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No. 151.

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1st Session, 5th Parliament, 18th Victoria, 1854.

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## BILL.

An Act to define and limit Seigniorial Rights, to facilitate the redemption thereof, and to abolish all *lods et ventes* or fines upon the mutation of lands held *en roture* in Lower Canada.

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Received and Read First time, Friday,  
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Second Reading, Tuesday, 24th October,  
1854.

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(1500 Copies.)

Hon. Mr. Atty.-Genl. DRUMMOND.

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S. Derbishire & G. Desbarats, Queen's Printer.

1151

1854.]

**BILL.**

[No.15].

An Act to define and limit Seigniorial Rights, to facilitate the redemption thereof, and to abolish all *lods et ventes* or fines upon the mutation of lands held *en roture* in Lower Canada.

**W**HEREAS it would be advantageous to facilitate the commutation of the tenure of lands held *en roture* in the several Seigniories of Lower Canada, and to ensure such commutation within a reasonable time, by more ample and effectual Legislative provisions than are now in force; And whereas considerable time must necessarily elapse before the tenure of all such lands will be commuted, and it is therefore desirable to define and limit the Seigniorial Rights to which such lands will, in future, be subject, and at once to abolish the right to mutation fines (*lods et ventes*), exclusive rights to flowing waters, and other privileges which constitute barriers to improvement and taxes on industry and enterprise: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

Preamble.

I. The Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act the better to facilitate optional commutation of the tenure of lands en roture in the Seigniories and Fiefs in Lower Canada, into that of franc-aleu roturier*, and the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Act passed in the eighth year of Her Majesty's Reign, intituled, 'An Act the better to facilitate optional commutation of the tenure of lands en roture in the Seigniories and Fiefs in Lower Canada, into that of franc-aleu roturier,'* shall be and they are hereby repealed.

Former commutation repealed.

**UNCONCEDED LANDS.**

II. Every Seignior who possesses within his *censive* any wild lands, shall be entitled to dismember from such wild lands and to reserve for his own private use, and as his absolute property, to be held by him, his heirs, successors and assigns, in *allodium (en franc aleu)*, a domain which shall not consist

Domain granted to the Seignior and limited.

of more than two hundred and fifty superficial arpents if the *censive* is less than two square leagues in extent, of not more than five hundred arpents if the *censive* is more than two square leagues but less than three square leagues in extent, and of not more than one thousand arpents if the *censive* is more than three square leagues and less than six square leagues in extent, and of not more than fifteen hundred arpents if the *censive* is more than six square leagues in extent; Provided always, that Seigniors who have already domains within their *censives* intended for their private use, of the extent or exceeding the extent so allowed to be reserved, shall not have the right of reserving for such use any part of the wild and unconceded lands in the same *censive*, and that Seigniors whose domains, already reserved for their private use, are under the said extent, shall have the right to reserve only so much of the wild lands in the said *censive* as will complete the said extent; And provided also, that the Seignior shall take all such lands for such domain, in one lot, except in Seigniories in which at least one third of the lands are still unculivated, in which case it shall be lawful for him to take one or several parts of such domain separately, but not at a less distance than one league and a half from each other; and in Seigniories in which there is not a sufficient extent of wild lands bordering on the domain already reserved for the use of the Seignior, if such domain be less than the extent to which he is entitled, he may complete the quantity from any other part or parts of his Seigniorie in which there are yet wild and unconceded lands: And provided also, that all lands which the Seignior or his predecessors (*auteurs*) shall have actually improved and of which he shall be in possession when this Act comes into force, shall remain his absolute property, to be held by him, his heirs and successors, in *alodium (en franc alev)*, but the extent thereof shall be deducted from the extent which he is hereby authorized to reserve for his own use as domain.

Proviso. 10

Proviso. 15

Proviso. 20

Proviso. 25

Proviso. 30

Unconceded lands not taken as domain to be vested in the Crown.

III. No land shall be validly conceded by any Seignior after the passing of this Act, and any Deed of Concession made after that time shall be *ipso facto* null and void; the unconceded lands in any Seigniorie, except those which the Seignior shall take for his domain as provided in the next preceding Section, shall by virtue of this Act become *ipso facto* vested in the Crown, and shall be dealt with as other Crown Lands in Lower Canada, except in so far as it is otherwise expressly provided by this Act.

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Crown substituted for Seignior as regards re-union of lands to the Domain for non settlement.

IV. The right reserved by any Seignior in any Deed of Concession, or vested in him by law, of re-uniting to his Domain any conceded lands upon failure of the party holding the same to keep heartli and home (*feu et lieu*) thereon, or to perform any other duty of settlement, shall, by virtue of this Act, be converted into a right vested in the Crown, of suing the holder of

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such lands upon such failure, in order that the same may be declared re-united to the unconceded lands in such Seignior and vested in the Crown, subject to the rights of the Seignior and of the Creditors of the holder in and in regard of such lands.

V. The unconceded lands in any Seignior vested in the Crown by the third Section of this Act, shall be ascertained and valued by the Commissioner making the Schedule hereinafter mentioned with regard to such Seignior; and the Seignior's rights in such lands shall also be valued by him, and the description, the total value of the lands, and the value of the Seignior's rights in them, shall be entered by the Commissioner in such Schedule; And so soon as the Schedule of the Seignior is deposited in the Office of the Receiver General as hereinafter provided, the Commissioner of Crown Lands shall cause Letters Patent to issue in favor of the Seignior, granting to him in *alodium (en franc aleu)*, an extent of such lands sufficient, according to the value thereof ascertained as aforesaid, to compensate him for all his rights in the whole unconceded lands in the Seignior, with an additional allowance for interest, at the rate of six per centum per annum, from the date of the passing of this Act until the date of such Letters Patent.

Unconceded lands to be valued.

Seignior to have a portion assigned to him equal in value to his rights in the whole.

## DEFINITION OF SEIGNIORIAL RIGHTS.

### MILLS, WATER POWERS AND BANALITY.

VI. And whereas divers Seigniors, Proprietors of Fiefs in Lower Canada, have imposed on lands conceded by them, rents exceeding those at which such lands ought to have been conceded according to the ancient Laws of the Country, and have burthened the said lands with various reserves, charges and conditions which impede industry, delay the settlement of the Country and check the progress of its inhabitants; And whereas it is just to remedy such abuses—Be it enacted, That no Seignior shall hereafter be entitled to any right in or upon the waters of any river, lake, pond or stream, other than the right of the riparian owner upon the waters which flow through or by or lie within the lands of which he is the owner in possession of the right of soil (*domaine utile*) thereof; and any agreement made, before the passing of this Act, between the Seignior and the proprietor who has or who had at the time of such agreement, or who obtained by virtue of the instrument containing such agreement, or of some instrument of subsequent date, the *domaine utile* of any land held by him *à titre de cens* in any Seignior whatsoever, with the view of depriving the proprietor of the right of building mills, whether grist or saw mills, or of using such waters for other manufacturing establishments (*autres usines*), or other purposes, is hereby declared to be null; and every such agreement shall, to all intents and purposes, be

Recital.

Rights of the Seignior in waters defined and limited.

Contrary agreements null.

hereafter considered as not having taken place, whether the same be stipulated hereafter or made before the passing of this Act.

Right of Banality defined.

VII. The right of the Seigneur to require the *ceusitaire* to carry his grain to the Seigniorial (*banal*) mill to be there ground, on paying to the Seigneur the ordinary toll for the grinding of such grain, shall hereafter be considered as applying to no other grain than such as is grown on lands held *à titre de cens* in the Seignior in which such *banal* mill is situate, and is intended for the use of the family or families occupying such lands. 10

Seignior compellable to have sufficient Mills.

VIII. Every Seigneur having more than one hundred *ceusitaires* holding lands in his *ceusive*, and who, after the expiration of two years from the passing of this Act, shall not have constructed at least one sufficient *banal* mill for the grinding of the grain in his Seignior, and every Seigneur who, after the expiration of two years from the period in which there shall be more than one hundred *ceusitaires* holding and settled upon lands in his *ceusive*, shall not have constructed such mill, after having been thereunto required according to law, six months previously, shall, as well as his heirs and representatives for ever, forfeit his right of banality in such Seignior; and it shall then be lawful for any person to construct one or more mills for the grinding of grain in the said Seignior, and to grind or cause to be ground in any such mill all grain brought thereto, without being liable to be disturbed by the Seigneur as such, in the enjoyment of the said rights; but no such person shall be entitled to exercise the right of banality with respect to any mill so constructed. 15 20 25

Forfeiture of Banality for default.

