



CORRESPONDENCE relative to the Land  
Tenure Question in Prince Edward  
Island.

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*Presented to both Houses of Parliament by Command  
of Her Majesty. August 1875.*

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LONDON :

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LAND TENURE QUESTION

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LONDON:

PRINTED FOR HER MAJESTY'S STATIONERY OFFICE BY HARRISON AND SONS, ST. MARTIN'S LANE.

1876.

[C.—1351.] *Price 11½d.*

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## Correspondence relative to the Land Tenure Question in Prince Edward Island.

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No. 1.

*Lieutenant-Governor Robinson to the Earl of Kimberley.—(Received May 1.)*

My Lord,

*Government House, April 17, 1871.*

IN the ninth paragraph of the speech with which I this day closed the session of the Legislature, copies of which I submitted in my despatch of this day's date, your Lordship will observe that reference is made to an Act which has just been passed here relating to the question of compensation to certain tenants whose leases will shortly expire. The following is the paragraph to which I refer:—

“I will lose no time in submitting to the Secretary of State the Act relating to the question of compensation to certain tenants whose leases will shortly expire, in order that Her Majesty's pleasure may be signified thereon. Earl Granville, while reserving to himself perfect freedom of decision with respect to prospective legislation, and while declining to express any general opinion or to give any fresh instructions to the Lieutenant-Governor as to the settlement of the difficult question referred to, was pleased to inform you, in reply to the joint Address to Her Majesty which was adopted during the session of 1870, that the Secretary of State would be prepared to give his best attention to any measure of a just and equitable nature embracing the principal provisions of the Irish Land Act of 1870; and you may rely upon it that Her Majesty's Government desire to meet the wishes of the people of this Colony in the matter, so far as justice to all parties concerned, and the rights of property, will permit.”

2. I entertained grave doubts as to the propriety of assenting to this measure at all (although of course it bears a suspending clause) and hesitated for some time as to the course which I ought to adopt. I cannot but look upon the Act as an improper interference with the rights of property, and opposed to the general principles of the law of contracts. It goes far beyond the Irish Land Act, which was made the basis of the above Address to Her Majesty, and provides that the landlord must either make the outgoing tenant such compensation as may be awarded by arbitrators, or grant him a renewal of his lease for 999 years, practically forcing the landlord to part with his land almost in perpetuity, or to pay for being allowed to re-enter on the occupation of property which, according to the terms of the original contract ought, at the expiration of the lease, to return to his hands as a matter of right. I am far from thinking that tenants ought not to be fairly compensated for their improvements, but I consider that the alternative of a compulsory renewal for so long a period as 999 years, as fixed by this Act, is altogether unreasonable. There is a clause, moreover, which proposes to bring all leases and holdings that expire between the Lieutenant-Governor's assent and the Royal allowance under the operation of the Act, which I look upon as most objectionable, inasmuch as it is *ex post facto* in character, and will cause the whole law to take a retrospective effect, should the Act be confirmed by Her Majesty. However, after maturely considering the question in all its bearings, and after careful consultation with the Attorney-General (a copy of whose written advice I herein forward), I made up my mind to assent to the Act provisionally, and to leave the ultimate decision to those who are more competent than I to decide on so difficult a point. My chief objection to assenting to the Act was the dislike I felt to raise expectations in the



minds of the tenants with which in the end it might be deemed expedient to comply. I worded my speech so as to guard against this as far as possible, though at the same time I had to be cautious in what I said, not knowing what view your Lordship might be pleased to take of the matter.

3. I regret that time will not admit of transcripts of the Act being forwarded by to-morrow's mail. I will, however, forward them by the earliest possible opportunity, accompanied by full Reports upon the measure from the Attorney-General and myself; and, meanwhile, I take leave to annex one or two articles that have appeared upon the subject in the local press.

I have, &c.  
(Signed) WILLIAM ROBINSON.

P.S.—From the inclosures in this despatch your Lordship will observe that the Tenants' Compensation Act was introduced as a Government measure, and therefore I fear that, without some explanation on my part, it may be supposed that I gave my countenance to, and am partly responsible for, its details. I beg leave to state that this is not the case, and that as I was not made acquainted with the details of the Bill until it was sent up for my consideration a few hours before the prorogation, and after having been finally passed by the other branches of the Legislature, I had no opportunity of expressing my objections to those features of the measure which will, I fear, be looked upon as obstacles in the way of its receiving the Royal Assent.

W. R.

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Inclosure 1 in No. 1.

Sir,

*Attorney-General's Office, April 17, 1870.*

IN accordance with your Honour's instructions, I have examined the Bill just passed by the House of Assembly and the Legislative Council, intituled, "The Tenants' Compensation Act, 1871," and have given careful consideration to the views expressed by your Honour on this important measure.

I am of opinion that the provisions of the Bill conflict with the general principles of the law of contracts and the rights of property; and, if it becomes law, will have a retrospective effect.

The clause which provides that all leases and holdings which shall expire between your Honour's assent (if given) and the Royal allowance, are to come under the operations of this Bill, is certainly objectionable, inasmuch as it is *ex post facto* in its character; this clause cannot, of course, during the interim between your Honour's assent and the Royal sanction, prevent any landlord, where a tenant's interest (which it is intended should be extended under this Act), has expired from ejecting such tenant; should, however, the landlord pursue such a course, and the Bill become law, such tenant's right would revive. I think the principle of the clause under consideration is one and the same with that which pervades the Bill generally. But as this Bill has a suspending clause, and was introduced and carried through the Legislature, in consequence of the intimation contained in Lord Granville's despatch of the 10th of June last, wherein he states that he shall be ready to give his best attention to any measure prepared in the Legislature with the object of relieving certain of the tenantry of this island, and was passed through both branches by an unanimous vote; and, considering all the circumstances connected with this measure, I advise your Honour to pass the same in the form that Bills with suspending clauses are usually assented to.

I have, &c.  
(Signed) FREDERICK BRECKEN,  
*Attorney-General.*

After conferring with the Attorney-General with respect to the subject-matter of the above opinion, I concur with him therein.

(Signed) DENNIS D. M. REDDIN,  
*Solicitor-General.*

His Honour the Lieutenant-Governor,  
&c. &c. &c.

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## Inclosure 2 in No. 1.

*Extract from the "Islander" of April 7, 1871.*

**THE LEASEHOLD SYSTEM. EARL GRANVILLE'S DESPATCH.**—It affords us great satisfaction to state that the Bill for the relief of such of the tenantry of this island as hold farms under short leases, introduced by the Premier (Mr. J. C. Pope) a few days since, has passed through all its stages in the Lower House without a single dissentient voice being raised against any of its provisions. It is now under consideration in the Upper Chamber, where, we have no doubt, it will be assented to with equal unanimity. We subjoin a copy of the despatch upon which this important Bill is founded, and have only to add the hope that a measure so urgently called for by the exigencies of the case, and passed with the full concurrence of the people's representatives here, will receive the sanction of the Imperial Government without a moment's hesitation. The principle on which the present measure is based is, we believe, a sound one, a principle, too, which has, on a much larger scale, been tested in Ireland with the most satisfactory results. We congratulate the Government of this island, as well as that portion of our people more directly interested in the Tenants' Compensation Bill now before our Legislature, on the fair prospects now before them.

Sir,

*Downing Street, June 10, 1870.*

I have the honour to acknowledge the receipt of your despatch of the 3rd of May, inclosing a joint address to Her Majesty from the Legislative Council and House of Assembly of Prince Edward Island, praying that Her Majesty's representative in this Colony may be instructed to give his assent to a measure of a just and equitable nature, to be passed by the local Legislature, as regards certain of the tenantry of the island, embracing the principal provisions of the Bill lately introduced into the Imperial Parliament for the relief of Her Majesty's subjects, tenants of land in Ireland.

I request that you will inform the Legislative Council and House of Assembly that their Address has been laid before Her Majesty, but that I have not felt myself at liberty to advise Her Majesty to comply with the prayer of it.

You will, however, at the same time, assure them that, whilst I am not prepared to express any general opinion or to give any fresh instructions to the Lieutenant-Governor respecting the settlement of this difficult question, I shall be ready to give my best attention to any measure prepared in the Legislature with that object.

I have, &c.

(Signed) GRANVILLE.

The Officer Administering the Government of  
Prince Edward Island.

## Inclosure 3 in No. 1.

*Extract from the "Island Argus" of April 18, 1871.*

**THE TENANTS' COMPENSATION ACT.**—We are much amused to see in the "Patriot" an announcement that the Government had brought forward a Tenants' Compensation Bill because they were "forced" to do so by the opposition.

Remembering that it had been stated by a celebrated French statesman, that the use of language was to conceal ideas, we thought for a moment that there was something hidden beneath our contemporary's remarks, but it was only for a moment, for we felt what a bitter satire it would be to accuse the "Patriot" of having any just "ideas" upon a Government Act. There was a time when in its columns were to be found editorials possessing a certain sort of sharpness, which, at the best rendered them not unreadable. But that time has passed—it would seem for ever. The little scraps of articles, made up of partly overheard conversations, filled up by the evil surmisings of a not over scrupulous imagination, are all that are now left to remind us of how it was once conducted.

We have no hesitation in saying that the statement—that the opposition "forced" this measure upon the Government—is utterly and completely untrue. It would indeed be an hour of weakness on the part of the Government, when the present opposition could force it to undertake any measure which it was not inclined to adopt.

We say this without wishing to do any injustice to the members of the Opposition, and we feel that we are but expressing the general opinion of all who attended the debates during the present Session when we say that, if what, by courtesy, would be called their "ability" was united in one vigorous endeavour, it would be powerless to produce one single measure which could, with credit, be placed upon the Statute Book; and when we say this we have not forgotten the constitutional knowledge of Mr. Wightman, the splendid eloquence of Mr. McLean, or the moderation and judicial fairness of Mr. Benjamin Davis and W. S. McNeill. But lest it should be thought that, like the editors of the "Patriot," we are unwilling to comprehend the simple provisions of the Tenants' Compensation Bill, we proceed to lay before our readers a synopsis of this important measure.

The Act provides that, when a tenant's lease shall be determined, either by the expiration of the time for which it was granted, or by the landlord giving a notice to quit, he shall, where his farm has been cleared by him or those through whom he claims, be entitled to receive from his landlord compensation for all his improvements, and this word "improvement" is directed by the Act to be interpreted in the widest and fullest extent, to mean buildings of all kinds, fences, &c., in fact, every result of the labour which has been expended on the farm.

Immediately the lease has expired, the tenant, without waiting for the landlord to commence proceedings against him, gives notice to the landlord that he will move at the next term of the Supreme Court to appoint three arbitrators to assess the amount of compensation, and upon his proving that he is entitled to compensation, the Court appoints three arbitrators who shall not be residents upon the same or the adjoining townships. These arbitrators, or two of them, are then to hear the evidence, the landlord having the right to be heard before them also, and to set off all arrears of rent that may be due to him. They then make their award in writing, which they are directed to send to the Supreme Court. If either the landlord or the tenant feels aggrieved by the conduct of the arbitrators, if there has been any undue influence used, or anything corrupt or improper in their conduct, an appeal is given to the Court and a discretionary power is given to deal with the case, either to dismiss the offending arbitrators and appoint new ones, or to refer it to them again. When the award has been filed and no appeal has been taken against it, the landlord has fourteen days to make up his mind whether he will pay the compensation awarded, or grant an extension of the lease. If he determines upon the latter course, he in his turn gives the tenant a notice that he is willing to give him a long lease at the same rental and requiring the tenant to produce his lease at the next term of the Supreme Court, and when the lease has been produced, the Judge orders a Memorandum to be endorsed upon it extending the number of years for which it was given, for 999 years. But it often happens that the tenant may hold his land under a lease not under seal. Being a layman, and not versed in the mysterious subtleties of the law, we are quite unable to inform our readers why a document is considered more solemn and binding from the mere fact of having a little bit of wax or a wafer fastened to it, but the wisdom of the law has decided that so it is, and so it is provided in the interest of the tenant that when a lease not under seal expires, or is determined by the landlord, instead of the extension of the old lease, a new one is to be granted under seal, and which is to be signed by the Prothonotary of the Court on behalf of the landlord. It may seem at first right that the proper person to grant the extension of a lease or to execute a new one, would be the landlord himself, but a moment's reflection will show the wisdom that suggested the directions of this portion of the Act, for the landlord might be an infant, or an idiot, or a lunatic, none of whom have power to execute a lease or any other document; or he might be an absentee, and, perhaps, unrepresented by an agent, or by one without the power of leasing, and there would be no means of compelling him to execute a new lease. And so the plan has been adopted of directing the Supreme Court to prepare and execute the lease, which is to be binding upon the landlord and every other person, who, at any subsequent time, may become entitled to receive the rents. Should a landlord commence proceedings to eject the tenant, the latter may apply to the Court for an order restraining him from proceeding further until he has paid him the compensation to which he is entitled. There is, however, no necessity to wait until this machinery has been put in motion, for the moment the tenant gives notice that he requires arbitrators to be appointed, the landlord may immediately give notice that he consents to an execution of the lease, and thus save further trouble and expense. This Act does not apply to ejection brought for arrears, rent, nor for any other act by which the tenant has forfeited the lands.

Such are the leading provisions of this important measure, and our readers will

observe that all its enactments are framed with the express object of preserving for the tenant the land which, through his exertions, has been brought from a state of wilderness to one of cultivation. We think, that in nearly every instance its effect will be to procure the extended leases; for few, indeed we do not think any of the proprietors, would care to pay down the price of the tenants' improvements, and if this be so, it will prove a boon to many a man, who might otherwise by his landlord's caprice, be turned from his homestead at a very short notice. We think the Government in this instance acted wisely and well, and that the principle embodied in this Bill is a sound one. We know the deep feelings of affection which attaches a man to his home. We can imagine no sadder sight than to see a man turned from the farm where many a long day he has toiled to make it what it is. Poor and humble though it may be, it is still his home. We will undertake to say that there is never a tenant driven out from his homestead, there is never an emigrant from Ireland, that does not long with a strong, deep, passionate craving, still to remain, and, if it be God's will, to die upon the land endeared to him by so many tender associations, if he dare do so. For it was here he first knelt by his mother's knee, and in the churchyard near at hand he has wept by her grave. Sure, we are, that there is many a son of Erin who has transferred his allegiance to the United States who would have lived and died in the land he so passionately loved—there are many of our Island sons who would have been with us now if they could have secured to them the right to live and spend their last days upon the land endeared to them by so many ties. And, we again repeat, that the Government in this matter is entitled to no little praise. It has placed upon the Statute Book a law which proves that the sympathies of its members for the tenant is not merely from the lip outwards, but that in every way and by every means they endeavour to secure to him the privileges and blessings which he knows how to value and to prize so well.

No. 2.

*Lieutenant-Governor Robinson to the Earl of Kimberley—(Received June 29.)*

My Lord,

*Government House, June 10, 1871.*

REFERRING to the ninth paragraph of the speech with which, on the 17th April last, I closed the Session of the Legislature of Prince Edward Island, I have now the honour to submit two authenticated transcripts of "The Tenants' Compensation Act, 1871,"\* which have this day been handed to me by the Attorney-General for transmission to your Lordship.

2. The documents which I forward herewith would appear to render any detailed report upon this measure from myself unnecessary.

3. The first is a Minute drawn up by my Advisers, in which they state the reasons which induced them to introduce and carry the Bill through the Legislature, and advocate its confirmation by the Crown. The second is a memorial from those of the proprietors of land in this Colony who consider that their interests and legal rights are unfairly assailed by the Legislature, in which they urge their objections to the Act and advocate its rejection by the Crown. The Attorney-General's Report is also inclosed, but it contains merely a reference to the explanatory Minute prepared by my Advisers of whom he is one.

4. Your Lordship will thus receive simultaneously the Act itself, the views of those who support it, and the views of those who are opposed to it. I am not aware that anything of importance has been left unsaid on either side, or that I have it in my power to throw any additional light upon the question.

5. I ought, perhaps, to add that an Act of a somewhat similar nature (though intended to be general in its application and not confined, as this one is, to short leases only) was passed here sixteen years ago, but that Her Majesty was not advised to confirm it. It was sent home by Lieutenant-Governor Sir Dominic Daly, with his despatch of the 28th June, 1855, and the reasons which constrained the Secretary of State to decline to submit it for the Queen's Assent, were fully explained in Sir George Grey's despatch of the 17th November, 1855.

I have, &c.

(Signed) WILLIAM ROBINSON.

\* *Vide Appendix 1.*

## Inclosure 1 in No. 2.

At a meeting of a Committee of the Executive Council of Prince Edward Island, held on the 9th day of June, 1871.

Present :

The Honourable James C. Pope, President.  
 .. The Colonial Secretary.  
 .. The Attorney-General.  
 .. Andrew A. Macdonald.  
 .. Lemuel C. Owen.  
 .. James Duncan.

The following Minute or Address to the Right Honourable Earl Kimberley, Her Majesty's Principal Secretary of State for the Colonies, intended to accompany "The Tenants' Compensation Act, 1871," was adopted and ordered to be handed to his Honour the Lieutenant-Governor for transmission :—

To the Right Honourable Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies, &c.

Your Lordship's predecessor, Earl Granville, having, by his despatch dated 10th of June, 1870, in answer to the joint Address from the Legislative Council and House of Assembly to the Queen, praying that Her Majesty's Representative in this Colony might be instructed to give his assent to any measure of a just and equitable nature to be passed by the local Legislature as regards certain tenantry of this island, embracing the principal provisions of the Act of the Imperial Parliament for the relief of Her Majesty's subjects, tenants of land in Ireland, expressed his readiness to give his best attention to any measures prepared in the Legislature that had for their object the settlement of the difficult question of the land tenures in this island.

The Executive Council, in consequence of the intimation contained in the said despatch, introduced and carried through both branches of the Legislature, by an unanimous vote, "The Tenants' Compensation Act, 1871."

Some of the reasons showing the necessity of this measure are set forth in the joint Address hereinbefore alluded to, and the Committee of the Executive Council beg to submit the following additional reasons to your Lordship in favour of the Bill :—

The great majority of leases granted in this island are for the term of 999 years, and are not interfered with by any of the provisions of this Bill. The grievances intended to be redressed are those where lands have been granted to tenants on lease for short terms, taken, in many instances, by emigrants either previously to or immediately after their arrival in this Colony, before they were acquainted with the difficulties and hardships connected with clearing wilderness lands, and providing homes for their families. Coming from the mother-country they looked upon leases for terms of from twenty to forty years as a great boon. They, however, found by bitter experience that a term of forty years was only long enough to enable them to clear away the forest, erect suitable homesteads, and bring their farms into a state of cultivation sufficient to afford for themselves and their families a comfortable subsistence.

The tenant, after having spent the best years of his life in giving a real value to the property, in his old age finds the results of many years of labour and toil pass into the hands of his landlord, who relets the said property, with its improvements, at a high rate to a stranger, and thereby reaps a large profit from the unremunerated labour and industry of the unfortunate tenant.

The rents reserved in the leases for short terms are quite as high, and, in many instances, higher than those reserved in leases for terms of 999 years. There is no analogy between the position of a tenant in the mother-country holding a cultivated farm under a short lease and that of a tenant in this island, who takes a short lease of a wilderness farm, and is obliged to clear away the forest before he can grow either a blade of grass or an ear of corn for the support of himself and his family.

Tenants for short terms of years in this island are not entitled to the privilege of purchasing the freehold of their farms from their landlords under the provisions of the "Fifteen Years' Purchase Act," whilst many tenants for long terms of years enjoy this advantage.

The Bill which is the subject-matter of this Minute is the only remedy which the

Government of the Colony have been able to devise as an equitable adjustment of the difficulties and hardships under which tenants for short terms of years are now labouring.

The Committee of the Executive Council therefore earnestly hope that your Lordship will, after duly considering the grievances and hardships referred to, and after a perusal of the Legislative remedy which has been approved of by all the political parties in the Colony, advise Her Most Gracious Majesty the Queen to give her Royal allowance to "The Tenants' Compensation Act, 1871," and thereby preserve a large number of loyal and industrious settlers from poverty and distress.

Certified.

(Signed) WILLIAM C. DES BRISAY,  
Assistant Clerk of Executive Council.

Inclosure 2 in No. 2.

*Memorial and Petition of the Proprietors of Township Lands in Prince Edward Island.*

[See No. 3.]

Inclosure 3 in No. 2.

CAP. IX.

*"The Tenants Compensation Act, 1871."*

THE reasons which induced the Legislature of this Colony to pass this measure are set forth in a Minute of the Executive Council which is transmitted with this Bill.

(Signed) FREDK. BRECKEN,  
Attorney-General for Prince Edward Island.

June 9, 1871.

No. 3.

*Mr. Stewart and others to the Earl of Kimberley.—(Received July 22, 1871.)*

To the Right Honourable the Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies.

The Memorial and Petition of the Undersigned Proprietors of township lands in Prince Edward Island.

Most respectfully sheweth,

THAT a certain enactment by the local Legislature of this Colony, passed during its recent session, entitled "The Tenants' Compensation Act 1871," recites that "upon several township lands in this island leases have been granted to tenants of lands in a wilderness state, for short terms of years, or at will, in some instances, by indentures of lease, or memoranda of agreement, and in others by verbal agreements, such lands having been at the commencement of such tenancies entirely in a wilderness or uncultivated state, and without any buildings or improvements of any kind, and without any allowance having been made by the lessor, in such lease or agreement, to the lessee in consideration of such improvements made by clearing the forest, fencing, erecting buildings, repairing or otherwise, for the culture of the soil, in case of the determination of tenancy by the expiration of the term reserved in the said indentures of lease, or the determination of such tenancies at will or other tenancies, and such improvements pass to the landlord, without any compensation to the tenant therefore."

That the said Act provides or enacts that upon the expiry of any lease or agreement whereby any term or estate is reserved to the landlord, and upon the said landlord serving any notice to quit or demand of possession to determine the tenancy of any tenant, the tenant shall be at liberty to apply to the Supreme Court, to appoint arbitrators to determine the amount of compensation to which he may be entitled; that the Supreme Court shall then make an order appointing three arbitrators, which three arbitrators, or any two of

them, shall settle the amount of compensation to which the tenant shall be entitled for improvements, whether the same be in the form of clearing and reducing the land into cultivation, or of buildings, or of works to increase the productive power of the soil by draining or other means; that if the landlord find himself aggrieved by the decision of such arbitrators, he may as an alternative grant to the tenant a new lease for the term of 999 years at the same rent as had been payable for the last year of the shorter lease just expired.

That, with respect to tenancies at will in this Colony, there are some still existing; on the estate of one of your Memorialists, inherited from his late father, there were at one time several tenants at will, but the tenants having for twenty years been enabled to evade the action of both Common and Statute Law, by means of open and violent resistance to the officers of the law or by other means, at length by possession for twenty years, without either having paid rent or been evicted for non-payment, the said tenants, by the peculiar administration or operation of the law in this Colony, had become practically the owners *de facto* of the land, to the great loss and detriment of the real owners *de jure*; the law which in practice had been powerless and useless on behalf of the landlord suddenly becoming abundantly powerful and strong on behalf of the dishonest tenant, on the ground of his twenty years' possession, in despite of law and justice. In cases of tenancies at will in Great Britain and Ireland it has been customary for the outgoing tenant to receive payment from the incoming tenant for certain permanent improvements on the land, where such had been made, but with respect to leasehold land, a lease for no longer a term than seven years, much more if it be for fourteen or twenty-one years, is well known to be abundantly long enough to secure to the tenant the full share of compensation justly due to him out of improvements infinitely more costly and valuable than are ever made by tenants in this Colony.

That there are in this Colony farms leased for a term of sixty-one years certain, on the longest of three lives. In almost every such instance the tenant at present holding under such lease is not the party who originally cleared the land, but one who has purchased the holding or possession from the previous tenant, or from parties who themselves had purchased from a previous tenant with a full knowledge of the duration and nature of the term. Your Memorialists respectfully submit that, in such a case, to add to the value of the tenants' interests, by arbitrarily and in the same proportion reducing the value of the landlords' interest, would neither be consistent with equity nor with reason, nor with the general principles of British law, and would be an act of the most extreme hardship and injustice to the proprietors of land in this Colony.

That tenants in this Colony are under much more favourable circumstances than in Great Britain or Ireland; the burden of rates and taxes falls comparatively very lightly upon them; the only really onerous and oppressive tax in this Colony being exclusively borne by the proprietors, namely, the land assessments upon their unproductive wilderness land, an avowedly penal tax upon them levied for the express purpose of wresting their property from them. The tenants have been released by Legislative enactment in the Currency Bill so-called from the payment of 7s. out of every sum of 11. 7s. of rent, covenanted by their leases, the landlord being mulcted in that sum. The position of the proprietor holding under grants from the Crown to the original grantees, the present proprietors being either purchasers or inheritors, these latter are, as your Memorialists respectfully submit, much more worthy of the consideration of Her Majesty's Government than are those whom it is sought to benefit, at the proprietors' cost, by means of the present act for compensating tenants. It is a fact that the first year's produce frequently pays the entire labour and cost of chopping, piling, and burning the forest previously growing upon the land, to say nothing of the firewood sold at a good price. Draining is as yet almost unknown, and not usually requisite in this Colony, the soil being in general a light loam very easily worked, at little cost. That although many farms have increased in value since the commencement of the existing leases by the lapse of time, and the increased value of all property, nevertheless a farm cleared by the tenant of all its valuable timber and firewood, and impoverished by bad farming is frequently of much less value than it would be if it were at this present time in its natural condition of forest land.

