

USURY LAWS (CANADA).

COPY of all CORRESPONDENCE between Her Majesty's Secretary of State for the Colonies respecting the effect of the Usury Laws in *Canada*, on the Industrial and Commercial Interests of that Province, and of all Correspondence with the Governor General of *Canada* on that subject.

(*Mr. Hume*)

Ordered, by The House of Commons, to be Printed,
25 June 1847.

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USURY LAWS (CANADA).

RETURN to an Address of the Honourable The House of Commons,
dated 10 June 1847;—for,

“ COPY of all CORRESPONDENCE between Her Majesty’s Secretary of State for the Colonies respecting the Effect of the USURY LAWS in *Canada*, on the Industrial and Commercial Interests of that Province, and of all Correspondence with the Governor-General of *Canada* on that subject.”

Colonial Office, Downing-street, }
24 June 1847.

B. HAWES.

—No. 1.—

(No. 43.)

COPY of a DESPATCH from Earl *Grey* to the Right Honourable the Earl of *Elgin*.

No. 1.
Earl Grey to the
Earl of Elgin,
30 March 1847.

My Lord,

Downing-street, 30 March 1847.

I TRANSMIT herewith to your Lordship the copy of a letter, and of the several enclosures accompanying it, which I have received from Mr. R. S. Atcheson, representing the injurious effect which is experienced in Canada from the operation of the provincial enactments relating to usury.

20 March.

I am not myself aware how far public opinion in Canada supports the statements and views entertained by Mr. Atcheson on this subject. I should therefore wish your Lordship to lay the enclosed communication before your Executive Council, and consult that body as to the propriety of proposing to the Provincial Legislature the repeal of the laws in force in that Province relating to usury. My own opinion, and, I might add, the general feeling in this country, is so decidedly opposed to the existence of laws of this description, that I should be happy to learn that the Canadian Legislature was in favour of the proposed repeal.

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

Enclosure in No. 1.

My Lord,

2, Charles-street, Trevor-square,
20 March 1847.

I HAVE the honour to transmit to your Lordship the enclosed letter, with the annexed documents, addressed to Mr. MacGregor, as Secretary to the Lords’ Committee of the Council for Trade, respecting the Usury Laws in Canada, and the obstacle which those laws present to the influx of capital into the Province.

Encl. in No. 1.

The only impediment to the employment of labour in Canada on a very extended scale is, as your Lordship is doubtless aware, the want of capital on the part of the proprietors of land, and the extreme difficulty, or more frequently the impossibility, of procuring loans on the security of their lands.

With the view of obviating this obstacle to a more rapid development of the vast natural resources of the Province, the Legislature, in the years 1843 and 1845, passed two Acts, giving powers to and incorporating the Company referred to in the letters to Mr. MacGregor; and Her Majesty subsequently granted a Royal Charter extending the privileges and powers of the Company to this country. But the great demand which has lately existed in England for money for railway purposes, and the limited rate of interest allowed by the laws against usury in Canada, by annihilating the difference between the rates of interest here and in that Province on which the company’s prospect of remuneration depended, have prevented the Company extending to Canada the benefit contemplated by its Legislature; and the Province is, in consequence, not only debarred from taking adequate advantage of the increased demand in Great Britain for its grain produce, but is precluded from entering upon the execution of several public works of the highest importance, which have been sanctioned by colonial statutes, and from proceeding with the formation of district roads and various local public improvements, on which many thousand emigrants would have found, on their arrival in Canada, immediate and profitable employment. On the other hand, if the

rate of interest which was current in England in 1844 had continued unaltered to this time, the Company would now have had it in its power to contribute, in the form of loans on landed security, two millions and a half to these purposes. And if the Usury Laws were repealed, and a sufficient difference in the respective rates of interest were thereby again established, its means of contributing to these important objects would be restored, and the Province would, it may reasonably be expected, derive an additional advantage from the influx of capital from the resources of individual capitalists, which would, in all probability, in that event be attracted into it, while the means of providing employment for emigrant labour would be almost indefinitely extended.