Seignior compellable to keep his Mills in proper order.

IX. And whenever a *banal* mill shall not be in proper order, or shall be insufficient for the grinding of the grain belonging to the *ceusitaires* of the Seignior, any *ceusitaire* settled upon any land in such Seignior shall be entitled to sue the Seigneur of such Seignior before the Superior Court sitting in the District in which such mill is situate, for the purpose of obliging him to repair such mill, or to place it in such a state as will make it sufficient for the wants of the *ceusitaires*; and it shall be lawful for the said Court to proceed and give such judgment in every such action, as to law and justice shall appertain. 30 35 40

Lands taken for Mill Sites must be used as such within a certain time.

X. And whenever the Seigneur has taken or shall take an emplacement from any other property within his *ceusive* than that whereof he had or has the *domaine utile*, for the purpose of constructing thereon a *banal* mill, he shall commence to construct the same within six months, and complete the same within two years from the date of his taking possession of the said land, or of the passing of this Act, if the said emplacement was taken before the passing thereof; in default whereof the *ceusitaire* shall re-enter into possession as proprietor of the said 45

emplacement on reimbursing to the Seigneur the sum received by him therefor and the value at that time of the improvements made thereupon by the seignior.

HONORARY RIGHTS, PRE-EMPTION (RETRAIT), RENTS,  
HYPOTHECARY PRIVILEGES.

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XI. No Seigneur shall hereafter be entitled to any honorary distinction or privilege purely personal, arising out of his quality of Seigneur. No payment for honorary rights.

XII. No Seigneur shall hereafter exercise the conventional right of pre-emption (*retrait*); Retrait abolished.

XIII. No *censitaire* or occupier of land in any Seigniorry conceded before the passing of this Act, except building lots in a city, town or village, and land situate in the *banlieue* of any town or city, shall be required to pay as annual Seigniorial rent (and *cens*) to fall due hereafter, any sum of money or other value exceeding the sum of one penny currency for each superficial arpent of the land occupied by him *à titre de cens*, notwithstanding any stipulation to the contrary made by himself or by his predecessors. Rents limited to 1d. per arpent.

XIV. All Seigniorial dues payable annually in personal labour (*corvées*), grain, or otherwise than in money, shall hereafter be paid in money, at the price which the same shall be worth at the time the said rents shall fall due, and shall (including the *cens*) be reduced to one penny currency for each superficial arpent of the land upon which the same shall be charged, in the same manner as rents payable in money. Rents in kind reduced to the same rate.

XV. No sale under Writ of Execution (*par décret*) shall have the effect of liberating any immovable property held *à titre de cens*, and so sold, from any of the rights, charges, conditions or reservations established in respect of such immovable property in favor of the Seigneur, and allowed by this Act, but every such immovable property shall be considered as having been sold subject thereafter to all such rights, charges, conditions or reservations, (except in so far as they may exceed those allowed by this Act,) without its being necessary for the Seigneur to make an opposition for the said purpose before the sale. No opposition to be filed for Seigniorial Rights.

XVI. If notwithstanding the provisions of this Act, any opposition *afin de charge* be made hereafter for the preservation of any of the rights, charges, conditions or reservations mentioned in the next preceding section of this Act, such opposition shall not have the effect of staying the sale, and the Opposant shall not be entitled to any costs thereon, but it shall be returned into Court by the Sheriff after the sale, to be dealt with as to law may appertain. Opposition if made to be a nullity.

- Prescription of Seigniorial arrears. XVII. The privileges and preferences granted by law to Seigniors, or stipulated in any Deed of Concession, to secure to them the payment of the Seigniorial rights which shall hereafter become due, shall only be exercised for arrears which shall have fallen due during the five years next preceding the exercise of such privileges and preferences. 5
- Certain stipulations only in Deeds of Concession to be valid. XVIII. All stipulations in any Deed of Concession, new title Deed or Recognizance (*titre-nouvel ou reconnaissant*) made before the passing of this Act, in so far as such stipulations tend to establish in favor of the Seignior upon any land conceded *à titre de cens*, with the exception of land conceded as a city, town or village lot, or situate in the *banlieue* of any town or city, any rights, charges, conditions or reservations other than or exceeding the following, are, with respect to such excess or difference, hereby declared null and void, namely: 15
- Settlement. 1st. The obligation to keep hearth and home *feu et lieu* on the land conceded.
- Survey. 2ndly. That of surveying and bounding the land conceded, at the expense of the *cessionnaire*.
- Paying rent. 3rdly. That of paying the rent and *cens* stipulated in the Deed of Concession, provided they do not exceed the sum of one penny currency for each arpent in superficies of the land conceded, and in the event of their exceeding that rate, the stipulation shall be reduced to the said sum of one penny, in respect of any rent hereafter to fall due. 20 25
- Bannality. 4thly. That of grinding at the Banal Mill the grain grown on the conceded land, and intended for the use of the family or families occupying the same.
- Taking land for Mill sites. 5thly. The right of the Seignior to take in any part of his *censive* whereof the tenure shall not have been previously commuted, and as often as the case may happen, a parcel of land for the construction of a Banal Mill and its dependencies, not exceeding six superficial arpents, on payment by him to the proprietor of the value of the land and improvements made thereon. 30 35
- Saving clause. 6thly. But nothing herein contained shall be construed to subject any land to any of the said charges, if it be not subject thereto before the passing of this Act.

## COMMUTATION.

### WHAT RIGHTS SHALL BE REDEEMABLE.

- Commutation optional to censitaires. XIX. And be it enacted, That it shall be lawful for the owner of any land held *en roture* in Lower Canada, to free the 40



said land from all Seigniorial rights recognized by this Act to be redeemable (*rachetables*) as being due or payable to the Seignior, proprietor of the Seigniority in which such land is situate, on paying the price of the redemption (*rachat*) of such rights, as hereinafter provided.

XX. The only Seigniorial rights and dues on which a money value can be set, and recognized by this Act to be redeemable as such, are the following : What right shall be paid for :

1. All fixed rights, that is to say : all annual Seigniorial rents (*redevances*) consisting in money, grain, fowls, provisions or fruits of the earth, or in personal labour (*corvées*), payable under the name of Seigniorial *cens et rentes*, or under any other name whatsoever, which are only payable or due by the owner or holder of the land so long as he is the owner or holder thereof, and according to the length of time during which he is in possession. Cens et rentes.
2. The right of Banality as hereinbefore defined. Banality.
3. All casual rights, which are due under the name of *lods et ventes*, or of any other designation whatsoever, upon mutations in the property or in the possession of any land. Mutation fines.

#### WHAT SUMS SHALL BE PAID FOR REDEMPTION.

XXI. It shall be lawful for the Governor to appoint Commissioners under this Act, in each of the judicial Districts in Lower Canada in which there are Seigniories, and from time to time to remove them, and to appoint others in the place of any so removed, or dying or resigning office ; and each of the said Commissioners shall, before entering upon the duties of his office, take and subscribe, before a Judge of the Superior Court, the following oath :

“ I, \_\_\_\_\_, swear that I will faithfully and without partiality, fear, favor or affection, perform my duty as Commissioner under the Act, *An Act, &c.*, (*insert here the title of this Act*”). Oath of Office:

XXII. The said Commissioners shall receive for their services under this Act, and for their necessary expenses and disbursements, such compensation as shall be allowed to them respectively by the Governor, and no other fees or emoluments whatsoever. Remuneration of Commissioners.

XXIII. It shall be the duty of each of the said Commissioner to draw up a Schedule in tabular form, in triplicate, of all lands held *en roture*, in each Seigniority within the territorial limits (*arrondissement*) which shall be specially assigned to him for that purpose by the Governor, exhibiting the price at which the Schedule to be made for each Seigniority and what it shall contain.