Your Memorialists submit that the proprietors have a right to at least a part of whatever may be the increased value of farms on their estates at the termination of leases. The value of a farm has frequently been increased, not merely by the general rise in the value of land, caused by an increasing demand for farms, but also by the direct acts of the proprietor in opening roads, making bridges, assistance to schools and churches.

One of your Memorialists has, at his own cost, made more than 20 miles of roads upon his property, with many bridges thereon. To this must be added the remission of many years' arrears of rent by your Memorialists, which remission has enabled the tenants to improve their holdings by so much the more than they could otherwise have done.

That in some instances the proprietors of large tracts of township lands in this Colony have leased portions of them for 999 years, at a rent of 1s. per acre per annum, these lands being in general back land, remote from markets, and the proprietor having been in a manner compelled so to lease them, in order to avoid the before-mentioned and extremely heavy penal tax upon wilderness lands. This circumstance can have no weight with regard to such portions of their lands, as for various reasons they thought fit to lease for short periods, and more especially as such short leases, so-called in this Colony, have almost invariably allowed the tenant to enjoy the use of his holding for a certain time at a pepper-corn rent, and afterwards at a gradually increasing rent, such easy terms being accorded for the express purpose of enabling the tenant to make improvements, few or none of such leases being for less than twenty years, and many of them being for ninety-nine years. Your Memorialists submit that it would be absurd to suppose that the tenant cannot, even in the shortest time named, remunerate himself for any outlay he may have been at, in clearing the land, and erecting thereon such wooden buildings as are usual in this country. The fact that many holders of such leases have entered upon the land without a single pound of capital, and, from the cultivation of such land have amassed sufficient money to buy the fee-simple of their farms, is a sufficient proof of the absurdity referred to, and may be permitted to speak for itself. Even upon the principle of the new enactment as to tenancy in Ireland, all that a tenant could obtain would be a remuneration for such improvements as the termination of his tenancy would prevent him from deriving any benefit from, to say that this would in every case in this Colony require the extension of the lease, for a further period of 999 years, is, as your Memorialists submit, an assumption by the framers of this "Act for Compensating Tenants," which they would find very difficult to prove or to defend.

That there are many instances wherein testators, assuming that upon the expiration of leases which they had granted, they would be entitled to deal with their property as by law they are entitled to, have appointed such property to their children, to be sold for their support and education; that the Act in question makes no provision for such cases, but, by enabling the Prothonotary of the Supreme Court to renew the lease at a very low rental, for 999 years, it has the effect, in the cases alluded to, of leaving the objects of the testators' bounty or provision penniless and destitute.

That the several sections of the Act referred to are open to very great and grave objections on the part of proprietors of lands. As regards the Arbitrators to be appointed by the Supreme Court, such Arbitrators must in this Colony be almost inevitably persons who are tenants, or connected with tenants, and consequently have an interest or bias identical with that of one of the parties between whom they shall be called upon to arbitrate.

That while the Royal Instructions with regard to all Colonial Acts affecting real property have been so far attended to in this case, that a suspending clause, until Her Majesty's pleasure be known, is affixed to the "Act for Compensating Tenants," yet that the 22nd section of the said Act renders the Suspending Clause of no benefit to the proprietors, in so far that, in the event of the Royal Assent being given to it, the action of this Bill will be retrospective, and your Memorialists will therefore be liable to the most vexatious and injurious suits and actions for damages, on the retrospective or *ex post facto* ground of their having taken measures which by common or statute law they are at this time fully permitted and entitled to take; that this contingency is a most peculiar and, as your Memorialists believe, unprecedented act of legislation, fraught with hardship and injustice to them, in so far as it deters them from exercising in the interim legal rights which they might otherwise wish to exercise.

That, in the year 1855, a Bill, so far similar as to be practically identical with the present "Act for Compensating Tenants," and containing at least one clause even verbally identical with the present Act, was sent home for Her Majesty's approval, and that the Royal Assent was refused to it, on the ground, as Sir George Grey stated in his despatch to the Lieutenant-Governor of 17th November, 1855, "Because its plain and direct tendency is to transfer property in land from the owner to the tenant," and because Her Majesty's Government would not "advise the Crown to assent to any measure inflicting a manifest wrong on any of her subjects."

Your Memorialists submit that no circumstances have arisen to make their case at present otherwise than Sir George Grey at that time saw it to be; and that the



absolute transfer of the land from the owner to the tenant would be but a very short step in advance upon the arbitrary and compulsory alienation of land for 999 years, at an almost nominal rent.

Your Memorialists most respectfully pray that, for the reasons above set forth, Her Majesty may be advised to refuse her Royal Assent to the Act entitled "The Tenants' Compensation Act, 1871."

And, as in duty bound, your Memorialists will ever pray, &c.

(Signed)

ROBERT BRUCE STEWART, Proprietor of Lots 7, 10, 12, 30, and parts of Lots 27, 46, and 47.

JAMES F. MONTGOMERY, Proprietor of part of Lot 31.

JAMES F. MONTGOMERY, (for John Archibald Macdonald), Proprietor of parts of Lots 35 and 36.

HENRY C. DOUSE, Co-Proprietor of Lot 31 (for himself and James P. Douse).

JOHN DOUSE, Co-Proprietor of Lot 30.

JOHN HODGES WINSLOE, Proprietor of parts of Lots 33 and 24.

ALFRED WINSLOE.

JOHN A. McDONELL, Proprietor of portion of Lot 35.

WM. CUNDALL, Proprietor of part of Township No. 20.

GEORGINA FANE.

C. A. SULLIVAN.

*Charlotte Town, Prince Edward Island.*

*June 10, 1871.*

No. 4.

*The Earl of Kimberley to Lieutenant-Governor Robinson.*

Sir,

*Downing Street, September 2, 1871.*

I HAVE to acknowledge your despatch of the 10th June,\* transmitting an authenticated transcript of "The Tenants' Compensation Act, 1871," together with copies of a Minute of your Executive Council recommending the same, and of a Memorial from proprietors of land against the Act.

I have given most careful consideration to this important measure, with an anxious desire that an Act passed unanimously by both Houses of the Legislature should not be prevented from coming into operation, but I regret that I have felt it my duty not to advise Her Majesty to assent to it.

The Act is in some respects an improvement upon the Act of 1855, from which the assent of the Crown was withheld, but some of the provisions are still open to the objections which were expressed in Sir George Grey's despatch of November 18, 1855, and which need not be here repeated; while other provisions seem to me to require further consideration and amendment.

In the first place, the provision by which the only alternative left to the landlord, if he does not pay the compensation awarded to the tenant, is to grant a lease of 999 years at the same rent as the last year's rent of the expired or terminated lease, appears to me to be open to the gravest objection. It would, in fact, compel the landlord to transfer the ownership of the land to the tenant in every case where he might be unable or unwilling to purchase the tenant's improvements.

Under section 21 of the Irish Land Act (33 and 34 Vict., c. 46) a tenant who may be decided by the Court to be entitled to compensation by the landlord cannot be compelled by process of law to quit his holding until the amount of compensation due to him has been paid or deposited; but, on the other hand, under that Act the landlord retains intact his right to re-enter upon the land at any time, subject to the condition of compensating the tenant for his improvements.

Secondly. It is not quite clear from the wording of the 1st and 2nd sections of the Colonial Act whether a tenant who does not quit at the expiration of a lease, but continues as tenant from year to year can, before the determination of such yearly tenancy, claim compensation for improvements made up to the time of the expiration of the lease. If this was contemplated, the Act would seem to go further than the Irish Act, which only entitles a tenant to claim "on quitting his holding."

To remove any doubt upon this point, I would suggest that these sections should

be amended, so as to limit the operation of the Act to cases where the tenant quits his holding, either upon the expiration of a lease or upon legal determination of his tenancy, by any act of himself or his landlord, subject to the exception which is made by section 16 of the Colonial Act as to forfeiture of the tenancy for non-payment of rent. The tenant should, of course, be secured in possession of the land until he has received the compensation awarded to him as is provided by section 9 of the Colonial Act; but I would suggest that the landlord should be given the option, as in section 21 of the Irish Act, of depositing the amount.

Thirdly. I am of opinion that some limit of time should be fixed, as in the Irish Act (sub-section 1 of section 4), within which improvements, other than permanent buildings and reclamation of waste land, for which compensation can be claimed, must have been made.

Fourthly. It appears to me that there is much force in the objection raised by the landowners to the compulsory arbitration; and, looking to the great difficulty there may be in appointing arbitrators whose impartiality shall be beyond all question, it would be desirable that the Court, as in Ireland, should fix the amount of compensation as well as the title of the tenant to the claim. Power might be given to the Court in its discretion to call in assessors, and provision should be made, as in the Irish Act (section 25), for arbitration by consent of both parties. It is worthy of consideration whether claims should not be tried in the first instance by a Judge of the Supreme Court, from whose decision an appeal should lie to the full Court, as in section 24 of the Irish Act.

Fifthly. In lieu of the proposed mode of determining the value of the improvements, and the amount to be paid for them, a mode which was strongly objected to in the above-mentioned despatch of Sir George Grey, I would recommend that the rules laid down in the Irish Act should be followed, and upon this point I would particularly refer you to sections 4 and 5, and the last part of section 70 of that Act.

Lastly. I am of opinion that the Court or Arbitrators should have full power to adjourn the proceedings from time to time, in order to give an opportunity to absent proprietors to act upon notices served by tenants and to rebut, if necessary, tenants' claims.

Many of the provisions of the Irish Act are inapplicable to Prince Edward Island, as, for instance, the first three sections of Part I, the whole of Parts II, III, Part V (except part of section 70), and a portion of Part IV; but those sections which relate to improvements seem to me to afford the basis upon which, with the necessary alterations, a measure might be framed with advantage to the Colony, and to which I might be able to advise Her Majesty to give her assent.

Her Majesty's Government much regret that they have been hitherto compelled to object to the measures which have been passed by the Legislature of Prince Edward Island with a view to settle this difficult and long-standing question. They fully admit that the condition of the island, the peculiar circumstances through which the present state of agricultural tenures, so unsuited to a Colony, has arisen, and the injury caused to the Colony by the grants of land in 1767, are valid reasons for legislation on this subject, and they would rejoice if the suggestions which I have made in this despatch should be acceptable to your advisers and to the Colonial Legislature, and should furnish the means of passing an Act which would give reasonable satisfaction to the claims of the tenants without depriving the landlords of their just rights.

I have, &c.  
(Signed) KIMBERLEY.

No. 5.

*The Earl of Kimberley to Lieutenant-Governor Robinson.*

Sir,

*Downing Street, September 5, 1871.*

WITH reference to my despatch of the 2nd instant,\* respecting "The Tenants' Compensation Act, 1871," I have to request that you will inform the proprietors of land in Prince Edward Island who signed the Memorial against this Act, forwarded in your despatch of the 10th of June,† that Her Majesty has not been advised to sanction the Bill in its present shape.

I have, &c.  
(Signed) KIMBERLEY.

\* No. 4.

† No. 2.

*Lieutenant-Governor Robinson to the Earl of Kimberley.—(Received January 25, 1873.)*

My Lord,

*Government House, December 28, 1872.*

WITH my despatch of this date, your Lordship will receive authenticated transcripts of "The Tenants' Compensation Act, 1872," I have now the honour to forward the following documents in connection therewith:—

(1.) Memorial of R. B. Stewart, Esq., and other proprietors, praying that Her Majesty may be advised to refuse her Royal Assent to the Act.

(2.) Memorial to the same effect, from J. A. Macdonald, Esq., of Glenaladale.

(3.) Minute of Council, dated 28th December, 1872, with inclosures, offering observations on Memorial of proprietors, and advocating confirmation of Act by the Crown.

(4.) Minute of Council, dated 28th December, 1872, commenting on Memorial of J. A. Macdonald, Esq.

(5.) Letter from Leader of Government to Lieutenant-Governor, dated 26th December, 1872, with observations on the general question of the right of tenants to the improvements made by them on their farms.

2. The views of those who are opposed to this Act, as well as the views of those who are in favour of it, are so fully and clearly set forth in the documents which I inclose, that it only remains for me to draw attention to the Report of the Solicitor-General, by whom the Bill was drafted, wherein it is stated that the objectionable clauses and provisions of the Act of 1871, which your Lordship was unable to submit for Her Majesty's information, have now been entirely omitted, and that every provision of the present Act (excepting those regulating the practice to be adopted in carrying out the Act), is either a transcript of a similar provision in the Irish Act, of some unobjectionable clause of the Act of 1871, or an embodiment of some suggestion contained in your Lordship's despatch of the 2nd of September, 1871.\*

I have, &c.

(Signed) WILLIAM ROBINSON.

#### Inclosure 1 in No. 6.

To the Right Honourable the Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies.

The Memorial and Petition of the Undersigned Proprietors of Township Lands in Prince Edward Island.

Most respectfully sheweth,

THAT a certain enactment by the local Legislature of this Colony, passed during its recent Session, entitled "The Tenants' Compensation Act, 1872," enacts that—

"Any tenant occupying lands under a lease or agreement, verbal or in writing, or any Memorandum or agreement whereby any term or estate is reserved or will revert to the landlord, may, on the expiration of his lease or upon the legal determination of his tenancy by any act of himself or his landlord, claim compensation to be paid by the landlord in respect of all improvements on such lands made by himself or his predecessors in title."

That said enactment further enacts that

"No tenant shall be deprived of any such compensation under the provisions of this Act, by reason of the fact of his being in arrears of rent."

That on referring to your Lordship's despatch to his Honour the Lieutenant-Governor, dated 2nd September, 1871, your Memorialists observed that your Lordship was pleased to write as follows:—

"I would suggest that those sections should be amended, so as to limit the operation of the Act to cases where the tenant quits his holding either upon the expiration of a lease, or upon legal determination of his tenancy by an act of himself, or his landlord, subject to the exception which is made by section 16 of the Colonial Act as to forfeiture of the tenancy for non-payment of rent."

That the above-named despatch of your Lordship being recognized as the guide and ground upon which the Act of 1872 was to be framed, and that, as your Memoria-

lists submit, your Lordship either suggested or understood that there was to be an exception to compensation where the tenancy should be forfeited for non-payment of rent. Your Memorialists submit that the Act against which they petition is not in accordance with your Lordship's suggestions or understanding on this point.

That while by the present Act your Memorialists are ostensibly relieved from the necessity or compulsion of arbitration, without the mutual consent of both landlord and tenant, yet that the power proposed to be given to the Supreme Court of Judicature, to appoint assessors, would, in practice, be very much the same thing as compulsory arbitration.

That by the Act against which your Memorialists petition, it appears to your Memorialists that every axiom and rule, constitutional or prescriptive of the ancient common law and statute law of Great Britain, with regard to real property and its rights, however long established by law, usage, custom, and justice, are at once to be swept away and annihilated; and that the Supreme Court of Judicature of this island is to possess a power of jurisdiction, not only equal to that of the Court of Chancery, but practically such as was once possessed by the Star Chamber.

That said Act enacts that—

“ Any contract made by a tenant by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this Act, shall, so far as relates to said clause, be void, both at law and in equity, subject to the provisions herein contained as to any improvements made in pursuance of a contract entered into for valuable consideration therefor.”

That your Memorialists submit that the preceding enactment is a piece of the most extraordinary and unjust class legislation that ever was perpetrated, or attempted in any country or at any period.

That although there is a suspending clause to said Act, yet that a previous clause, the 29th of said Act, completely abrogates and does away with the suspending clause, by enacting that, immediately upon the Act receiving the assent of the Lieutenant-Governor, any tenant who may claim compensation under the said Act, “ shall in all respects be deemed and taken to be within the provisions of this Act, in as full and complete and beneficial a manner as if such proceedings had been commenced after Her Majesty's assent had been published as aforesaid.” That your Memorialists respectfully and earnestly protest against the injustice of their being thus practically deprived of that appeal to Her Majesty in Council, which it is the very principle of a suspending clause to secure for them; and that although in “ The Tenants' Compensation Act, 1871,” which Her Majesty was graciously pleased to disallow, the 22nd clause is to a certain extent similar to the 29th clause of the present Act, yet that there is a remarkable difference between these two clauses, to which they respectfully beg leave to call your Lordship's attention upon a comparison of the two.

That there are many instances wherein testators, assuming that, upon the expiration of leases of their property, they would be entitled to deal with it, as by law they are and always have been entitled to deal with it, have appointed such property to their children for their support and education: That the Act, against which your Memorialists now petition, would, in its results, have the effect, in all human probability, of leaving the objects of the testator's bounty or provision penniless and destitute.

That your Memorialists respectfully submit that the position of the landlord and tenant in this Colony is very different from what it is in Ireland; the area of land to be let on lease in this Colony having always been greatly in excess of the population, and there being a very oppressive penal tax on land in a wilderness state, these causes have enabled the tenant to make his own terms with his landlord. Witness the extreme length of most of the leases, by far the greater part of them being for 999 years, some for 99 years, and only a very small proportion of them for a less term, as may be proved by reference to the census; add to this the extreme lowness of the rent, the greater part of the land being let at 9*d.* sterling per acre.

The Irish Land Act has been allowed, on all hands, to be a very extreme measure, interfering as it does with long established rights and usages, and only attempted to be justified by those who advocated it, as being called for by very peculiar circumstances, such as that leases of any kind were not general, and that the population being in excess of the area to be occupied, caused the tenantry to outbid one another in their offers of rent, &c.

That your Memorialists respectfully submit that, whereas all the clauses in the Irish Act in favour of the tenant have been reproduced in the Colonial Act, many of those intended to protect the interest of the landlord have been left out; as for instance, the clause (sub-section 3, section 3, Irish Act) which makes void any contract between

landlord and tenant, debarring the tenant from compensation, is inserted (section 5, Colonial Act) the limitation of the action of said clause to the period of twenty years, is left out.

The clause (section 4, Irish Act) allowing compensation in certain cases is virtually enacted section 1, Colonial Act; while the clauses excepting certain tenancies from the benefits (sub-sections 3 and 4, section 4, Irish Act) are left out.

Section 6, Colonial Act, reproduces section 5 of the Irish Act without any exception as to Ulster right or any similar usage which prevails in this Colony and without the exceptions contained in sub-sections 2 and 5 of said section 5 in Irish Act. Sections 7 and 9 (Irish Act) are altogether omitted in the Colonial Act, as also are 10 and 11.

Section 12, limiting the action of sub-section 3, section 3 (Irish Act), is also omitted, and also section 18 (Irish Act), the latter part of which authorizes the Court, where the landlord has been and is willing to permit the tenant to continue in occupation, to disallow any compensation to the tenant.

The omission of any permission for appeal from the decision of one Judge to that of the whole Bench, similar to that contained in section 24 (Irish Act), and as suggested in your Lordship's despatch, would likewise be a great and grievous hardship here, as the agrarian party in this Colony elect the local Government, and the said local Government appoint the Judges.

Your Memorialists would further respectfully submit that all short leases in this Colony were given with the express intention that either the whole or a large portion of the farm should be reclaimed from forest land to a state of cultivation by the tenant, and, with all buildings, &c., be given up to the landlord at the expiration of the term. Such leases invariably contain a clause binding the tenant to clear so many acres in so many years, and the rent reserved is made little more than nominal, with the express intention of enabling the tenant to do so. Had the land been in a state of cultivation at the time it was let, a far higher rent could have been obtained for it.

All forest land in this Colony has now for many years been, and is at present being, let on lease for 999 years, or rather it is alienated, subject to a rent, which from the commencement of the term at two-thirds of 1*d.* sterling per acre, gradually rises to the very moderate rent of 9*d.* sterling per acre, and in a few instances of 1*s.* or 2*s.* sterling per acre. This latter rent does not by any means cover the increased value of the land caused by cultivation, and the reason it is not charged in the first instance is principally because the tenant, on entering the land, has no capital to start with, as men with capital do not generally take up forest land, and the owner is, by penal taxation, compelled to let his land to whoever will take it, however ineligible or undesirable as a tenant.

In the case of the termination of a lease for 999 years by the legal action of the landlord in recovery of his rent, or for the non-fulfilment of any other condition on the part of the tenant, to compel the landlord in every case to purchase and pay for the improvements made by the tenant, which improvements are, in many cases, worth more than the landlord's interest in the freehold, is certainly placing the landlord in a worse position than that in which any other creditor stands to a debtor. A mortgagee has the power of selling the property of a defaulting mortgagor, and, after satisfying the debt, of handing over the balance to him; and this, although the agreement between them was only intended to last for a short term, whereas the landlord is bound, on receipt of his rent, that is, his interest, to leave the tenant in possession of the land for 999 years.

To compel a tenant to purchase his landlord's interest at any time the landlord pleased, would not be a greater hardship or piece of injustice than that the tenant should be enabled, by withholding the payment of rent, to force his landlord to take legal steps to recover it, thus compelling the landlord to purchase and pay for his, the tenant's, improvements at any time he, the tenant, may choose.

That the Landlord and Tenant Act for Ireland was passed in order to give the tenant fixity of tenure. The tenants in this Colony, with leases for 999 years, have fixity of tenure already; and should the Tenant Compensation Act for this Colony be passed, it would enable a tenant here to terminate his very lengthy agreement with his landlord, without any possibility of loss to himself; while the landlord, unless able and willing to purchase the improvement of any tenant who may get into difficulties, or be seized with a desire to change his location (a very common thing in America), will be obliged to wait for his rent till the tenant shall choose to pay it, or, at least, the landlord must refrain from any proceedings which may possibly end in disturbing the defaulting tenant.

That with respect to the existence of any custom in this island similar to the

Ulster Right custom, your Memorialists respectfully state, that leases of land in this Colony, although they contain in general a clause restraining a tenant from selling his interest in the land without permission from his landlord, are, nevertheless, sold, bought, and sold again, mortgaged, and pledged for money, although considerable arrears of rent be due upon them at the time; the laws regulating distraint in this island being so unfavourable to the landlord, that he seldom resorts to it; and being excluded from the Small Debt Courts, by a special enactment for that purpose, his only remedy is a tedious and costly remedy in the Supreme Court of Judicature.

That your Memorialists might submit to your Lordship's consideration, and sense of justice, many facts which they have not touched upon; such as the amount and extent of road-making, bridge-building, and other works of use and convenience, which some of your Memorialists have had performed at their own expense, upon their township lands, for the benefit of their tenants, much more than for their own; the tenant reaping the benefit of such works, without being called upon for any compensation therefor.

Your Memorialists might also most justly complain of the evidence of interested parties, which they have reason to fear, would be brought to bear upon their interests, if the Act against which they petition were to become the law of the land.

Your Memorialists most respectfully pray that, for the reasons above set forth, Her Majesty may be advised to refuse her Royal Assent to the Act entitled, "The Tenant Compensation Act, 1872."

And your Memorialists, as in duty bound, will ever pray, &c.

(Signed)

ROBERT BRUCE STEWART, Proprietor of Townships Nos. 7, 10, 12, 30, and parts of Townships Nos. 27, 46, and 47.

LORD HENRY VISCOUNT MELVILLE, Proprietor of part of Townships Nos. 29 and 53, by his Agent, J. R. Bourke.

MESSRS. THOMPSON, Proprietors of part of Township No. 26, by their Agent, J. R. Bourke.

J. R. BOURKE, Proprietor of part of Townships Nos. 49, 50, and 37.

COL. BENTINCK HARRY CUMBERLAND and MARGURET WILLIAM SEYEN CUMBERLAND, Proprietors of part of Township No. 65, by Edward J. Hodgson, their Attorney.

MARIA MATILDE FANNING, Proprietor of Townships Nos. 50 and 67, by Edward J. Hodgson.

JAMES P. DOUSE, Proprietor of parts of Townships Nos. 31 and 40.

JOHN DOUSE, Proprietor of part of Township No. 31.

ALFRED WINSLOE, Proprietor of part of Townships Nos. 24 and 33.

HENRY C. DOUSE, Proprietor of part of Township No. 31.

FREDK. A. DOUSE, Proprietor of part of Township No. 31.

WM. E. DOUSE, Proprietor of part of Township No. 31.

JOHN H. WINSLOE, Proprietor of part of Township No. 24.

JOHN ARCHIBALD MACDONALD, Proprietor of parts of Townships Nos. 35 and 36.

JOHN A. MACDONELL, Proprietor of part of Township No. 35.

