, were imposed by the three Acts following, viz.—

1. The Act 49 Geo. 3, cap. 9. This Act imposed an uniform tax upon all lands of 2 *s.* currency per 100 acres.

Under this Act was collected about 1,400 *l.*

2. The Act 11 Geo. 4, cap. 17. This Act imposed the same rate of tax as the Act 49 Geo. 3, cap. 9.

Under this Act was collected 8,516 *l.* 15 *s.* 2 *d.*

3. The Act 7 Will. 4, cap. 31. This Act imposed a tax of 2 *s.* on every 100 acres of cultivated land, and 4 *s.* on the like quantity of uncultivated land.

Under this Act was collected 18,133 *l.* 8 *s.* 3 *d.*

These Acts produced in the aggregate 28,050 *l.* 3 *s.* 5 *d.*

By reference to the 12th section of the Act 11 Geo. 4, cap. 17, your Grace will observe that it was thereby enacted, that this Act should have no force or effect “until it should be ascertained that His Majesty shall have been pleased to relinquish all claim to the quit rents” during the continuance of the above recited Acts. A similar provision was inserted in every subsequent Act imposing a land tax.

The quit rents, taking the rate as reduced by the Prince Regent’s Proclamation in 1818, viz., 2 *s.* sterling per 100 acres (about one-half the average rate imposed by the original grants), during the 16 years of the operation of the Acts 11 Geo. 4, cap. 17, and 7 Will. 4, cap. 31, would have amounted to 34,066 *l.* 16 *s.* currency. It follows, therefore, that by reason of these enactments, of which Sir Samuel Cunard complains, the owners of land gained no less a sum than 6,016 *l.* 12 *s.* 7 *d.* If this sum be added to the arrears due at the time of the passing of the Act 11 Geo. 4, cap. 17, which arrears were generously remitted by the Crown to Sir Samuel Cunard and others, who now appear so reluctant to grant concessions to their poor tenants, it would represent a sum many times exceeding every tax that has ever been paid in respect of the lands of Prince Edward Island, from the date of the original grants to the present hour.

The next statement of Sir Samuel Cunard to which I would direct your Grace’s attention is the following:—

In my leases, “the rent and purchase-money are made payable in British sterling money, and were so paid for many years, until an Act was passed reducing the 1*l.* sterling to 16 *s.*” “Thus the Act reduced the value of my rent and sales 25 per cent.”

My Lord Duke,—I shall not, I think, have much difficulty in convincing your Grace that this statement of Sir Samuel Cunard is not borne out by the facts of the case. The Act referred to by Sir Samuel Cunard, as reducing his rents and sales 25 per cent. is the Act 17 Vict. cap. 6. This Act was passed by the Legislature of Prince Edward Island, under the following circumstances:

In the early days of the Colony, when sterling money of Great Britain was paid, the equivalent in currency was determined by the addition to the sterling of one-ninth. For instance, the landlord whose tenant had covenanted to pay him 5*l.* British sterling money as the annual rent of 100 acres of land, granted an acquittance therefor on receiving 5*l.* 11 *s.* 2 *d.* of the current money of the Island. This practice continued until 1854, and in fact is still observed, with very rare exceptions although for many years past the currency of the

Island has been so depreciated that the British 1 *l.* has been, as it now is, equivalent to 30 *s.* currency. In 1854, the Legislature, believing that very many tenants had signed leases in which the rent was reserved in British sterling money, under the belief that they would never be called upon to pay more than the currency of the Island with a ninth added, and that doubts had been raised as to whether such rents could not be legally enforced in sterling money, irrespective of the long-established usage which had prevailed, and which still prevailed, passed the Act 17 Vict. cap. 6, which Act, after reciting the Act 12 Vict. cap. 24, declared, "That the enactments contained in the said ninth section of the said recited Act, made and passed in the 12th year of Her present Majesty, intituled, 'An Act to regulate the Specie Currency of Prince Edward Island,' shall extend and be construed to extend and apply with regard to the mode of converting sterling money into currency, that is to say, by adding one-ninth part to such sterling money in order to bring it into currency, to any lease, bond, or other monetary obligation made and entered into before the passing of the said last recited Act, unless in cases or in any case where a contrary course may have been mutually recognised and acted upon by the party or parties to any such bond, lease, or obligation, either before or since the passing of the said last recited Act, anything therein or in this Act to the contrary notwithstanding."

The 9th section of the Act 12 Vict. cap. 24, above recited, is as follows:— "And be it enacted, that as in certain cases the fees in public offices have been defined by statute to be payable in sterling money, and as it has been customary heretofore, in payment of the said fees, to convert the sterling into currency by the addition of one-ninth part, such fees shall continue to be paid and received at the usual rates, anything in this Act to the contrary notwithstanding."

The Act of 17 Vict. cap. 6, evidently affects only those leases and contracts in which are covenants or agreements for the payment of sterling money made before the passing of that Act, and such leases and contracts only in cases in which the parties to such leases or contracts shall have mutually recognised the practice of converting sterling money into currency by adding one ninth part to such sterling money; so that if Sir Samuel Cunard is correct in his statement that in his "leases the rent and purchase-money are made payable in British sterling money, and were so paid for many years, until an Act was passed reducing the 1 *l.* to 16*s.*, he must necessarily be in error when he asserts that the Act to which he alludes reduced the value of his rent and sales 25 per cent."

As to the alleged "unjust" and "vexatious" laws which Sir Samuel Cunard states to have been passed by the Legislature of Prince Edward Island, by which he and other proprietors have been deprived of one-fourth of their property, and had difficulties placed in the way of the collection of the remainder, I have no further observation to offer to your Grace than that the Acts thus characterised were duly approved by your Grace, or your Grace's predecessors in the office of Secretary of State for the Colonies, by whom they were submitted for Her Majesty's allowance.

Sir Samuel Cunard next proceeds to state to your Grace the terms upon which he lets his lands in Prince Edward Island. "The poor man," says Sir Samuel Cunard, "who applies to my agent for land, obtains it on the following terms, viz. : one year at 3*d.* per acre, one year at 6*d.* per acre, one year at 9*d.* per acre, and thereafter at 1*s.* per acre."

After enumerating the privileges which the "poor man" becoming his tenant on these terms would have, such as "the privilege of cutting timber for building a house and outhouses, as well as for fuel and other purposes," Sir Samuel Cunard informs your Grace that if the "poor man" who takes a lease of fifty acres of his land in Prince Edward Island "be an industrious man," he will have a comfortable homestead at the end of four years, together with fifty acres of land, for which he is to pay annually 37*s.* 6*d.* sterling." Sir Samuel Cunard adds, "I have granted 1,496 leases within the last twenty-five years; many of the parties are comparatively rich, while some of them have purchased their freeholds; others would do so, but prefer retaining the money, being aware that they have the privilege of purchasing at any time."

My Lord Duke,—It is well known to all who are acquainted with the North American Colonies, that no man without capital, no "English farm labourer," it matters not how industrious he may be, can go into the woods and procure  
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from the soil sufficient to support a wife, and pay rent for fifty acres of land, at 3*d.* an acre, and at the end of four years possess a "comfortable homestead."

The able and experienced author of the Appendix to the Report of the Royal Commissioners thus treats on the subject of—

*Clearing up a Farm.*—"When a new settler begins without capital, it is as much as he usually can do to clear two acres per year; at the end of four years, when his rent is 6*d.* an acre, he may have eight acres cleared; say, two in potatoes and turnips, two in wheat, and two in indifferent hay. The rent goes on increasing from 3*d.* an acre, at the end of two years, to 1*s.* at the end of eight years, when it becomes 18 dollars and 56 cents per 100 acres; at that time there may be an addition to the above crop of about two or three tons of hay and no pasture, the rent being about 1 dollar and 80 cents per acre for the useful land (equal to about 11*s.* 3*d.* currency). The tenant may leave out the oat crop and get better hay, or continue the oats until the land will not bear hay; the value taken off the ground will, in either case, be about the same. Where money has to be raised, oats seem to be the only resource, although the exhaustion makes it unprofitable in the long run. At the end of eight or ten years he may have twenty acres cleared, and about the same area of ground in crop as before; the remainder of clearing being in pasture, then stumping comes on, and a second course of cropping at the rate of about two acres a year (the clearing being continued), till at the end of 20 years there are perhaps 30 or 40 acres of cleared land, with from 15 to 20 under the plough, and one-half of that pretty well worn out by cropping. Sometimes clearing is carried on at a more rapid rate; circumstances may be peculiarly favourable, or there may be grown-up sons in the family, which is equivalent to capital; but in the majority of cases this is a pretty fair account of a new settlement. Except in very favourable circumstances it is impossible to pay the rent and support a family by what is raised upon such a farm. If 50 or 60 acres were cleared, and in good heart, the demand might be easily met; this, however, requires either capital or time. The few persons who have capital do not lay it out in this way; the demand for rent comes on too soon, and even if not paid, remains an incubus upon the energies of the farmer, and prevents improvements."