Seigniorial rights with which each of the said lands is charged, may be redeemed, shewing in each *arrière-fief* the portion of the said price to which the Seigneur of whom such fief is held, is entitled; distinguishing the price of redemption of the annual rights and charges from that of the right of banality, and both from that of the casual rights, and describing each land by the number which it bears in the land-roll (*papier-terrier*), or on the plan of such Seignior, or if there be no such land-roll or numbered plan, then by the name of the proprietor or actual occupier, or if the land be not occupied then in any other manner he shall deem expedient, each parcel of land originally conceded as a separate lot, or actually owned at the time of making such Schedule by a separate person or party, being considered to be a 'land' within the meaning of this Section. The Commissioners shall also ascertain, enter and describe in the said Schedule, the Domain reserved by the Seigneur, and the unconceded lands in the Seignior remaining after deducting such Domain, and shall value the said last mentioned lands, and also the Seigneur's rights therein, as hereinbefore mentioned, and shall enter such values respectively in the said Schedule; and the Seigneur shall point out to the Commissioner the Domain he intends to reserve under this Act, or, if he fails so to do, the Commissioner shall assign such Domain, and describe the same in the schedule, and it shall not afterwards be varied or changed.

Domain to be described.

Commissioners to assign Domain in default of Seigneur to point it out.

Rules of computation to be observed by Commissioners.

Rents how valued.

If payable in kind.

Total rents limited.

XXIV. In order to determine the price at which each land may be freed from the said Seigniorial rights, each of the said Commissioners shall observe the following rules, namely:

1. To establish the price of redemption of the annual rents and charges, (*redvances*), a valuation shall be made of the total annual amount derived therefrom, and the said amount shall represent the interest at six per cent. of the capital sum which shall be the price of redemption; and if any of such rents or charges be payable in grain, fowls or other provisions or fruits of the earth, an average year of their value shall be computed according to the average price of articles of the same nature, taken from the books of the merchants nearest to the place, or ascertained in any other manner; to establish such average year, the fourteen years immediately preceding the period at which the valuation is made, shall be taken, the two highest and the two lowest shall be struck out, and the average year shall be established on the ten remaining years; the value of personal labour, (*corvées*) shall be estimated in the same manner; but the total price of redemption of annual rents and charges, shall in no case be calculated at a higher rate than one penny per annum for each superficial arpent of the land subject thereto, unless the said land be a city, town or village lot, or situate in the *banlieue* of a town or city, in which case the price of redemption shall be calculated upon the whole amount of the said annual rents and charges.

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2. To establish the price of redemption of the right of banality an estimate shall be made of the probable decrease (if any) in the annual profits of the banal mills, to arise from the total commutation of the right of banality and from all the *censitaires* being freed therefrom ; the amount of the said estimate shall represent the interest at six per cent of the capital which shall be the price of redemption of the banality for the whole of the Seignior ; and the said capital shall be apportioned among all the lands subject thereto, according to their superficial extent.
- Valuation of Banality.  
To be apportioned on lands according to extent.
3. In order to establish the price of the redemption of the casual rights, an average year shall be computed of their value in each Seignior upon the ten years immediately preceding the passing of this Act, and the amount of the valuation of the said average year shall represent the interest, at six per cent per annum, of a capital sum equal to the value of the said casual rights for the whole of the Seignior, if paid or converted into a constituted rent immediately ; the Commissioner shall then calculate what sum payable without interest, and in separate portions as the cases occur, in the manner mentioned in Section will be equal in present value to the said sum if so paid or converted immediately ; and the sum ascertained by such calculation shall be the capital sum representing the said casual rights, and shall be apportioned among all the lands, according to their value, which value shall be determined by the assessment or valuation roll of the Municipality in which each land is situate, or in the absence of such assessment or valuation roll, or with regard to any land upon which no separate value shall be therein assessed, in such other manner as the Commissioner shall deem it expedient to adopt.
- Valuation of mutation fines.  
To be apportioned on lands according to their value.
4. And in order to establish the share to which a Seignior *dominant* is entitled in respect of any *arrière-fief*, the Commissioner shall estimate the value of the *Domain directe* of the Seignior *dominant* in and upon such *arrière-fief*, and shall make an apportionment of the amount thereof upon all lands situate in such *arrière-fief*, according to their value.
- Share of any Seignior dominant.
- XXV. When the price of redemption of the Seigniorial right on one or more lands shall have been fixed by a Notarial Deed of Agreement (*Acte d'Accord*) between a Seignior and one or more *Censitaires*, and an authenticated copy of such Deed of Agreement shall have been deposited in the hands of the Commissioner, the said Commissioner shall enter the said price upon the Schedule of the said Seignior, and shall write in the margin, opposite thereto, the words *Acte d'Accord*.
- When the Price of Commutation is fixed by agreement.
- XXVI. Before beginning to prepare the Schedule for any Seignior, the Commissioner entrusted with that duty, shall give public notice of the place, day and hour, at and on which he will begin his inquiry ; and all such notices shall be made by publications in the English and French languages, at the
- Notice to be given by Commissioners.

door of every parish Church situated in such Seigniorly, during two consecutive Sundays at the conclusion of divine service in the forenoon, or by placards in both languages, posted during a fortnight in the most frequented place of any parish or settlement, in which there shall be no church. 5

They may enter on lands to examine their value.

XXVII. It shall be lawful for each of the said Commissioners to enter upon all lands situate in the Seigniorly the Schedule whereof is to be made by him, in order to make such examination thereof as may be necessary and useful to assist him in establishing the price of redemption of the Seigniorial rights due thereon, without his being subject in respect thereof to any obstruction or prosecution, and with the right to command the assistance of all Justices, Peace Officers and others, in order to enter and make such examination, in case of opposition. 10

Their powers as to examination of witnesses and evidence.

XXVIII. The said Commissioners and each of them separately, shall have full power and authority to examine on oath any person who shall appear before them or any of them, either as a party interested or a witness, and to summon before them or any of them, all persons whom they or any of them may deem it expedient to examine upon the matters subject to their consideration, and the facts which they may require to ascertain in order to carry this Act into effect, and to require any such person to bring with him and produce before them or any of them any Book, Paper, Plan, Instrument, Document or thing mentioned in such Summons and deemed necessary for the purposes of this Act; and if any person so summoned shall refuse or neglect to appear before them or before the Commissioner who shall have summoned him, or appearing shall refuse to answer any lawful question put to him, or to produce any Book, Paper, Plan, Instrument, Document, or thing whatsoever which may be in his possession, and which he shall have been required, by such summons, to bring with him or to produce, the said Commissioners, or such one of them as shall have issued the summons, may order the said person, if not present, to be apprehended and brought before him or them, and when such person is present or is apprehended, may in his or their discretion commit such person to the Common Gaol of the District, for a period not exceeding one calendar month. 15 20 25 30 35

Punishment of witnesses refusing to appear or answer, &c.

Experts may be appointed in certain cases.

Where the rules for valuation may be deemed inapplicable.

XXIX. Whenever the Commissioner charged with the making of the Schedule of a Seigniorly shall be of opinion that the rules prescribed in this Act for determining the price at which the lands therein may be released from Seigniorial rights, do not form an equitable basis for the valuation of such rights in such Seigniorly, or when the Seignior, or not less than twelve *Censitaires* of the said Seigniorly, shall call upon the said Commissioner in writing, within a period not exceeding eight days after the day fixed for the commencement of the investigation by the Commissioner, requiring that *experts* be appointed to determine the price of redemption of the said Seigniorial rights, the said 40 45

Commissioner shall call a public meeting of the proprietors of lands in the Seignior, at such place therein; and on such day and at such hour as shall be specified in the public notice thereof, which he shall give in the manner prescribed by this Act for the commencement of his investigation, for the purpose of appointing two *experts*, one of whom shall be appointed by the Seignior and the other shall be elected by the majority of the *Censitaires* present at such meeting; and in case the Seignior shall not be present at the said meeting, or being present, shall refuse or neglect to appoint an *expert*, the said Commissioner shall appoint one on behalf of the Seignior, and such *expert* shall have the same powers as he would have had if he had been appointed by the Seignior.