CHARLOTTE A. SULLIVAN (per her Attorney, G. W. De Blois), Proprietor of Townships Nos. 9, 16, 22, and 61.

WM. CUNDELL, Proprietor of part of Township No. 20.

*Charlotte Town, Prince Edward Island, 1872.*

## Inclosure 2 in No. 6.

*Extract from Minutes of the Executive Council of Prince Edward Island.*

*Council Chamber, December 28, 1872.*

AT a meeting of a Committee of the Executive Council :—

Present :

Honourable Mr. Haythorne.  
 „ „ Attorney-General.  
 „ „ Sinclair.  
 „ „ Muirhead.  
 „ „ Hogan.  
 „ „ Laird.

The following Minute or Address to his Honour the Lieutenant-Governor was approved :—

To his Honour William Cleaver Francis Robinson, Esq., Lieutenant-Governor, &c.,

Sir,

The Committee of the Executive Council having considered the Memorial of certain proprietors of township lands, addressed to the Earl of Kimberley, praying his Lordship not to advise Her Majesty to give her Royal Assent to "The Tenants' Compensation Bill, 1872," desire to offer the following observations thereon :—

1. They take leave to express the satisfaction they have experienced as members of the Local Legislature, on observing that the leading principles of the Irish Landlord and Tenant Act are nearly identical with those of the Colonial laws, passed for the relief of tenants in this island, familiarly known as the "Land Purchase Bill," one Act to assist tenants in the purchase of their farms, and the Tenants' Compensation Bills of 1854, 1871, and 1872; which last three measures, however, have not yet received the Royal Assent.

2. The Undersigned disclaim all intention to despoil or defraud proprietors of any of their just rights; the tendency of legislation with reference to the land tenures for many years past, as well as of the memorials on the same subject, which have been addressed by the Executive Council of the Colony to his Lordship's predecessors, proves beyond doubt that the object of the Legislature has been to purchase the proprietary estates, whenever it was practicable to do so, at prices which would enable the farms to be resold without ultimate loss to the Treasury.

3. The fact must not be lost sight of, if it is desired to arrive at a true appreciation of the tenants' case, that the land, which forms the chief attraction to draw the emigrant from his native shore, and the possession of which to him is an object of the first necessity, was held in strict monopoly by the proprietors until a comparatively recent period. The alternatives, therefore, which presented themselves to the immigrant on landing in this island were, either to accept the proprietor's terms, or seek a home elsewhere; he generally chose the former, without any clear perception of the consequences of the steps he was taking; buoyant with youth and hope, he commenced the arduous career of a settler, without any better security than a lease affords. In other parts of America it has been deemed politic to give the additional security of a homestead law to those who engage in the lifelong labour of clearing the forests; here in Prince Edward Island, in the hundredth year of her existence as a Colony, the Legislature and the Executive are found contending against proprietors for a Tenants' Compensation Bill.

4. It would be easy to quote numerous instances in which tenants have been compelled to quit their holdings and abandon their improvements without any compensation, but the Undersigned consider that a general statement, referring to a wider area and supported by unimpeachable documentary evidence, is better calculated to exhibit the tendency and results of the leasehold system, in the absence of that security which it is the object of the measure under review to afford. The MacDonald, better known as the Tracadie Estates, comprising lands on Townships Nos. 35 and 36,

were subdivided about the year 1865, after a period of much uncertainty as to ownership, during which heavy arrears accumulated, some of the claimants notifying the tenants by public advertisements not to pay the rent to the others. A few years later, the owner of part of this property, Miss Margaret Macdonald, offered her lands for sale to the Government, as provided for by the Act 16 Vict., cap 18. The plans and rent-rolls were submitted to the Executive, and a Commission appointed to inspect the property, and report as to its condition and value. That Report being a public document, the result of personal inspection and inquiry, the Undersigned consider, affords a reliable picture of the effects of the leasehold system, as it exists on the Tracadie Estate, and shows clearly the necessity of affording the tenants some better security than a short lease affords. A copy of the Report referred to, with accompanying documents, is hereto appended, and the attention of the Secretary of State is respectfully but earnestly directed to them.

4. The proprietors, however, affirm, in their memorial, that short leases are not numerous, and that to leases for 999 years no objection can be taken on the ground of insecurity of tenure.

The Undersigned propose to avail themselves of another public document, with a view to illustrate the condition of an estate recently purchased by the Government, and where long leases prevailed. The Todd Estate, on Township No. 19, comprised about 12,175 acres, which, as regards situation and quality of soil, could not be surpassed. The land is all occupied, the leases were for 999 years, and the rent 9*d.* sterling per acre. Mr. Todd, the former proprietor, resided in Canada; his agent in the island was the Honourable J. C. Pope, to whom the property was sold about the year 1868. The price was stated to be 9*s.* 2*d.* sterling per acre, including the arrears of rent, which amounted to nearly 3,366*l.* sterling. Some ineffectual attempts were made by the Government of the day to purchase the estate from Mr. Pope. A year or two later, however, it was resold by him to Mr. E. J. Hodgson, a distinguished member of the Prince Edward Island bar. This gentleman, who had acted as agent to Mr. Pope during the short time the latter was proprietor, used such energetic measures for the recovery of rent and arrears, that the Government, in the interests of the tenants, felt it necessary to step in and purchase the property from Mr. Hodgson, paying him, however, an advance of 1 dollar per acre on the price paid to Mr. Todd, and about the same amount in excess of the highest rate which had yet been paid by this Government for a proprietor's estate. On the conclusion of the sale, the books of account, the plans, and the note-of-hand books of the estate were surrendered to the Commissioner of Crown Lands. An abstract of the accounts shows that the arrears, which on the 1st September, 1868, were nearly 3,366*l.* sterling, by May 1, 1870, had been reduced to 2,237*l.* sterling. The note of hand book is a most suggestive document, which it is intended to transmit herewith; it reveals a state of indebtedness which is quite inconsistent with independence, displays the necessity which exists for remedial measures (the condition of Lot 19 in this respect being by no means singular), and shows how little foundation there is for the complaint of the proprietors as to the difficulty they experience in finding a cheap and ready means of recovering their rents. Mr. Hodgson could recover the amount of any note of hand under 20*l.* currency, in the Small Debt Courts, for the recovery of notes above that sum he would have to institute proceedings in the Supreme Court, but it is presumed there could be no defence to any such action.

6. Township No. 31, the owners of which append their names to the memorial against the Compensation Bill, 1872, affords another example where the proprietor's agent has become the purchaser of the property he once supervised. The Earl of Selkirk was the proprietor of a fine estate on this township. Mr. William Douse was his Lordship's agent, and it is recorded, in the Registry of Deeds, that the area conveyed by Lord Selkirk to Mr. Douse was 14,554 acres, and the consideration money 3,500*l.* sterling, being a trifle below 5*s.* sterling per acre. No means exist of ascertaining what amount of arrears were due by the tenants at the date of Mr. Douse's purchase, but it is a well known fact that lands were taken from tenants for the amount owing, and that tenants at will were allowed the right of purchase at 33*s.* 4*d.* per acre,\* and that prime blocks of forest land were reserved and held at 2*l.* sterling per acre.†

It is not possible to enter at length into the history of this estate since it passed from the Earl of Selkirk to Mr. Douse, but the Secretary of State, observing the scale of that gentleman's profits, will perhaps consider them sufficient without the additions which are perhaps contemplated on the falling in of the short leases a few years hence.

\*  $666\frac{3}{8}$  per cent.

† 800 per cent.



It is the duty of the Undersigned, however, as guardians of the people's interests, to press on the Secretary of State's attention the dangerous position of the many deeply indebted tenants of this Colony. It is not denied that not a few of the proprietors are persons of generous dispositions, and, being in affluent circumstances, are not disposed to press their claims against their tenants; but no one can answer for the forbearance of their successors, or whether the note-of-hand system will be adopted, as in Lot 19, or whether the methods adopted by Mr. Douse on Lot 31 will be preferred.

The security demanded by Her Majesty's subjects, the short leaseholders, and the deeply indebted tenantry of this Colony, is that of a law establishing their rights to the improvements on their farms. They will then be in a position to oppose effectual resistance to demands for notes of hand, and have less reason to dread the termination of short leases, if the law compels the proprietor to pay for their improvements before he can eject them. Had Lord Selkirk sold his other estates in the southern part of Queen's County, amounting to some 70,000 acres, to his agent instead of to the Government (an event which, at one time, seemed likely to happen), the consequences would have been appalling, as it is a fact, which can be proved by reference to the accounts in the Crown Lands Office, that the arrears of rent due by the tenants on those estates actually exceeded the purchase-money paid to his Lordship.

In another passage of their memorial, the proprietors complain that the object of certain testamentary dispositions, which have been made with a view to provide for the education and maintenance of minors, would be defeated, should the Tenants' Compensation Bill receive the Royal Assent.

The Undersigned have already shown that, in the early settlement days of the Colony, the proprietors used their monopoly of land to impose terms on the tenants which the latter were not in a position to resist. The termination of short leases, events now of frequent occurrence, would again place them in a similar position; but the choice would now lie between relinquishing their homesteads and clear fields, or accepting the terms of renewal the proprietors saw fit to impose. These island proprietors, in effect, adopt the language and arguments which might justly be used by the landlords of England or Scotland, if their rights to improvements were questioned. When those British proprietors grant leases, they demise fields cleared, fenced, and drained, dwelling-houses, barns, and stables—holdings within easy access of established markets; but these others demised blocks of unbroken forest, and the improvements which they now seek to appropriate have been made exclusively by the tenants, without any outlay by the landlord.

8 The Undersigned do not consider it incumbent on them to vindicate the Judges of the Supreme Court from the animadversions of the Memorialists; they may, however, be expected to offer some remarks on what has been said by the proprietors respecting the construction of roads and bridges.

Many years have elapsed since the opening of a new highway exceeding five miles in length under the provisions of the 14th Victoria, cap. 1, sections 1 to 15, but new roads are frequently opened by commission, under section 16 of the same Act, and pass, for the most part, through lands in the occupation of actual settlers; proprietors, therefore, can only be very remotely interested in such roads. They may, however, in a few instances, have opened up new roads in order to give access to new ranges of farms, and in doing so have found it necessary to construct a few small wooden bridges. There is an exception, which perhaps ought to be noticed, that is, that the Lady Georgina Fane, at her own expense, built a wooden bridge, of considerable size, across an arm of the sea, near the village of Crapaue.

The Undersigned have abstained from alluding to the comparisons which the proprietors' Memorial institutes between the Irish Landlord and Tenant Act and the Tenants' Compensation Act, 1872, of the Legislature of Prince Edward Island; it has been unnecessary for them to do so, because an able and full report on that subject has been sent in by the Solicitor-General, Louis H. Davies, Esquire, by whom the Bill in question was drafted, and who has fully explained the origin and intention of every clause, which report is hereto appended.

In conclusion, they would observe that the proprietors as a body have invariably been treated with the utmost consideration by the Ministers of the Crown; that they have rejected the liberal offers of the Local Government to purchase their estates at their fairly estimated value. Who, the Undersigned ask, most require the protection of the law—the toiling men and women whose constancy and courage have claimed Her Majesty's Island of Prince Edward from its primeval forests, and converted it into fertile cornfields and smiling meadows, amidst which rise the frequent homestead, the

church, and the schoolhouse, or the proprietor, living, it may be, in luxury on the banks of the Thames, or the sometime agent whose fortune has been built up by the credulity or indifference of the absentee?

All which is respectfully submitted by the Undersigned.

(Signed)

ROBT. P. HAYTHORNE, *President*.  
EDWARD PALMER.  
PETER SINCLAIR.  
JAMES MUIRHEAD.  
JAMES HOGAN.  
DAVID LAIRD.

Certified,

(Signed)

WILLIAM C. DES BRISAY,  
*Assistant Clerk of Executive Council.*

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Inclosure 3 in No. 6.

*Report of the Commissioners on a portion of the Tracadie Estate.*

To his Honour Sir Robert Hodgson, Knight, Administrator of the Government of Prince Edward Island, &c., &c., &c., in Council.

THE Undersigned being commissioned to examine a portion of the Tracadie Estate, situated on Townships 35 and 36, and offered by Miss Mary Margaret McDonald to the Government, at 20s. per acre for leased, and 15s. per acre for unoccupied land, report—

That, being furnished with plans and rent-rolls, they proceeded, on the 23rd of August to inspect, first—

Those portions of the estate on Township 35, lying on the south side of Hillsborough, beginning with the farm held by the Messrs. Brazil. In its general character, the land in this vicinity is scarcely second class; the uplands are light and much wet; sandy land occurs. The farm of the Messrs. Brazil, however, is good; it is held at an annual rent of 10*l.* for 105 acres, by an agreement which will expire in 1872. There is a salt marsh connected with it, on which about four tons of hay may be cut yearly, and the farm is distant about four miles from two public wharves, and ten from Charlotte Town Ferry; its estimated value, with a Government title, would be 400*l.* the occupiers would be content to pay from 25s. to 30s. per acre, rather than remain as they are, or risk the consequences which may ensue at the termination of the existing agreement.

Patrick Hughes occupies the adjoining farm, which is also held by agreement for forty years, of which fourteen are unexpired. The area is 49 acres; the rent 5*l.* per annum; arrears claimed, 19*l.* 18s. 6*d.* Hughes would be glad of the opportunity to purchase at from 25s. to 30s. per acre; both these farms are bare of firewood and fencing. James Dunphy, whose farm is described as 49 acres, has neither lease nor agreement, and says he holds only about 20 acres belonging to Miss McDonald, for which he is willing to pay 25s. per acre, if necessary—46*l.* 5s. 6*d.* arrears of rent are claimed from this squatter.

The Finnan River Settlement, described on the plan as containing four farms, and in the rent-roll for 1866-69, as producing a present rent of 10*l.* per annum, and an accruing rent of 30*l.*, with arrears due amounting to 95*l.*, is in fact occupied by one solitary tenant, Allen Campbell, who states that one-half of his 50 acres is swamp; that he has no salt marsh and no fencing stuff; he can maintain but a small stock, three cows, no horse, and thinks 30*l.*—12s. per acre—would be quite enough for this farm, in which opinion we, the Undersigned, concur. The other farms in this settlement have been occupied and deserted; the land is light, but easily cleared. With a Government title, 12s. per acre might be realized. Two unoccupied farms adjoining Campbell's cannot be rated above 10s. per acre.

There is one farm of 50 acres belonging to this estate, on the St. Peter's Road, Lot 36, occupied by Angus Fisher—the rent is 3*l.* 12s. He succeeded B. McMahon, who at one time owed arrears to the amount of 28*l.* 16s. The farm is poor, the buildings small, and the tenant works as a shipwright. It may be doubted whether more than 12s. per acre could be realized for this farm.

The Afton Road lots were next visited by the Undersigned on foot, as Afton Road is still impracticable for carriages. Leases are said to have been granted for two or

three of those farms, but they are unoccupied and unimproved—at present inaccessible; but they are distant only from two to four miles from Hayden's Wharf, Hillsborough, and there is some useful firewood and fencing stuff growing on them. They may be worth 15s. per acre—perhaps more, if the road was opened up and rendered passable. The Sandhill Settlement comprises twelve farms—641 acres; present rental, 63*l.* 8*s.* 4*d.* Seven of these farms (39 acres) pay at present 36*l.* 15*s.*, and the accruing rents, unless the tenants are ruined or ejected, or some other arrangement supervenes, will amount to the exorbitant sum of 110*l.* 5*s.* These farms front on the east side of Tracadie Bay, are well situated with a view to the prosecution of the fisheries by their inhabitants. They are intersected by good roads, and are distant about fifteen miles from Charlotte Town, and eight from Mount Stewart Bridge. The quality of the soil on most of them is tolerable, though rather light and hilly, while some of them comprise considerable portions of swamps. The buildings are miserable; the tenants show a want of enterprise, which, though deplorable, is not surprising, considering the nature of their land tenures. The men are often engaged in other than agricultural pursuits—ship-building and fishing, for example; and we found no exertions made to procure sea-manures.

These farms would, however, in the opinion of the Undersigned, support a considerable population in comfort, and even affluence, if the tenure was freehold, but circumstanced as they are, the tenants have no encouragement to exert themselves.

A close inspection of the rent-rolls shows that, in 1864, the gross rent of this estate, including the dower lands, was 106*l.* 0*s.* 4*d.*, and that arrears amounting to 430*l.* 0*s.* 7*d.*, were due by the tenants and occupiers. In 1866 (not including the dower farm, amounting to 501 acres, with a rental of 43*l.* 11*s.* 4*d.*), the arrears were 321*l.* 17*s.* 8*d.*, while in 1869 they had increased to 403*l.* 7*s.* 5*d.*—a sum of 108*l.* 11*s.* 3*d.* having been paid in the interval of three years. Bad as this state of things is, it is not the worst feature in the case. As has been already stated, the agreement by which Messrs. Brazil's farm is held, will expire in 1872; and on the remainder of Miss McDonald's estate, the rentals (so the rolls handed to the Undersigned state) will increase from 63*l.* 9*s.*, payable by the occupiers of 809 acres, to 108*l.* 11*s.* 3*d.*, or in some cases to 6*s.* per acre. This occurs in some instances in the Sandhill Settlements, while in the Finnan Settlement, the maximum rents will be 7*l.* 10*s.* for 50 acres.

In view of these facts, derived from inspection of the rent-rolls, from personal observation and conversation with the occupiers, the Undersigned can come to no other conclusion than this: That a settlement on fair terms is alike desirable for proprietor and tenant. Even the present high rents cannot be collected. Experience has shown that between April 1866 and the same period in 1869, only 108*l.* 4*s.* 3*d.* was received, in place of 190*l.* 7*s.*, which was due. The position of the most industrious and enterprising tenants, the Brazils, Hughes, McAskills, McPhees, is at best, one of anxiety and uncertainty, altogether incompatible with improvement and progress, while that of the poor class, as Allen Campbell, Fisher, Steel, Butler, McInnis and others, is almost hopeless under existing circumstances.

The undersigned are of opinion that a purchase, if any is effected, should include the dower farms, leaving Miss McDonald to make the necessary arrangements with her mother, in which case 15*s.* per acre might be offered for the whole, including unoccupied land at the same rate. Assuming that an area of 1,310 acres, including dower lands, exists (though some of the farms representing that amount, are deserted), and 700 acres of wilderness, 2,010 acres at 15*s.* would amount to 1,507*l.* 10*s.*; the interest of which, at 6 per cent., would be 90*l.* 9*s.* per annum, a larger sum than has probably ever been realized as rent in a single year. This amount, to make the estate self sustaining, may be apportioned in the manner set forth in the appended statement:

JOHNSTON'S RIVER SETTLEMENT.						Acres.	£	s.	d.
Brazil's farm	..	..	..	..	..	105			
P. Hughes's ..	..	..	..	..	..	40			
Dunphy's ..	..	..	..	..	..	20			
						174 at 25 <i>s.</i> ,	217	10	0
FINNAN RIVER.									
Allen Campbell and three other farms	..	..	..	..	..	200 at 12 <i>s.</i> ,	120	0	0
ST. PETER'S ROAD.									
Angus Fisher	..	..	..	..	..	50 at 12 <i>s.</i> ,	30	0	0
AFTON ROAD.									
						About 560 at 15 <i>s.</i>	420	0	0

		SANDHILLS.			
		147	at 22s.	161	14 0
		494	at 25s.	617	10 0
		<hr/>		<hr/>	
		641		779	4 0
Salt Marsh, 30s. per acre	.. .. .			20	0 0
80 acres vacant land at Finnan	.. .. .			40	0 0
40 acres vacant land on Sandhills	.. .. .			30	0 0
		<hr/>		<hr/>	
Total	.. .. .			1,656	14 0

A margin of 156*l.* 14*s.* would thus be left to cover losses and working expenses, and would probably prove sufficient if the unoccupied land was speedily settled, as would likely be the case when this portion of the McDonald estate become vested in the Government.

Annexed is a copy of Messrs. Brazil's agreement, which, together with the foregoing, is respectfully submitted by the Undersigned.

(Signed)

ROBERT POORE HAYTHORNE.  
F. KELLY.  
ISAAC THOMPSON.

Certified,

(Signed)

WILLIAM C. DES BRISAY,  
*Assistant Clerk of Executive Council.*

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Inclosure 4 in No. 6.

Sir,

*Charlotte Town, November 21, 1872.*

IN reply to your letter of the 11th instant, requesting me to state as to how far the provisions of "The Tenants' Compensation Act, 1872," are at variance with those of the Irish Land Act of 1870, I have the honour to report—

That at the commencement of the late session of the Legislature I was handed a copy of the despatch of the Right Honourable the Earl of Kimberley of the date of 2nd September, 1871, in which his Lordship detailed at length the reasons which induced him to advise Her Majesty to withhold her assent from "The Tenants' Compensation Act, 1871," and in which he suggested the basis or framework of a Bill which would meet with his approval: and I was instructed to draft a Bill in conformity with the suggestions made by his Lordship, and to take care that no provisions should be introduced at variance with the principles upon which the Irish Land Act was based, or with the suggestions made in his Lordship's despatch.

In compliance with these instructions I drafted "The Tenants' Compensation Act, 1872," and a careful collating of that Act with the Irish Land Act of 1870, and with his Lordship's despatch will, I think, show that in drafting that important measure I carried out my instructions with scrupulous care.

The objectionable clauses and provisions of the Act of 1871 are, in the first place, entirely omitted, and every provision of the Act of 1872 (excepting those regulating the practice to be adopted in carrying out the Act, which involve no principle and which are more fully explained hereafter) is either a transcript of a similar provision in the Irish Act of some unobjected clause of the Act of 1871, or is an embodiment of some suggestion made in his Lordship's before-mentioned despatch.

Sections 1, 2, 3, 4, and 5 of the Act of 1872 are entirely similar in their principle and effect to the 4th section of the Irish Act of 1870, and, indeed, are almost literal transcripts of that section. A small part of that section was omitted in our Act as being totally inapplicable to the relationships existing between landlords and their tenants in this Colony, and the slight difference in the wording of the beginning of the 1st section of our Act from the co-relative section of the Irish Act arises from the same cause. There is nothing, however, so far as I can see, in any of these sections at variance or inconsistent with the principle adopted in the Irish Act.

Section 6 of our Island Act is nearly a transcript of the 5th section of the Irish Act, with the omission of such part of the last-named section as was thought to be inapplicable to our island tenures.

Section 7 is a transcript of the 11th section of the Irish Act.

Section 8 is in substance similar to the 16th section of the Island Act of 1871, and was introduced into the Bill in accordance with the suggestion of Earl Kimberley in his before-mentioned despatch. There is a difference in the wording of the two sections, which was rendered necessary to avoid a conflict between the 8th section and

other portions of the Act. Our Act was framed with the express intention of embracing the cases of those tenants whose rents were in arrear as well as of those more fortunate ones whose rents were all paid up. The Irish Act proceeded upon the same basis, and by both Acts the landlord is entitled to set off any arrears of rent to the claim for tenants' compensation. The latter part of the 16th section of the Act of 1871 appeared open to the objection of being inconsistent with the preceding part of the same section and with other portions of that Act, and the change in the wording of the 8th section of the Act of 1872 was made with a view to avoid that inconsistency, while at the same time it fully met the suggestion of Earl Kimberley.

Section 9 is a transcript of the 16th section of the Irish Act, with verbal alterations rendered necessary for the same reasons as given with reference to several preceding sections.

Section 10 is a transcript of the 17th section of the Irish Act.

Sections 11 and 13 prescribe the mode of procedure by the tenant wishing to take advantage of the benefits of the Act and the manner in which the Court shall proceed to hear evidence. They also invest the Court with large powers of adjournment and direct the mode in which the evidence shall be taken. This section (13) was framed with especial reference to the noble Earl's suggestions in the before-mentioned despatch.

Sections 12, 14, and 15 are respectively transcripts (relation being had to the different circumstances legislated for) of the 18th, 19th, and 21st sections of the Irish Act.

Section 16 is a provision introduced at the suggestion of Earl Kimberley.

Section 17 is a transcript of the 9th section of the Island Act of 1871. It is a provision absolutely necessary to prevent the Act being entirely useless, and was not directly objected to, either by Earl Kimberley or by the Memorialists who petitioned against the previous Act of 1871.

Sections 18, 19, and 20, providing for the amicable adjustment of disputes by permissive arbitration are transcripts of the 25th section of the Irish Act.

Section 21 is a re-enactment of the latter portion of the 17th section of the Island Act of 1871.

Sections 22, 23, 24, 25, and 26 are transcripts of such portions of the 70th section of the Irish Act as are applicable to this island, and were introduced at the special suggestion of Earl Kimberley.

Sections 27, 28, and 29 are respectively transcripts of the 19th, 20th, and 22nd sections of the Island Act of 1871.