Sir Samuel Cunard has also informed your Grace that many "of his tenants are comparatively rich." I shall proceed to prove to your Grace that "many" of Sir Samuel Cunard's tenants, as well as the tenants of other proprietors, are in very destitute circumstances.

First, as to Sir Samuel Cunard's tenantry: when the Royal Commissioners held their court in Prince Edward Island, they were furnished, by Sir Samuel Cunard or his agent, with a tabular statement, which your Grace may find by reference to the Appendix to the Report of the Commissioners, in your Grace's possession; it is intitled, "Synopsis of Estate of Sir Samuel Cunard in Prince Edward Island, 1860." From this return it appears that the number of tenants holding under lease on Sir Samuel Cunard's estates, is 971; that they hold 64,889 acres, which is equivalent to an average of about 66 acres to each tenant; that the reserved rent amounts to 3,434*l.* 18*s.*, or a little over 1*s.* per acre, and that the amount of arrears due in 1860 was 17,073*l.* 6*s.* At the foot of this Table is the following note: "As the rent is not considered due till the autumn, the arrears should be reduced by the amount of the yearly rent received, which would leave the arrears about 14,000*l.*" Taking the arrears at 14,000*l.*, the amount due, divided among the 971 tenants, would give to each tenant a sum exceeding 14*l.*, or upwards of 4*s.* an acre for any acre leased, and, as many of Sir Samuel Cunard's tenants are "comparatively rich," it may fairly be assumed that they owe no arrears of rent; hence it necessarily follows that many of them are very heavily in arrear.

This synopsis shows that, on Sir Samuel Cunard's townships, 63 and 64, there are 173 tenants holding 11,010 acres, and that they are indebted in arrears 5,451*l.* 10*s.*, which, allowing the annual rent to have been paid in 1860, and in every year since, would leave the arrears upwards of 7*s.* an acre, supposing every tenant to be alike indebted. Townships, Nos. 44, 45, and 46, are mentioned as having on them 122 tenants, holding under Sir Samuel Cunard, occupying 7,709 acres, and indebted for rent in arrear upwards of 2,300*l.*, which is equal, on an average, to nearly 6*s.* per acre. The condition of the tenantry on these last-mentioned townships is specially noticed in the Appendix to the

Report of the Royal Commissioners. The produce raised by each tenant, carefully ascertained from the returns of the census made up by sworn enumerators, is given, and the whole is summed up in the following words:—

*Township 44.*—“Here are 52 out of 57 persons who have barely a sufficiency of grain and vegetable food, without the means of getting meat, or wool for clothing, not to say foreign luxuries or payment of rent.

*Township 45.*—Of the 14 tenants of Sir Samuel Cunard, who are divided into two classes, nine first class, and five second class, the produce of whose lands is given, it is reputed that after deducting one-tenth of the product of the farms of the first class for seed, “the remainder will about provision an average family of six and a half persons, and feed a horse while doing the farm work, nothing to spare. The second class must get provision from some other quarter or starve.”

*Township 46.*—Of this township it is said, “Here are 14 families, in fair circumstances, four very little, if anything, to spare, and 13 with about half the year’s provisions.”

My Lord Duke,—The foregoing as well as the following extracts from the Report of the Royal Commissioners are better calculated to give your Grace a correct estimate of the condition of the tenantry of Prince Edward Island than the representations of interested parties. The extracts following are the conclusions drawn from the Census Returns of 1861, and were prepared so as to give a proper idea of the means derivable from the soil at command of the tenants, for the payment of rent and maintenance of families.

“*Tables deduced from the Census of 1861, showing character of the Leases, the quality and produce of the Lands leased in 22 Townships, indiscriminately selected, and the means derivable therefrom for paying the stipulated Rent.*—These Tables are extracted from the returns of the enumerators of the Census of 1861, and the value of the produce computed so as to give a proper idea of the means derivable from the soil at command of the tenants for the payment of rent, and for the maintenance of families. The most striking feature of these Tables is the small value of produce upon many of the farms; for instance, on nine lots in King’s County, the produce of four-sevenths of the tenantry is below 30 *l.* in value, the average being about 15 *l.* 6 *s.* currency, or 10 *l.* 4 *s.* sterling. Another seventh have produce between 30 *l.* and 40 *l.*, average 35 *l.* The remaining two-sevenths run between 40 *l.* and 100 *l.*, average 60 *l.*; but 18 families out of the nine lots average 179 *l.*, and four others 276 *l.* The food of one person for a year at the prices calculated, will hardly be less than 4 *l.*, say 2 *l.* for bread and potatoes, and 2 *l.* for meat and fish, and taking the average family at six and a half persons, the amount will be 27 *l.*; to which add 30 bushels of oats for feeding a horse while at work, say 30 *l.* in the whole, besides milk and vegetables in the summer; but considering the small quantity of fodder for seven months’ feed of cattle, and the pooriness of the pastures in summer, the relief from milk cannot be very great. Taking the provisions of the family at 27 *l.* a year, it is only 10 *s.* 4  $\frac{1}{2}$  *d.* currency, or 6 *s.* 11 *d.* sterling per week; there is no surplus for the payment of rent or purchase of foreign articles; but of four-sevenths of the tenants this is the maximum income; the average is only about one-half of this sum; there is also another seventh but slightly raised above this; nor is this state of things occasioned, except partially, by the newness of the settlement. An examination of the Tables shows that the new farms are not numerous, and that in the greater number of instances small crops are drawn from farms long settled upon. It may be surmised that these persons get a good deal of their living by fishing, but this can hardly be the case, as the greater part of the poor tenantry are in the interior of the townships, out of reach of the fishery. As regards clothing, these people can make for themselves, if they had materials, but the source from which they are to be drawn is not obvious. By the Tables of 1855 all the sheep in these townships averaged but eight to a family, and as the more wealthy have a large share, the number owned by the poorer class can hardly be put at more than three or four to each family. How clothing and shoes are obtained by these people to meet the rigours of winter, is a question difficult to solve; it has been said that there is a great deal of suffering among them at times, and the statistics prove that it must be true.”

Having

327

Having replied to the statements of Sir Samuel Cunard in reference to subjects not mentioned in the proposals for the settlement of the land question, I shall now proceed to consider his observations, directly bearing upon the said propositions submitted by Mr. Palmer and myself.

Sir Samuel Cunard informs your Grace that some of the propositions of the delegates appear to be complicated and difficult to be understood, but all of them "interfere with the written agreements between landlord and tenant, and go to deprive the landlord of his just rights; one proposal is for the remission of arrears of rent prior to May 1858; another to reduce the term of purchase from 20 to 15 years; this would not appear to be a very just proposition when it is considered that an Act has already been passed reducing the sterling money in which the rents and purchases are payable to the extent of 25 per cent., so that this further demand is a further additional reduction of 25 per cent. Another proposal is, that land leased originally at 1 s. per acre, and now paying a higher rate, should be reduced to 1 s." I regret, my Lord Duke, that the propositions submitted by the delegates should appear to Sir Samuel Cunard complicated and hard to be understood; that they interfere with the written agreements between landlord and tenant, and go to deprive the landlord of his strict "legal rights" I freely admit. If such were not the fact, the mode of settlement proposed would not have required, nor would it have been submitted for the approval of Sir Samuel Cunard and his fellow proprietors. Your Grace has already expressed the opinion that the landowners of Prince Edward Island cannot even "hope to recover" from their tenants "their strict legal rights," and that a settlement of the differences now unhappily existing between such landowners and their tenants is desirable, even at the sacrifice of much that is the legal right of the landowners.

Letter of Sir S. Cunard, 14 November 1863, p. 89.

Despatch to Lieut. Governor, Prince Edward Island, 11 July 1863.

My Lord Duke, at several periods between the date of the original grants of Prince Edward Island and the year 1833, had the Crown exacted the arrears of quit-rent, its "strict legal right," many proprietors would have had to pay sums of money exceeding the value of their estates, or would have been deprived of them. The objection to the proposal to fix the rate of purchase at 15 years, based upon the assumption "that an Act has already been passed reducing the sterling money, in which the rents and purchase-moneys are payable, to the extent of 25 per cent.," I submit it is of no force.

I have already proved to your Grace that this Act, referred to by Sir Samuel Cunard, does not at all affect any lease granted since the year 1854. That it applies only to leases granted prior to that year, and as to such leases, simply declares that the landlord shall continue to receive his rents reserved in sterling, at the rate of exchange at which, previously to that year, such landlord had been accustomed to receive them. No landlord, therefore, can truthfully assert that by reason of that Act the receipts from his lands have been lessened to the extent of one penny.