2. The two *experts* so appointed shall have and exercise the same powers with respect to the valuation of the Seigniorial rights and the apportionment of the value thereof upon the several lands therein in the manner aforesaid, as could be exercised by the Commissioner himself, except that they shall not be bound by the rules aforesaid; and the sum which shall be established by the said *experts* as the price of the redemption of the rights due upon each land, shall be entered in the Schedule by the Commissioner; but in case the two *experts* shall not agree as to the price of redemption of the said rights in any case or cases, the Commissioner shall *ex officio* intervene as umpire (*tiers-expert*), and in such case the sum fixed by him as the price of the redemption of the said rights, shall be entered in the said Schedule, opposite the land or lands in question; and the Commissioner shall enter in the margin opposite to the said price the word "*expertise*."

3. Provided that when the Seignior and the *Censitaires* shall agree to appoint and elect, or shall appoint and elect one and the same *expert*, such sole *expert* shall have the same powers as the two *experts* would have had, and his decision shall be final.

4. In the event of one of the said *experts* dying, becoming incapacitated, or refusing to act, the appointment or election of another in his stead shall be proceeded with in the manner above prescribed, excepting that it shall not be necessary to call a public meeting of the *Censitaires* for the appointment of an *expert* in the stead of the person representing the Seignior; but if the Seignior shall refuse or neglect during eight days to appoint another *expert*, after having been required so to do by the Commissioner, the Commissioner shall appoint an *expert* on behalf of the said Seignior.

5. The said *experts* shall be entitled to receive out of the funds provided by this Act, such fees as the Commissioner shall deem proper to tax, provided that they shall not exceed the sum of \_\_\_\_\_ for each day of necessary attendance. And

the said fees shall be paid by the Receiver General, or by any other person by him appointed for that purpose, upon the certificate of the Commissioner.

Time allowed  
for revision of  
Schedule.

Notice.

XXX. Each of the said Commissioners, immediately after the completion of the Schedule of a Seignior, shall give public notice in the manner prescribed by the Section of this Act, that such Schedule will remain open for the inspection of the Seignior and the *Censitaires* of the Seignior during the days following the said notice ; and it shall be lawful for every such Commissioner to correct any error and to supply any omission which may be pointed out to him by any of them, or which shall come to his knowledge in any other manner. 5

Correction of  
errors in  
Schedule.

2. It shall be lawful for the proprietor of any Seignior to appear either in person or by his agent, before the said Commissioner, for the purpose of having any error corrected which may have crept into the said Schedule ; and for the like purpose it shall be lawful for the *Censitaires* of any Seignior to appoint a trustee to represent them before the said Commissioner ; and such trustee shall be appointed by a majority of the *Censitaires* of such Seignior present at a meeting called for that purpose 20 by any three or more of the *Censitaires* thereof, public notice thereof having been previously given in the manner prescribed in the section of this Act.

Triplicates of  
the Schedule  
to be made  
and where to  
be deposited.

XXXI. As soon as the Schedule of a Seignior shall be revised and completed in the manner hereinbefore provided, 25 the Commissioner who shall have made it shall transmit a triplicate thereof to the Receiver General of this Province ; he shall deposit another triplicate in the office of the Superior Court in the District in which the Seignior is situate, or if such Seignior be situate in two Districts, then in the office of 30 the said Court in either of such Districts ; and shall retain the other triplicate in his hands until it shall be otherwise provided by law ; and he shall give public notice of his having so deposited the same, in the terms of the form annexed to this Act, or in other terms of like import, in the English and French 35 languages in the *Canada Gazette*, or other newspaper recognized as the Official Gazette of the Province, and in at least one other newspaper published in the District in which such Seignior is situate, or if there be no newspaper published in the District in which such Seignior is situate, such notice shall be so published in the nearest District wherein one or 40 more newspapers are published. And the Clerk of the said Court shall be required to furnish a copy of such Schedule duly certified in the usual form, to any person asking for the same, and he shall be entitled to demand *three pence* currency for every hundred words of such document.

Notice of  
deposit.

Copies to be  
furnished.

## PARTIAL COMMUTATION.

XXXII. It shall be lawful for the owner of any land held *en roture*, so soon as the Schedule for the Seigniority in which such land is situate shall be completed and deposited as aforesaid, 5 to redeem all the Seigniorial rights to which such land is subject, at the rate specified in such Schedule, without interest ; and such redemption shall be made in some one of the modes hereinafter provided, but not otherwise.

Owner may commute at price stated in Schedule.

XXXIII. It shall be lawful for any such owner to pay the price 10 of such redemption in money, to the Receiver General of the Province, or such officer as shall be appointed by him to receive the same, who shall give and deliver to the said proprietor, or to his duly authorized agent, a receipt and certificate, drawn up in the terms of the form to this Act annexed, or in 15 terms of like import : Provided always, that whenever the Seigniority in which such land is situate, is entailed or held by a Tutor, Curator or usufructuary proprietor (*usufruitier*) it shall not be lawful to redeem such rights in the manner provided by the present section, but in every such case the redemption shall 20 be made in the manner provided by one or other of the two next following sections.

To whom the price shall be paid.

Proviso : as to substitution &c.

XXXIV. It shall be lawful for any such owner, if the land charged with the rights which he is desirous of redeeming, is situate in an *arrière-fief* held (*relevant*) immediately of a Seig- 25 nior other than the Crown, to effect a redemption of the said Seigniorial rights on paying to the said Receiver General or his representative, that part of the said price of redemption, which represents the rights of the seignior *dominant* in and upon such *arrière-fief*, and in such case, the said Receiver General or his 30 representative shall give and deliver to such owner or to his agent a receipt and certificate in the terms of the form to this Act annexed, or in words of similar import ; and from the day of the date of such receipt and certificate, the balance of the said price of redemption shall be *ipso facto* (*de plein droit*) 35 converted into a constituted rent, (*rente constituée*) redeemable at any time, except in cases where under the proviso to Section the price of redemption cannot be paid in money, and payable each and every year to the Seignior of the Seigniority in which such land is situate, at the same period as the annual 40 rents (*redevances*) which it shall represent in part, until it shall be redeemed in full by the payment of the capital.

How commutation shall be effected in such cases of substitution &c.

Rent constituted in such cases.

XXXV. It shall be lawful for any such owner, if the land charged with the Seigniorial rights which he is desirous of redeeming, is situate in a Seigniority held (*relevant*) imme- 45 diately of the Crown, to redeem the same by making, either personally or by his agent, to the said Receiver General or his Representative, a declaration of his desire to avail himself of this Act to redeem the said rights ; and in such case, the said Receiver

If the land to be commuted is in a Seigniority held immediately of the Crown.

General or his representative, shall give and deliver to such proprietor or his agent, a certificate in the terms of the form to this Act annexed, or in words of like import, and, from the day of the date of the said certificate, inclusively, the price of redemption of the said rights shall be *ipso facto (de plein droit)* converted into a constituted rent, (*rente constituée*) redeemable at any time, and payable each and every year to the Seigneur of the Seigniorship in which such land is situate, at the same period as the annual rents (*redevances*) which it represents, until it shall be redeemed by the payment of the capital. 5 10

Commutation of portion of any land on the whole of which a price is fixed in the schedule.

XXXVI. Whenever, after the drawing up of a Schedule, any land whatsoever indicated in such Schedule shall be subdivided, it shall be lawful for the Receiver General, or his representative, to receive the price of redemption of the Seigniorial rights on any portion thereof, and to grant a certificate thereof, when the said price of redemption of the Seigniorial rights on such portion shall have been established by a Deed of Agreement or other authentic document executed between all the owners of the land and the Seigneur, and a copy whereof shall have been deposited in the hands of the Receiver General or his representative; and if the owner of a portion of any land so subdivided, shall not be able to obtain the execution of such Deed of Agreement, he may redeem the Seigniorial rights on the whole of the land, by paying to the Receiver General or his representative, the total amount of the price of redemption, and recover in any Court of competent jurisdiction, from the owners of the other portions of the land, a portion of the said price proportionate to the extent and value of the subdivisions which they respectively possess. 15 20 25

Commutation before the schedule is completed and deposited,

XXXVII. It shall be lawful for the Receiver General or his representative, before the deposit of the Schedule, to grant a certificate in the terms of the form annexed to this Act, or in words to the like effect, to any *censitaire* who shall produce a certificate signed by one of the said Commissioners, establishing the price of the redemption of the Seigniorial rights on the land which such *censitaire* is desirous of liberating from such rights, as fixed by a Deed of Agreement, and who shall pay to him at the same time the amount fixed by such Deed of Agreement; and also to any *censitaire* who shall produce a certificate signed by one of the said Commissioners, establishing the amount of the capital representing the annual rents of the land which the said *censitaire* is desirous of liberating from the Seigniorial rights, and shall pay to him the amount so certified, together with an additional to represent the other Seigniorial rights, but the said Seigneur or the said *censitaire*, as the case may be, shall be entitled to recover the difference which may exist between the said one third so paid and the price to be established thereafter by the said Commissioner, for the redemption of the said other Seigniorial rights. 35 40 45 50



COMPULSORY COMMUTATION IN CERTAIN CASES, AND  
ABOLITION OF *LODS ET VENIES*.