It became unnecessary to re-enact the 21st section of the Island Act of 1871, as a clause similar in its nature already existed in a Statute of this island, regulating the practice of the Supreme Court. The schedule referring to arbitrations was copied from the Irish Act.

With reference to the objections against the allowance of this Bill by Her Majesty urged by certain Memorialists in a Memorial to the Right Honourable the Earl of Kimberley, a copy of which you have submitted to me, I may say that that part of the 8th clause in the Bill, to which they first take exception, is contained *verbatim* in the section (16) of the Act of 1871, and was expressly suggested for re-enactment by Earl Kimberley in his before-mentioned despatch. Without such clause or its equivalent the Bill would be a useless incumbrance on the Statute-Book, as your experience and knowledge of the peculiar circumstances of tenants in this Colony will at once convince you.

The next objection of the Memorialists is to the clause (No. 16) empowering the Supreme Court, in its discretion, to appoint two or more assessors to examine the farm for the improvements to which compensation is claimed; and I may say that this clause is one emanating from his Lordship Earl Kimberley, and one which all who have had any experience in Courts of Justice would highly approve of.

The objection to clause 5, which avoids any contract made by a tenant, depriving him of his right to make any claim which he would otherwise be entitled to make under that Act, is best answered by the statement that the clause in question is merely a transcript of part of the 4th section of the Irish Act. The statement in the Memorial that this "enactment (clause 5) is a piece of the most extraordinary and unjust class legislation that ever was perpetrated or attempted in any country, or at any period," is therefore one made in entire ignorance of the legislation of the mother-country. Apart, however, from the safe precedent which has been followed in enacting this clause, I may safely appeal to you as to its absolute necessity, in cases such as those which our Island Statute is intended to meet, where, on the one hand, you have the educated and

the astute, with all the advantages of wealth on their side, contrasted with the comparatively simple-minded farmer compelled by circumstances, in too many instances, to put his name or mark to documents, the real effect of which he does not comprehend.

The objection to the 29th clause—one almost identical with the 22nd clause of the Act of 1871—does not require lengthened explanations from me. I would merely say that, under the circumstances connected with this much-vexed land question, and the different Acts that have been passed to compass its quiet and equitable settlement, nothing could appear to me more equitable and just, or more necessary, especially at the present time, when so many short leases are expiring, than the provisions made by this section.

I have, &c.

(Signed)

LOUIS H. DAVIES,

*Solicitor-General.*

The Honourable Robert Haythorne,  
President of the Executive Council.

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Inclosure 5 in No. 6.

*Extract from Minutes of the Executive Council of Prince Edward Island.*

*Council Chamber, December 28, 1872.*

AT a meeting of a Committee of the Executive Council:—

Present :

Honourable Mr. Haythorne, President.

” ” Sinclair.  
” ” Muirhead.  
” ” Beer.  
” ” Hogan.  
” ” Laird.

The following Minute or Address to his Honour the Lieutenant-Governor was adopted:—

To his Honour William C. F. Robinson, Esq., Lieutenant-Governor, &c.

Sir,

The Undersigned apply themselves to the duty of commenting on the memorial of John Archibald McDonald Esquire, against the Tenants' Compensation Bill, 1872, with reluctance, because the condition of the tenants on the Tracadie Estate has long been most unsatisfactory.

In passing from the adjoining Township 34, where the tenure is freehold, or the land is held on leases for 999 years at 9*d.* sterling rent per acre, no one can fail to observe the difference in the appearance of the dwellings and farm buildings, in the cultivation of the fields, and the permanency of the fences; yet Mr. McDonald's statement that the settlement of his estate dates 100 years back is probably correct; indeed, it is not improbable that some parts of it were occupied at a still more remote period by the French settlers. The cause of his lack of prosperity is not doubtful. Insecurity of tenure produces the same effects in Prince Edward Island which are observed in Ireland and elsewhere, and demands the same remedy—a Tenants' Compensation Act. Mr. McDonald's own statements in his Memorial admits that the possessions of his tenants are lamentably insecure. He tells the Secretary of State "that some leases on his estate are of 100 years term, and some of as short a term as 60 years," but he says nothing of leases granted for 40 years, though it is well known to some of the Undersigned that many such existed, that some have expired, that tenants have either been evicted or have been compelled to submit to very unpardonable terms of renewal. He adds that "the tenants now holding under such leases are not in general the parties who originally cleared the land, but persons who purchased or obtained the holding or possession from a previous tenant, or from parties who had themselves purchased the holding from a previous tenant." A statement equivalent to this was made a few months since at a public meeting held at one of the school-houses on this estate, where the Compensation Bill of 1871 (which did not receive the Royal Assent) was under discussion. It was there affirmed that from "Tracadie cross roads to the Sand Hills," a distance of five and a-half miles, there are but five or perhaps six

tenants who could avail themselves of the Compensation Bill of 1871, in consequence of that measure applying exclusively to tenants who had actually cleared land from the forest.

The Undersigned submit that this insecurity of tenure, acknowledged by the proprietor himself, accounts for the unprosperous condition of his property; men will not build substantial houses and farm buildings, or embark money in the thorough cultivation of the soil, except with the assurance that they do these things for themselves. Mr. McDonald says his tenants' farms are worth 5*l.* per acre, and that the measure under review would deprive him of four-fifths of his interest in his inheritance. Probably this value is not overstated, but in the adjoining township such farms are made worth double the price stated, but there men are not afraid to apply their energies and their capital to the cultivation of the soil, and the instances of persons quitting their holdings and selling to new comers are comparatively rare. In fact, in laying claim to four-fifths of the value of these leasehold farms, Mr. McDonald, in effect would appropriate the accumulated earnings of his tenants during the currency of the expired lease. The Bill he complains of as calculated to despoil him of his inheritance, has been shown by the Solicitor-General's report to be either a literal transcript of the Landlords' Tenants' (Ireland) Bill, or drafted in conformity with the despatch of the Secretary of State; if it becomes law it will mete out to the tenants on the Tracadie Estate the same measure of justice which tenants of land in Ireland now enjoy.

By no one, perhaps, have the principles upon which the law of landlord and tenant should be based, been laid down more clearly than by Mr. Gladstone. In a debate brought on by the late Mr. McGuire, March 17th, 1868, the Right Honourable Gentleman is reported to have said—"It is customary to argue this question by saying that the law cannot be very grievous in Ireland, because it is the same as the law of England. I myself, amongst others, have been content to do that which, upon a review of the matter, I do not think quite sufficient for the case, namely, have been content to argue that the way of showing that a multitude of local circumstances make the operation of the laws in England different from what it is in Ireland. We have admitted that standard of appeal, but I must now challenge that standard altogether. I must say, on reflection, that so far from thinking that the law of England viewed nakedly with regard to the principle it asserts, namely, that all which the tenant puts into or upon the soil in the absence of covenant to the contrary, shall be the property of the landlord. So far from thinking that a good law, I humbly submit it is a bad law, and that the just and true law should be that in the absence of covenant to the contrary, if the landlord thinks fit to make over to another party the whole business of cultivating the soil, the improvements effected by the tenant in the course of that cultivation should be the property of the tenant."

The Undersigned submit that the Irish Landlord and Tenant Bill goes even further than this, and provides that "any contract between a landlord and tenant whereby the tenant is prohibited from making such improvements as may be required for the suitable occupation of his holding, shall be void, both at law and equity, &c.," and again, in the same clause 4 of the Irish Act, "Any contract made by a tenant by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this section, shall, so far as relates to such claim, be void, both at law and in equity."

But the Undersigned are not demanding for the tenants of Prince Edward Island any greater privileges than the tenants of land in Ireland enjoy, though if the extent of such privileges depended on the relative difficulties and hardships which have been surmounted, as Mr. Gladstone seems to intimate, then the tenants of this island, and particularly those on the McDonald estate, would be entitled to the more complete freedom of tenure.

The Undersigned do not propose to dispute the accuracy of Mr. McDonald's statements respecting his grandfather's services in the reign of King George the Third. A British Government is never remiss in acknowledging and rewarding all such; but they submit that it would be a grievous injustice in remunerating such services to debar tenants in Prince Edward Island from partaking the same interest in reclamation of wilderness lands and permanent improvements which tenants in Ireland enjoy.

In conclusion, the Undersigned would state that it is hopeless to expect to see any material improvement in the condition of the tenancy on this estate so long as the present unjust land laws remain in force. Until security of tenure is assured to the occupiers of land, the *élite* of the rising generation of both sexes will seek their fortunes elsewhere, the resources of the township will remain undeveloped, and, as heretofore in

Ireland, the sympathies of the public will be offended by the frequent occurrence of distrains and evictions.

All which is respectfully submitted by the Undersigned.

(Signed)

ROBERT P. HAYTHORNE, *President.*

PETER SINCLAIR.

JAMES MUIRHEAD.

JAMES HOGAN.

DAVID LAIRD.

HENRY BERE.

(Signed)

WILLIAM C. DES BRISAY,  
*Assistant Clerk of Executive Council.*

Inclosure 6 in No. 6.

To the Right Honourable the Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies.

The Memorial and Petition of the Undersigned, a proprietor of township lands in Prince Edward Island,

Most respectfully Showeth,

THAT your Memorialist has signed a Memorial or Petition, in company with other proprietors of township lands in this Colony, praying that Her Majesty may be advised to refuse her Royal Assent to the Act entitled "The Tenants' Compensation Act, 1872."

That, while your Memorialist fully concurs in, and assents to, all the allegations and statements contained in the aforesaid Memorial, there are further peculiar and personal circumstances in the case of your Memorialist which would render the Act, against which he petitions, a still more cruel and especial hardship and injustice to your Memorialist. These circumstances he desires most respectfully to submit to your Lordship's consideration.

That the 24th clause of the present Act enacts, "That a tenant whose lease has expired, shall be deemed to be a tenant until the compensation due to him under this Act has been paid or deposited."

That on the township land inherited by your Memorialist are some leases of 100 years' term, and some of a shorter term, as 60 years.

That certain of these leases are now approaching the term of their expiry; that the farms held under these leases by the tenants of your Memorialist are valuable, and worth at least 5*l.* per acre if they were to be brought to sale, and that this value, being part of the inheritance of your Memorialist, would, if the present Act were to become the law of the land, be reduced in value to your Memorialist in a proportion of not less than four-fifths of the value of the interest inherited by him, and secured under seal, by every means hitherto held sacred and unimpeachable in law, equity, and justice.

That the tenants now holding under such leases are not in general the parties who originally cleared the land, but persons who have purchased or obtained the holding or possession from a previous tenant, with a full knowledge of the terms, duration, and nature of the lease. Your Memorialist respectfully urges that, in such a case, to add to the value of the tenant's interest by reducing in the same proportion the value of the landlord's interest, would neither be consistent with equity nor with reason, now with the general principles of British law, and would be an act of the most extreme hardship and injustice to your Memorialist.

That the Act against which your Memorialist petitions would have the effect, and is intended by its framers to have the effect, of injuring to the extent of nearly altogether destroying, the remaining interest and inheritance of your Memorialist, whose grandfather, having come to this Colony more than 100 years ago at the head of a considerable body of settlers whom he placed as tenants on his property here, went from hence, at the request of the British Government, to raise and incite his countrymen, Scottish Highlanders by birth or parentage, against the American rebels, then in arms and open rebellion against their Sovereign, His Majesty King George the Third.

That while the grandfather of your Memorialist was thus absent from his property in this Colony in the service of his King and country, the local Government of this



Colony proceeded for their own private purposes and emolument, to escheat and appropriate to themselves and their subordinates a very considerable portion of the property of the grandfather of your Memorialist, on the alleged ground of its non-settlement under the conditions of the original grants of township lands from the Crown, which conditions were, at that time, as well as afterwards and hitherto, most graciously waived by His Majesty and his successors on the ground that it was impossible to fulfil them, the impossibility arising, in a great degree, from the Acts of the Imperial Government with a view to measures necessary for the defence of the kingdom against foreign enemies, and, in the case above mentioned, arising also from the fact of the proprietor, the grandfather of your Memorialist, having taken away with him most of the able-bodied men among his tenants to form the nucleus of a Scottish Highland clan regiment to be employed against the American rebels.

That your Memorialist, having received an inheritance thus diminished and despoiled, as aforesaid, most respectfully appeals to your Lordship and to Her Majesty in Council to defend and protect him against that further and still more complete destruction of his interest in his own freehold property which must be inevitable in the event of the Act against which he petitions becoming the law of the land.

Your Memorialist most respectfully prays that, for the reasons above set forth, as well as the reasons set forth in the Memorial of the same date, in which your Memorialist has joined with other proprietors of township lands in this Colony, Her Majesty may be advised to refuse her Royal Assent to the Act intituled "The Tenants' Compensation Act, 1872."

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

(Signed) JOHN ARCHIBARD MAC DONALD.

*Glenaladale, Prince Edward Island, 1872.*

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Inclosure 7 in No. 6.

Sir,

*December 26, 1872.*

IN connection with the Memorial of certain proprietors of land in this island, against the Tenants' Compensation Bill, 1872, the Undersigned requests permission to call the attention of the Secretary of State to a Report, in a London newspaper, the "Mail," of the 6th of November last, of proceedings at a meeting of the Council of the Chamber of Agriculture. His object is to point to the ready and unqualified admission, by several large landed proprietors and Members of Parliament, of the natural and indefeasible right of English tenants to unexhausted improvements, which are defined in two Resolutions moved by Mr. Read, M.P., and do not differ materially from the improvements which it is the object of the Tenants' Compensation Bill to secure to the tenants who have effected them in this island.

In the debate which occurred at the meeting referred to, Sir M. H. Beach, M.P., "Agreed that the right to compensation was one which ought to be enforced by law; and he was ready to support a Bill for that purpose."

Mr. Reade, M.P., said, "That at present the landlord was able by law to appropriate his tenant's property to himself."

Sir John Pakington "Thought the meeting had established the principle, that it was most desirable in the interest of the landowner, the occupier, the labourer, and the public, that the farmer should be able to lay out his capital with a due regard to his security and safety. This principle appeared to him to be sound, politic, and just; and any landowner who resisted it, was, in his view, unmindful of his own interest. . . . He, for one, had no objection to such a course being taken (*i.e.*, application to Parliament), in order to establish the principle for which they had that day contended; and that this should be the general law of the land."

Mr. W. Fowler, "Feared that if the words 'in the absence of a lease or agreement to the contrary' were inserted in the Act, it would become a dead letter."

Mr. Read said, "There were a hundred ways in which a landlord and tenant might contract themselves out of an Act giving compensation to the tenant. He did not, therefore, like the words in the original Resolution, 'in the absence of a lease or agreement to the contrary.' If a landlord were to be allowed to override the Act by a stroke of his pen, it would be far better to have no Act at all."—(Cheers).

Mr. Read's Resolution, as finally amended, was put and agreed to; it is as follows:—"That this Council considers it necessary, for the proper security of capital engaged in husbandry, that where such security is not given by lease or agreement, the outgoing tenant should be entitled by law to compensation for the unexhausted value

of his improvements, while at the same time the landlord should be paid for dilapidations and deteriorations caused by default of the tenant. Provided that the above Resolution shall be subject to the consent of the owner in the case of buildings, drainage, reclamation, and other improvements of a permanent character."

With reference to the foregoing Report, the Undersigned would express his opinion that, if the proprietors of Prince Edward Island would adopt and act on the principles set forth in the speeches and resolution above quoted, there would remain but little cause of dissension between them and their tenants, as to their respective rights of property; but the Secretary of State will not fail to observe that the proprietors' Memorials, more especially that of John A. McDonald, Esq., lay absolute claim to all the tenants' improvements on termination of a lease. As to the evil effects of the leasehold system in retarding the improvement of agriculture, and inducing the emigration of the youth of the Colony, the landlords, of course, display entire indifference.

2. Mr. Froude, in his fourth lecture on Ireland, delivered at New York, thus expresses himself with reference to events which occurred in Ulster nearly a century ago, and which, in several respects, bear a strong similarity to the relations between landlord and tenant on some estates in Prince Edward Island at the present time.

Mr. Froude says: "The year before the tea was set afloat in Boston harbour, Ulster grandees had sent out here, to America, a contingent of exasperated emigrants unusually numerous. The Ulster linen manufacture had been developed by the skill and industry of Presbyterians. As compared with the southern provinces Ulster was a garden: land had risen greatly in value; capital made by trade had been sunk in the soil, an educated, enterprising peasantry had converted bog and mountain into corn and flax fields. Noble lords, to whom a large part of this land belonged, but who had never so much as set their eyes upon the surface of their property, concluded that the increased value did not belong to the tenants who had created it, but to themselves who had allowed it to be created. As leases fell in they demanded enormous fines before they would renew them, or rents which could not possibly be paid. They served ejectments without remorse or scruple; families, who had been 50 or 100 years upon the soil, chiefly Protestants, were turned adrift; thousands of men, women, and children were made homeless, houseless, and were robbed—for no other word can be used about it—by those who ought to have been their natural protectors."

In our time Ulster tenant right has provided a remedy for the evils so vividly described by Mr. Froude, and similar protection is required even at this day in some parts of this Colony. What the Ulster tenant did for the reclamation of mountain and bog, the tenants of Prince Edward Island have done for forests and marshes. Noble lords and ladies know about as much of their vast possessions in this island as their agents choose to tell them, or as they can gather in a brief summer tour. It is true there are creditable exceptions to this, but the numerous easy bargains which agents have made with proprietors proves, at least, great indifference on the part of the latter. Here, too, may be noticed, especially on the McDonald or Tracadie estates, the same intention to appropriate the tenants' improvements, which Mr. Froude describes, and to which the same emphatic term may, not unjustly, be applied. Wholesale evictions, it is true, are not common in this Colony, perhaps because the process is expensive, perhaps because, in this thinly-peopled country, there might be a difficulty in letting many vacant farms.

Trusting that the foregoing opinions of several eminent persons on the question of the right of tenants to the improvements made by them on their farms may contribute to induce the Secretary of State to advise Her Majesty to give her Royal Assent to the 'Tenants' Compensation Bill, 1872, the same are respectfully submitted by the Undersigned.

(Signed) ROBERT POORE HAYTHORNE,  
*President of the Executive Council.*

William C. F. Robinson, Esq.,  
Lieutenant-Governor, Prince Edward Island.

No. 7.

*The Earl of Kimberley to Lieutenant-Governor Robinson.*

Sir,

*Downing Street, April 22, 1873.*

WITH reference to the "Tenants' Compensation Act, 1872," forwarded in your despatch of the 28th December last, I have the honour to transmit to you copies of protests which have been lodged against it by certain proprietors of land residing out

of the Colony. Until those protests had been received, I deferred taking any steps in the matter, as I thought it desirable that I should be fully informed of all the grounds which could be urged against allowing this Act to come into operation before communicating with you on the subject, and seeking for an explanation as to certain points which require to be cleared up before I can tender any advice to Her Majesty upon the Act now under consideration.

But, before referring to these matters, I desire to express my sense of the care which has evidently been taken in the preparation of this Act, with a view to improve upon the Act of 1871, and to meet the suggestions made in my despatch of the 2nd of September of that year.\*

The two points which I desire to bring under the notice of your Ministers relate, first, to the omission of any provisions similar to those in the last paragraph of the 4th section of the Irish Land Act (33 and 34 Vict., cap. 46); and, secondly, to the construction of the 8th section when taken in connection with the 17th section of the Colonial Act.

With regard to the first point, I have to observe that the provision of the Irish Land Act which lays down rules by which the Court is to be guided in awarding compensation to a tenant was very carefully considered, and it is expedient, both for the purpose of preventing dissatisfaction with the decisions of the Court, and of enabling the parties to know precisely to what points their evidence should be directed, that the principles by which the Court is to be governed should be distinctly enunciated in the Act.

For these reasons I would suggest that an Amending Act should be introduced embodying the last paragraph of the 4th section of the Irish Act, or the present Act should be repealed and re-enacted with this addition.

With regard to the 8th section, I observe that the Solicitor-General in his Report, which is annexed to your despatch of the 28th of December last,† states that it is in substance similar to the 16th section of the Colonial Act of 1871, and that it was introduced into the Bill in accordance with the suggestion in my despatch of the 2nd September, 1871.

The 16th section of the Act of 1871 provided amongst other things that no tenant should be entitled to any compensation when his tenancy had become forfeited by reason of the non-payment of rent, and in my despatch I mentioned that this exception as to forfeiture of tenancy for non-payment of rent should be maintained.

I apprehend, therefore, that it was intended by this Act of 1872 to prevent a tenant from claiming or receiving compensation under the Act when his tenancy was determined by the landlord for non-payment of rent, although the fact that there were arrears of rent would not, under the concluding proviso in the section, bar the tenant from recovering compensation when the tenancy was determined for any other cause.

In this respect, then, as you are aware, the Act differed from the Irish Land Act, which, by the 9th section, provides that a person who is ejected for non-payment of rent "shall stand in the same position in all respects as if he were quitting his holding voluntarily," and shall therefore be entitled to claim compensation under the 4th section of that Act.

If I am correct in the construction which I put upon the Colonial Act, it affords a complete answer to those who protest against it on the ground that it prevents a landlord from ejecting for rent, because he would be at once met by claims for compensation far exceeding the amount of rent in arrear.

But a doubt arises upon this point from the introduction into the Colonial Act of the 17th section which is adapted from the Irish Land Act, and which in terms applies to all proceedings for ejectment, including ejectment for non-payment of rent.

I should have no objection to make to the provisions of this section if it did not practically interfere with the provisions of the 8th section, but if it includes cases of ejectment for non-payment of rent, it is inconsistent with what I understand to have been the intention of the framers of the Act.

Upon this point, therefore, I require further information before tendering any advice to Her Majesty upon the Act; but with a view to remove all doubt upon the question, I would suggest that the exclusion from compensation referred to by the 8th section should be confined to persons who are ejected for non-payment of rent, and that in the 17th section some words should be inserted for the purpose of preventing the application of that section to such cases of ejectment.

I trust that your Ministers will assent to the introduction of an Act to carry out

the amendments suggested in this despatch, and, should such be the case, it will afford me much satisfaction to be enabled to advise Her Majesty to confirm this Act and the Amending Act by Order in Council.

I have, &c.  
(Signed) KIMBERLEY.

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Inclosure 1 in No. 7.

My Lord,

5, Upper Brook Street, March 29, 1873.

I HAVE been prevented by illness during the last ten days from writing to your Lordship on the subject of the Act entitled "Tenants' Compensation Act," that was passed last year by the local Legislature of Prince Edward Island, and that has recently been sent to your Lordship, with the details of which I have only very recently become acquainted.

I now write to petition that this iniquitous Act, the object of which must have been, and the effect of which will be, to confiscate the property of every proprietor of land in the island, and give it to the tenant, may not receive the Royal Assent.

My first feeling on reading it was, that it must be unnecessary for the intended victims of this Act of spoliation and confiscation to petition that the Royal Assent should be withheld from it, and that we may feel assured that Her Majesty's Government will never permit that so grievous a wrong should be inflicted on us; but there are some reasons for which subjecting the proprietors of Prince Edward Island to the injury that will be inflicted on them by this Act would be peculiarly unjustifiable, which it may be well to state.

In any country, and in any case, it must be vile injustice to oblige a proprietor who wishes to obtain payment of a rent to which he is entitled to purchase the property for which that rent is paid. In Prince Edward Island, as elsewhere, many a proprietor entitled to a rent is not wealthy enough to put down a sum of money to purchase the property. If this Act should become law, the tenant will just refuse to pay rent, and the proprietor will have no means whatever to compel him to pay it. In Prince Edward Island the greater part of the tenants (indeed, almost all) hold their farms or premises on leases of 999 years—some are of 99 years.

The rent they pay to the proprietor from whom they hold the lease is so small, that on a cleared farm it is a mere trifle. During the early years of their tenancies the proprietors have acted towards them with the greatest leniency. They have in many cases given up to them a large amount of arrears of rent, and in every case have assisted the tenant in clearing the land, and improving their farms by works, the expenses of which have been paid by the proprietors.

The tenants are more numerous than the proprietors. They elect the members of their Legislature. And even now, as the law stands at present, a proprietor has great difficulty in obtaining payment if a dishonest tenant withholds it. Acts of harshness on the part of a proprietor are almost impossible.

I hear the "Irish Land Act" referred to on the subject. There is the most complete difference in the case of the two countries. In Ireland the tenants had no leases, and perhaps needed protection against the landlords. In Prince Edward Island they have long leases, and the landlord needs protection against the tenant.

The Act now in question passed in Prince Edward Island will enable the tenant, whenever he chooses, to refuse payment of rent. It cancels every arrangement made by the tenant on taking the lease. It destroys and effaces every law and custom of the country, and by its various clauses renders the landlord totally helpless.

I was in Prince Edward Island twelve years ago, when a Commission was sitting to inquire into the grievances that the tenants might have to complain of.