My Lord Duke, in the year 1840 the House of Assembly of Prince Edward Island examined before a Committee the agent of Sir Samuel Cunard as to the manner in which payment was required from the tenants of that gentleman, in whose leases rents were reserved in sterling money. The following questions and answers, put to and given by that agent, who was the Solicitor General of Her Majesty for the Island, while they conclusively determine the credibility due to the statement of Sir Samuel Cunard to your Grace, that "in his leases the rent and purchase-money are made payable in British sterling money, and were so paid for many years, until an Act was passed reducing the 1 l. to 16 s.," must, I think, satisfy your Grace that the Act 17 Vict. c. 6 was "neither a vexatious Act," nor one which "unjustly deprived" that gentleman, or any other proprietor, of "one-fourth" of his property, but on the contrary was a necessary and proper Act. The question and answers are as follow:—

"Committee Room, Session 1840. *James H. Peters, Esq.*, Solicitor General, called in, and examined:

"*Question.*—Are you a land agent, and for whom?—*Answer.*—I am the agent of my father-in-law, Mr. Cunard.

"*Q.*—Have you settled any persons on the lands (of Mr. Cunard), and on what terms?—*A.*—I have given leases for about 8,000 acres this last year.

"*Q.*—On what terms were these tenants or occupiers settled?—*A.*—Those

Journal, House of Assembly, Prince Edward Island, 1848. App. (P.)

who had been there a number of years on leases of 999 years, at one shilling sterling per acre.

“Q.—What do you consider to be one shilling sterling?—A.—I add one-ninth to the currency of the Island, and I consider this makes a sum in currency equivalent to the sterling.

“Q.—If five pounds sterling be the rent of a farm, what sum in currency will be equivalent thereto, for payment of the rent of the leases you have given?—A.—Five pounds, eleven shillings and two pence, or thereabouts of the currency of this Island.

“Q.—If the matter be gone to the rigour?—A.—Then I would not feel obliged to take the currency, I would take dollars at 5 s. and add one-ninth, that is, I would take 5 l. 11 s. 2 d. in dollars at 5 s.

“Q.—Is the Committee to understand that the tenants under your leases must pay in dollars at 5 s.?—A.—I do take at present all monies current in the Island, but could enforce a legal tender, as before explained.”

Although the Act 17 Vict. c. 6, complained of by Sir Samuel Cunard, was passed in 1854, since which time many leases have, I presume, been granted to tenants on his estates, reserving rent in sterling money of Great Britain, I believe it to be the fact that neither Sir Samuel Cunard, nor any other proprietor, has ever required such rent to be paid, other than after the rate mentioned in the Act. This, my Lord Duke, is an important fact, evidencing the justice and propriety of the Act. The proposal that rents which had been raised from 1 s. to 1 s. 6 d. per acre should be reduced to 1 s. was, as was clearly stated in the proposals, intended as a means of carrying out the “remission of all arrears prior to May 1858,” as awarded by the Commissioners.

It now remains, my Lord Duke, to consider the “draft bill” submitted to your Grace by Sir Samuel Cunard. The main feature in any Act intended as a settlement of the land question must necessarily be the rate at which every tenant shall have the right to convert his leasehold into freehold. In the Act submitted, the rate of purchase is fixed higher than in the draft bill previously furnished to your Grace by Sir Samuel Cunard: and although it is the same as is suggested in the plan of settlement laid down in your Grace’s Despatch of the 11th of July last, the plan suggested in your Grace’s Despatch differs from that laid down in the draft bill of Sir Samuel Cunard in this material point, that the latter does not make any distinction based upon the difference in the quality and value of the lands.

I respectfully submit, my Lord Duke, that if the leasehold tenures of Prince Edward Island are ever to be converted into freeholds, this end will not be accomplished by any Act which fixes an uniform rate of purchase, without recognising the differences which exist in the quality and value of the lands. I deem it quite unnecessary, my Lord Duke, at the present time to offer any observations upon the details of the Bill just submitted by Sir Samuel Cunard. I am, my Lord Duke, most anxious that a settlement of the existing difficulties arising out of the land question should be arrived at, and I beg respectfully to request that your Grace will be pleased to call the attention of Sir Samuel Cunard to the third proposition of the delegates, and request that he will inform your Grace whether that, or any similar proposition, will be agreed to by him or by the large proprietors resident in this country.

My Lord Duke, the Legislature of Prince Edward Island have given the strongest evidence of their desire to settle the differences arising out of the relations of landlord and tenant on just and equitable principles. They, as is well known to your Grace, in their address to Her Majesty in 1859, prayed for the appointment of a Commissioner or Commissioners, who should be authorised to inquire into the differences existing between landlords and their tenants, and to negotiate with the landlords for the purposes of establishing the rate of purchase, at which every tenant might be enabled to convert his leasehold into freehold, and also for a remission of arrears of rent, and to report the result of their inquiries and negotiations to Her Majesty the Queen. The proprietors, not desiring a report which would not be binding on the parties, suggested the appointment by the Queen of three Commissioners, whose decision should be accepted by all parties as final. The suggestion of the proprietors was adopted; the tenants, or the Legislature on their behalf, pledged themselves to abide by the decision of the Commissioners, and three Commissioners were appointed wholly in accordance with the desire of the proprietors.

They

They exhausted the materials for inquiry into the facts of the case, and in due time placed in your Grace's hands their decision. This decision of the Commissioners was not such as pleased the proprietors, and they repudiated it, on the plea that the Commissioners had exceeded the authority intended to be conferred upon them.

The people of Prince Edward Island, my Lord Duke, were not to any extent responsible for the irregular manner in which the matter of the Commission would appear to have been conducted; they did all that was required of them, and now, my Lord Duke, they feel that they have been subjected to cruel disappointment. The Commission, instead of reconciling differences between landlords and tenants, has had the contrary effect, and has withal cost the Colony a sum of money such as its limited resources could ill afford. Although, my Lord Duke, the Commissioners failed to accomplish the settlement of the land question, and caused much excitement among the tenantry, they have nevertheless furnished your Grace with information as to the nature and extent of the evils which they attempted to remedy, such as cannot fail to be of essential service: information, which by reason of the eminent abilities of those by whom it was collected, and their entire disinterestedness, is entitled to be regarded as reliable.

From the returns furnished to the Commissions by the agents of Sir Samuel Cunard, who is the most extensive proprietor of land in Prince Edward Island, the melancholy truth is revealed, that in 1860 the arrears due by his tenants were equivalent, on an average, to upwards of 4 s. per acre on the entire area of his leased lands; and it is not too much to assume, as I have already stated on the faith of Sir Samuel Cunard's recent communication to your Grace, in which he states that "many of his tenants are comparatively rich," that one-half of them are free from debt to their landlord. On this assumption, it must be granted that those who are indebted are burthened with arrears of rent, equivalent to no less than eight years' purchase of the reserved rent.

The Report of the Commissioners also further shows that on Sir Samuel Cunard's estates, on townships 44, 45, and 46, the majority of his tenants do not raise from their farms more than barely sufficient to keep them from starvation, and this, too, on the assumption that six and a-half persons can be supported on 7s. sterling a week; and also that, taking the tenants throughout the Island, 40 per cent. do not procure from their farms a sufficiency of food. My Lord Duke, a country so largely peopled as is Prince Edward Island, by tenants in such unhappy circumstances, cannot advance. The effect of arrears of rent upon the tenants of Prince Edward Island, are in the Report thus described: "The tenant finds it to his interest to improve no more than he can help; improvement would only invite purchasers; it is rather for his interest to take all he can get out of the land while the opportunity continues; in fact it is Ireland on a small scale."

My Lord Duke, wholesale evictions cannot I presume be resorted to; in Prince Edward Island many poor people, in various parts of the Colony, have expended their youth and strength in clearing the forest, and are now in their old age deserted by their grown up sons (who naturally refuse to improve land which is charged with arrears of rent, in many cases quite equal to its freehold value); these persons, with wives and helpless children are dragging out a miserable existence in a country where snow covers the ground for six months in the year, and where the cow that supplies milk to the poor family must be housed and fed for seven months of the 12, cannot be thrust out into the high-ways to perish, or become dependent upon public charity. My Lord Duke, this picture is not an exaggeration; may I not add that a remedy for these evils is imperatively demanded. High as may be the respect entertained for the legal rights of the landowners, there are cases in which they should give way to the requirements of public policy. The Ministers of the Crown in my opinion would not have acted wisely had they sought to enforce the payment of the quit-rents, after having allowed them to fall into arrear, until they amounted in many cases to the value of the land in respect of which they were due; under such circumstances they freely remitted them. The example of Her Majesty's Government in their dealings with the defaulting proprietors in the matter of the quit-rents, first reducing them one-half, and afterwards freely remitting many thousands of pounds, should, I respectfully submit, to some extent com-

mend itself to Sir Samuel Cunard and his fellow proprietors, as worthy of emulation in their dealings with their tenants.