Under these impressions, I take the liberty to entreat your Lordship's consideration of these matters, and in the event of your Lordship concurring in the expediency of a repeal of the laws referred to, to solicit your Lordship to aid the promotion of that measure by recommending it to the favourable notice of his Excellency the Governor-general of Canada, with a view to his Excellency taking such steps to advance it as he may deem expedient; and I beg respectfully to assure your Lordship of the grateful appreciation by the people of Canada of any assistance obtained through your Lordship's means, for increasing their power at the present moment of providing for the employment of the expected emigrants, and thereby rescuing them, as well as the existing labourers in Canada, from the great distress, which must otherwise come from the sudden influx of an unusually large number of emigrants; and I would add, an assurance of their ready and cheerful acknowledgment of the great degree in which your Lordship will have thus contributed, not only to the averting an impending evil, but to the advancement and general prosperity of the Province.

The Right Hon. the Earl Grey,
&c. &c. &c.

I have, &c.
(signed) *Robert Shank Atcheson.*

(No. 1.)

Sir,

2, Charles-street, Trevor-square,
28 January 1847.

THE repeal of the Usury Laws in Canada, on which I addressed a private letter to you on the 19th instant, has obviously so important a bearing on the colonial measures announced a few evenings since in the House of Lords by Earl Grey, and in the House of Commons by Lord John Russell, that I am induced to request the favour of your submitting that letter to the Earl of Clarendon, as President of the Right honourable the Lords of the Committee of Council for Trade.

I take the liberty of adding some documents, of which a list is subjoined, relative to the Trust and Loan Company, for the establishment and regulation of which the Legislature of Canada have, as stated in my letter of the 19th instant, recently passed two Acts, and the Crown under the sanction of the Lords of the Committee of Council for Trade, granted a Royal Charter.

J. MacGregor, Esq. &c. &c. &c.
Board of Trade.

I have, &c.
(signed) *Robt. Shank Atcheson.*

(No. 2.)

My dear Sir,

2, Charles-street, Trevor-square, 19 January 1847.

WITH reference to our recent conversation respecting the Usury Laws in Canada, and their mischievous pressure on every branch of industry, as well as on the general interests of the Province, I enclose a printed copy of the draft of a Bill for their repeal, sent out by the packet of the 4th instant, to a friend of mine, who, in conjunction with several persons of considerable influence in Canada, is taking active steps to effect the accomplishment of this measure.

It would render an important service to Canada to bring the subject to the notice of Earl Grey, and to induce his Lordship to press it upon the attention of the Governor-general, with a view to his Excellency recommending his government to give their assistance to its passage through the Legislature at the commencement of the session.

You will observe, that the Bill follows very much the language of the English statute, but differs from it, in expressly including mortgages of land; and in the addition of a clause, declaring that the present legal rate of interest shall be considered the standard, or agreed rate of interest, in all transactions in which it is not otherwise stipulated in writing.

A less perfect measure was brought forward last session by Mr. J. A. Macdonald, the Member for Kingston, and was supported by Mr. Moffat, the Member for Montreal; Mr. Viger, the President of the Executive Council; Mr. Sherwood, the Member for Toronto, and at that time the Solicitor-general; and was not spoken against, I believe, by any Member of weight, except Mr. Aylwin, the Member for Quebec, and who was Solicitor-general during Mr. Lafontaine's administration.

Sir Allan Macnab, who was formerly opposed to the repeal, is now pledged to support it, and I am persuaded will exert all his influence to carry it. In this effort, he will be assisted by

by Mr. Charles Stuart, of Kingston, barrister-at-law, whose connexions are numerous and influential, and whose intimacy with Mr. Aylwin will, probably, enable him to avert the opposition of that gentleman. Mr. Stuart is the law agent of the Bank of Montreal, at Kingston, and the Registrar of Deeds in the county of Frontenac, of which Kingston forms part. These situations have given him abundant opportunity of ascertaining the injurious effect of the laws in question. The Bill will probably be brought forward by Mr. Macdonald, the Member for Kingston, and will be well supported. Indeed, in the present and perhaps even prospective state of the money-market here and in the United States, it is difficult to conceive any public man of intelligence having the folly to oppose a measure which, under no circumstances, could be injurious to the interests of the Province; but which, under existing circumstances, is imperatively demanded for the relief and promotion of every class of interest.