Some of the proprietors submitted to this Commission, and to them the Act in question, if allowed to pass, would be a breach of faith on the part of the Home Government. I did not submit to it, believing, as other proprietors did, that we could arrange our affairs with our tenants ourselves better than by the interference of other persons. After sitting some weeks listening to all the complaints brought before them by every tenant in the island who thought he had a grievance, the Commissioners, on breaking up their Court, declared that they had not heard one case of real harshness.

Now, I wish to ask what have the proprietors done in the last eleven years to bring down upon them an Act confiscating their property, and passing it over to their tenants?

What have I done, that my tenants complain of, that subjects me to the penalty of having my property taken from me and given to them? I can fearlessly appeal to my tenants, and ask if I have been harsh to any one of them? If I have done anything that is complained of, I have a right to demand that I should be informed of it, and that I should have a fair trial, and not be subjected to a confiscation of my property without even knowing what I have done to deserve it. The treatment with which we are threatened is contrary to every principle of common justice—contrary to every principle of English law. I appeal against it in my own case, and in that of the other proprietors of land in Prince Edward Island. I believe that all have treated their tenants with kindness, have assisted them in the work of improving their farms, and have given up to them large amounts of arrears of rent; and now to pass an Act which is to take from the proprietors the right to enforce payment of the small rent that is due to them, is an injustice that one can understand being committed by a House of Assembly elected by the tenants,—but which it is impossible to suppose can be committed by the Government of this country.

I protest against the injustice of it, and entreat that the Assent of Her Majesty may be withheld from an Act that is a despotic edict of confiscation against loyal subjects of Her Majesty, who are not even accused of having done anything to deserve it, and whose sole fault, as far as they are aware of, is that they are owners of property that others wish to obtain possession of.

I am, &c.  
(Signed) C. GEORGINA FANE.

The Right Hon. the Earl of Kimberley,  
&c. &c. &c.

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Inclosure 2 in No. 7.

My Lord,

*Broom House, Fulham, March 31, 1873.*

AN Act has been passed by the Legislature of Prince Edward Island entitled "Tenants' Compensation Act." This Act now awaits the Royal Assent. As the owner of a large estate in that island, and therefore much interested in the protection of property, I would pray that your Lordship advise the Queen to withhold her Assent from this Act.

The Act in question appears to be of the same character, and to have been drawn up in the same spirit, as that which was disallowed by the advice of Lord Lytton in 1858, and I think I am correct in saying that he stigmatised that Act as plainly intending to transfer the property of the landlord to the tenant. The Act under your Lordship's consideration provides that at the legal termination of a lease, before a tenant can be compelled to leave his farm, the landlord must pay him compensation for his so-called improvements. In other words, should a tenant holding the usual lease of 999 years, and paying the usual rent of 1s. an acre, prove refractory and, after allowing arrears to accumulate, refuse to pay either these or the annual rent, he cannot be turned out of his farm without compelling his landlord to pay a heavy compensation for what he calls improvements. The injustice of such a proceeding must be apparent to your Lordship, and I earnestly trust that, small and distant as the Colony of Prince Edward Island is, you will give the Legislature of that Island to understand that justice to proprietors will be upheld in all parts of Her Majesty's dominions.

I visited the Island myself in the year 1867, and satisfied myself of the well-doing and absence of any cause of complaint of the tenants. Being the largest owner of land in the Island, I cannot but feel that the Act is directed greatly against myself, and it is peculiarly unjust; for, some years since, an Act was assented to by my father, by which not only every tenant secured a large remission of arrears due by him, but he obtained the privilege of purchasing his farm at fifteen years' rent, and we were assured that, in assenting to that Act and giving up so much, we were settling the land question for ever. Now, it would appear that not only have we done all this in vain, but that we are to be compelled to transfer our property altogether to the tenant under an Act framed for that purpose, but entitled the "Tenants' Compensation Act."

The fact is that the present Government of Prince Edward Island deem it a political necessity to pass such an act of spoliation in order to secure votes of the tenants at the next general election. The land question has, for many years past, been the cry on which each party alternately has appealed to the country. There is now no real grievance.

Trusting that these facts may weigh with your Lordship in considering this matter, which is one of immense importance to proprietors of land, I have, &c.

(Signed) CHARLOTTE SULLIVAN.

The Right Hon. the Earl of Kimberley,  
&c. &c. &c.

Inclosure 3 in No. 7.

My Lord,

1, Bedford Row, April 2, 1873.

ON behalf of General the Viscount Melville, and as his solicitor, I beg respectfully to draw your Lordship's attention to the provisions of the Landlord and Tenant Act recently transmitted from Prince Edward Island for the Assent of Her Majesty, and to the effect of those provisions on owners of land in that Colony; and on behalf of Lord Melville, as one of such owners, would respectfully protest against the measure in question.

Your, &c.

(Signed) G. B. GREGORY.

The Right Hon. the Earl of Kimberley,  
&c. &c. &c.

Inclosure 4 in No. 7.

My Lord,

7, Catherine Place, Bath, April 10, 1873.

I BEG leave to address your Lordship on the part of my wife, her sister Miss Fanning, and my own, as proprietors of land in Prince Edward Island, respecting an Act passed in the course of the last year by the local Legislature of that Colony, and recently transmitted to this country for Her Majesty's confirmation.

This Act, entitled the "Tenants' Compensation Act," was accompanied by a Memorial signed by all the resident large proprietors of land in the Island, and likewise by the respective agents there for those proprietors who were absent, strongly protesting against this unjust, most objectionable Act, and praying that it might not receive the Royal Assent.

A Memorial so unanimously signed, and which so clearly and fully sets forth the injurious effects it would have on the interests of all the landowners of the Island, and the iniquitous proceedings to which it would give rise, might be considered all that was requisite on the present occasion, but, lest your Lordship should deem it expedient that the proprietors in this country should, in this instance, sanction the acts of their agents abroad, I am induced to give your Lordship the trouble of this communication to assure you personally and individually that we entirely concur in all that the Memorial sets forth as the inevitable result or results of this extraordinary piece of legislation, should it become law, and especially to call your attention to the novel circumstances under which this Act was passed, that is, with a suspending clause until the Royal Assent should be granted, as is the case in all Colonial Bills affecting landed property, but enacting likewise that all proceedings taken under it were to be valid, whether that Assent was given or withheld. With this understanding many mischievous proceedings most probably have already commenced.

The end will be, and at no distant date, that our properties will be transferred to the tenantry, unless Her Majesty's Government should decline to sanction this most illegal Act.

We have, &c.

(Signed) B. H. CUMBERLAND, *Lieutenant-Colonel.*  
M. T. CUMBERLAND.  
M. M. FANNING.

The Right Hon. the Earl of Kimberley,  
&c. &c. &c.

No. 8.

*Sir G. Montgomery to the Colonial Office.—(Received April 25.)*

Sir,

*Villa St. Héloïse, Cannes [no date].*

UNDERSTANDING that an Act of the Colonial Legislature of Prince Edward Island, in reference to landlords and tenants, is now under Lord Kimberley's consideration, and having been informed that seventy of the resident proprietors in the Island have petitioned against the Act, and that Lady Georgina Fane, Lord Melville, Colonel Cumberland, and other non-resident proprietors have been protesting against it, I beg to add my protest, and venture to express a hope that his Lordship will be pleased not to recommend Her Majesty to give her sanction to such an Act.

I am, &amp;c.

(Signed) G. GRAHAM MONTGOMERY.

No. 9.

*The Earl of Kimberley to Lieutenant-Governor Robinson.*

Sir,

*Downing Street, April 30, 1873.*

I HAVE had under my consideration the Memorials and other documents inclosed in your despatch of the 28th of December last,\* relating to the "Tenants' Compensation Act, 1872."

In my despatch of the 22nd of this month,† I communicated to you the views of Her Majesty's Government on the subject of this Act, and I now transmit to you a copy of the answer which has been returned by my direction to certain proprietors of land in Prince Edward Island who are resident in this country.

I request that you will return a similar answer to the persons who signed the Memorials prepared in the Colony against the Act.

I am, &amp;c.

(Signed) KIMBERLEY.

Inclosure in No. 9.

*Colonial Office to Lady Georgina Fane.‡*

Madam,

*Downing Street, April 26, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 29th of March,§ protesting against the Act recently passed, with a suspending clause by the Legislature of Prince Edward Island, intituled the "Tenants' Compensation Act, 1872."

Lord Kimberley desires me to inform you that he has carefully considered the arguments which have been urged against this Act by proprietors resident in this country, and those set forth in Memorials transmitted to him through the Lieutenant-Governor of Prince Edward Island. Whilst assenting generally to the principle of this measure, Lord Kimberley has thought it necessary that certain amendments should be made before he can tender any advice to Her Majesty on the subject.

The Lieutenant-Governor has accordingly been apprized of the amendments which are considered necessary by Her Majesty's Government, with a view to their adoption by the Legislature of Prince Edward Island.

I am, &amp;c.

(Signed) H. T. HOLLAND.

\* No. 6.

† No. 7.

‡ Similar letters were addressed to Miss Sullivan, Mr. Gregory, Colonel Cumberland, and Sir G. Montgomery.

§ Inclosure 1 in No. 7.

## No. 10.

*The Earl of Kimberley to the Earl of Dufferin.*

My Lord,

*Downing Street, August 11, 1873.*

YOU are probably aware that questions connected with the tenure of land in Prince Edward Island have for many years engaged the attention of the Government of that Colony. Much correspondence was carried on with reference to this subject at different times by my predecessors in this Office, and during the present and the two preceding years I have been in communication with the Government of Prince Edward Island and with persons in this country on the subject of a measure entitled the "Tenants' Compensation Act." A Bill bearing this title has, I understand, been before the Legislature of Prince Edward Island during the late Session, but I have not learnt what was the fate of the Bill.

I shall be obliged by your informing me whether it passed the Legislature, and, if so, whether it passed before or after the admission of Prince Edward Island into the Dominion. In the latter event it would devolve upon your Lordship to give or withhold the Royal Assent; and it is desirable that, before you come to a determination, you should have before you all the particulars of the case. I have, therefore, desired the necessary information to be compiled, so that, as soon as possible, it may be transmitted to you.

I have, &c.  
(Signed) KIMBERLEY.

## No. 11.

*Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Earl of Kimberley.*

My Lord,

*The Citadel, Quebec, September 1, 1873.*

IN reply to your Lordship's despatch of the 11th of August last, I have the honour to inform you that a Bill entitled "The Tenants' Compensation Act," did, as your Lordship understands, come before the Legislature of Prince Edward Island during the late Session, and that it passed that Body before the union of the Colony with the Dominion of Canada.

I have, &c.  
(Signed) DUFFERIN.

## No. 12.

*Governor-General the Earl of Dufferin to the Earl of Kimberley.—(Received December 10.)*

My Lord,

*Government House, Ottawa, November 25, 1873.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 13th ultimo, desiring to be furnished with a duly authenticated transcript of the recent Act of the Legislature of Prince Edward Island affecting the land tenure question, and I now beg to transmit to you herewith a copy of a despatch from the Administrator of the Government of that Province, together with an authenticated copy, in duplicate, of the Act referred to, accompanied by a Report in duplicate from the Attorney-General explanatory of the Act, and assigning reasons for passing it, which occurred previous to the union of Prince Edward Island with Canada.

I have, &c.  
(Signed) DUFFERIN.

Inclosure in No. 12.

Sir,

*Government House, November 14, 1873.*

I HAVE the honour to acknowledge the receipt of your despatch of the 4th instant, transmitting a copy of a despatch from the Right Honourable the Secretary of State for the Colonies of the 13th ultimo, and requesting me to forward to your Department, an authenticated transcript of the Act therein referred to, and I now inclose herewith



a transcript of it, in duplicate, authenticated under the Great Seal of this Island, together with the Attorney-General's report thereon, also in duplicate, explanatory of the Act in question, and assigning reasons for passing it, which occurred previous to the admission of this island into the Dominion.

I have, &c.

(Signed) R. HODGSON, *Administrator.*

The Honourable the Secretary of State,  
Ottawa.

[This Act is printed No. 2 in the Appendix.]

No. 13.

*The Earl of Kimberley to the Earl of Dufferin.*

My Lord,

*Downing Street, February 12, 1874.*

I HAVE had under my consideration the Acts passed by the Legislature of Prince Edward Island, with suspending clauses, before the admission of that Colony into the Union, entitled respectively, "The Tenants' Compensation Act, 1872," and "An Act to Alter and Amend the Tenants' Compensation Act, 1872," which were transmitted to me in Lieutenant-Governor Robinson's despatch of the 28th December, 1872, and your despatch of the 25th November last respectively.\*

I have reported to Her Majesty in Council my opinion that the said Acts should be specially confirmed; and I have the honour to transmit you herewith two Orders † of Her Majesty in Council, dated the 2nd February, approving that Report.

Since the passing of the Act of 1873 I have received protests from several proprietors of land in Prince Edward Island, copies of which I inclose for the information of your Government, and I have caused the parties concerned to be informed that, after considering their protests, I thought it my duty to advise Her Majesty to confirm the Acts in question.

I have, &c.

(Signed) KIMBERLEY.

Inclosure 1 in No. 13.

Sir,

*Broom House, Fulham, December 20, 1873.*

I BEG to acknowledge the receipt of your letter of December 20. Having on the 31st March sent in my Petition to the Earl of Kimberley, I have refrained from troubling his Lordship again, but I fully concur in all that has been written by Lady G. Fane and other proprietors. Though the "Tenants' Compensation Act" is amended by the alterations made in it, I must again pray his Lordship to advise Her Majesty to withhold her assent to it.

It is an Act that will disturb the relations between landlord and tenant, be very detrimental to the interests of proprietors, and is especially unfair to those who, like myself, gave up large arrears of rent on the assurance that the land question would thus be settled. It will deteriorate the value of the land in any question of sale, and, as the proprietors find it almost as difficult to obtain justice as rent in Prince Edward Island, it is to the Home Government alone that they can look for protection of their rights.

I am, &c.

(Signed) C. A. SULIVAN.

The Under-Secretary of State,  
Colonial Office.

Inclosure 2 in No. 13.

My dear Sir,

*Strath Gartney, Prince Edward Island.*

*November 25, 1873.*

I HAVE been for some time past indulging the pleasing hope, occasionally fanned or encouraged by rumour, that we might have the real gratification of seeing

\* Nos. 6 and 12.

† Not printed.

you and Mrs. Robinson again at Government House. I hope so still, and shall continue to do so, while possibility and uncertainty permit me to do so.

Passing as we are under the rule of the Canadian Dominion, for good or for evil, and I told all my misgivings on that subject, as on most other subjects, to your Excellency, I feel it to be of the very highest importance to the proprietary interests that Her Majesty's Home Government should give such a recognition to the Dominion Government of our rights as proprietors of township lands in this Colony, rights conferred originally by the Crown, repeatedly confirmed and acknowledged subsequently, as may tend to secure us against any future attempts to deprive us of our property, or to lessen its value to us, by direct compulsion to sell it, or by any more indirect and insidious, but equally effectual measures of legislation. My good and kind friend Lady Georgina Fane has joined me in an application to that effect to Lord Kimberley, I trust the other proprietors resident in England and Scotland, including Lord Melville, Miss Sullivan, and Sir Graham Montgomery, will also memorialize the Home Government to similar purport. May we hope for your good word at the Colonial Office, where I am very certain that good word will have very great weight? You know all the particulars of our case; you know particulars which, I believe, no living man but myself could have laid open to you, of bygone misrule and speculation, from which the proprietors and their interest have suffered; you know the inane stupidity of the cry for "free land," and you know the parties, not tenants, who have most loudly, and for their own private sinister ends, raised and re-echoed it, *ad nauseam*. I will not, and I do not, give up the hope of seeing you here, as before. May I ask you to present, for me and my children, our best respects and kindest regards to Mrs. Robinson, and to accept the same yourself.

I have, &c.

(Signed)

ROBERT BRUCE STEWART.

To his Excellency the Lieutenant-Governor,  
&c. &c. &c.

P.S.—When Responsible Government was inaugurated here by Sir Alexander Bannerman, the old official party, Messrs. Haviland, Hodgson, and others, were made safe, and their salaries secured to them as retiring allowances, by the especial intervention and fiat of the Home Government. We proprietors certainly have a just right to the same recognition now, on the inauguration of our annexation to the Canadian Dominion. If this do not prevent hostile and class legislation against us, it would certainly give us a good fulcrum, or ground of appeal, to the Home Government, if any local legislation here, as in Canada, made such appeal advisable or necessary on our part.

I hope your kindness will excuse my troubling you thus far on this (to us, and, I think, to the honour of the British Government) very important subject.

R. B. S.

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Inclosure 3 in No. 13.

Sir,

1, Bedford Row, W.C., January 14, 1874.

ON behalf of Viscount Melville, I have the honour to offer a few observations on your letter and inclosure of 20th December, 1873. I understand the latter to be a modification of one or two of the provisions of the "Tenants' Compensation Act of 1872," made in pursuance of a suggestion of Lord Kimberley to the Government of Prince Edward Island, as such modifications appear to be favourable rather than otherwise to the proprietors of land there. I have, of course, no objection to offer to them on behalf of Viscount Melville; but, as I understand, the principal Act has not yet received the sanction of the Crown, I trust that I may be allowed on this occasion to renew the protest against the policy and the provisions of that Act, originally offered by his Lordship, and to express a hope that such protest will still have some weight with Lord Kimberley in advising Her Majesty on the subject.

You are aware that Lord Melville was, through his agent in the Colony, a party to the Memorial of proprietors of township lands in Prince Edward Island, against the Act of 1872, and he still adheres to the statement in that Memorial. But in addition to this, I would respectfully submit, on behalf of Viscount Melville, that the Act of the Colonial Legislature is founded upon the Irish Land Act, whilst there is no analogy between the two countries, nor do any of the reasons exist in the one on which con-

fessedly a very strong and exceptional measure was based for the other. These reasons, as you are aware, were fully discussed in Parliament during the debate on the Irish Land Act, nor does it appear to be necessary to recapitulate them on the present occasion, or to enter into details of the contrast between Prince Edward Island and Ireland. I may be, perhaps, allowed to say, however, that I always understood that the Irish Land Act was to be no precedent for legislation elsewhere between landlord and tenant. That the extension of its principles is hardly desirable, and that this is proposed now by the Legislature of Prince Edward Island just at the time that it is to be absorbed into a larger body who may entertain very different views, and that the Island itself is to form a portion of a Dominion where, so far as I am aware, no legislation exists of the character now proposed.

As regards the details of the Act of 1872, I would, in addition to the points raised by the Memorial of proprietors already referred to, respectfully point out that there are strong and obvious objections to those provisions, which assume that all improvements on a property have been made or effected by the tenant, throwing the onus of displacing this assumption upon the landlord, although the tenant is the claimant as against him. To the provision allowing only two months to the proprietor to object to the claim, leaving him little or no time to investigate it, or indeed if he be not a resident in the island for notice of it to have reached him at all, and also to the provision enabling the tenant to hold as against his landlord during the period that the claim is under consideration, and which would afford him every opportunity of running out the land and damaging the property.

Trusting that these and other considerations which have been urged against the Act of the Colonial Legislature of 1872 may still be open, and that it is still competent to me, on behalf of Lord Melville, to urge them upon the attention of the Earl of Kimberley.

I have, &c.  
(Signed) G. B. GREGORY.

The Under-Secretary of State,  
Colonial Office.

Inclosure 4 in No. 13.

My Lord,

*Enham Lodge, Leamington, January 19, 1874.*

WE have the honour to acknowledge a letter of the 20th ultimo, written by direction of your Lordship, desiring to receive any observations we may wish to offer on an Act entitled "An Act to alter and amend the Tenant Compensation Act," passed by the Legislature of Prince Edward Island in 1872.

We beg most respectfully to represent to your Lordship that we do not perceive that the amendment has rendered this Act less injurious to the landowners in that Colony, and therefore beg leave to repeat our protest against the whole Bill, as inapplicable to the condition and tenure of land in Prince Edward Island, where, as a general rule, it is let on leases in perpetuity, viz., for 999 years, at the very low rate of 6s. 9d. and 1s. currency per acre, and that we cannot but view it as a measure calculated inevitably to unsettle the minds of the tenantry and lead to endless litigation.

Under these circumstances we trust that your Lordship will not think fit to submit the "Act to alter and amend the Tenant Compensation Act" passed by the Legislature of Prince Edward Island for the Royal Assent.

We have, &c.  
(Signed) M. M. FANNING.  
M. T. CUMBERLAND.  
B. H. CUMBERLAND, *Lieutenant-Colonel.*

The Right Hon. the Earl of Kimberley,  
&c. &c. &c.

Inclosure 5 in No. 13.

My Lord,

*5, Upper Brook Street, January 26, 1874.*

I FIND that the information I had received relating to the "Tenants' Compensation Act" passed by the Legislature of Prince Edward Island was correct, and that the

alterations made in the Act are so slight that it still virtually confiscates the property of every landowner in the island. I write, therefore, to renew the protest I have already made against it, and the petition I have already made that the assent of Her Majesty may not be given to this flagrantly unjust act.

In my letter to your Lordship of the 8th of July, I remarked on the intense injustice of some of the clauses; on the positive robbery of the property of the landlords that it will affect. I now send to your Lordship a duplicate of that letter. I repeat every opinion it contains. I believe that the confiscation that will be inflicted on the proprietors by this act is wholly unmerited.

I can hardly bring myself to think that Her Majesty's Government will inflict on us so grievous a wrong as sanctioning this Act would be, and I repeat the petition contained in that letter that Her Majesty's Government, in transferring us to the Dominion of Canada, will leave us in possession of our present rights.

I have, &c.

(Signed) C. GEORGINA FANE.

The Right Hon. the Earl of Kimberley,  
&c. &c. &c.

Inclosure 6 in No. 13.

Sir, 28, *Lincoln's Inn Fields, London, January 28, 1874.*

REFERRING to your letter of the 20th ultimo, inclosing the Prince "Edward Island Tenants' Compensation Act Amendment Act, 1874," we beg to say that we understand, upon inquiry, that the sanction of the Crown is required not only to this Amendment Act, but to the principal Act to which it refers, and which was passed by the Local Legislature in 1872. On behalf of Lady Georgina Fane we beg to be permitted to refer to the strong protests which she has from time to time sent to Lord Kimberley against the principles and provisions of that Act, and to which protests she desires to adhere.

We may, perhaps, be allowed to add, that it appears to us that the principal Act, which has been copied from the Irish Land Act, is wholly inapplicable to the condition of Prince Edward Island. We apprehend the chief reason which induced the Legislature to pass the Irish Land Act was the want of fixity of tenure in that island, whilst, on the other hand, nearly the whole of Prince Edward Island, excepting such as is still wilderness, is let out on long terms of years at an exceedingly low rent, the original consideration being reclaiming the land from its wild state; and as we understand that this is to be the last exercise of the prerogative in sanctioning Acts passed in Prince Edward Island, we earnestly hope that Lord Kimberley will not advise Her Majesty to give her sanction to a measure which the proprietary of the island unanimously condemn as unjust and ruinous to their interests in the island.

We are, &c.

(Signed) FRERE & Co.

The Under-Secretary of State,  
Colonial Office.

Inclosure 7 in No. 13.

Sir, 28, *Lincoln's Inn Fields, London, February 9, 1874.*

WITH reference to your letter of the 4th instant, we beg respectfully to urge upon Lord Kimberley that, as the Government of Prince Edward Island let six months pass before they sent the Acts for confirmation to this country, his Lordship will allow some little time to elapse before he returns them confirmed, in order to give the owners some opportunity of communicating with their agents for making arrangements with reference to the management of their property before the Acts become law, and with this view we may mention a fact with which Lord Kimberley is probably not aware, that since the Acts were sent to England for confirmation Lady Georgina Fane and other large proprietors in the island have received communications from the Govern-

ment of Prince Edward Island asking upon what terms they would sell their estates to the Government.

We are, &c.  
(Signed) FRERE, CHOLMELEY & Co.

The Under-Secretary of State,  
Colonial Office.

No. 14

*Viscount Melville and others to the Earl of Carnarvon.—(Received June 4, 1874.)*

WE the undersigned, proprietors of land in Prince Edward Island, in the Dominion of Canada, have learned with surprise that an Act, a draft copy of which is appended, is now before the Legislature of that island. We respectfully invite your Lordship's attention to this subject, and submit that the proposed Act is subversive of the rights of property, that it will prove most ruinous to all who own land in that Colony, and that it will be a dangerous precedent to establish as a mode of allaying popular agitation.

It should be borne in mind that there is nothing whatever to distinguish us from other landowners in other portions of the Empire. In no other Colony can land be obtained on such favourable terms as in Prince Edward Island, where the rent per acre, after a lapse of some years, rises only to 10*d.* sterling per acre, and where the leases are in most cases for 999 years.