My Lord Duke, the tenantry of Prince Edward Island are already deeply indebted to your Grace for the great personal exertions hitherto made by your Grace to bring about a settlement of the land question as a remedy for the evils under which they suffer, and I have gone thus fully into the subject of these evils, feeling that it is one which affects directly the happiness of thousands of families, and indirectly that of a Colony which is under your Grace's care, and that it also is one upon which it is most desirable that your Grace should be fully and correctly informed; I have also done so in the earnest hope that your Grace's sympathy and influence may continue to be exerted in support of the effort now being made to remedy those evils, which owing their origin to the indiscreet exercise of the Royal Prerogative, have so increased, that they are no longer endurable.

I have, &c.  
(signed) *Wm. H. Pope.*

— No. 12. —

No. 12.  
T. F. Elliot, Esq.,  
to W. H. Pope, Esq.,  
7 January 1864.

COPY of a LETTER from *T. Frederick Elliot*, Esq., to *W. H. Pope*, Esq.

Sir,

Downing-street, 7 January 1864.

I AM directed by the Duke of Newcastle to transmit to you the enclosed copy of a letter \* from Sir Samuel Cunard, on the subject of the third proposition in the letter on the Prince Edward Island land question, which was addressed to his Grace by yourself and your colleague on the 13th of October.

\* Page 94.

I am, &c.  
(signed) *T. Frederick Elliot.*

— No. 13. —

No. 13.  
W. H. Pope, Esq., to  
T. F. Elliot, Esq.,  
13 January 1864.

COPY of a LETTER from *W. H. Pope*, Esq., to *T. Frederick Elliot*, Esq.

Sir,

Athenæum Club, Pall Mall, 13 January 1864.

I HAVE the honour to acknowledge the receipt of your communication of the 7th instant, in which you transmitted me, by direction of His Grace the Duke of Newcastle, a copy of a letter from Sir Samuel Cunard on the subject of the third proposition in the letter on the Prince Edward Island land question, which was addressed to his Grace by Mr. Palmer and myself on the 13th October.

For the information of His Grace the Duke of Newcastle, I beg to communicate to you the following observations upon Sir Samuel Cunard's letter.

The third proposition of the letter referred to by Sir Samuel Cunard, would entitle a "tenant holding under lease, and indebted in more than one year's rent, to demand from his landlord, at any time within 20 years from January 1864, the fee-simple of his leasehold land, on payment in one sum, in cash, to such landlord, of 16 years' purchase of the reserved rent." This proposition was intended to meet the case of those tenants, indebted for rent in arrear, in sums in many cases exceeding the fee-simple value of their lands, and who have heretofore paid little or no rent, and whose lands, unless emancipated from the arrears (which in the great majority of cases the landlords cannot hope to recover), must remain in a most impoverished state, to the injury alike of the landlord and of the Colony. Sir Samuel Cunard refuses to consent to this proposition, because its operation, as he alleges, "would be" as follows: "A tenant holding a farm consisting of 100 acres, for which he is bound by his lease to pay 5*l.* rent per annum, and to pay it annually, would under this proposition avoid paying his landlord, being encouraged thereby to do so; but would

would deposit his rent in the Bank, where he can get 6 or 7 per cent. interest, and at the end of 20 years the accumulated rent and interest would amount to more than 150*l.*; this sum should, in justice, belong to the landlord; but the tenant can then take 80*l.* of it, and demand from his landlord a deed in fee-simple of his farm, and have the remainder of the 150*l.* as a reward for dishonesty."

The foregoing statement of Sir Samuel Cunard as to what "would be the operation" of the proposition in question, is absurd, unless upon the twofold assumption:

First,—That the tenant possesses the means of paying his rent; and

Secondly,—That there does not exist in the Colony, a law by virtue of which the landlord may compel such tenant to pay his rent, or in default thereof, may dispossess him of his lands.

That these assumptions are completely groundless, I think I shall have little difficulty in proving.

As to the first assumption, I have already, in my letter to His Grace the Duke of Newcastle, of the 18th December, referred to the evidence afforded by the "Synopsis of the estate of Sir Samuel Cunard in Prince Edward Island" laid before the Royal Commissioners, and by them attached to their Report furnished his Grace, from which it appears, beyond all question, that on some of the estates of Sir Samuel Cunard, the arrears of rent due, are equivalent to upwards of 7*s.* an acre, for every acre leased, assuming that the tenants are equally indebted; and from the Report of the Commissioners it further appears that the majority of these tenants are in abject poverty; that they do not produce from their farms sufficient to procure for them food and clothing; and from the same Report it also appears that, taking the whole tenantry of the Colony, there are 40 per cent. who do not raise from their lands a sufficiency of food.

As to the second assumption, the landlord in Prince Edward Island has the right, at all times, to distrain upon his tenant's land for rent in arrear.

In all cases where the amount of rent due is upwards of 7*l.* sterling, the landlord can bring an action therefor against his tenant in the Supreme Court of the Colony.

In cases where the amount of rent due is under 7*l.* sterling, and there is no distress upon the lands, the landlord is allowed to proceed for the recovery of such rent, against the tenant, in the Small Debts Court of the Colony.

The landlord can proceed by ejectment, in cases wherein there shall not be upon the lands of his tenant sufficient distress to countervail six months' rent.

All these remedies are available, and for years past have been freely resorted to by landlords.

If the tenant be in occupation of land from which he cannot raise a sufficiency of food, the landlord cannot, of course, get his rent: but if the tenant have goods or chattels, they may be distrained, or taken under execution; or the landlord has the power, in the absence of distress, to dispossess the tenant, and to re-enter upon the land.

Such being the remedies available by the landlord, it cannot be supposed for a moment, that any tenant would be allowed to withhold his rent, and to act in the manner set forth in Sir Samuel Cunard's letter.

In Sir Samuel Cunard's letter to His Grace the Duke of Newcastle, of the 14th November last, much stress was laid upon the operation of the Act 23 Vict. c. 16, upon proprietary rights. Reference to the Act in question will satisfy his Grace that Sir Samuel Cunard is incorrect in his assertion, contained in the letter last referred to, that "a landlord is not allowed to proceed in the Small Debts Court for the recovery of rent."

With as much propriety might it be said, that a landlord is not allowed to proceed in the courts of this country, under the Imperial Act of 4 Geo. 2, c. 28. This Act contains a proviso that no proceedings shall be taken against the

lands of a defaulting tenant, under this Act, unless there is not to be found upon his land distress sufficient to countervail six months' rent.

The Colonial Act, of which Sir Samuel Cunard complains, contains a similar provision. If the landlord, who seeks to recover rent in arrear, makes oath that there is not upon the lands in respect of which such rent is due, sufficient distress to countervail a half year's rent, he may proceed by action in the Small Debts Court against his tenant.

The only restriction upon the landlord proceeding by distraint against his tenant is imposed by the Act 6 Vict. c. 19, which declares to the effect that horses and cattle, hay and straw, distrained upon after the 1st December, shall not be sold until after the 1st June following; provided security be given for the due return of such horses and cattle.

In conclusion, I regret to say that I cannot construe Sir Samuel Cunard's communications on the subject of the proposals for the settlement of the land question, in any other sense than as indicative of unwillingness, on his part at least, to make any such reasonable concessions to his tenants, as would afford that relief which is essential in order to secure the Colony generally from those much to be dreaded evils, which necessarily result from wide spread agrarian agitation.

I have, &c.  
(signed) *W. H. Pope.*

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— No. 14. —

COPY of a LETTER from *Henry Palmer, Esq.*, to the Right Honourable *Edward Cardwell, M.P.*

No. 14.  
H. Palmer, Esq.,  
to the Right Hon.  
E. Cardwell, M.P.  
18 August 1864.

Sir, Yeovil Devereux, Brymton, 18 August 1864.

I BEG leave to inclose you a printed copy of an Act passed at Prince Edward Island for "settling Differences between Landlord and Tenant, and to enable Tenants in certain Townships to Purchase the Fee-simple of their Farms, &c."

I am so satisfied that the Legislature of Prince Edward Island have done all in their power to reconcile the unfortunate differences that exist between landlord and tenant. I am anxious to withdraw any opposition that I may have been supposed to entertain against the passing of this Bill. I have, therefore, signed it, and trust your Honour may be induced to submit the same for Her Majesty's assent.

I am quite satisfied that, although Lady Georgina Fane will not withdraw her opposition, she will comply with its terms when the Bill is passed.

I have, &c.  
(signed) *Henry Palmer,*  
One of the Proprietors.

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Enclosure in No. 14.

Encl. in No. 14.