XXXVIII. No *lods et ventes* shall accrue or be payable on any mutation in the ownership of any land held *en roture*, by virtue of a Deed (*acte*) bearing date after the passing of this Act, but any mutation in the ownership of such lands, which without this Act would have carried *lods et ventes*, shall have the effect of converting *ipso facto* the price for which the Seigniorial rights on such land may be redeemed into a constituted rent, redeemable at any time, (except in cases where under the proviso to Section the price of redemption cannot be paid in money,) and payable yearly to the Seignior at the same period as the yearly rents, until it shall be redeemed by the payment of the capital, and if such mutation be effected by a Deed bearing date before the deposit of the Schedule by which the price of redemption is to be fixed, then interest on such price from the date of such Deed to the date of that deposit of the Schedule, shall be payable to the Seignior.

No *lods et ventes* to accrue hereafter, but the mutation on which they would have accrued to operate as a commutation.

GENERAL COMMUTATION.

XXXIX. Whenever a petition stating that of the *cessitaires* of any Seignior are desirous of redeeming the seigniorial rights payable on the lands held by them *en roture* in such Seignior shall be submitted to the Governor, it shall be lawful for the said Governor to order any Notary whom he shall be pleased to name for that purpose, to ascertain on the spot in such way as the said Notary shall deem fit, whether in fact the of the *cessitaires* in such Seignior desire such redemption.

Petition of *cessitaires* to the Governor.

Notary to be appointed.

XL. it shall be lawful for the Notary thus named, to summon before him the Seignior of such Seignior, or his Agent, or any other person, and to require them to exhibit to him all plans, books, papers or documents, and to afford him all such information as he may consider needful for the due performance of the duties imposed on him by this Act; and any such person who shall refuse or neglect to exhibit such plans, books, papers or documents, shall incur a penalty of *Twenty Pounds* currency, recoverable with costs before any Court of competent jurisdiction, and payable one moiety to Her Majesty, and the other to the informant.

Proceeding by the Notary so appointed.

XLI. And as soon as the Secretary of the Province shall have received from the Notary so named a certificate setting forth, that in fact of the *cessitaires*, owners of lands situate in such Seignior, are desirous of redeeming the seigniorial rights payable on such lands, he shall publish in the English and French languages in the *Canada Gazette*, or other newspaper recognized as the Official Gazette of the Province, a notice in the terms of the form annexed to this Act, or in

Report of such Notary.

Publication of notice of general Commutation: words of similar import, making known the conversion of the said seigniorial rights due upon each of the lands situate in such Seignior, into a constituted rent (*rente constituée*) the capital of which shall be equal to the sum marked in the Schedule of such Seignior as the price at which the Seigniorial rights on such land may be redeemed.

Certified copy of schedule to be transmitted to the Seignior. XLII. And the Secretary of the Province shall, immediately after the publication of such notice, transmit to the proprietor of the Seignior in which the seigniorial rights shall be thus converted into constituted rents (*rentes constituées*), a copy of the Schedule of the said Seignior duly certified by the Receiver General of the Province, and from the day of the date of such notice inclusively, the said seigniorial dues shall be converted into constituted rents (*rentes constituées*) in the same manner as if each of the *cousitaires*, owners of lands in such Seignior, had received a Certificate from the Receiver General as provided by the section of this Act, and the Seignior shall continue to receive such constituted rents until they be redeemed. 15

#### EFFECT OF COMMUTATION.

Commutation to be a release from all Seigniorial rights. Arrears. XLIII. Every land with respect to which the redemption of the Seigniorial rights thereon, or the conversion of such rights into a constituted rent, shall have been effected, under the provisions of this Act, shall from the instant of the redemption or conversion of the said rights, be held in *franc-aleu roturier*, and be thereafter liberated from all Seigniorial rights; but the Seignior of whom the said land was held, shall be maintained, during five years only, in his privileges and hypothecs on the land, for the payment of all arrears of Seigniorial rights lawfully due at the time of such commutation and not prescribed. 20 25 30

#### APPLICATION OF MONEYS ARISING FROM THE REDEMPTION OF SEIGNIORIAL RIGHTS, &c.

Receiver General to appoint Deputies. XLIV. It shall be lawful for the Receiver General, for the purposes of this Act, to appoint one or more persons to represent him in any part of Lower Canada, and every such person shall from the day of the publication of his appointment in the *Canada Gazette*, have the same powers for the said purposes as the Receiver General himself. 35

Constituted Rents how redeemable. Provide: if the Seignior be entailed, &c. XLV. Every constituted rent (*rente constituée*) established by virtue of this Act, shall be redeemable at the option of the owner of the land by one payment, (including all arrears which shall not be prescribed,) in cases where the Seignior has the right of alienating such rent; but if the Seignior be entailed (*substitué*) or held by a tutor, curator or usufructuary proprietor (*usufruitier*), the rent and arrears only shall be received, and the principal sum shall become payable only in the cases 40 45

by law provided, or when the party to whom the rent is payable shall have power to alienate the Seigniori wherein it may be due; and no opposition shall be necessary to preserve such constituted rent in case of Sheriff's Sale or *decret* of the land, 5 except only as regards the arrears.

XLVI. All moneys arising from the redemption of Seigniorial rights under this Act, whether the same be paid as aforesaid to the Receiver-General, or remain as the principal of a constituted rent (*rente constituée*) or otherwise, shall 10 be held to be immoveable property by fiction of law, and deemed to be *propres* belonging to any party to whom the Seigniori in which such land is situate was *propre*, and shall accordingly be subject to investment, and may accordingly be invested with a proper declaration of *remploi*, on the security 15 of other lands, and being so invested shall be substituted for the rights they represent, and shall have the same destination as such rights would have had.

XLVII. Whenever any constituted rent (*rente constituée*) created under this Act shall be redeemed, the price of such 20 redemption shall also be paid over to the said Receiver-General; and every such constituted rent (*rente constituée*) shall be considered in matters of succession, and in judicial proceedings, and to all other intents and purposes whatever, as being a territorial right (*droit foncier*) attached to the domain of the Seigniori belonging to the Seignior to whom it is payable, and shall not be liable to be transferred, seized, sold, alienated, hypothecated or mortgaged apart from the said Seigniori, but shall form part of the same, and shall also be transferred, seized, sold, alienated, hypothecated, mortgaged and legally dealt 30 with along with the said Seigniori, shall have the same privilege *ex causa* as the right of the *bailleur de fonds*, and the like preference over all other hypothecary claims affecting the land, as any Seigniorial dues upon or arising out of such land would have had previous to the redemption of the said dues; but the 35 creditor shall not have the right to exact more than five years' arrears of any such rent.

XLVIII. If, after the expiration of three months, from the day of the receipt of the price of redemption of the Seigniorial rights due or payable on any land whatsoever, the proprietor of the 40 Seigniori in which such land is situate, produces to the Receiver-General a certificate, granted by the Clerk of the Superior Court for the District in which the Schedule relative to such Seigniori, or a triplicate thereof, is deposited, stating that there is no opposition to the payment of the said price of redemption, the said Receiver-General shall pay to the said Seignior 45 on his giving a duplicate receipt therefor, the amount of the said price with interest thereon, at six per cent per annum, to be computed from the date of the collection thereof.

Seigniors dominant and creditors of Seigniors must file oppositions to preserve their claims.