Fourteen years ago, at the urgent instance of the British Government, a large number of the Prince Edward Island landowners consented to submit their rights to the decision of a Royal Commission, with a view to putting an end to the various questions that had arisen in that Colony. The result of that Commission was a declaration that not a single case of harsh treatment had been proved by the tenants. The proprietors were urged to consent to a remission of the large arrears of rent which they had too indulgently allowed to accumulate. In the hope that by such concessions some security could be thenceforth ensured to them, the proprietors assented to the remission, and also in some instances to an equally serious surrender of their rights in other respects. But the concessions proved unavailing, and became only the stepping stones for fresh aggressions. A Tenants' Compensation Act for Ireland having been passed by the late Government, they sent it as a boon to Prince Edward Island politicians, who only too readily adopted such an acceptable measure of confiscation. By it the tenants were enabled to demand liberal compensation for their outlay upon property held by them, while the unfortunate landlord was precluded by his ill-timed generosity from using as a set-off to such claims the large arrears of rent which had been so unwisely surrendered. It might have been hoped that this Act would have been the last of the long series of oppressive laws that have been passed to harass the owners of land in that country. But the result proves that this is not the case. Though settlers in Prince Edward Island can secure abundance of land, either freehold or leasehold, on singularly favourable terms, a further Act is now in contemplation to deprive the proprietors of their lands. One of the inducements to adopt such legislation is the offer of the Dominion Government to assist the Island Government to buy the lands of the proprietors, as a reward for the adoption of confederation by the people of Prince Edward Island.

We respectfully submit that the proposed Act is without a precedent in the history of Legislation. But even if it were called for, and constitutional as respects its objects, the mode of procedure adopted by it would prove inevitably most ruinous and harassing to the owners of property in that island. The Government, which is practically irresponsible, as it cannot be sued in a court of law, can hold this Act for years over the unfortunate proprietor who cannot force on the proceedings when once commenced, nor obtain compensation or costs when such proceedings have been abandoned. Nor is there any basis provided for valuing the property, so that if a refractory tenant has paid nothing for years there is every reason to believe that the Government will avail themselves of the landlord's misfortune, and will pay him only an equivalent for what he has been actually receiving from the tenant, who will get the land at the lowest possible figure payable on the easiest possible terms.

Apart from these and many other equally serious objections to the form of the Act, we respectfully submit that the Act itself is simply an outrage against modern

civilization, and cannot fail to be utilized in England and Ireland by agitators as a precedent for abolishing leasehold tenures, and for preventing any proprietor from owning more than 500 acres of land.

We beg to draw your Lordship's attention to the singular grounds on which this Act of confiscation is based. The first is that the leasehold tenures of the island have long been a subject of contention, and have proved seriously detrimental to the prosperity of that province and to the contentment and happiness of the people.

We beg to submit that this statement is clearly unfounded, that the cause of the agitation in the island has been the existence of demagogues there, and that the Land Commission of 1860 clearly established the fact that those townships where leasehold tenures existed were far more prosperous than those whose occupants held in fee simple, while the remarkable increase in the wealth and population of the whole island since 1860 proves that it has enjoyed a measure of prosperity which has been equalled in few portions of the British Empire.

One of the other two grounds alleged is that it is very desirable to convert leasehold tenures into freehold estates. This is equally applicable to every part of the Empire, and could be urged with peculiar force in the vicinity of Westminster Hall.

There is one more ground for despoiling us of our property, and that is that there is no reasonable hope of certain proprietors voluntarily selling their township lands to the Government at moderate prices.

We beg to suggest that even if this state of things does exist in Prince Edward Island, an unwillingness to sell property at a price below its value must exist in every free country where a man's property is secured by law against arbitrary confiscation by the Government.

The conclusion arrived at from these remarkable premises is even more astounding, viz., that because some proprietors do not wish to sell to the Government at moderate prices, and it is desirable to convert leasehold tenures into freehold, therefore, any person owning over 1,000 acres can be forced to sell it to the Government by appraisal, so that the Act applies to all lands, whether held on leasehold or in freehold, and practically amounts to this—that no one shall own over 1,000 acres of land.

We have learned, too, that even this is regarded as too large an amount of liberality to extend to the owners of property, the opposition having endeavoured to amend the Act by preventing any one from owning over 500 acres of land.

In conclusion, we respectfully urge that we have acted most liberally and fairly to our tenants, who hold their lands on more favourable terms than are to be found in any other part of the Empire; that we have made most liberal sacrifices of large arrears for the sake of peace; that year after year we have been incessantly harassed by a Legislature elected by the tenants and their friends; and that there is no shadow of excuse for such exceptional legislation against us unless Her Majesty's Government are prepared to sanction that principle which is the corner stone of Communism, that property is a crime against society.

We therefore pray that the Royal Assent may be withheld from this Act, and feel assured that, as British subjects, we can now very safely leave a measure, based on such socialist principles, to the wisdom and justice of Her Majesty's Government.

We have, &c.

(Signed)

MELVILLE.  
C. GEORGINA FANE.  
C. A. SULLIVAN.  
G. GRAHAM MONTGOMERY.  
W. STEWART, for self and Sister.

No. 15.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

*Downing Street, June 4, 1874.*

I HAVE the honour to inclose, for the careful consideration of your Ministers, the accompanying copy of a Petition which I have received from certain proprietors of land in Prince Edward Island protesting against an Act relating to the sale of land, which is stated to be now before the Legislature of Prince Edward Island.

I am informed that further signatures to this Petition will be sent to me hereafter.

I have, &c.  
(Signed) CARNARVON.

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## No. 16.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

*Downing Street, June 10, 1874.*

WITH reference to my despatch of the 4th of June,\* I have to inform you that the persons whose names are stated in the margin† have added their signatures to the Petition against the Act passed by the Legislature of Prince Edward Island relating to the sale of land.

I have, &c.  
(Signed) CARNARVON

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## No. 17.

*Messrs. Frere and Co. to Colonial Office.*

Dear Sir,

*28, Lincoln's Inn Fields, London, June 11, 1874.*

LADY GEORGINA FANE is very anxious that it should be understood that, in the Memorial which we left yesterday, her signature and that of another are duplicates, Lady Georgiana Fane and the other signatory having signed the duplicate Memorial sent in by her Ladyship to the Colonial Office last week. We explained this on leaving it, but she is still afraid that it may lead to some misapprehension.

Lady Georgina Fane has received a letter from Mr. de Blois, her agent in Prince Edward Island, in which he insists that it is necessary she should send in a Memorial to the Governor-General, and he also urges her to allow him to employ counsel, to be heard before the Governor-General at Ottawa, in opposition to the Bill, and she wishes to know whether, after having memorialised Her Majesty's Secretary of State for the Colonies, it would be necessary or desirable that she should take either of these steps in order to prevent the passing of the "Land Purchase Act, 1874." We shall be much obliged by any information you can give us on the subject. We left with Mr. Dealtry a print of the Act as actually passed, and it is far more objectionable on every point than the Bill as it was introduced to the Legislature of Prince Edward Island. We shall be obliged, after Mr. Lowther has seen this Act, if you will return it to us, as we have no other copy.

We shall be happy, if you wish it, to show you Mr. de Blois' letter, and a petition he has sent to the Governor-General stating that his constituents would also petition the Governor-General.

We are, &c.  
(Signed) FRERE AND CO.

Sir Henry Holland, Bart.

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## No. 18.

*Colonial Office to Messrs. Frere and Co.*

Gentlemen,

*Downing Street, June 15, 1874.*

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 11th instant,‡ on the subject of the "Prince Edward Island Land Purchase Bill of 1874."

In reply I am to return to you the Bill which you left at this Office, and to inform you that Lord Carnarvon is aware of no reason why further memorials should not be presented to the Governor-General of Canada, but that he cannot undertake to advise whether the petitioners should request to be heard by Counsel against the Bill.

\* No. 15.

† M. M. Fanning, Lieutenant-Colonel B. H. Cumberland, M. T. Cumberland, John MacDonald,

‡ No. 17.

Copies of your letter and of this reply will be sent to the Governor-General of Canada.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 19.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

Downing Street, June 15, 1874.

WITH reference to my despatches noted in the margin,\* I transmit to you copies of correspondence with Messrs. Frere and Co., in regard to the "Prince Edward Island Land Purchase Bill, 1874."†

I have, &c.  
(Signed) CARNARVON.

No. 20.

*Lady Georgina Fane to Colonial Office.*

My Lord,

5, Upper Brook Street, October 17, 1874.

I TRUST your Lordship will excuse my troubling you with this letter on the subject of the Land Purchase Act passed by the Legislature of Prince Edward Island in April last, against which every proprietor of land in the island petitioned his Excellency the Governor-General, and all the proprietors who were in England presented a Memorial to your Lordship in June last, of which Memorial I sent a copy to his Excellency, with a strong protest from myself, and an earnest petition that he would not give the assent of Her Majesty to an Act so tyrannical and iniquitous.

The proprietors in the island have received no answer to their Petitions, and we who are in England have not received any information as to whether our Petitions and remonstrances have been favourably considered.

In England we have been easy under the conviction that no British Government will sanction so iniquitous an Act; and in the island, up to this time, very little has been heard of it, the proprietors believing that the Royal Assent will not be given to this Act, which is a positive confiscation of their land, and the tenantry considering the passing of it through the House of Assembly to have been only the manœuvre of a political party; but, from what I have recently learnt, I believe this state of things will not continue if the tenantry are left much longer in uncertainty as to whether the Act will receive the Royal Assent or not.

By the last mail I received a letter from my agent, Mr. De Blois, dated the 18th September, in which he told me that he could not obtain a sixpence of rent on my estates, or on those of any proprietor for whom he is agent, and that, in consequence, he was having notices printed, informing the tenants that if they did not pay by the 4th of November he should take legal steps to compel payment. He adds that he hears the same complaint from everyone in the island to whom rent is due.

I beg your Lordship to take into consideration what a serious thing it is to allow the population of the island to remain in suspense as to whether an Act that abolishes all payment of rent throughout the island, except for this year and the next, is to be sanctioned or not.

The island has hitherto been perfectly quiet. There has been no refusal to pay rent. Agitators have made speeches intended and likely to render the tenantry discontented, but they generally have thought them electioneering speeches, made for the purpose of obtaining votes, and have not been much moved by them. It cannot, however, be expected that the tenantry will continue unmoved if an Act releasing them from the obligation to pay rent is held in suspense before them.

I need not remind your Lordship that one clause of this Act enables the Government to seize the land of any proprietor, without obliging the Government to complete the purchase, whilst another clause exonerates the tenants from any payment of rent to the proprietors, except for this year and the next. The Government will, therefore, have power to seize the land, and hold the intended purchase (as it is called) suspended



over the owner, and at the end of two years the property will have become utterly valueless to him. This is an absolute confiscation of the land, and is legislation unheard of in any civilized country.

The Act is not aimed at the absentee proprietors, as your Lordship might suppose. It will be quite as injurious, or more so, to the resident proprietors. Mr. Bruce Stewart, the owner of 80,000 acres, is a resident proprietor; he resides not at Charlotte Town, but in the country, in a house which he has built on one of his estates, and lives among his tenants, on good terms with all of them—he has several sons and daughters. To seize his land, giving him little or nothing for it, and reduce his landed property to 500 acres, must destroy whatever plans his may be for these sons and daughters. The Macdonalds are resident proprietors, and to them the two Acts recently passed must bring ruin. There are numerous resident proprietors, owners of smaller properties, who will be ruined if this Act of Confiscation is passed.

I cannot think it possible that Her Majesty's Government can give its consent to such an Act, but I wish now to call your Lordship's attention to the mischief that must result from allowing any uncertainty on the subject to continue for so long.

If Lord Dufferin cannot, until the House of Assembly meets, announce that the Royal Assent will not be given to the Act, surely he might make it become known through the Local Legislature of the island that the Act will be rejected, and that no Act subversive, as this is, of the rights of property, will receive the Royal Assent. I make this petition (as I believe that Her Majesty's Government will not sanction the Act of Confiscation that has been passed) for the sake of the tenant as well as for the proprietor. It is cruel to keep the proprietor with an Act that will ruin him suspended over him, and cruel to the tenant to incite him to place himself on unfriendly terms with the proprietor to whom rent is due.

For the sake of both, therefore, I pray that your Lordship will let it become known that the Act will not receive the assent of Her Majesty.

I have, &c.

(Signed) C. GEORGINA FANE.

No. 21.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

*Downing Street, November 2, 1874.*

I INCLOSE a copy of a letter from Lady Georgina to me on the subject of the "Prince Edward Island Land Purchase Bill of 1874."\*

2. There can be no doubt of the injury caused by the delay which has occurred in regard to this Bill.

Although it is as a rule desirable that the Governor-General should act with the concurrence of his Ministers in respect of the allowance or disallowance of Provincial Bills, yet, as this measure relates to a question which had been repeatedly and fully considered before the admission of Prince Edward Island into the Dominion, there may not be the same necessity as in cases originating subsequently to the Union for your taking the opinion of your Ministers respecting it.

3. It appears to me that it would conduce to the settlement of the question if some compromise by way of arbitration were arrived at between the proprietors and the Provincial Parliament; and that it might be of advantage to leave the matter to be settled by a Commission appointed with the sanction of the Provincial Legislature, one member of which Commission might perhaps be named by the Island Government, and another by the proprietors, with an umpire selected by the Governor-General. I make this suggestion, leaving you to adopt it or not as in the circumstances you may think fit.

4. If, after considering the measure, you are not satisfied that it is an equitable one, you will have my full support in dealing with it according to your own opinion.

I have, &c.

(Signed) CARNARVON.

No. 22.

*Colonial Office to Lady Georgina Fane.*

Madam,

*Downing Street, November 5, 1874.*

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 17th of October,\* on the subject of the delay which has taken place in Canada in regard to the Land Purchase Bill recently passed by the Legislature of Prince Edward Island.

Lord Carnarvon has communicated a copy of your letter to the Governor-General of Canada, and will duly apprise you of the course which may be taken on hearing from Lord Dufferin on the subject.

His Lordship greatly regrets the inconvenience caused to you and others by the unsettled state of questions so materially affecting your interests, but the matter is one with regard to which the Governor-General, who has given his best attention to it, has necessarily felt some difficulty in coming to a conclusion.

I am, &amp;c.

(Signed) ROBERT G. W. HERBERT.

No. 23.

*Lady Georgina Fane to Colonial Office.*

My Lord,

*5, Upper Brook Street, November 25, 1874.*

I THANK your Lordship for the letter which, by your desire, was written to me by Mr. Herbert on the 5th November,† and for your courteous expression of regret that inconvenience should have been caused by the fact that an Act confiscating the property of the owners of land in Prince Edward Island has been held suspended over them for some months.

I trust, however, that your Lordship will excuse me if I express the extreme astonishment I felt on hearing that Lord Dufferin could find any difficulty in coming to the conclusion that this Act, which is a violation of every principle of English law and common justice, should be at once rejected.

The more the clauses of the Act are considered, the more monstrous it appears. At one fell swoop every owner of land in the Colony, except the few who may happen to have 1,000 acres in their own occupation, is dispossessed of his property, which is transferred to his tenants and to the Government. There is no exaggeration in calling this an Act of Confiscation. It is treatment that never yet has been inflicted on the unoffending owners of land in a peaceful province.

We have heard of wholesale confiscations of land in former times in our country, in Ireland, and in other countries; but it has always been under the pretence that the expelled owners were traitors, and had been engaged in rebellion. No Eastern despot that was ever heard of is reported to have seized the land of all the proprietors in one of the provinces under his dominion, and transferred the possession and right of it to himself and the tenants of the plundered proprietors, except they had done something to offend him.

The machinery provided by the Act for the so-called purchase is undisguised robbery. The Act renders the estate valueless to the proprietor by taking from him all right to demand rent except for two years. The arrears are swept away, or rather, transferred to the Government. The proprietor, at the end of the present and next year, deprived of all power to enforce payment of rent, what price could an arbitrator place on the estate but two years' purchase, and for wilderness land nothing, as it pays nothing now to the proprietor, and under the Act he has no right to retain 500 acres or one acre of his land? The only privilege left to a proprietor is that of paying the land tax on his wilderness land—a heavy tax that he has paid for years.

Is it possible that there can be in the mind of an English Statesman any difficulty in coming to a decision on such an Act? The difficulty cannot be in the mind of Lord Dufferin. It must be elsewhere, and an explanation may be found in the events of last year.

When the Delegates, one of whom was Mr. James Pope, returned from Canada to Prince Edward Island, they announced to the people of the island that the Government of Canada had promised to pass an Act compelling the proprietors to sell their estates.

I was at that time with other proprietors petitioning Lord Kimberley, then Her Majesty's Colonial Minister, against the Tenants' Compensation Act, an unjust and tyrannical Act, for which there was not in Prince Edward Island the shadow of an excuse.

I had related to him facts within my own experience that proved the truth of my assertion that the proprietors in the island were in need of protection and not the tenants, many of whom are wealthy men, some are members of the House of Assembly, and some (as Mr. James Pope, who himself had been a tenant of mine) are members of the Government.

I informed Lord Kimberley of the statements made by Mr. James Pope and the other Delegates, and entreated that Her Majesty's Government would not throw us helpless into the power of persons who avowed their intention to rob us.

I petitioned for myself and the other proprietors that Her Majesty's Government, in transferring us to the Dominion of Canada, would give us some protection against a local Legislature, the members of which are personally interested in passing Acts framed for the purpose of robbing us of our property.

His Lordship was pleased to disregard our petitions, and within three months afterwards the Local Legislature passed an Act that will at once confiscate our property, and against which we have no defence, except, as we hope, the firmness and justice of Lord Dufferin in refusing to give to it the assent of Her Majesty.

In the autumn of last year, when the Legislature of Prince Edward Island was endeavouring to obtain from the Government of Her Majesty the Royal assent to the Tenants' Compensation Act, which must necessarily lessen the value of land throughout the island, and will render some estates valueless to the owners, it had obtained from the Government of Canada a sum of money for the purpose of assisting it in the purchase of land.

The Government of the island asserted that it intended to buy, as it often has, land which the owners have been willing to sell. Of course it was convenient to lessen the value of property preparatory to purchasing it. They obtained the Act to lessen its value, having previously obtained the money. It appears now that they were at the same time negotiating with some members of the Government of Canada, or with persons who have influence in Canada, for the Act which has now passed through the Local Legislature of Prince Edward Island, which is to confiscate and enable them to obtain possession of the lands of almost every proprietor in the island.

The transaction is, in truth, a disgraceful job; I can find no gentler word to describe it. It is impossible that your Lordship or Lord Dufferin should sanction such a transaction, and give the assent of Her Majesty to it. Whoever the persons may be in Canada who favour it, and according to the statement of Mr. J. Pope and the Delegates there were persons who promised them their assistance, Lord Dufferin, as the Representative of Her Majesty, can surely refuse to give the Royal Assent to an Act that is contrary to all the principles of English law.

Under this Act the proprietors of land in Prince Edward Island who have not in any way offended against the laws of the country, are plundered of their property (which is done effectually by taking from them all power to obtain payment of rent), and in addition are to be summoned before the Court appointed to carry out the confiscation, where they may be insulted, fined, imprisoned, and sentenced to any other punishment the Supreme Court may think proper to inflict, if they do not answer every question relating to their property, and give up all papers, documents, title-deeds, letters, and whatever the Court may please to demand.

No peaceful subjects of Her Majesty in any part of the world are subjected to such tyranny.

I sent to Lord Dufferin a petition from myself against this Act, with the Memorial of the proprietors who were in England. We have never heard if he received it. He has been engaged in important business, and perhaps has not attended much to this.

I therefore entreat of your Lordship to read over the several clauses of this Act, and to call the attention of his Lordship to the iniquity and tyranny of it, in the hope that he will as once make it known that the assent of Her Majesty will not be given.

I have, &c.

(Signed) C. GEORGINA FANE.

No. 24.

*F. C. Morgan, Esq., M.P., to Colonial Office.*

My Lord,

14, King Street, St. James's, June 2, 1875.

I HAVE the honour to inclose you a Memorial from a constituent of mine, which he begged me to forward to your Lordship. Would you kindly see if you can do anything in the matter for him, as it seems to me to be rather a hard case.

I am, &amp;c.

(Signed) **FREDERIC C. MORGAN,**  
*M.P. for Monmouthshire.*

Inclosure 1 in No. 24.

*Fern Hill, near Newport, Monmouthshire,*

June 1, 1875.

My Lord,

I RESPECTFULLY beg to ask for your favourable consideration of this Memorial.

I and my son, Arthur Winsloe Evans, are possessed of nearly 6,000 acres of freehold land in the Province of Prince Edward Island, Dominion of Canada, and the Legislature of that Province have lately passed an Act to compel us and other landowners to sell our estates for the benefit of the tenants.

All our tenants hold their farms under leases for 999 years, at a very low rent, such leases having been granted for the most part about fifty years ago.

The Legislature last year passed just such another iniquitous Act, but the Governor-General, Lord Dufferin, when it was brought before him, refused his sanction to the measure.

I have reason to believe that such improper measures are brought forward in the Provincial Legislature for political purposes. No possible case of hardship can be made out for the tenants, as they are generally very prosperous, and cannot feel injuriously the payments of such very low rents.

I should add that the property I and my son are possessed of has been in the Winsloe family for generations; they once possessed 60,000 acres in the island.

Annexed to this Memorial I send, for your consideration, a copy of the most arbitrary and most unconstitutional Act referred to, also a letter just received from my agent on the subject.

I most respectfully beg to ask for your favourable consideration of my case, and have, &c.

(Signed) **SYDNEY TUDOR EVANS.**

The Right Hon. the Earl of Carnarvon,  
Secretary of State for the Colonies.

Inclosure 2 in No. 24.

*Charlotte Town, Prince Edward Island,*

May 15, 1875.

Dear Sir,

I SENT you a few days ago a printed copy of the Act lately passed by our Legislature on the land question, by which you will see its nature. It goes further than the one passed the Session previous, and you will observe that the old questions of title, fishery reserves, quit-rents, &c., are to be opened up. These, we hoped, were all settled by the Commissioners in 1861, or thereabouts. Such a law would, if passed in the United States, be pronounced void and contrary to their Constitution, but I cannot ascertain exactly whether the rights of property by the British law are so clearly defined.

I trust you will make a vigorous protest against this unconstitutional and arbitrary measure (as I believe it is). I do not think it will be passed by the Governor-General, but our silence might be construed into acquiescence with the proposed law.

A Memorial addressed to the Secretary of State for the Colonies will find its way to Lord Dufferin, who is now on his way to England. With kind regards, yours &c.

(Signed) **W. J. CUNDALL.**

S. T. EVANS, Esq.

No. 25.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

Downing Street, June 26, 1875.

I AM directed by the Earl of Carnarvon to transmit to you a copy of a letter from Mr. F. C. Morgan, M.P.,\* inclosing a Memorial from Mr. S. T. Evans, protesting against the "Land Purchase Act, 1875," of the Legislature of Prince Edward Island.

I am also to inclose a copy of the answer which has been sent to Mr. Morgan.†

I have, &amp;c.

(Signed) CARNARVON.

No. 26.

*Colonial Office to F. C. Morgan, Esq., M.P.*

Sir,

Downing Street, June 26, 1875.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 2nd instant,\* inclosing a Memorial from Mr. S. T. Evans, protesting against the "Land Purchase Act, 1875," of the Legislature of Prince Edward Island.

2. In reply, I am to inform you that the land question in Prince Edward Island is not one with which the Secretary of State is authorised to deal by the Constitution of Canada; but the decision in the matter rests with the Governor-General of Canada.

3. I am to add that Lord Dufferin has, as Lord Carnarvon is aware, given very careful consideration to this question, and a copy of Mr. Evans's Memorial has been sent to him.

4. I am to return the Act which accompanies Mr. Evans's Memorial.

I am, &amp;c.

(Signed) W. R. MALCOLM.

No. 27.