"An Act for settling Differences between Landlord and Tenant, and to enable Tenants on certain Townships to Purchase the Fee-simple of their Farms."\*

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\* This Act is printed as an enclosure in Governor Dundas' Despatch, No. 44 of 7th May 1864, page 50. The following words were appended to the Act:—"We, the undersigned proprietors in Prince Edward Island, agree to the provisions of this Act.

(signed) " *J. R. Bourke.* *John A. M' Donald.*  
" *T. H. Haviland.* *Edward Palmer.*  
" *Wm. Cundall.* *Henry Palmer.*  
" *D. Hodgson.* (in London)."

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333

## — No. 1. —

COPY of a MEMORIAL from Mrs. *Marguerite Stephens* to His Grace the Duke of Newcastle, K.G., Secretary of State for Her Majesty's Colonies.

No. 1.  
Memorial from  
Mrs. M. Stephens to  
the Duke of New-  
castle, K. G.

February 1861.

The MEMORIAL of *Marguerite Stephens*, otherwise *Stewart*, wife of *James Stephens*, of the town of *Galway, Ireland*,

Showeth,

THAT your memorialist is the daughter of the late Captain John Stewart, formerly Deputy Paymaster General of the Forces at St. John's, Newfoundland, and afterwards Receiver General of Quit-rents, and Speaker of the House of Assembly for many years in Prince Edward Island.

That your memorialist's said father having purchased several townships in Prince Edward Island, part of those lands have come, by inheritance, to your memorialist, and now belong to her as owner, same being in the possession of several tenants at very small rents, payable to your memorialist.

That, until about four years since, your memorialist always resided in Prince Edward Island, which she then left and came to Ireland on the occasion of her marriage, leaving her property to the management of an agent.

That your memorialist has lately been informed and has heard with the greatest anxiety, that certain Commissioners appointed by Her Majesty's Government have been holding inquiries relative to the tenure and occupation of land in Prince Edward Island, and that the tendency and object of those inquiries are publicly announced to be, to convert those who are now tenants on the land into the actual owners thereof, upon terms so merely nominal as to amount, if carried into effect, to complete confiscation of the property now belonging to your memorialist and the other proprietors in the Island.

Your memorialist respectfully submits that the proceedings referred to, if acted upon by Her Majesty's Government, will furnish a dangerous precedent, and will be subversive of the vested rights of property, not only in Prince Edward Island, but in other parts of the British dominions where those rights are now recognised and upheld, and she humbly and earnestly hopes that neither your Grace nor any other member of Her Majesty's Government will sanction such an unjust measure, so totally at variance with the state of things in Great Britain and Ireland, and to which your memorialist has been in no way a party.

And your memorialist will ever pray,

Galway, February 1861.

(signed) *Marguerite S. Stephens.*

## — No. 2. —

COPY of a LETTER from *C. Fortescue*, Esq., M. P., to Mrs. *Marguerite Stephens*.

No. 2.  
The Right Hon. C.  
Fortescue, M.P., to  
Mrs. M. Stephens.  
4 March 1861.

Madam,

Downing-street, 4 March 1861.

I AM directed by the Duke of Newcastle to acknowledge your memorial relative to a Commission which has been sitting upon the subject of the tenure and occupation of land in Prince Edward Island.

I am desired to acquaint you that this Commission was appointed with the concurrence, on the one hand, of the great majority of the proprietors of land in the Colony; and on the other hand, of the Assembly, as representing the

tenants, with the view of endeavouring to put an end to differences of long standing, and of thus promoting harmony, and conducing to the security and value of property in the Island. There is no intention to enforce the awards of the Commissioners against any persons who have not, either personally or by their representatives, consented to refer their claims to arbitration; but on the other hand, the refusal of any particular proprietors to concur frankly in a measure which was framed for an object so important to their own interests, and which has hitherto been assented to by a large portion of their body, could not but be calculated to influence the conduct of Her Majesty's Government, if afterwards called upon to support them in any future disputes with their tenants.

I am, &c.  
(signed) C. Fortescue.

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— No. 1. —

Memorial from  
R. B. Stewart, Esq.,  
and others to the  
Duke of New-  
castle, K. C.

COPY of a MEMORIAL from R. Bruce Stewart, Esq., and others to His Grace the Duke of Newcastle, Her Majesty's Principal Secretary of State for the Colonial Department.

1 October 1860.

The MEMORIAL of the undersigned Owners of Township Lands in Prince Edward Island,

Humbly sheweth,

THAT in pursuance of a measure of the Local Legislature passed last Session, intituled, "An Act to give effect to the Report of the Commissioners to be appointed on the Land Question," public proceedings at different parts of this Island have since been instituted, under a Royal warrant, bearing date 5th July 1860, and an opinion obtains that the Report of the Commissioners so appointed, when complete as to the articles of the requirements of the statute, shall be compulsory and binding on all owners, to whatever extent, of township lands, and from which award there shall be no appeal.

That your Grace's memorialists humbly conceive that this construction of the Act was meant to apply only to such landowners as in a letter to your Grace, dated "Bush-hill House, Edmonton, 13th February 1860," expressed their concurrence in the measures proposed by the Assembly, with certain amendments of their own suggestion, but that your memorialists were no parties to such correspondence. That, on the contrary, when certain of them were afterwards requested to become so by the Lieutenant Governor and others, they refused to sign the paper tendered to them, being strongly opposed to the contemplated interference, and believing that without their own concurrence their real estates on this Island would not be chargeable under an award of the Commissioners or arbitrators to be appointed under the Act.

That in the preamble to Resolutions of the Assembly, embodied in their Address to the Queen, of date the 9th of May 1859, it is clearly stated "that Her Majesty's Government will not consent to any *compulsory interference* with the lands and rights of the proprietors, and which has been strongly reiterated in the Despatches of Sir Edward Bulwer Lytton, dated 20th October 1858 and 3d December 1858." That also in the first of the said Resolutions it is expressly implied that no compulsory legislative enactment is contemplated, but that a Commission be directed to "*negotiate with the proprietors* for such terms as, *without infringing on the rights of the landlords*, may be fairly and reasonably asked for." The non-compulsory principle is also recognised in the preamble of the Act, which preamble, however, your memorialists beg leave to submit is at variance with the second section, or enacting clause of the said Bill.

That

That the proceedings of the Commission are anomalous in character, and not ruled by any precedents, as the said Act gives them no power either to compel the attendance of witnesses or to examine them upon oath. That the Commissioners are therefore liable to be influenced by the gratuitous assertions of many political agitators who obtained leave to address them, and of a large number of tenants, who are led to expect they may become freeholders at a very low rate of purchase; some alleging that they considered themselves entitled to have their land for nothing.

That since the assent of certain of the said proprietors to said Commission, an Act has been passed giving to the Commissioners powers perfectly unconstitutional, and not in any way contemplated by Her Majesty, nor by the proprietors who consented to the inquiry; investing the Commissioners with a delegation of legislative power; with an arbitrary authority over the rights of property of Her Majesty's subjects in this Island unparalleled in the history of any country.

That the Commissioners have evidently imagined that they are entitled to avail themselves of this questionable authority, and have publicly stated they are not bound by law in their investigation and in their award. That as a proof of this, Mr. Howe, when an allusion was made to purchases having been made by parties resident in Great Britain of property here, on the faith of repeated assurances of Her Gracious Majesty, conveyed through all the Secretaries of State for the Colonies for the last half century, that Her Majesty would not allow the rights of property to be violated, stated that he would not be bound by a cartload of Despatches.

That this investigation has been concluded in manner tending, not as it was proposed, to allay the agitation here against vested rights, but to excite it to a most alarming degree.

Before the case for the tenants had closed, one of the Commissioners asserted that the present system of tenancy in this Island *is most injurious, and must be done away with*. This assertion was made in the presence of the tenantry, before an opportunity was given of answering the evidence; and the whole course pursued has led the people to believe that no rents shall hereafter be collected. To show that this impression exists, your memorialists beg to enclose an extract of a morning paper representing the views of the tenantry, which will best illustrate the alarming effects already created by a tribunal entrusted to settle the question between landlord and tenant on just and equitable principles.

To show that these views are not confined to your memorialists, we may state that the counsel for the proprietors, who have consented to the Commission, was compelled to hand in a request to the Commissioners to publish a proclamation, requesting tenants to pay their current rents, although those proprietors are compelled to yield to the command of the Commissioners not to collect any arrears.

This request was made to the Commissioners, because otherwise it was anticipated that no rents could be collected by proprietors in this Island.