XLIX. Every proprietor of a Seignior who shall have within his *mouvance* another or several fiefs, and every hypothecary creditor of the proprietor of any Seignior the Schedule relative to which, or a triplicate thereof, shall be deposited in the office of the Clerk of the Superior Court in the District in which such Seignior or part thereof is situate, must for the preservation of his rights, file an opposition to the distribution of all moneys arising or which may arise from the redemption of the Seigniorial Rights in such Seignior, for the preservation of his rights; every such opposition shall be filed in the said office and have effect for thirty years, and if any such opposition be renewed within a less time than thirty years, the opposant shall only be entitled to the costs of one single opposition.

Persons representing others must file oppositions for them.

L. All minors, interdicted persons, *femes-couvert*, even in the case of dower not yet open (*non encore ouvert*), and all who have entailed rights, shall be also required, for the preservation of their rights, to file their opposition to the distribution of all such moneys in the manner provided in the section immediately preceding the present, but tutors, curators, husbands or others who shall have neglected to file such oppositions shall, nevertheless, continue to be responsible towards the persons under their charge or authority for any loss which may result from their negligence in the said behalf.

When there are oppositions money to be distributed by the Court when it amounts to a certain sum.

LI. So soon as and whenever the said Receiver General shall have received, either by himself or by his representative, an amount equal to or exceeding the sum of five hundred pounds currency, for the redemption of the Seigniorial Rights in any Seignior whatsoever as to which an opposition shall have been filed as aforesaid, or of the constituted rents which shall represent them, a certificate of the amount so received, together with a statement of the interest at six per cent per annum from the date of the receipt of the sums respectively, forming such amount, shall be deposited by him in the hands of the Clerk of the Superior Courts in the District wherein the Schedule relative to the said Seignior, or a triplicate thereof, shall have been deposited in the office of the Clerk of the said Court; and the said Court shall make the distribution of the said moneys among the creditors, according to the order of their hypothecs, and the preference of their respective privileges: and the Receiver General shall pay the same to the Clerk of the Court to be distributed according to such order, crediting any interest accrued since the deposit of the certificate to the same Seignior; but in every case, if the sums so received and deposited by the Receiver General or his representative, be for the price of the redemption of the Seigniorial Rights due upon the lands situate in an *arriere-fief*, the Seignior whereof is any other Seignior than the Crown, such Seignior *dominant* shall be entitled to receive, by privilege and preference over all creditors of the Seignior holding of him, the proportion of the price of redemption representing the rights due to him in his

quality of Seignior *dominant*, save and except the rights of the creditors of such Seignior *dominant* in and over the share of such sums coming to him.

LII. Provided always, That at the expiration of each and 5 every period of three years, to be reckoned from the day of the date of the deposit of the Schedule of any Seignior, in the office of the Prothonotary of the Superior Court as aforesaid, a certificate as aforesaid of any sum received during that period, notwithstanding it shall not amount to five hundred pounds, for 10 the redemption of the Seigniorial rights of any Seignior, or of the constituted rents (*rentes constituées*) representing them, shall be transmitted by the Receiver General to the Prothonotary of the Superior Court as above directed; and that when the whole of the amount of the price of redemption of the Seigni- 15 orial rights of any Seignior or of the constituted rents representing them, as established by the Schedule thereof, shall have been paid to the Receiver General, notwithstanding that a period of three years shall not have elapsed, and that the whole of the said price of redemption shall not amount to five 20 hundred pounds, a certificate of the sum so received shall be transmitted to the Prothonotary of the Superior Court, and the sum shall be distributed in the same manner, as if the same amounted to five hundred pounds.

The same when three years have elapsed or all the lands in the Seigniorie are commuted.

LIII. All persons holding in mortmain, corporations, tutors, 25 curators and administrators possessing lands held *en roture*, persons holding entailed lands the tenure whereof may be commuted with advantage to those whom they represent, may effect such commutation by paying the entire price of the redemption of the Seigniorial Rights with which such lands are 30 charged, out of the moneys of those whom they represent, or by validly binding those whom they represent to the payment of the constituted rent into which the balance shall be converted; Provided the tutors, curators, and usufructuary proprie- 35 tors (*usufruitiers*) and holders of entailed lands, observe the formalities required by law in the alienation of the property of the persons whose rights shall be represented by them; but persons holding in mortmain, and corporations shall not be required to observe any other formality, in or before the redemption of the said rights, than those prescribed by this Act.

Persons representing others may commute. Proviso.

LIV. And it shall be lawful for the several religious or 40 ecclesiastical communities, holding in mortmain Fiefs or Seigniories in Lower Canada, to invest from time to time, as they shall see fit, in any lands or tenements in this Province, or 45 in any public or private securities in the United Kingdom or in this Province, which they shall deem the most advisable of advantageous to their respective communities, any sums or money that may accrue to them from any commutation made or the redemption of any constituted rent created under this Act.

Investment of commutation monies by Religious Communities &c.

## INDEMNITY TO SEIGNIORS.

Recital.

LV. And whereas some of the powers formerly vested in the Governor and Intendant of New France, under the laws promulgated by the Kings of France, for the purpose of restraining all undue pretensions on the part of Seigniors, have 5 not been exercised since the cession of the country; and whereas differences of opinion have existed in Lower Canada, and conflicting decisions have been pronounced by the tribunals established since that time in reference to the character and extent of various Seigniorial rights; and whereas while 10 it is the duty of the Legislature to restore to persons continuing to hold lands *en roture*, (in so far as present circumstances will permit) the rights and immunities secured to them by law, as interpreted and administered at the last mentioned period, it is at the same time just that Seigniors who have legally or equitably acquired and enjoyed lucrative privileges, of which they will for the future be deprived by this Act, notwithstanding the enjoyment of such privileges may have been sanctioned by the said tribunals since they ceased to exercise the aforesaid powers, should be indemnified for the losses they will suffer 20 from the manner in which the rights to be hereafter exercised by Seigniors are defined by this Act; Be it therefore enacted, That it shall be lawful for any Seignior to lay before the Commissioners appointed for the Judicial District in which the Seigniors of such Seignior or the greater part thereof is situate, 25 or such three of them as may specially be designated by the Governor for that purpose, a statement in detail of the amount of loss sustained or thereafter to be sustained by him, by reason of his having been curtailed, limited or restrained by this Act, in the exercise of any lucrative privilege, or in the receipt of any rents or profits which as such Seignior he would have been entitled to exercise or receive before the passing of this Act. 30

Claim for indemnity how to be made to commissioners for the district.

Form of such claim and where to be filed.

LVI. Every such statement shall be filed in the Office of one of the Commissioners for the Judicial District in which the 35 Seignior in relation to which the Seignior claims to have sustained loss or the greater part of such Seignior is situate, and shall be addressed to the Commissioners of the said District, in the form of a Petition, in duplicate, intituled, "Petition for Indemnity," and praying the said Commissioners to determine the amount of indemnity to which the Petitioner is 40 entitled under this Act.

Duty of commissioner on receiving claim.

LVII. And it shall be the duty of such Commissioner to receive such statement or petition, and to transmit without delay, one duplicate thereof to the Secretary of the Province 45 for the time being.

Commissioners to

LVIII. It shall be the duty of the said Commissioners or such three of them as shall have been specially designated as afore-

said, to meet together for the purpose of taking all or any such petitions into consideration, at such times and at such place in the District as they shall have appointed, and as shall have been publicly made known by notices in the English and French languages, inserted in the *Canada Gazette*, or other newspaper recognized as the Official Gazette of the Province, and at least one other newspaper published in the District, or if there be no newspaper published in such District, in the nearest District in which one or more such newspapers are published.

meet to consider such claim.

Notice of such Meeting.

LIX. In all cases in which the interests of the Crown may require it, it shall be lawful for the Attorney General or Solicitor General for Lower Canada, or other Counsel duly authorized, to represent and appear on behalf of Her Majesty, Her Heirs and Successors, before such Commissioners, and to oppose the prayer of any such petition.

Attorney General may oppose such claim.

LX. The said Commissioners after hearing the Petitioner, either in person or by Attorney, and the Attorney General or other Counsel for the Crown if any attend before them, and having examined the evidence adduced in relation to the claim, shall pronounce their judgment thereon in writing, and every such judgment shall contain the grounds thereof.

Decision to be in writing and *motivé*.