*R. B. Stewart, Esq., to Colonial Office.*

*Strath Gartney, Prince Edward Island,  
September 17, 1875.*

My Lord,

I BEG to inclose herewith a cutting from "The Patriot," a newspaper of this island, published on August 19th ultimo, purporting to be the report of a debate in the House of Lords, on July 26, with reference to the "Land Purchase Act, 1875," and the Commission acting thereon. The award is given in my case, and most cruelly unjust I feel it to be, in which feeling I am joined by many persons here who have not in general been the advocates of the proprietors, but who have seen and are well acquainted with my late estates, of which the Commissioners themselves scarcely saw the hundredth part. My land—67,490 acres—is confiscated and wrenched from me for the paltry and utterly inadequate pittance of 4s. 8d. sterling per acre, as nearly as I can translate the amount 1 dol. 13 c. I beg to inclose a manuscript memorandum showing the effect upon myself of that award which the Right Honourable Hugh C. E. Childers and Dr. Jenkins, M.D., two of the Commissioners, have passed; the third Commissioner, Mr. Haliburton, repudiating and protesting against the extreme injustice of the said award, refusing to sign it, and retiring from the Commission, at least for the present. For the sake of brevity, I would respectfully beg your Lordship to refer to the report given in the inclosed cutting of your speech in the House of Lords on July 26th last, in which I read that, "under the 'Canadian Confederation Act, 1867,' it is provided that Acts so passed shall be allowed or disallowed, not by the Crown on the advice of the Minister in England, but by the Governor-General." If this be the case, memorials or petitions to Her Majesty are no longer available to Her Canadian Dominion—I cannot say "subjects"—when they are no longer governed by the Sovereign. But I hope that your Lordship's speech has, in this particular, been incorrectly reported. In another part of that speech, as reported, your Lordship appears to imagine (although the fact was widely different) that all the proprietors of township lands assented to the Land Commission of 1860, which Commission the report

represents your Lordship as mistaking and confounding with "The Tenant League" of 1865. No "Royal Commission was appointed to investigate the matter" of the Tenant League; it was suppressed by a military force sent to this Colony for that purpose, and it now reappears in a new shape,—“The Land Purchase Act, 1875.” I am gratified and thankful to learn by the latter part of your Lordship’s speech, as reported, that “it is quite understood that his Lordship (the Governor-General) will give whatever consideration is proper to all the representations which may be made to him on either side.” May I, upon the strength of this assurance, entreat that your Lordship will be pleased to peruse and consider the purport of the inclosed manuscript memorandum, and also submit it to Lord Dufferin for his consideration. I am very glad to learn from your Lordship’s above-mentioned speech, as reported, that you “do not think that the compensation to be awarded under the Act is limited to this sum of 800,000 dollars.” Many years ago, at the request of the late Mr. Farrer, of Ingleborough, your Lordship favoured me with a letter of introduction to Lieutenant-Governor Sir Dominick Daly. The present Mr. Farrer, of Ingleborough; Mr. Walter, of Bear Wood, M.P.; or my solicitors, Messrs. Farrer, of No. 66, Lincoln’s Inn Fields, would have pleasure in satisfying your Lordship as to my identity and my character for veracity.

I have, &c.  
(Signed) ROBT. BRUCE STEWART.

The Earl of Carnarvon,  
&c., &c., &c.

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Inclosure 1 in No. 27.

THE amount awarded to R. Bruce Stuart by the Commissioners under the “Land Purchase Act, 1875,” is 76,500 dollars, being equal to  $1\frac{1}{10}\frac{3}{4}$  dollars per acre on the 67,490 acres taken from R. Bruce Stewart under said Act.

R. G. Haliburton, the Commissioner nominated by R. Bruce Stewart under said Act, considered this award so unfair that he would not sign it, although he signed all the other awards but one.

76,500 dollars would require to be invested at  $7\frac{1}{3}$  per cent. in order to yield an income of 5,618 dollars, which sum was received by R. Bruce Stewart from 38,517 acres, being that portion of the whole 67,490 acres let on lease.

76,500 dollars would require to be invested at  $8\frac{2}{10}$  per cent. to yield an income of 6,732 dollars, which is the amount of annual rent due from above-named 38,517 acres of leased land.

On the above-named 38,517 acres there was due and owing to R. Bruce Stewart, up to 20th November, 1874, a sum of 35,157 dollars, being equal to  $5\frac{2}{10}$  years’ rent, and equal to nearly 46 per cent. of the amount awarded.

Besides the above-named 38,517 acres of leased land, and the arrears, 35,157 dollars due thereon, the sum awarded was intended to cover the price value of wild land of all qualities, but principally good, 21,785 acres; and also lands claimed by squatters, but of which they have only (by their own testimony) had possession of from 10 to 20 per cent. for the term of twenty-one years, required by law to establish an adverse holding, 7,188 acres; total, 28,973 acres.

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Inclosure 2 in No. 27.

PRINCE EDWARD ISLAND.—In the House of Lords, July 26, the following debate took place:—

Lord Penzance rose to call the attention of the Colonial Secretary to the Act of the Colonial Legislature for the compulsory purchase by the Local Government of Prince Edward Island of all or any of the estates of the British proprietors in that Island. The question at issue was one of importance. For some years past there had been a strong democratic feeling on the part of tenants in the island to acquire possession of the land itself. This was not a new state of things in many countries, but in Prince Edward Island it had had considerable sway, the Local Legislature being more or less completely elected by those whose influence was on the tenants’ side. Last year a very similar Act to that to which he was now alluding passed the Local Legislature but failed to receive the Royal Assent, the Governor-General in Council stating, in a

despatch to the Lieutenant-Governor of the Island, that he was advised that the Act was objectionable because it did not provide an impartial arbitration for the purchase of this property. The Act of 1874 was also objected to because it was subversive of the rights of property, harassing and ruinous to the owners, and a dangerous precedent by the encouragement it held out to agitation. The Act of this year differed from the Act of 1874 in creating a more satisfactory tribunal for the adjustment of these cases. Three Commissioners were appointed—one by the Governor-General of Canada, one by the Local Government, and the third by the island proprietors. In 1860 the proprietors, most of them resident in this country, were very willing to settle all disputes, and the matter was referred to Commissioners, who reported that the basis of compromise should be, that the lands should be valued at twenty years, purchase, the purchase money being regulated by the amount of rents stipulated to be paid. This compromise had never been carried out. An Act had now been passed which bore very harshly upon the proprietors. The Commissioners were to settle the amount to be paid, taking into consideration, not how much rent had been reserved, but how much was paid, so that the proprietors who had been lax in enforcing their rights would suffer accordingly.

The Commissioners were also to consider what was the probability of recovering rents, so that if the law of the island were lax, as in some respects he believed it was, this fact would tell again against the proprietors. The Commissioners were also empowered to open up old questions whether the original conditions of grant had been observed by proprietors. The Act purported to be one for changing leasehold into freehold tenures, but all that it really did seemed to be to give to the Local Government power to acquire the land compulsorily from the proprietors, while it did not give the tenants any statutory right of purchase. Mr. Childers was going out as one of the three Commissioners and the representative of the Governor-General, and he wished to ask the noble Earl whether any instructions had been given to Mr. Childers to take a reasonable view of the rights of the proprietors under the Act, and whether Her Majesty's Government had been able to do anything which would lead to justice being done to the proprietors. Otherwise there was reason to believe that the true value of the land would be largely depreciated in the course of the inquiry by the Commissioners. He wished also to ask the noble Earl whether the amount payable to the proprietors for the purchase of their rights was limited to the sum of 800,000 dollars, which he believed had been paid by the Canadian Government in consideration of the recent Federation.

*The Earl of Carnarvon.*—I find some little difficulty in replying in any detail to the noble and learned Lord, and for this reason—that the Act which he has brought under the notice of your Lordships is not an Act which has passed in the ordinary course of Colonial legislation. In the ordinary course of Colonial legislation an Act passed by the Colonial Legislature is sent home to this country either for sanction or disallowance by the Crown; and, of course, the responsibility in such cases rests with the Minister who advises the Crown. This Act, however, stands on a different footing. It is passed by the Provincial Legislature of the Dominion of Canada, and under the Canadian Federation Act of 1867 it is provided that Acts so passed shall be allowed or disallowed, not by the Crown on the advice of the Minister in England, but by the Governor-General. This Act has followed the usual course. It has come under review by the Governor-General, who has, I think, exercised his judgment properly in sanctioning it. I should exhaust the patience of the House if I were to go minutely into the history of this legislation. The noble and learned Lord has alluded to it as a matter of extreme difficulty which has existed for a great number of years. It originated, curiously enough, in a lottery which was held in London rather more than a hundred years ago. The lottery, which afforded a curious picture of the Colonial Administration of the day, was held for the purpose of putting up a large portion, if not the largest portion, of Prince Edward Island, in lots. In one day no fewer than sixty-seven lots were raffled for, each lot containing 20,000 acres of land. Certain conditions were attached to each lot, but in most cases they were not complied with. The consequence was that property which was lightly won was lightly treated. The conditions as to settling the lots with colonists were in the main not complied with, and in addition to that the properties were subjected to the difficulty of absenteeism. The result of these two evils was that complaints, not unnaturally, sprang up in the island. The tenants who held the properties found out that the owners were not complying with the conditions. They themselves, on the other hand, departed from their conditions with their landlords, and either did not pay the rent at all or else allowed it to fall into arrear. The ultimate result was a complete state of confusion and recriminations between the two parties. This went on, and about ten years ago a Tenants' League was formed in the island for the purpose of disputing the possession of the property

with the descendants of those who held the original lots. A Royal Commission was appointed to investigate the matter. The Commissioners say in their Report:—

“The tenantry of Prince Edward Island share the common sentiment of the continent which surrounds them. The prejudice in favour of a freehold tenure, if it is one, is beyond the power of reason. The proprietors cannot change the sentiment, the local Government have no power to resist it, and the Imperial Government, having become weary of collecting rents and supporting evictions in Ireland, can hardly be expected to do for the landlords in Prince Edward Island what has ceased to be popular or practicable at home. It is, therefore, imperative upon all the parties concerned to convert this tenure. Agrarian questions now occupy the public mind incessantly in this fine Colony to the exclusion of all sound politics. A public man is valued in proportion as he is subservient to the proprietors or friendly to the tenants, not for the measures of internal improvement or inter-colonial policy he may propound; and the intellectual and social life of this people is exhausted and frittered away by disputes and contentions detrimental to the interests of all parties.”

The Report of the Commissioners presented no exaggerated picture of the state of things in the island, and showed the advantage of putting an end to it by any system of legislation which was likely to meet with a reasonable amount of acceptance by the contending parties. I am not at all disposed to say that the Act is perfect. Indeed, I quite agree with the noble and learned Lord that it is open to very many charges in various points. The main purport of the Act I take to be this:—It requires that a certain notice should be given to the proprietors of the intention of the Government to purchase the land, and provides that three Commissioners shall be nominated, who are to have the power of determining the price. A proprietor may appear by counsel and he may appoint a solicitor; and although he has no appeal from the decision of the Commissioners, yet the Supreme Court of Canada may remit the report of the Commissioners for subsequent revision. I cannot state that the Act is in every respect satisfactory, but I am bound to say that, in my opinion, it is not altogether unfavourable to the proprietors. This Act does not lay down the principle of compulsory purchase for the first time. That principle was laid down before in Prince Edward Island, and this is a supplementary Act which is rather in favour of the proprietors than otherwise, as it provides, on the whole, a fair and equitable machinery to enable them to obtain compensation for their land. My Noble Friend opposite, when he was Colonial Secretary, accepted an Act passed in 1871 on the subject, and also the subsequent Act passed in 1873. Those Acts embodied the principle of compulsory purchase. I think that the House will admit that a very wise and proper choice has been made of the gentlemen who are nominated Commissioners, and who will give a fair consideration to the claims of the proprietors. The Home Government is not in any respect whatever responsible for this Act. It is a measure which was disposed of in Canada by the decision of the Governor-General, and consequently instructions from home would really be superfluous, or rather more than superfluous. At the same time, Mr. Childers has been placed in personal communication with Lord Dufferin, and it is quite understood that his Lordship will give whatever consideration is proper to all the representations which may be made to him on either side. The noble and learned Lord has referred to the sum of 800,000 dollars mentioned in the Act. If I understand rightly, the question of the noble and learned Lord is whether the compensation to be awarded under the Act is limited to this sum of 800,000 dollars. I do not think it is; I have no reason whatever to believe that it is so. The only allusion to this sum is to be found in the preamble, and not in the enacting part of the measure. In conclusion, I will only remind the House of what I originally stated—namely, that this measure is one which has been passed by the Colonial Legislature of Prince Edward Island, and which consequently receives the sanction, not of the Crown through the Imperial Government at home, but the sanction of the Governor-General of Canada. Taking all the circumstances into consideration, I quite admit there is much to be said on both sides. I think, however, my noble friend the Governor-General of Canada has exercised a wise discretion in assenting to this measure, which I trust will not only put an end to a controversy which has raged for fifteen years, but will put an end to it as much in the interests of the proprietors as in the interest of any other class of the community. (Hear, hear.)



*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

*Downing Street, October 6, 1875.*

I HAVE the honour to transmit to your Lordship the inclosed copy of a letter from Mr. Robert Bruce Stewart, of Prince Edward Island,\* complaining of the judgment of the Commissioners in the amount awarded to him for the sale of his land under the Land Purchase Act, recently passed in that Island.

2. I request that you will inform Mr. Stewart that I have received his letter, but that the Secretary of State is not in this, as in most ordinary cases of Colonial legislation, the authority to whom an appeal lies. Any representations on the subject of the award of the Commissioners appointed under its provisions must be addressed to the Governor-General of Canada. Your Lordship will therefore be good enough to inform Mr. Stewart that I have referred his letter to you for consideration.

3. It is, however, right that Mr. Stewart should at the same time, in reference to certain passages contained in his letter, understand that he is in error if he supposes that the Constitution of the Dominion of Canada has taken away from any of Her Majesty's subjects the right of memorializing Her Majesty, though it is undoubtedly true that in the rearrangement of the jurisdiction of the Colonial Government some matters which had previously been reserved for the consideration of the Secretary of State were entrusted to the decision of the Governor-General.

4. It will be well also to inform him that I was quite aware that all the proprietors of township lands in Prince Edward Island were not consenting parties to the Commission appointed in 1860, and that as I had no intention, so I am not aware, that I confounded, in my speech in the House of Lords (to which he refers) that Commission, as he appears to suppose, with the Tenant League formed in 1865 to resist the payment of rent.

I have, &c.

(Signed) CARNARVON.

No. 29.

*Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Earl of Carnarvon.—*  
*Received November 13.)*

My Lord,

*Government House, Ottawa, October 27, 1875.*

I HAVE the honour to transmit herewith a letter addressed to your Lordship by Mr. James F. Montgomery, of Charlotte Town, on the subject of the Prince Edward Island Land Purchase Commission.

I have, &c.

(Signed) DUFFERIN.

Inclosure in No. 29.

*Charlotte Town, Prince Edward Island,*  
*September 28, 1875.*

My Lord,

IN 1874 your Lordship's attention was drawn to "The Land Purchase Bill," which passed through the Legislature here, and to which your Lordship instructed Lord Dufferin to refuse the Royal Assent, on the ground of its being a violation of the rights of property.

No one here, not even those who passed the Bill of 1875, had the slightest idea that it would receive Lord Dufferin's assent. Our conviction that, as long as we remained British subjects, we should be safe from anything like confiscation of our estates, and the very proper stand your Lordship took last year, threw us completely off our guard; while the unprecedented haste with which this Act was assented to (several months before the rest of the Acts of the Session received assent) was designed by the Canadian Authorities to deprive the landowners of this island of the opportunity of appealing to Her Majesty against an Act which was even a greater outrage on law and justice than that which your Lordship had so strongly denounced in 1874. Even when a request was made that we should be heard before Lord Dufferin's Privy Council by counsel, a hearing was denied to us.

Nor was this violation of all precedent, and of our rights as British subjects, the end of the extraordinary excesses to which class legislation has been suffered to go in this case. The first intimation that the Act had received the Royal Assent, which was received by some of the proprietors in Great Britain and in this island, was the announcement that Mr. Childers had left England as a Commissioner to dispose of their property. We were suddenly called upon to appear before an inquisitorial Court, to answer to any or every technical question that could be raised, from quit-rents, escheat, fishery reserves, &c.

Ancient and (as we supposed) obsolete questions, which, so far as the law of the land and the good faith of the Crown could settle them, were long ago disposed of and buried, were dug up and brought into life. Everything that could tell against us was utilized; we were even made to suffer for the folly of which the Colonial Office was guilty more than a century ago, and which your Lordship recently described as the source of all this trouble. One thing is clear: the present owners of land here are perfectly innocent of any offence.

It would be an insult to Her Majesty's Government to assume that they share in the Communistic views of some of the Radical section of the Liberal party, that "property in land is a crime against society." Yet this is the very basis of this Act of spoliation, and is "the head and front of our offending." To own more than 1,000 acres of land is not tolerated by this Act, nor can any one own over 500 acres if it is held by tenants. There is even reason to fear that the unfortunate proprietor, under this Act, not only loses the excess over the amount specified, but also every foot of his property, and that he is liable to be deprived of his homestead, and to be turned out of house and home.

Your Lordship, as a landlord, must be aware that tenants in England frequently pay one-third of the proceeds of their farms as rent, or  $33\frac{1}{3}$  per cent. Ours pay only one-sixtieth of that amount, or a merely nominal rent-charge or from one-third to one-half of 1 per cent. English landlords give short leases; ours are nearly all for 999 years. English tenants are restricted from assigning their leases. With us leases can practically be disposed of as easily as goods and chattels.

Hundreds of acres are kept idle and unproductive in England; and the working classes are claiming (not without reason) that they should not be driven out of England because red deer are more valued by English landowners than the yeomanry of the country. No one can pretend for an instant to hint at such a charge against us. Not an acre is kept idle. Any person wishing to rent wild land can go from one end of the island to the other, and select whatever lot he prefers for his farm. There may be cases of oppression in Great Britain as respects the owners and occupiers of land. Not a solitary instance in the whole history of the island has been found of such hardship or oppression. The result of the system has been an amount of progress and prosperity in this island unequalled in any part of British America.

The population of Ontario per square mile is 17, here it is 44. The revenue per head in Ontario is 4s. 10d., here it is 1l. 3s. 4d. The secret, then, of this utterly uncalled-for piece of spoliation is to be found in the fact that the Legislature is returned by and avowedly represents the tenantry, and that the cheapest mode of buying political support is to preach a crusade against the rights of property.

Even our forbearance and liberality have been turned against us. In a time of scarcity we accepted 1s. island currency, with one-ninth added, in lieu of 1s. sterling. An Act was passed, declaring that 1s. sterling should be valued at 1s. island currency, with one-ninth added, a statute which confiscated one-fourth of our property. Year after year acts of spoliation were passed in the Legislature, and the press and the hustings were devoted to creating an agitation against us.

From 1852 to the present, nearly 300 days (or a working year) have been devoted by the Legislature to this favourite theme, while class legislation has closed the Courts against us, and made the collection of arrears as distasteful and as difficult as possible.

In 1860 several of us most unwisely agreed to the proposal of the British Government that a Royal Commission should settle the existing questions between landlord and tenant. Its suggestions were carried out in 1864, and the "Land Purchase Act of 1864" was passed, by which we gave up many thousands of pounds of arrears to buy peace, and to settle for ever all questions or disputes as to our property. The present Act is a glaring violation of that compact. Once more our generosity has been turned against us.

Those proprietors who refused to remit arrears, and who capitalized them by a

proportionate increase of rent, have reaped the benefit by having their interest valued by the increased rent.

We who, relying on the good faith of the Crown, remitted arrears, have not only lost the amount of them, but have also had our property depreciated by our not having increased our rent, which appears to have been the basis of valuation. Hitherto we have heard a good deal of the blessings of the British Constitution.

Such an outrage as that from which we have suffered, had this country been annexed to the United States, would have been an impossibility under the American Constitution. The present Act is probably the first on record that has made leniency on the part of a creditor a penal offence, and that has recognized and rewarded dishonesty on the part of the debtor. Our interest is to be valued by what we have received for the past six years. If we have been considerate and forbearing we pay the penalty. If we have exacted the uttermost farthing of rent we shall reap the reward.

After having, as we imagined, finally disposed of all the obsolete questions of the past century, by agreeing to the Land Act of 1864, we have been summoned before a tribunal which is specially instructed to go into these questions. The Royal Commission of 1860 have forcibly characterized such an outrage: "It could hardly be conceived that, with such views as these, Her Majesty could have ever intended to transfer to the local Government a power the exercise of which would have been in derogation of the faith and honour of the Crown. . . . If it were possible that any country could be found where, after a century, the possession of property could be disturbed for the non-performance of an absurd condition in the original grants, . . . that country would cease to be regarded among the civilized communities of the world." My father, holding under a grant from the Crown, and relying on the good faith of the British Government, gave up a large sum of money due as arrears of rent in order to quiet his title. Having by the present Act been robbed of the price of that concession, and deprived of my property, I respectfully submit that the Home Government is in honour bound to reimburse me, if not for my property which has been sacrificed, at least for the large sum of money which was so fruitlessly surrendered by my father in 1864.

No statesman who does not willingly shut his eyes to the "signs of the times" can be blind to the fact that the landowners of Prince Edward Island are not the only persons who are destined to suffer from this piece of legislation. The Irish Tenants' Compensation Act was a firebrand cast among us that kindled an agitation which has resulted in the present act of spoliation.

The Land Purchase Commission has acted in the same spirit in which the Irish Encumbered Estate Act was carried out, as if a rack-rent system and a starving tenantry existed here, instead of the most prosperous body of yeomanry in the world, with farms practically freehold, except in being subject to a nominal rent-charge of *5d.* to *9d.* per acre.

An able ecclesiastic, whose thorough mastery of colonial questions is not unknown to the Colonial Office, has recently laid down a great truth, which, in connection with this Land Purchase Act and the spoliation of our property, may well afford materials for very serious reflection to the landowners and the privileged classes of England, viz., that "no one could have observed the course of the last thirty years without being fully convinced that the Colonies are assimilating the mother country to themselves, instead of the Colonies being assimilated to the mother country."

Imagine the result of Great Britain being "assimilated to the Colonies" in the matter of this Land Commission, and the same amount of justice being meted out to the landowners there which has been doled out to us in this country.

Let us suppose the working classes to have secured the franchise, and the House of Commons to have avowedly become their mouthpiece, instead of representing the property and the intelligence of the country. Imagine politicians buying support by preaching, year after year, a crusade against property, and denouncing all privileged classes, because millions of acres are kept locked up, and red deer and grouse are pampered and prized, while the bone and sinew of the country are driven away to the uttermost ends of the earth for a home.

Imagine such a Commission authorized to confiscate all properties exceeding 1,000 acres and all estates of more than 500 acres held by tenants. Imagine landowners being even denied a hearing when they wish to urge objections against the appointment of such a Commission, and their suddenly finding themselves summoned before an inquisitorial court, and forced to submit their titles, accounts, &c., to it, under a penalty

of imprisonment. Imagine the value of estates being depreciated by the argument that, as they have become valuable by labour, labour has the best title to the land. Communism, which has no palliation or excuse here, may find many plausible pleas for confiscation in England. Under these circumstances, I would suggest that the Crown should do nothing to countenance or justify this act which may hereafter raise it into a precedent. But to do so in this case would be a grievous breach of good faith on the part of the Crown. Your Lordship has traced the origin of all these troubles to the blunders of the Colonial Office a hundred years ago. The Royal Commission of 1860 felt so strongly on the subject that they urged, as some compensation to the people of the island and to the landowners, that the Imperial Government should give a guarantee for 100,000*l.* to buy out the estates of the Prince Edward Island proprietors. The suggestion was declined and we were made the scapegoats.

In order to buy peace we remitted thousands of pounds of arrears, and agreed for ten years to sell our farms at fifteen years' purchase. The assent by Lord Dufferin to the present Act, in spite of that compact, and with a haste which was a violation of all precedent, has thrown responsibilities on the Imperial Government which, I feel assured, they will not again refuse to recognize. A pure technicality of a most transparent character has been urged here as a bar to any claims on our part against the Crown. Hitherto the Crown has been the safety of British subjects throughout the world against oppression, as unjust laws can be nullified by the refusal of the Royal Assent. It has been suddenly discovered that by the British North American Act our local Statutes are subject to the approval of the Governor-General "in Council," and that the addition of these words has deprived us of the protection of the Crown, and Her Majesty of her veto upon our acts, and of sovereignty over us, which has been practically transferred to the Earl of Dufferin. Such a technicality is as unfounded as it is discreditable, and were Her Majesty's Government to adopt it, the last end of Imperial rule in this island would even be worse than the first. Such a construction of the Act never was dreamed of by the loyal people of the Dominion. If, however, there has been an oversight in that Act, it has been corrected by a lucky oversight in the present Act. While the appointment of a Commissioner is clearly vested in the "Governor-General in Council," there is a provision, in Sections 2, 5, and 7, for "the assent of the Governor-General," *i.e.*, of Her Majesty's representative. If the assent has been given by him "in Council," *i.e.*, merely as the mouthpiece of the Canadian Cabinet, and not as the Queen's representative, the assent is invalid, and the proceedings under the Act could be annulled. I feel assured that Her Gracious Majesty, even if such a technicality were at hand, would never consent to avail herself of, and to surrender her sovereignty over, the people of this Island, not as a concession of freedom to Colonists, but as a mode of evading the obligations and responsibilities of the Crown.

Under these circumstances, I respectfully beg leave to urge either that Her Majesty shall refuse her assent to this Act, and should thereby annul all proceedings under it, or else that the British Government should consider the subject of compensating the proprietors for the loss of their arrears of rent in 1864, and the confiscation of their property under the "Land Purchase Act of 1875."

I need not apologize to your Lordship for writing so plainly and so strongly of this first attempt at Communism and its results, for I am persuaded that, as a member of a Conservative Cabinet, your Lordship, when fully aware of the facts of the case, will cordially sympathize with my views.