You are practically so well acquainted with the rapidity with which every branch of industry extends itself in an American colony that has reached the state of advancement which Canada has attained, that I need not remind you that the local accumulation of capital, large as it is, cannot keep pace with the demands upon it, and that consequently the rate of profit on its employment in the general business of the country is so high, as not only to admit but to require and secure a very high rate of interest on loans, and that the Usury Laws, by attempting to fix a rate, not adjusted by and bearing no proportion to the actual condition of the country in respect to capital and its means of employment, greatly enhance that rate, and inflict an amount of mischief scarcely conceivable by persons who are only acquainted with business operations in Europe.

I lately saw one of the principal merchants of Western Canada, who arrived here by the packet before the last; he is perhaps the most extensive, wealthy and influential importer in that part of the country, having branches of his establishment both in Glasgow and New York; he gave me a letter addressed to his firm on the subject of a loan, under negotiation and ultimately effected, for a constituent of his firm at Hamilton; perhaps I should say, a customer largely indebted to his firm, which illustrates, in the most striking manner, the pernicious effect of the Usury Laws, and the ruinous terms on which they compel both traders and landholders to seek relief on the occurrence of any emergency. The money advanced in this case was 4,500 £., a bond and mortgage on valuable property were given for 6,000 £., payable by annual instalments, with six per cent. interest, in the stock of the Gore Bank. In addition to a bonus of 25 £. per cent. on the amount of the mortgage, the rate of interest on the sum actually advanced commences, as you will observe on calculation, at eight per cent., and of course as the principal diminishes by payment of the annual instalments, it constantly advances on the remaining balance; if the value of the Gore Bank stock rises, the cost of the loan to the borrower will be still further increased.

This is not an isolated case. The same party informed me, that he knew 10 or 11 similar cases during the past year, and that they are of frequent occurrence.

The cost of accommodation, even through the banks, very considerably exceeds, by the charge of commission, and the accidents which almost invariably accompany it, six per cent., and yet the laws of the Province, by an unwise adherence to the spirit of the law which so long prevailed here, but which has lately with great practical advantage partially been modified, fixes the rate at six per cent., a rate be it observed, lower than the rate in the United States where the accumulation and competition of capital necessarily place the actual rate much below that which obtains in Canada. It must be remembered, too, that besides the natural disproportion between capital and its means of employment, Canada is subject to an additional disadvantage; namely, that a very large proportion of the accumulations of its capital derived from the profits of its trade, are withdrawn from the Province by capitalists who reside here, and who do not, as the American merchants and capitalists do, seek employment of their accumulations in the country in which they have been made.

With the view of obviating in some measure the disadvantage under which these circumstances place the people of Canada, the Legislature of the Province passed two Acts; one in 1843 the other in 1845, creating the necessary powers for the establishment of a company which should employ its capital in loans in Canada, and the Crown completed the measure by the grant of a Royal Charter in November 1845.

In the state of the money-market which existed in this country when the measure was set on foot in 1843 and 1844, there was sufficient difference between the rate of interest here, and even the legal rate of interest in Canada, to render the operations of such a company remunerative, as you will see by the enclosed report of Mr. Saward. At the present moment the difference is almost annihilated; for the extension of railways, with the failure of the harvests of Europe this year and partially last year, and the losses to private individuals resulting from the recent rage for speculation, have necessarily created a pressure and demand for capital, and led to an advance in the rate of interest throughout Europe and even in the United States, while in Canada the legal rate with which the powers of the company alone permit it to deal, is compulsorily stationary under the laws proposed for repeal; hence the Company's prospects of success are for the present diminished, and with them, the degree of benefit proposed to be extended to Canada by its operations. The legal rate in Canada is stationary, but the case above referred to shows how much that rate is below the actual rate, and how obviously mischievous and worthless are the laws in question.

I have endeavoured to state as shortly as possible the considerations connected with the subject; but this letter is still, I find, longer than I could wish, while much that might be said is omitted. I will now, therefore, only refer you to the annexed account, exhibiting a statement from which may be inferred the power of the people of Canada to pay a rate of

interest on loans, bearing a just proportion to the ordinary rate of profit on capital, and that such a rate is very much higher than the rate unwisely prescribed by the existing laws of the Province.