LXI. An appeal from the judgment of the said Commissioners may, within two months of the rendering of any such judgment, be instituted either by the Seignior or by the Crown, to the Court of Queen's Bench for Lower Canada, the decision of which Court shall be final and without appeal; and the said Court of Queen's Bench shall deal with any such appeal by any Seignior or by the Crown from the decision of the Commissioners, in the same manner as with an appeal from a judgment of the Superior Court, and if it shall not affirm the decision of the Commissioners, shall give such decision as they ought to have given, and may award costs to or against the Crown or the Seignior.

Appeal to Court of Q. B. Such appeal to be final: judgment thereon.

LXII. Every Judge who shall have presented a petition for indemnity in his own behalf, in virtue of this Act, shall be liable to recusation in every case in appeal from the Judgment rendered by the said Commissioners upon any such petition; and on any question submitted to the Court under the next preceding section, and every Judge who shall have sat in appeal from any one of such judgments or shall have given a decision on any such question, as is mentioned in the Section of this Act, or sat at the hearing thereon, shall be deemed to have renounced all right to present any such petition in his own behalf.

Judges interested in similar claims to be liable to recusation.

LXIII. So soon as the amount to be awarded to any Seignior who has petitioned as aforesaid, shall be established by the

Payment of indemnity fi-

nally awarded. judgment of the said Commissioners, it shall be the duty of the Receiver General, at the expiration of the above delay of two months, on the production of a duly authenticated copy of such judgment of the Commissioners, accompanied by a certificate from the said Commissioner, that no appeal from such judgment has been brought therefrom within that delay, and in case of appeal, on the production of the final judgment of such Court, to pay to the said Seigneur the amount of the said judgment, except in the case provided for by the next Section of this Act.

Exception.  
Indemnity how dealt with in case of opposition.

LXIV. Whenever any opposition shall have been filed in the office of the Superior Court, in the manner prescribed by this Act, and not withdrawn or dismissed, the amount of indemnity due to the Seigneur shall not be paid to him, but the Receiver General shall transmit a certificate of the amount thereof to the Prothonotary for the District, to the end that they may be distributed in the manner prescribed by this Act for the distribution of the funds arising from the redemption of the Seigniorial dues and of the constituted rents, (*rentes constituées*) created by virtue of this Act.

Attorney General may submit questions to Court of Queen's Bench.

LXV. And in order to avoid as far as may be possible, unnecessary expense and delay from such appeals as aforesaid, it shall be lawful for Her Majesty's Attorney General for Lower Canada, at any time after the passing of this Act, to frame such questions to be submitted for the decision of the Court of Queen's Bench for Lower Canada, as he shall deem best calculated to decide the points of law, which will, in his opinion, come under the consideration of the said Commissioners, in deciding upon the claims of Seigniors to indemnity under the foregoing provisions, and to file a copy of such Questions in the Office of the said Court, and cause a copy thereof to be transmitted by Post to each of the Judges of the said Court.

Publication of questions.

2. The said Questions shall then be published at least four times, in four several weeks, in the *Canada Gazette*, with a notice to all concerned that they have been filed as aforesaid, and are submitted for the decision of the said Court.

Consideration of such questions and hearing of parties.

3. The said Court and the Judges thereof shall take the said Questions into consideration, and shall hear the Attorney General or Solicitor General and such Counsel as he may deem it advisable to associate with him (not exceeding at such time not less than days after the last publication of the said Questions in the *Canada Gazette*, but as soon after as may be conveniently practicable; and it shall be the duty of the said Court to give the consideration of the said Questions, and the hearing thereof such precedence over other matters before them, and to adopt such other measures with regard to them, as will ensure a decision upon the said Questions at as early a period as may be conveniently practicable.



4. Any Seignior or Seigniors may at any time before the end of the said period of \_\_\_\_\_ days after the last publication of the said Questions, cause an appearance to be fyled for him or them in the Office of the said Court, in the matter of the said Questions, by an Advocate or Advocates practising therein, and having caused such appearance to be so fyled, shall be entitled to be heard by his or their Advocate or Advocates upon such Questions ; but so that no more than \_\_\_\_\_ Advocates shall be heard on the part of all the Seigniors so appearing ; and if more than that number claim to be heard, the Court shall decide between them, which shall be heard.

Seigniors may be heard by Counsel.

5. From the expiration of the said \_\_\_\_\_ days after the last publication of the said Questions, the matter shall be dealt with by the Court, as if an appeal were pending and inscribed and ready for hearing, in which the said Questions had arisen for decision, but no case or pleadings or other proceeding than such as are herein prescribed shall be required previously to such hearing : those who appear for the Crown shall begin, those who appear for the Seignior or Seigniors shall follow ; the Court may hear those for the Crown on all the Questions before those on the other side reply, or may hear each side on each Question separately, as it shall think best : no technical objection of procedure shall be entertained, and if any question arise as to the proceedings in any matter not provided for by this Act, the Court shall *instanter* make such order therein as shall seem most equitable and convenient.

How such question shall be dealt with by the Court.

6. The decision of the Court and the opinions of the Judges thereof shall be *motives* and delivered as in a judgment on a case in appeal in which all the Questions had arisen and were put in issue, but without any further sentence in favor of the Crown or the Seigniors ; but the Court may in its discretion award reasonable costs to the Seigniors so appearing, if it shall think that they have successfully combated any material proposition affirmed on the part of the Crown ; and such costs, if awarded, shall be paid as other expenses authorized by this Act.

Decision on such questions how given.

Costs.

7. The decision of the Court on each of the said Questions shall guide the Commissioners and the Attorney General, and shall in any actual case thereafter to arise, be held to have been a judgment of the Court on the point raised by such Question, in a like case, though between other parties.

Effect of such decision.

LXVI. The emoluments and disbursements of the Commissioners who shall be appointed under this Act, with the expenses to be incurred and the sums which may be awarded to Seigniors for indemnity under the authority thereof, shall be paid out of the Consolidated Revenue Fund of this Province, by warrant of the Governor : but it shall be lawful for the Governor in Council to cause any sum or sums not exceeding in

Remuneration and disbursements of Commissioners :

and Indemnity to Seigniors to

be paid out of Provincial Funds. the whole the sum required for defraying the expenditure authorized by this Act, to be raised by Debentures to be issued on the credit of the said Consolidated Revenue Fund, in such form, bearing such rate of interest, and the principal and interest whereof shall be payable out of the said Fund at such times and places as the Governor in Council shall think most advantageous for the public interest : and the moneys so raised as aforesaid shall make part of the said Consolidated Revenue Fund of this Province. 5

Special Funds appropriated to make good such expenses. LXVII. The moneys arising from the following Lower Canadian sources of Revenue, shall be and are hereby specially appropriated to make good to the said Consolidated Revenue Fund, the amount which may be taken out of the same for the purpose of paying the sums charged upon it under the next preceding section, that is to say : 10 15

Quint, &c. All moneys belonging to the Province and arising from *Quint* and other dues which are now, or hereafter shall become payable to the Crown, in or upon the Seigniories in Lower Canada, of which the Crown is Seignior *Dominant*, as well as from all arrears of such dues : 20

Lauzon. All moneys arising from the Revenues of the Seigniorie of Lauzon, or from the sale of any part of the said Seigniorie which may hereafter be sold, and all arrears of such Revenues :

Certain license dues. All moneys arising from Auction Duties and Auctioneers' Licenses in Lower Canada : 25

Shop licenses. All moneys arising in Lower Canada, from licenses to sell spirituous, vinous or fermented liquors by retail in places other than places of Public Entertainment, commonly called Shop or Store Licenses : 30

And separate accounts shall be kept of all moneys arising from the sources of Revenue aforesaid, and of the moneys disbursed under the next preceding section, allowing interest on both sides at the then current rate on Provincial Debentures, to the end that if the sums payable out of the Consolidated Revenue Fund under the next preceding section, shall exceed in the whole the total amount of the sums arising from the sources of Revenue so specially appropriated and any interest allowed thereon as aforesaid, a sum equal to such excess may be appropriated by Parliament for some local purpose or purposes in Upper Canada.

Separate accounts to be kept of such fund and for what purpose.