That the said Act, as explained by counsel before the said Commissioners, may establish principles repugnant to the constitution, and certainly involves constitutional rights, which from time immemorial have never been questioned, namely, a married woman's right of dower, or a widow's security under her marriage settlement, and the testamentary provision for orphan children; also, contracts entered into under seal, security for debt, whether by way of mortgage or of judgments in the supreme court, and various other obligations heretofore considered binding between parties, and the right of a subject to enjoy the use of his own property. And as your Grace's memorialists are at present unable to learn how far their estates may or may not hereafter be chargeable under the award of the said Commissioners, and as your memorialists never joined in the acquiescence already referred to of Sir Samuel Cunard and others, they therefore humbly pray that your Grace will recommend Her Majesty to

withhold Her Royal sanction from the said Bill, till further representations can be made respecting it.

All which is humbly submitted by your Grace's most obedient and most humble servants,

- (signed) *Robert Bruce Stewart*,  
Proprietor of lots or townships, Nos. 7, 10, 12,  
and 30, Lennox Island; half lot 47, and  
part of lots 27 and 46.
- Anna Matilda M'Donald*,  
Widow of the late M'Donald, of Glenaladale.
- Helen Jane M'Donald*.
- Mary Margaret M'Donald*.
- William Christopher M'Donald*,  
By John A. M'Donald, his attorney (part of  
township, 35 and 36).
- Samuel Nelson*,  
1,000 acres on lot 24.
- Mary Dundas B. Irving*,  
Widow of the late George Irving, esq., and  
only surviving daughter of the late Chief  
Justice Stewart, holding lands on town-  
ships, Nos. 18 and 48, under will of said  
Chief Justice.
- Charles Wright*,  
Owner of land on townships, Nos. 65 and 48,  
(no party to the correspondence dated at  
Bush Hill House, but who handed in a  
written protest to the said Commissioners  
against any *compulsory interference* on their  
part with his property).
- John A. M'Donell*,  
Owner of part of township, No. 35.
- Flora Anna Maria M'Donell*,  
Owner of land on township, No. 35, widow of  
the late Alexander M'Donell, of Donaldston.
- David Stewart Rennie*,  
By Robert Rennie, his attorney, part of town-  
ship, No. 23.
- Ellen Stewart*,  
*Margaret Stewart*,  
Owners of part of lot 18, under the will of the  
late Charles Stewart, Attorney General of  
this Island.
- Robert G. Cuninghame*,  
Owner of 2,163 acres on township, No. 48,  
a collateral descendant of James Cuning-  
hame, one of the original grantees of that  
township, by Robert Stewart, his attorney.

Charlotte Town, Prince Edward Island,  
1 October 1860.

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Enclosure in No. 1.

EXTRACT from the "Examiner" Newspaper, of date 25th September 1860,  
Charlotte Town, Prince Edward Island.

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"PROGRESS of the Land Commission Inquiry.

"NEARLY a month has elapsed since the Royal Commissioners engaged in the investigation  
of questions relating to landlord and tenant opened their court in this Island, and from the  
zeal

337

zeal and assiduity with which they have performed their duties, there is no doubt that they have collected a large amount of information. In a few days they will end their labours here, and the general inquiry is, What will be the result? It is extremely difficult to answer this question; but one thing is very clear, that public opinion has been most unequivocally pronounced against the leasehold tenure in any and every shape. Instead of allaying agitation on the land question, it has received an impulse by the present inquiry hitherto unknown in the Colony; and whatever may be the award of the Commission, we are confident that the landholders have little or no chance, without the intervention of a strong military or constabulary power, of enforcing their demands upon the tenantry."

## — No. 2. —

COPY of a LETTER from *R. Bruce Stewart, Esq.*, to the Right Honourable  
*E. Cardwell, M. P.*

No. 2.  
R. B. Stewart, Esq.,  
to the Right Hon.  
E. Cardwell, M. P.  
12 July 1864.

Strath Gartney, Prince Edward Island,  
12 July 1864.

Sir,

LADY GEORGINA FANE has kindly sent me copy of her letter to you, dated 13th June,\* in which letter she mentions me as the resident proprietor of about 80,000 acres of land in this Colony, wherein I have spent the last 18 years, and need scarcely say that I am deeply interested in its prosperity. I beg to state that I most thoroughly concur in the purport of her Ladyship's letter, and very sincerely wish that every proprietor of land in this Colony had, like her, visited it and remained in it long enough to see and to know the actual state of parties and facts here, in which case I feel very certain that they all would concur with Lady Georgina Fane in the letter which she has addressed to you.

\* Page 105.

I have, &c.  
(signed) *Robert Bruce Stewart.*

## — No. 3. —

COPY of a LETTER from Sir *F. Rogers, Bart.*, to *R. Bruce Stewart, Esq.*

No. 3.  
Sir F. Rogers, Bart.,  
to R. B. Stewart,  
Esq.  
9 August 1864.

Sir,

Downing-street, 9 August 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your letter of the 12th of July, forwarded to Mr. Cardwell by Lady Georgina Fane, in which you express your concurrence in her Ladyship's views on the subject of the recent Act of the Prince Edward Island Legislature for settling differences between landlord and tenant.

I am, &c.  
(signed) *Frederic Rogers.*

## — No. 4. —

COPY of a LETTER from *R. Bruce Stewart, Esq.*, to the Right Honourable  
*E. Cardwell, M. P.*

No. 4.  
R. B. Stewart, Esq.,  
to the Right Hon.  
E. Cardwell, M. P.  
20 October 1864.

Sir,

Strath Gartney, Prince Edward Island,  
20 October 1864.

I HAVE had the honour to receive Sir F. Rogers' acknowledgment of my letter to you, dated 12th July, which was forwarded to you by Lady Georgina Fane. Her Ladyship has since furnished me with copies of her letters to you, dated respectively September 2d, 15th, and 28th.\* I beg to state, that I thoroughly concur in the purport of those letters, and in the prayer of the petition, that the Bill of last Session, sent from this Colony, "For the settle-

\* Pages 112, 113,  
and 114.

ment of differences between Landlord and Tenant," may not be submitted for Her Majesty's assent. Foreseeing and feeling that great injury and injustice are impending and contingent upon the confirmation of that Bill, to myself and those other proprietors who did not consent to the appointment of the Land Commission, I feel certain that such injury and injustice can neither be intended nor approved by Her Majesty's Home Government, to whom I shall look with earnest and respectful hope that they will then be pleased to protect and defend me from such injury and injustice, in case they should determine in favour of the confirmation of that Bill against which I now appeal to you.

I have, &c.  
(signed) *Robert Bruce Stewart.*

## — No. 5. —

No. 5.  
T. F. Elliot, Esq.,  
to R. B. Stewart,  
Esq.

19 Nov. 1864.

COPY of a LETTER from *T. Frederick Elliot, Esq.*, to *R. Bruce Stewart, Esq.*

Sir,

Downing-street, 19 November 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt, through the Lady Georgina Fane, of your letter of the 20th ultimo, on the subject of the Act of the Prince Edward Island Legislature, "for settling the Differences between Landlord and Tenant, &c."

Mr. Cardwell desires me to acquaint you that he is no longer in a position to interfere in the matter. The Act was confirmed, on the 1st instant, by an Order of Her Majesty in Council, which was sent out by last mail.

I am, &c.  
(signed) *T. Frederick Elliot.*

## — No. 1. —

No. 1.  
Lady Wood and  
Miss Fanning to  
the Right Hon. E.  
Cardwell, M.P.

31 October 1864.

COPY of a LETTER from Lady *Wood* and Miss *Fanning* to the Right Honourable *Edward Cardwell, M.P.*

LADY WOOD and Miss Fanning present their compliments to Mr. Cardwell, and beg leave to submit to him the enclosed certified copy of a petition received from their tenants in Prince Edward Island by the last mail thence.

Lady Wood and her sister, Miss Fanning, are induced to take this step for the purpose of proving to the Secretary of State for the Colonies the little probability there is that the legislative proceedings which have followed the late Land Commission will tend to satisfy the tenantry of Prince Edward Island generally, or to promote the peace and prosperity of the Colony. As yet, all the measures with regard to what is called "The land question of Prince Edward Island," have but served to engender and call into action the dishonest feelings and illegal combinations set forth in the petition herewith enclosed.

Lady Wood and Miss Fanning beg to state, that they are not aware of any grievance of which their tenants have to complain; they voluntarily took leases of their respective holdings on the current terms of the country; and land on lot 50, the township upon which these tenants chose to settle, has been sold for the last 40 years, and is still selling, at the rate of 20 s. sterling per acre.

3, Circus, Bath, 31 October 1864.

## Enclosure in No. 1.

Encl. in No. 1.

Prince Edward Island, Township, No. 50,  
29 September 1864.

Lady Wood and Miss M. M. Fanning,  
WE, the undersigned, your Ladyships' tenants on township, No. 50, Prince Edward Island, have lately held public meetings, and at the last meeting, held on Monday the 28th instant,

339

instant, unanimously agreed to correspond with your Ladyships, relative to the disquietude now so prevalent in this Colony in consequence of the present rent-paying system, so injurious and detrimental to the prosperity and contentment of the Island generally; and humbly beg leave to address your Ladyships with every feeling of respect, and would urge, as our excuse for this liberty, the pressing necessity of our case.