J. MacGregor, Esq.
&c. &c. &c.

Believe me, &c.
(signed) *Robt. Shank Atcheson.*

(No. 3.)

(Private.)

My dear Sir,

Kingston, 24 January 1844.

I CANNOT allow you to leave for England without expressing to you the deep interest I feel in the success of your efforts for the establishment of the Trust and Loan Company, lately incorporated by the Provincial Parliament. That it must prove of great advantage to the country, if established and conducted as you propose, it is impossible for me to doubt; nor can I doubt that it is equally calculated to afford the means of advantageous investment to the capitalists who shall become parties to the company itself. As to the political condition of the colony, I do not hesitate to say, that I see nothing in it that ought to shake the confidence of British capitalists in the entire security of investment here, either on public or approved private credit. Generally speaking, the tone of our present discussions relative to the late ministerial crisis, is decidedly moderate, and certainly no part of the language or conduct of any of our leading men, or of any portion of our community, is of a character to give occasion, even to the most cautious, for apprehending the probable occurrence of any check to the steady advancement of the Province in wealth and prosperity. Least of all can any reasonable man, in my judgment, see in what is passing the least ground for doubting the entire security of private property, or the punctual fulfilment of obligations of a pecuniary nature.

Wishing you a prosperous voyage and speedy return to us,

R. S. Atcheson, Esq.
&c. &c. &c.

Believe me, &c.
(signed) *D. Daly.*

(No. 4.)

EXTRACT from a Letter from *John A. Macdonald*, Esq., M. P. P. for the City of Kingston; dated 14th October 1845, to Mr. *Atcheson*.

WE are in expectation of seeing you shortly. The anxiety for the Trust and Loan Company amounts to a fever; and I am convinced that if our laws allowed it, an almost unlimited amount might be at seven and eight per cent. As it is, I shall shortly be ruined in paying the postage of the numerous applications which come directed to me.

(No. 5.)

EXTRACT from a Letter from *Charles Stuart*, Esq., Registrar of the County of and Nephew of Sir *James Stuart*, Bart., the Chief Justice of Lower Canada; dated Kingston, 11th September 1845.

I BELIEVE that I am not guilty of exaggeration when I say, that there is a most anxious feeling throughout the whole Province regarding the Trust and Loan Company, which, if you succeed in establishing on a firm basis, will cause you for ever to be considered one of the greatest benefactors the Province has ever had.

(No. 6.)

Dear Sir,

Kingston, 15 January 1844.

THE Trust and Loan Company, for the formation of which you were instrumental in obtaining an Act of our Provincial Legislature in the last Session, will, in my opinion, be a most useful establishment in Canada, and be the means of providing safe and profitable investment for a very large amount of British capital.

You are, I understand, in possession of much statistical information respecting Canada; so that you will have no difficulty in showing the great and rapid increase in wealth and population which is constantly taking place here; and that increase will, most unquestionably, be greatly promoted by the facilities which the Company will have it in their power to afford to the enterprize and industry of the Province.

I am, &c.
(signed) *George Okill Stuart*,
Archdeacon of Kingston.

—No. 2.—

COPY of a LETTER from *B. Hawes, Esq.*, to *R. S. Atcheson, Esq.*

Sir,

Downing-street, 5 April 1847.

No. 2.

I AM directed by Earl Grey to acknowledge the receipt of your letter of the 20th ultimo, with its several enclosures, on the subject of the Usury Laws in force in Canada, and the obstacle which they present to the influx of capital into the Province; and I am to acquaint you, that his Lordship will forward your representation on this subject to the Governor of Canada, with instructions to him to consult his Executive Council as to the propriety of proposing to the Legislature of the Province a repeal of the laws in question. His Lordship will further express to the Governor his own opinion in favour of the repeal of those laws.

B. Hawes, Esq., to
R. S. Atcheson,
Esq., 5 April 1847.

I have, &c.
(signed) *B. Hawes.*