### INTERPRETATION.

- 15 LXVIII. And, for the interpretation of this Act—Be it enacted, That this Act shall not extend to the wild and unceded lands in Seigniories held by the Crown in trust for the Indians, nor to the Seigniories held by the Ecclesiastics of the Seminary of St. Sulpice, nor to either of the Fiefs Nazareth, Saint Augustin and Saint Joseph in the City and County of Montreal, nor to any wild and unceded lands held *en franc-aleu noble* and granted under and by virtue of the Act of the Parliament of the late Province of Lower Canada, passed in the third year of the Reign of His late Majesty King George the Fourth, and intituled :
- 25 *An Act for the relief of certain censitaires or grantees of La Salle, and others therein mentioned, possessing lands within the limits of the Township of Sherrington* ; nor to the Seigniories of the late Order of Jesuits, or other Seigniories held by the Crown and not above mentioned, or to the Seigniories held by the Principal Officers of Her Majesty's Ordnance, except only in so far as the provisions thereof do not relate to the conversion of the tenure or the redemption of the Seigniorial rights upon lands lying in the said Seigniories.
- 30
- 85 LXIX. Nothing herein contained shall extend to arrears of Seigniorial rents due before the passing of this Act, except as regards the delay within which the Seignior may exercise the privileges incident thereto, nor shall give to any person whomsoever any right of action for the recovery of money or other value paid by him or his predecessors in the form of rents or other Seigniorial dues, or for the recovery of damages which he may pretend to claim for the privation of any right acknowledged by this Act, and whereof he may have been deprived by reason of any stipulations made by him or by his predecessors with any Seignior, unless he would have had such right of action if this Act had not been passed ; And nothing in this Act contained shall affect nor be construed to affect any lease of a mill, mill site or water power leased by any Seignior after having been constructed, improved, acquired or reserved by such Seignior for his own use, or after having been erected under any lease of improvement or bargain, on any land reserved by or belonging to such Seignior, nor any mill or other

Act not to extend to certain Seigniories and lands.

Arrears due before this Act, not to be affected by it.

Certain leases of mills, &c., not to be affected by this Act.

manufacturing establishment (*autre usine*) or any water power, possessed, worked or improved by any Seigneur at or before the time of the passing of this Act, nor any land conceded by any Seigneur after having been cultivated or otherwise improved by him, acquired or dismembered from the domain reserved and set apart for his private use, except that the Seigniorial rights on such land as stipulated in any written agreement with the Seigneur, may be valued and redeemed in like manner as those on other lands. 5

**Interpretation Clause.** LXX. The word "Seignior" wherever it occurs in this Act, shall be construed as meaning any part of a Fief, *arrière-fief* or Seignior held by a single individual, or by a Corporation, or held by several persons in common (*par indivis*) as well as the whole of a *fief*, *arrière-fief*, or Seignior, except in such parts of this Act, in which the words "*arrière-fief*" and "*Seignior*" are made use of to distinguish the *Fief dominant* from the *fief servant*; and the word "Seignior" shall be construed as meaning any Corporation, or any sole proprietor, and all persons who are proprietors in common (*par indivis*) or any part of a *Fief*, *arrière-fief* or Seignior, as well as any person or Corporation, being sole proprietor, and all persons, proprietors jointly and *par indivis* of the whole of any such *Fief*, *arrière-fief*, or Seignior; and the words "Seigniorial Rights," whenever they occur in this Act, shall include and be construed as including all rights, duties, charges, obligations and Seigniorial or feudal dues whatsoever; and the word "hereafter" shall mean "after the passing of this Act." 10 15 20 25

**Wild land what shall be.** LXXI. The words "will lands" or "wild land" wherever they occur in this Act, shall be construed to apply not only to all wood land or lands otherwise in their natural state, but also to all land in part settled or cleared, or otherwise improved by any other person than the Seigneur of the *censive* within which such land shall lie, if such land so settled, or in part cleared or improved, be not yet conceded. 30

**Interpretation.** LXXII. The "Interpretation Act" shall apply to this Act. 35

**Short Title.** LXXIII. This Act shall be known, cited and referred to as "The Seigniorial Act of 1854."

**Extent of Act.** LXXIV. This Act shall apply to Lower Canada only.

#### FORM A.

Public notice is hereby given that the Schedule (*of the fief arrière-fief, or of the Seignior*) of (*name of fief or Seignior*) shewing the prices at which the various feudal and Seigniorial rights, dues, charges, obligations and rents due and payable upon each land in such (*fief, arrière-fief or Seignior*) are redeemable, is completed, and that a triplicate thereof has been 40 45

deposited in the office of the Receiver General, and another in the office of the Superior Court in the District of and that the third remains in the possession of the undersigned.

(Here give the name of the locality in which the Commissioner is sitting, and the date)

A.B. } Commissioner of  
} commutation for the  
} Commutation Division  
} No.

10

FORM B.

I do hereby certify that A. B. owner of (*name of the land freed*) hath this day paid to me the sum of \_\_\_\_\_ being the price of the redemption of the said land from all feudal and Seigniorial rights, dues, charges, obligations and rents to which the said land was subject, as shewn in the Schedule relating to the (*fief, arriere-fief* or Seignior) of adding thereto the interest at six per cent upon the price of redemption of the casual rights, (*if interest is payable thereon, in virtue of the provisions of this Act,*) and that by virtue of "The Seigniorial Act of 1854," such land is from this day henceforth and for ever released from all such feudal and Seigniorial rights, dues, charges, obligations and rents, save and except any arrears thereof now due on the same.

Made in duplicate at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_ E. P. T. Receiver-General.  
or I. J. Agent of the Receiver-General.

FORM C.

I do hereby certify that A. B., owner (*name of land freed,*) has this day paid to me the sum of \_\_\_\_\_ being that part of the price of redemption from the feudal and Seigniorial rights, dues, charges, obligations and rents, to which the said land was subject, which represents the rights of the Seignior of whom the said *arriere-fief* is held, as shewn by the Schedule relating to the (*fief, arriere-fief* or Seignior) of \_\_\_\_\_; That under "The Seigniorial Act of 1854," the balance of the said price of redemption, equal to the sum of \_\_\_\_\_ currency, including the interest upon the price of the redemption of the casual rights (*if any such interest be payable under the Act,*) will form the Capital of a *rente constituée*, redeemable at all times in the manner provided by the said Act, and that henceforth the said land is freed from all such feudal and Seigniorial rights, dues, charges, obligations and rents, save and except any arrears thereof now due on the same.

Made in duplicate, at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_ E. P. T. Receiver-General.  
or I. J. Agent of the Receiver-General.

## FORM D.

I do hereby certify that A. B., owner of  
 (*name of the land freed,*) has declared personally (or by his  
 Agent C. D.,) to me that he is desirous of availing himself of  
 "The Seigniorial Act of 1854," to freed the said 5  
 from all feudal and Seigniorial rights, dues, charges and rents  
 whatsoever; that in virtue of the said Act, the said  
 is from the date hereof freed from all such feudal and Sei-  
 gniorial rights, except any arrears thereof now due; and that the  
 price of redemption of the said Seigniorial rights, amounting to 10  
 the sum of currency, including interest due  
 on the casual rights, (*if such interest be payable under the Act,*)  
 is from the date hereof converted into a redeemable constituted  
 rent (*rente constituée*) of which the said sum of will 15  
 form the capital.

E. P. T. Receiver-General.  
 or I. J. Agent of the Receiver-General.

Date.

## FORM E.

SECRETARY'S OFFICE. 20

(Date.)

Whereas the undersigned hath received from (*name of  
 Notary,*) the Notary duly appointed under the sixty-fourth  
 section of "The Seigniorial Act of 1854," a certificate setting  
 forth that the majority of the *ceusitaires* owners of land in 25  
 the Seigniorly of in the District of  
 are desirous of redeeming the Seigniorial rights with which  
 the said lands are charged—

## NOTICE

Is hereby given that the said Seigniorial rights, upon each of 30  
 the lands situated in the said Seigniorly of  
 are on, from and after this day converted into a constituted rent  
 (*rente constituée,*) the capital whereof will be the sum marked in  
 the Schedule of the said Seigniorly, made in conformity to the  
 said Act, and filed in the office of the Prothonotary of the said 35  
 District, as the price at which the Seigniorial dues payable  
 upon the said lands respectively may be redeemed, adding  
 thereto one per cent per annum, on the price of redemption  
 of the casual rights, from the day of the date of the deposit  
 of the said Schedule. unto this day (*if interest is payable under 40  
 the Act.*)

P. J. O. C.  
 Provincial Secretary.