We, your Ladyships' tenants on township, No. 50, in common with the whole tenantry of the Island, have become convinced of the great and positive necessity of the abolishment of the rent-paying system, and that we, your Ladyships' tenants, in connection with the tenantry of the Island generally, have inaugurated ourselves into a tenants' union, for the purpose of withholding the further liquidation of rent until a right of purchase being afforded your Ladyships' tenantry, upon fair and equitable principles, as acceded to the tenantry on the Selkirk and other estates, purchased by the local Government of this Colony; therefore, the first means your Ladyships' tenantry purpose adopting, being the offering to purchase the fee-simple of our respective holdings, agreeable to the following propositions, viz., 10s. per acre; one-fifth paid on the 1st January 1865, and the balance in four annual instalments, with six per cent. interest until paid; interest to cease on each liquidated payment. Which proposition your Ladyships' tenants earnestly trust will be accepted by your Ladyships, as being more satisfactory and remunerative than the present rent system; your Ladyships' tenants of course giving ample security for the faithful fulfilment of the same. Robert Poore Haythorne, Esq., has recently effected a compromise with his tenants, on lot 49, on similar terms as herein represented. And we, your Ladyships' tenants, sincerely hope your Ladyships will accept this, our offer, with those charitable feelings that we have reason to believe your Ladyships possess.

Trusting your Ladyships will favour us with a reply at your Ladyships' earliest convenience.

We respectfully beg to remain, &c.

(signed) *Frederick Nelson.*  
*Teopiles Nelson.*

(And 104 other signatures.)

P.S.—Your Ladyships will be pleased to address your reply, on behalf of your tenantry, to Mr. Alexander M'Neill, lot 50.

(Examined with the original),

(signed) *John Kemp,*  
Solicitor, Bath.

— No. 2. —

COPY of a LETTER from *T. Frederick Elliot, Esq.*, to *Lady Wood.*

Madam,

Downing-street, 8 November 1864.

I AM directed by Mr. Secretary Cardwell to acknowledge the receipt of your Ladyship's and Miss Fanning's letter of the 31st ultimo, together with a copy of a letter from your tenants in Prince Edward Island, containing a proposal for the purchase of the fee-simple of their holdings.

I am, &c.

(signed) *T. Frederick Elliot.*

— No. 1. —

COPY of a LETTER from *Charles Wright, Esq.*, to His Grace the Duke of Newcastle.

Charlotte Town, Prince Edward Island,  
6 November 1860.

My Lord Duke,

A PETITION addressed to the Queen is herewith transmitted to your Grace, and I beg leave most respectfully to state that my father, Mr. Charles Wright, held the office of Surveyor General of Prince Edward Island, from 1812 till his death in 1828.

My grandfather, Mr. Thomas Wright, was, by Commission dated 6th August 1764, appointed deputy to the Surveyor General of the "Northern District of America," and was subsequently, during a long life, employed in various public services,

No. 2.

T. F. Elliot, Esq.,  
to Lady Wood.

8 November 1864.

No. 1.

Charles Wright,  
Esq., to the Duke  
of Newcastle.

6 November 1860.

services, among which I may be permitted, with due deference, to mention, that in 1769 he was deputed by the Astronomer Royal to observe the transit of Venus, and that he succeeded in this observation (near Quebec) appears by Vol. 59 of the "Philosophical Transactions." In 1773 he repaired to the seat of Government of this Colony at the pressing solicitation of Walter Patterson, Esq., then Governor thereof, and was appointed Surveyor General, and also filled the office of Senior Assistant Judge of this Colony. During a long residence here he encountered many difficulties, and at the breaking out of the American war of independence was taken prisoner and carried to the head quarters of the revolutionary army.

When the Commissioners, appointed in pursuance of the 5th Article of the Treaty with America, dated 19th November 1794, to fix the boundary between the State of Maine and New Brunswick, met at Boston in 1797 his attendance was required, and the importance attached to the information and assistance afforded by him on that occasion appears by original documents, to which reference can be made.

In defence of rights justly acquired by members of my family amidst unre-mitted labour and various hardships, I am obliged to resort to the highest authority in the State, and humbly trust that the facts set forth in my petition may appear worthy of favourable consideration.

I have, &c.  
(signed) *Charles Wright.*

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Enclosure in No. 1.

Encl. in No. 1.

To the Queen's Most Excellent Majesty.

The Petition of Charles Wright, Owner of portions of Townships No. 65 and No. 50, in Prince Edward Island.

Most humbly sheweth,—

1. THAT your petitioner is a loyal subject of Your Majesty, and craves leave to approach the Throne with the assurance of his devoted attachment to Your Majesty's person and Government.

2. That in accordance with an Address and Resolutions of the Assembly of this Island, Your Majesty has been pleased by your Royal warrant, dated at Buckingham Palace, 5th June 1860, to appoint John Hamilton Gray, Joseph Howe, and John William Ritchie, Esqrs., Commissioners for inquiring into and adjusting the differences between landowners and tenants in Prince Edward Island on "fair and equitable principles," and that an Act has passed the Local Legislature, intituled, "An Act to give Effect to the Report of the Commissioners to be appointed on the Land Question," without Your Majesty's assent to which, their award can have no legal force, as the said Act contains a clause suspending its operation "until Your Majesty's pleasure therein shall be known."

23 Vict. c. 28.

3. That it was contended by counsel before the said Commissioners, that by the second enacting clause thereof "the rights, estates, rents, issues, and profits of such estates, liberties, franchises, and interests of all and every person whomsoever," Your Majesty's subjects, of, out of, or concerning township lands in this Island will, if it becomes law, be bound by the award of the Commissioners, from which award it is likewise maintained there shall be no appeal.

4. That if the second section of the Act will bear this construction, and there seems too much ground for the apprehension, Your petitioner humbly begs leave to submit that the said Act is opposed to the well-established principles of British constitutional law; that it is contrary to the intentions of Your Majesty's Minister, as clearly expressed in his Despatch to Lieutenant Governor Dundas, of date 21st of March 1860, and partly embodied in the preamble to the Act, that it is repugnant to the Royal instructions for the good government of Colonies, as transmitted to Sir John Colborne and Sir Edmund Head, and is also at variance with the principles set forth in the preamble of the Act itself, as well as in the resolutions of the Assembly, dated the 9th of May 1859, referred to in the said preamble; for the preamble to the said resolutions, as transmitted to Your Majesty, utterly repudiates "any compulsory interference with the lands and rights of the proprietors," as being contrary to the declarations of Your Majesty's Government "for a great number of years," and which, as stated in the said preamble, "has been strongly reiterated in the Despatches of Sir Edward Bulwer Lytton, dated the 20th of October 1858 and 3d December 1858."

5. That it was the plain meaning of the Assembly to promote an "amicable arrangement" with the proprietors, and that no "compulsory interference" was intended is apparent throughout the said resolutions, especially in No. 1, wherein, among other things,

it is resolved that a humble address be presented to Your Majesty, praying that Your Majesty will be pleased to direct a Commission to inquire into the existing relations between landlord and tenant, "and to negotiate with the proprietors for such abatement of present liabilities, and for such terms for enabling the tenantry to convert their leaseholds into freeholds as, without infringing on the rights of the landlords, may be fairly and reasonably asked for, &c."

Resolutions of the  
Assembly of Prince  
Edward Island,  
9th May 1859.  
No. 1.

6. That in the said Despatch of His Grace the Duke of Newcastle, dated 21st March 1860, in reference to a proposal emanating from Sir Samuel Cunard and others, it is stated, "if the consent of all the parties can be obtained to this proposal, I believe that it may offer the means of bringing these long-pending disputes to a termination." Thus clearly implying that, without such consent being first had and obtained, his Grace did not contemplate that dissentient parties would be made liable to the award.

7. That from the said correspondence of the Secretary of State, it is likewise apparent that the Act, intituled, "An Act to give Effect to the Report of the Commissioners to be appointed on the Land Question" has been passed at the instance of Sir Samuel Cunard, and a few others, chiefly non-resident landowners, who in a letter to his Grace, dated Bush-hill House, Edmonton, 13th February 1860, state themselves "large proprietors of land in this Island," and that they "shall readily acquiesce in any arrangement that may be practicable for the purpose of settling the various questions alluded to in the memorial from the House of Assembly." At the same time they submit certain suggestions of their own respecting the appointment of Commissioners, "instead of the mode proposed by the House of Assembly," which suggestions, it is needless to add, have been acted upon both by Your Majesty and by the said house.

8. That the Act in question, therefore, assumes in every respect the character of a Private Bill, passed at the instance of Sir Samuel Cunard, and some other individuals who signed the letter addressed to the Secretary of State, of date above mentioned, and on referring to Your Majesty's Royal Instructions to the Governor General of the North American Colonies, of date, Balmoral, 20th October 1854, the sixteenth section is as follows:—

"And We do further direct that you do not propose or assent to any Private Bills whereby the property of any individual may be affected, in which there is not a saving of the right of Us, Our heirs and successors, and of all bodies politic and corporate, and of all other persons excepting those at whose instance or for whose especial benefit such Bill may be passed, and those claiming by, from, through or under them."

Instructions to  
Sir E. W. Head,  
dated Balmoral,  
20th October 1854,  
s. 16.

9. That the said section of the Royal Instructions for the Government of Canada applies with equal, if not greater, force to Prince Edward Island; for your petitioner humbly submits that Your Majesty's loyal subjects, the inhabitants of this Colony, are equally entitled to Your Royal favour and protection; and former Acts of the Local Legislature, disallowed by Your Majesty, prove that the "rights of property" have not at all times been held sacred by that body.

10. That by Your Majesty's Royal Letters Patent and Instructions to Sir John Colborne, formally transmitted here for the guidance of the Lieutenant Governor of the Colony, it is distinctly enjoined that all "Laws, Statutes and Ordinances are not to be repugnant, but as near as local circumstances will admit agreeable to the Laws and Statutes of Our United Kingdom of Great Britain and Ireland;" and your petitioner humbly begs leave to submit that the sweeping provisions of the Act in question are not only repugnant to the laws and statutes of Great Britain, but are without parallel in Colonial Legislation.

11. That when responsible Government was conceded to this Island in 1851, it was expressly enjoined, among other things, that the rights of property should be respected, and the laws appertaining thereunto strictly enforced; and as appears by Earl Grey's Despatch to Sir A. Bannerman, dated 12th February 1851, that any laws bearing unjustly on the owners of landed property would be disallowed by Your Majesty. This pledge has been religiously observed in the disposal of the Rent-roll and Tenants' Compensation Acts, passed in the Session of 1855, and also of a subsequent "Act relating to the Fishery Réserves;" and Sir Dominick Daly, in his Despatch, No. 70, to the Right Honourable H. Labouchere, of date the 10th of December 1855, when explaining his conduct in reference to the two former Bills, declares he has "never been unmindful that Your Majesty's Government possesses the power of causing the laws to be respected in all parts of your dominions."

12. That your petitioner was no party to any correspondence agreeing to the appointment of Commissioners on the land question; that he never entered into stipulations of any kind to abide by their award, and was not sensible, until very recently, that there was a possibility of such award affecting him, after the plain meaning of the resolutions of the Assembly, supported by the solemn and repeated declarations of successive Secretaries of State.

13. That previous to the sitting of the said Commissioners your petitioner did not know of any existing disputes between himself and his tenants, nor has he yet been apprised of any specific charges or complaints of theirs requiring the intervention of delegated authority, armed with unlimited and indefinite discretionary power above the law of the land. And in the opinion of your petitioner, the pre-existing laws of the Island, if fairly administered, are amply sufficient to adjust all questions arising between landlords and tenants, although such laws, as modified and amended since the introduction of responsible government, are highly favourable to the latter.

14. That your petitioner appeared personally before the said Commissioners on Monday the 24th of September, one of the days appointed for hearing the landlords after the tenants' case was closed; and your petitioner expressed his readiness to answer such questions as the Chairman of the Commission might be pleased to put to him, but nothing was said about settling disputes with his tenants, nor were proposals of any kind made to him for an "amicable arrangement" of grievances, whether real or alleged, were any such before their Excellencies. And your petitioner then and there protested against any compulsory interference on their part with his property, on the grounds hereinbefore stated; and having answered certain questions relative to the value of lands in this island, it was signified to your petitioner that he might withdraw.

15. That as Your Majesty's Royal allowance to the Act to give effect to the Report of the Commissioners has not yet been signified, it was both premature and impolitic in the Local Government to promote the sittings of the said Commissioners, as their proceedings were evidently influenced by a regard to the arbitrary jurisdiction the Act is meant to confer, rather than the more limited power implied by Your Majesty's warrant; and much excitement has consequently spread through the Island, the result of which it is impossible to conjecture.

16. That amidst the mass of evidence tendered to the Commissioners, and the great number of persons, chiefly tenants expecting to get free farms by escheat or otherwise, who appeared before their Excellencies, not a single individual was examined upon oath, as it was evidently the opinion of the Court that it had no power to administer that obligation; nor even by subpoena or process of any kind to enforce the necessary attendance of witnesses who, through intimidation or motives of self-interest, might be reluctant to appear, and that such there were admits of easy proof.

17. That proceedings in the said Commissioners' Court assumed a highly irregular character, strongly marked by excited feeling and extreme party bias. In support of this, it may be mentioned that a man in the custody of the deputy sheriff of Queen's County, in an action for the recovery of an alleged debt of rent, was brought by that officer before the said Court, without any legal authority for his appearance there, and to no other purpose than to create a prejudice in the minds of the Commissioners against landlords generally; and although learned counsel of high professional standing were retained from the Bar of New Brunswick and that of Prince Edward Island, by the Local Government on behalf of the tenantry, yet certain members of Your Majesty's Executive Council, namely, Colonel the Honourable John Hamilton Gray and the Honourable John Longworth, both members of the Assembly, addressed the Commissioners in open court against the leasehold tenure. The former especially attended throughout nearly the whole of the tenants' case, and spoke repeatedly in terms ill-calculated to promote a settlement of the question "in a spirit of conciliation and fairness to all parties," as recommended by Your Majesty's Minister.

18. That the said Colonel Gray, who thus appears opposed to the representatives of the original grantees of townships, is himself the grandson of Captain George Burns, who was indebted to the bounty of his Majesty George the Third for a grant of such land now held under the said George Burns' title. But, as your petitioner is informed, and verily believes, neither the said Honourable John Hamilton Gray nor a single member of his family, is at present seised or possessed of any township land in this Island.

19. That the part of township No. 65 owned by your petitioner is let chiefly in tracts of from 50 to 150 acres, for terms of 999 years, at rents varying from 9 *d.* to 1 *s.* 2 *d.* per acre, sterling money of Great Britain, estimating it at the present rate of exchange; and in some few cases the rents rise to 1 *s.* 6 *d.* sterling per acre (at the same rate), at the expiration of 40 years of the term; and it would be attended with consequences utterly ruinous to your petitioner to submit to sales of his property on terms obliging him to take payment in limited instalments, as proposed in the Resolutions of the Assembly. But he would willingly take a sum in gross for the fee-simple of what land he owns, amounting to 20 years' purchase of the maximum annual rent reserved on the whole, which he deems would be a reasonable consideration. And your petitioner would thankfully be so enabled to seek an investment in some other country, owing to the manifest insecurity attending that disregard to the rights of property and of social order which is becoming more and more apparent in this Island.

20. That the said part of township No. 65 was demised to your petitioner by his mother, deceased, who received a conveyance of it in exchange for a valuable property, settled on her previous to marriage.

21. That 166 acres, owned by your petitioner on township No. 50, was part of 400 acres purchased for a valuable consideration by his grandfather Thomas Wright, Esq., from John Throckmorton, Esq., an American Loyalist, who had served as an officer in the King's Rangers during the American War of Independence; and the said 400 acres was all the real property your petitioner's said grandfather was enabled, at his decease, to leave as a provision for his family, after 48 years of his life spent in various public services, which may not be particularly enumerated here.

22. That, as far as your petitioner is enabled to judge, the tenants on his said property are generally respectable and inoffensive people, and hitherto well disposed towards your petitioner, though of course liable to be influenced by designing men and unprincipled political agitators.

23. That

23. That your petitioner's said property is free from all encumbrances of any kind whatsoever; and the rents thereof, which are not more than sufficient for the respectable maintenance of himself and family, have of late years been paid with tolerable regularity. That he has a wife and infant children dependent on him for support; and, in the uncertainty of life, he sees no prospect of being enabled to leave them any other future provision, though his family have resided here for many years, and have expended large sums in the Colony.

Wherefore your petitioner humbly prays that Your Majesty will not sanction the aforesaid Act in its present highly unconstitutional form, as it may prove ruinous to certain of Your Majesty's subjects, who, as they did not sign the letter agreeing to the appointment of Land Commissioners, should, according to the declarations of Your Majesty's Government, be exempted from their compulsory award. And your petitioner further prays that Your Majesty will direct the said Act to be so modified and amended that it may come within the meaning of the Address and Resolutions of the Assembly, in concurrence with which Your Majesty's Warrant was issued.

And Your Majesty's petitioner will ever pray.

Charlotte Town, Prince Edward Island,  
6 November 1860.

(signed) *Charles Wright.*