I have, &c.

(Signed) JAMES F. MONTGOMERY.

To the Right Hon. the Earl of Carnarvon,  
Secretary of State for the Colonies.

No. 30.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

*Downing Street, December 2, 1875.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 27th of October,\* inclosing a letter addressed to me by Mr. James F. Montgomery, relating to the proceedings under the "Prince Edward Island Land Purchase Act, 1875."

I request that you will inform Mr. Montgomery, in reply to his letter, that just

as a decision on any award is beyond the competence of the Secretary of State, so I consider that it would serve no useful purpose were I to enter upon a discussion, either of the principles on which the Commission constituted under the Act was appointed and made its awards, or of the merits of any particular case which came within its cognizance. I have, however, observed that, in opposition to the statements which have been made as to the harsh operation of the measure, it has also been represented in the press that the contrary has been the case.

I have, &c.  
(Signed) CARNARVON.

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## No. 31.

*Colonial Office to Lady Georgina Fane.*

Madam,

*Downing Street, December 3, 1874.*

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 25th November,\* in which you renew your protest against the Land Purchase Act passed by the Legislature of Prince Edward Island.

His Lordship desires me to again express his regret that the great pressure of other business has delayed the Governor-General's decision on a matter which so nearly affects your interests. His Lordship has again communicated with Lord Dufferin, transmitting a copy of your letter, and as soon as his decision is known, it shall be communicated to you without delay.

I am, &c.  
(Signed) ROBERT G. W. HERBERT.

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## No. 32.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

*Downing Street, December 3, 1874.*

I INCLOSE herewith a copy of a further letter which I have received from Lady Georgina Fane,\* protesting against the Land Purchase Act passed by the Legislature of Prince Edward Island.

I am aware that I need not remind you that it will be convenient that your decision as to the allowance or disallowance of this Act should be announced with as little delay as possible.

I have, &c.  
(Signed) CARNARVON.

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## No. 33.

*Governor the Right Hon. the Earl of Dufferin, K.P., K.C.M.G., to the Earl of Carnarvon.—  
(Received January 15.)*

My Lord,

*Government House, Ottawa, December 29, 1874.*

WITH reference to the correspondence that has taken place on the subject of a Bill passed by the Legislature of Prince Edward Island, intituled "The Land Purchase Act, 1874," I have the honour of transmitting herewith, for your Lordship's information, a copy of an Order in Council approving a Report by the Minister of Justice advising me not to assent to the Bill in question.

I have, &c.  
(Signed) DUFFERIN.

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## Inclosure in No. 33.

*Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 26th day of December, 1874.*

THE Committee of Council have had under consideration the Report dated 23rd December, 1874, from the Honourable the Minister of Justice, to whom was referred a Bill passed by the Legislature of the Province of Prince Edward Island at the Session thereof held in the early part of this present year, and intituled, "The Land Purchase

Act, 1874," which Bill was reserved for the signification of your Excellency's pleasure thereon.

The Committee, under all the circumstances of the case, as set forth in the said Report, submit their concurrence in the recommendation of the Minister of Justice, and advise that the Bill so reserved do not receive the assent of your Excellency in Council.

Certified,  
(Signed) W. A. HIMSV. BIRTH,  
Clerk Privy Council.

*Department of Justice, Ottawa, December 23, 1874.*

THE Undersigned has the honour to report:—

That, at the Session of the Legislature of Prince Edward Island, held in the early part of this present year, a Bill was passed by both Houses, intituled, "The Land Purchase Act, 1874," which was reserved by the Lieutenant-Governor for the signification of your Excellency's pleasure.

Its objects are foreshadowed in the recitals thereto, which are:—

"1st. That the leasehold tenures of this island have long been a subject of contemplation, and have proved seriously detrimental to the prosperity of this province, and to the contentment and happiness of its people.

"2ndly. That it appears from correspondence which has recently taken place between the Government of this island and certain proprietors, that there is no reasonable hope of the latter voluntarily selling their township lands to the Government at moderate prices.

"3rdly. That it is very desirable to convert the leasehold tenures into freehold estates on terms just and equitable to the tenants, as well as to the proprietors."

It provides that the Colonial Secretary shall notify any proprietor owning 500 acres of land or upwards that the Government of the province intend to purchase his land under the provisions of the Act, after which the Government and proprietor shall each nominate a Commissioner to award the amount of money, and they are jointly to nominate a third Commissioner.

The Act provides the necessary machinery for carrying such arbitration into effect, and provides further, as follows:—

"Section 23. After hearing the evidence adduced before them, the Commissioners, or any two of them, shall award the sum due to such proprietors as compensation or price to which he shall be entitled by reason of his being divested of his lands and all interest therein and thereto.

"Section 24. The fact of the purchase or sale of the lands of any proprietor being compulsory and not voluntary, shall not entitle any such proprietor to any compensation by reason of such compulsory purchase or sale, the object of this Act being to pay every proprietor a fair indemnity or equivalent for the value of his interest, and no more."

And by the 25th Section are regulated the circumstances which are to be taken into consideration by the Commissioners in estimating the amount of compensation to be paid to the proprietors.

Under the 29th section the Lieutenant-Governor in Council is to nominate a Public Trustee, who, when the purchase-money of the property shall have been paid into the Treasury, is to execute a conveyance of the estate of the proprietor to the Commissioner of Public Lands, which shall thereby vest in the Commissioner of Public Lands an absolute and indefeasible estate of fee simple, free from all incumbrances of every description, and shall be held and disposed of by him as public lands, and shall also vest in the Commissioner of Public Lands all arrears of rent due upon the said lands.

It further provides—

"Sec. 34. When the full sum for any lands shall have been paid into the Treasury, and the conveyance executed by the Public Trustee to the Commissioner of Public Lands, the Government shall be absolutely exonerated from all liability to any person or persons whomsoever who may claim any estate so conveyed as aforesaid, or any interest therein, except as is mentioned in the next section.

"Sec. 44. After the passing of this Act no action at law shall be maintained by any proprietor for the recovery of more than the current and subsequent years' rent; and in case any such action is brought against any such tenant by any proprietor, such tenant may plead this Act in bar of such action, nor shall any execution issue on

any judgment recovered, or to be recovered, for rent by any proprietor against any tenant in this island, excepting the current and subsequent accruing years' rent; and, in case any such execution is issued, the Supreme Court or a Judge thereof shall, on application, stay any such execution until the award of the said Commissioners shall be made."

2. In transmitting this reserved Bill the Lieutenant-Governor forwards therewith certain documents.

The reasons which induced the Lieutenant-Governor to reserve the Bill are given by him as follows:—

"The Act in question affecting private rights, by enforcing a compulsory sale by proprietors of 500 acres of land or upwards, at prices to be determined under a system of arbitration, to which they are thereby compelled to be parties, I deemed it to be my duty to reserve it for the consideration of his Excellency the Governor-General.

"For upwards of half a century 'the land question,' so called, has agitated the minds of the people of this Province, and repeated attempts have been from time to time made by the local Legislature to get rid of the leasehold system prevalent here, and the aid of the Imperial Government has been frequently invoked for that purpose, by endeavouring to obtain its sanction to the establishment of a Court of Escheat, on the ground of the non-fulfilment by the grantees of the conditions of their grants from the Crown, but to which Her Majesty's Government invariably refused to accede.

"In 1860 three Commissioners were appointed to inquire into and adjust 'the differences between landlord and tenant;' the then proprietors, or a major part of them, were assenting parties to this Commission; one Commissioner was selected by the Secretary of State for the Colonies, a second by the proprietors, and a third by the local Legislature. Their Report and award, characterized by the late Duke of Newcastle, then Secretary of State for the Colonies, as 'able and impartial,' was set aside, because the Commissioners thereby devolved the duty of assigning the value of township lands, which they should have performed themselves, upon other parties not recognized by the submission.\* A copy of the Commissioners' Report and award accompanies the reasons of the Attorney-General, marked No. 1, and to this I beg to refer his Excellency the Governor-General, affording, as it does, a complete history of the land question from the year 1767 to the date of the Report.

"The desire, finally, to extinguish the leasehold system, so far as relates to lands still in the hands of the proprietors, continues unabated; in fact, it has received a fresh impetus since confederation, in view of the sum of 800,000 dollars appropriated by the Dominion Government for the purchase of the proprietary rights in this Province."

The Report of Mr. Attorney-General Brecken, briefly referring to the same matters as mentioned in the despatch of the Lieutenant-Governor, quotes particularly from the despatch of the 13th March, 1869, from the then Secretary of State for the Colonies, to the effect that, if confederation of Prince Edward Island with Canada were to ensue, the land question should be left as far as possible for the decision of those who under the altered circumstances of the Colony would have to carry into execution any measures connected with it.

The Attorney-General further adds, that the local Government is led to believe that there is no reasonable prospect of some of the owners of township lands voluntarily disposing of their estates at moderate prices, and that others of them are not at all desirous of permitting their tenants to become freeholders.

Impelled by the peculiar circumstances of the case, and strengthened by the despatch of Earl Granville above alluded to, the Legislature had passed the Act with the hope that it might be the means of settling for ever this long agitated question on terms just and liberal as well to the proprietors as to the tenants.

The Lieutenant-Governor also transmits copies of correspondence between the Local Government and certain proprietors of lands and their agents on this subject. The views of the different proprietors as to parting with the property vary, but the tenor shows generally an indisposition on the part of the proprietors to dispose of their properties, whilst in some instances they ask that a definite offer should be made to them.

There is also a statement submitted showing the names of the proprietors, their residences, and number of acres owned by each, and the quantity of land owned by small freeholders, the former being 381,720 acres, and the latter 221,000 acres.

There is also a statement showing the quantity of land already purchased under

the authority of a previous local Act, being in the aggregate 457,270 acres, at an aggregate amount of 517,951 dollars; and a further purchase under an Act passed 28 Vic. of nearly 7,000 acres. These purchases, however, appear to have been all made with the assent of the proprietors.

With the Lieutenant-Governor's despatch are certain memorials of proprietors, praying that the Act may not be allowed. These have been since supplemented by memorials furnished either to the Secretary of State for the Colonies, and transmitted by him, or direct to your Excellency.

3. The documents transmitted by Mr. Attorney-General Brecken show the transmission, by the Duke of Newcastle, in February, 1862, to the Lieutenant-Governor, of a copy of a Report of the Commissioners appointed to inquire into the land tenures of Prince Edward Island, together with the copy of the Report, which embraces a very full consideration of the whole circumstances, the same bearing date 18th July, 1861.

As before mentioned, however, nothing was done upon this report.

In 1864 a deputation from the Government of Prince Edward Island proceeded to England, when certain correspondence ensued between the Duke of Newcastle and themselves, and it appears that Sir Samuel Cunard proposed terms, and submitted a draft Bill, which he thought would bear out the matter. These, however, equally led to the absence of any result.

In 1868 the matter was again brought forward by the Lieutenant-Governor submitting a Minute of the Executive Council, and praying the sanction of the Secretary of State to the measure which might obtain a settlement of this question, in reply to which the Duke of Buckingham and Chandos stated that he "fully recognized the propriety of the course which the Executive Council have taken in seeking to obtain the sanction of the Secretary of State, before introducing a measure which would naturally tend to raise in the minds of the people expectations with which, in the result, it might be deemed inexpedient to comply.

"I make the recognition the more fully, because, after a careful consideration of the whole case and of the grounds now put forward by the Executive Council in support of a law for the compulsory sale of the land of those proprietors who were not parties to the Act of 1864, I am not prepared to advise Her Majesty to sanction such a measure.

"The views of former Secretaries of State upon this subject, and the grounds upon which such views were based, have been so clearly explained in prior correspondence that it appears to me unnecessary to do more now than to state that I find no special reason assigned in the Minute of Council which, in my opinion, would justify, on the ground of public policy, the proposed direct appropriation of private property."

In February 1869 correspondence was renewed between the Lieutenant-Governor of Prince Edward Island and the Imperial Government, which led to the remarks of Lord Granville, previously quoted, to the effect that decision as to the land question should be left to those who, under the altered circumstance of the Colony, by confederation, if it were carried out, would have to carry into execution any measures connected with it.

4. Several petitions are presented against the allowance of this Bill, some, as above stated, having been sent to the Secretary of State for the Colonies, and others direct to your Excellency. In transmitting one presented in England, Lord Carnarvon requests the careful consideration of your Excellency's Ministers in respect to it. They submit that the proposed Act is subversive of the rights of property, and that it will prove most ruinous to proprietors in the Colony, and a dangerous precedent to establish as a mode of allaying popular agitation. After entering upon details of the past, they submit that the Act is without a precedent in the history of legislation, and that even if it were called for, as constitutional as respects its objects, the mode of procedure adopted by it would prove most ruinous and harassing to the owners of property in that island. They allege that the Government, which is practically irresponsible, as it cannot be sued in a Court of Law, might hold this Act over the unfortunate proprietor, who cannot force on the proceedings when once commenced, nor obtain compensation or costs when such proceedings have been abandoned, and they dispute the recitals to the Act and pray for the disallowance of the same.

The other petitions allege various reasons in respect to which they, as proprietors and British subjects, would be much injured and damnified if the Act passed.

The allegations in these petitions are very forcibly urged, and represent features which cannot but be regarded as contrary to the principles of legislation in respect to private rights and property.

The Undersigned is of opinion that the Act is objectionable, in that it does not



provide for an impartial arbitration, in which the proprietors would have a representation for arriving at a decision on the nature of the rights and the value of the property involved, and also securing a speedy determination and settlement of the matters in dispute.

Under all the circumstances of the case, the Undersigned has the honour to recommend that the Bill so reserved, intituled "The Land Purchase Act, 1874," do not receive the assent of your Excellency in Council.

(Signed)

H. BERNARD,

*Deputy Minister of Justice.*

I concur,  
(Signed)

T. FOURNIER, *Minister of Justice.*

No. 34.

*Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Earl of Carnarvon.—  
(Received January 15, 1875.)*

My Lord,

*Government House, Ottawa, December 31, 1874.*

IN reference to your Lordship's secret despatch of the 2nd November,\* I have the honour to state that immediately the Prince Edward Island Land Purchase Bill was communicated to me, and that I had mastered its contents, I informed the Prime Minister that, in my opinion, its provisions were objectionable, and that I should decline assenting to it.

2. Mr. Mackenzie offered no opposition to this announcement, and it became the duty of the Ministerial department concerned in such matters to communicate my decision to the local Government, and I had every reason to believe that this had been done in the usual manner. It would appear, however, from the petitions forwarded from England, that some misapprehension has arisen at home in regard to the fate of the Bill.

3. I have, therefore, called Mr. Mackenzie's attention to the point, and an order in Council has been passed upon the recommendation of the Minister of Justice, under which my Responsible Advisers formally recommend the disallowance of the Bill in question.

4. The absence of Mr. Laird, the Secretary of State, and the Representative of Prince Edward Island in the Cabinet, for some months, on a mission to the Indian tribes in the north-west, may account perhaps for the tardy action of my Ministers with regard to this matter.

5. I have every reason to hope that my Government will be disposed to consider favourably the suggestion contained in your Lordship's despatch for the appointment of a Commission of Arbitration to settle the long-standing disputes with regard to proprietary rights in Prince Edward Island, and in a short time I hope to be in a position to communicate further with your Lordship on the subject.

I have, &c.

(Signed) DUFFERIN.

No. 35.

*Colonial Office to Messrs. Frere and Co.*

Gentlemen,

*Downing Street, January 19, 1875.*

I AM directed by the Earl of Carnarvon to acquaint you, as solicitors of the late Lady Georgina Fane, that his Lordship has been informed by the Governor-General of Canada that the Governor-General has been advised by his Ministers not to assent to the Bill of the Legislature of Prince Edward Island, entitled "The Land Purchase Act, 1874."

I am, &c.

(Signed) W. R. MALCOLM.

## No. 36.

*Colonial Office to Viscount Melville.*

My Lord,

*Downing Street, January 19, 1875.*

WITH reference to the Memorial signed by yourself and other proprietors of land in Prince Edward Island in June last,\* protesting against the Bill passed by the Legislature of that island, intitled "The Land Purchase Act, 1874," I am directed by the Earl of Carnarvon to acquaint you that he has been informed by the Governor-General of Canada that the Governor-General has been advised by his Ministers not to assent to the Bill.

The names of the other persons who signed the Memorial against the Bill are noted in the margin,† and as this Department has not been furnished with their addresses, Lord Carnarvon desires me to request that you will have the goodness to communicate to them the information contained in this letter, if it is in your power to do so.

I am to add that Messrs. Frere & Co., the solicitors of the late Lady Georgina Fane, have been informed of the decision arrived at by the Canadian Government.

I am, &amp;c.

(Signed) W. R. MALCOLM.

## No. 37.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

*Downing Street, January 27, 1875.*

I HAVE the honour to acknowledge the receipt of your despatch of the 29th of December,‡ inclosing a copy of an order of the Canadian Privy Council approving a Report by the Minister of Justice advising you not to assent to the "Prince Edward Island Land Purchase Bill, 1874."

I have, &amp;c.

(Signed) CARNARVON.

## No. 38.

*The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.*

My Lord,

*Downing Street, January 27, 1875.*

I HAVE the honour to acknowledge the receipt of your despatch, Secret, of the 31st of December,§ informing me of the steps taken by you with regard to the "Prince Edward Island Land Purchase Bill, 1874."

I am glad to learn that your Government are likely to accede to the proposal contained in my despatch of the 2nd of November,|| for the appointment of a Commission of Arbitration to settle this long-standing question.

I have, &amp;c.

(Signed) CARNARVON.

## No. 39.

*Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Earl of Carnarvon.*

My Lord,

*Government House, Ottawa, May 14, 1875.*

SOON after the Province of Prince Edward Island entered the Confederation of the Dominion of Canada, my attention was drawn by the Earl of Kimberley to the long-pending questions connected with the land tenure in that island; and to an Act that had passed the Local Legislature in the early part of 1873, before the Union, entitled "An Act to alter and amend the Tenants' Compensation Act, 1872."

\* No. 14.

† C. A. Sullivan, G. Graham Montgomery, W. Stewart (for self and sister), M. M. Fanning, Lieutenant-Colonel B. Cumberland, M. T. Cumberland, and John MacDonald.

‡ No. 33.

§ No. 34.

|| No. 21.

2. In a subsequent despatch the Earl of Kimberley requested that he might be furnished with an authenticated transcript of the Act in question, which was forwarded on the 25th of November of that year.

3. On the 12th of February I was informed that the Act had been specially confirmed by Her Majesty in Council on the 2nd of that month.

4. The purport of this Act was to secure compensation to evicted tenants, but it does not appear to have been regarded by those in whose interest it was framed as a final settlement of the land question, for a further Bill was passed during the Legislative Session of 1874, entitled "The Land Purchase Act," having for its object the conversion of all the leasehold tenures in the island into freehold estates.

5. This Bill, like the former enactments, was reserved by the Lieutenant-Governor, and was eventually disallowed by me on the advice of my Ministers, for the reasons set forth in a Report from the Minister of Justice, a copy of which was communicated to your Lordship in my despatch of the 29th of December.\*

6. In announcing to the Prince Edward Island Administration the fate of their recent measure, my Government took the opportunity of intimating, unofficially, that although they recognized the perfect right of the Island Legislature to pass an Act empowering the Province, in what it might conceive to be the interest of the public at large, to acquire by purchase the whole or any part of the estates of the existing landlords, yet that such an operation could only be effected on condition that the owners were paid a fair and proper price for the properties about to be acquired, and that probably the best machinery for appraising their value would be an independent Commission, of which one member might be appointed by the Prince Edward Island Government, another by the landed proprietors, and the third by the Governor-General in Council, who would naturally be anxious to select some person in whose ability, judgment, and impartiality perfect confidence might be placed by all parties.

7. In accordance with these suggestions, a Bill, entitled "The Land Purchase Act of 1875," was framed by the Prince Edward Island Government, with provisions for the erection of a Land Court constituted in the foregoing manner. This Act has now passed both Houses of the Provincial Legislature, and my Responsible Advisers recommend that it should receive the Royal Assent.

8. In view of the vast importance of the interests at stake, a very great weight of responsibility will be imposed upon my Government in the selection of the person who is to act as the nominee of the Governor-General in Council on the proposed Commission. Although undoubtedly the operation contemplated by the Act is within the competence of the Provincial Legislature, and although the Act itself contains no clauses sufficiently obnoxious to justify its disallowance by the Central Authority, it is, nevertheless, a measure of a very stringent character, and unless the provisions introduced into it for the protection of the landowners, and for the proper valuation of their estates, are carried into effect with impartiality and intelligence, it might be productive of great hardship to many individuals. Under these circumstances my Government considers itself very fortunate in having been able to secure, as the Dominion Commissioner, the services of an English gentleman of the highest character, experience, and ability, the Right Honourable Hugh Childers, M.P., whose proposed nomination to the Prince Edward Island Land Court of Arbitration, as soon as the Act shall have received the Royal Assent, I have now the honour of communicating to your Lordship.

9. In this opinion I need not say I heartily coincide, for, considering that a very large number of the Prince Edward Island proprietors are resident in England, it could hardly have been expected that the appointment of a Canadian Commissioner would have been satisfactory to them. On the other hand, the important engagements at home of most Englishmen of public standing and reputation almost precluded the hope of securing the assistance of such a person as would be duly qualified to undertake the responsible duties attaching to so important an arbitration. Circumstances, however, have happily placed Mr. Childers in a position to comply with the invitation of my Government, and I have no doubt that his familiarity with all questions relating to the tenure of land, his great ability, high character, and legal knowledge, will enable him to discharge the onerous duties he has undertaken as much to the satisfaction of those concerned as can be expected in such a case.

10. It is to be regretted that Mr. Childers will not be able to remain in the island beyond the first week in September. I have no doubt, however, that the English proprietors will be sufficiently convinced of the advantage of having their several

causes dealt with while Mr. Childers is still a member of the Commission as to induce them to refrain from throwing any technical obstacles in the way of the speedy constitution of the Court, in which event there is every reason to expect that the valuation of the principal estates held by English proprietors will be adjudicated upon under Mr. Childers' auspices.

11. On his departure it will become necessary for my Government to nominate a successor, and I make no doubt that the greatest possible care will be taken in the selection of this gentleman, who will find the machinery of the Court already in working order, and will have the advantage of the guidance afforded by the precedents established in the cases already dealt with.

I have, &c.  
(Signed) DUFFERIN.

No. 40.

*Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Colonial Office.*

Sir, *Almond's Hotel, Clifford Street, London, June 28, 1875.*

I BEG to acknowledge the receipt of the despatch of the 26th of June,\* inclosing copy of a letter from Mr. F. C. Morgan, M.P.,† and also a copy of Mr. S. T. Evans' Memorial protesting against the "Land Purchase Act of 1875."

I have also to acknowledge a copy of the answer which has been sent to Mr. Morgan.‡

I have, &c.  
(Signed) DUFFERIN.

No. 41.

*The Officer administering the Government to the Earl of Carnarvon.*

My Lord, *Halifax, July 5, 1875.*

I HAVE the honour to inform you that, in accordance with the provisions of the 7th Clause of the "Land Purchase Act, 1875," recently passed by the Legislature of Prince Edward Island, I have this day, by the advice of my Privy Council, of whose Report I inclose a copy, appointed the Right Honourable Hugh C. E. Childers, M.P., to be second Commissioner for carrying into effect the purposes of the Act.

I have, &c.  
(Signed) WM. O'G. HALY, *Lieutenant-General.*

Inclosure in No. 41.

*Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator of the Government on the 5th of July, 1875.*

ON the recommendation of the Honourable Mr. Scott, the Committee advise that, under the provisions of the 7th clause of the Act passed by the Legislature of the Province of Prince Edward Island, and known as "The Land Purchase Act, 1875," and to which the assent of your Excellency in Council has been given, the Right Honourable Hugh Cullen Eardley Childers, M.P., be appointed the second Commissioner for all the purposes of the said Act.

Certified,  
(Signed) W. A. HIMSWORTH,  
*Clerk, Privy Council.*

No. 42.

*Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to Colonial Office.*Sir, *Almond's, Clifford Street, W., London, July 13, 1875.*

I BEG leave to acknowledge the receipt of your letter of the 10th of July,\* and to inform you, in reply, that I have complied with the suggestions it contained, and have forwarded the telegram of which the draft was so obligingly sent to me.

I have, &c.  
(Signed) DUFFERIN.

Inclosure in No. 42.

*Telegram from Lieutenant-Governor of Prince Edward Island to the Earl of Dufferin.*

WILL appoint Provincial Commissioner 15th, and issue notices under Section 2. Am advised injudicious for local Government recommend proprietors any mode selecting their Commissioners, also impossible for Court Commissioners meet early as 9th August, or to say when as proprietors under 11th section have sixty days to name Commissioners after notification under 3rd section. Crown Officers' attention forthwith called to 14th section, also rules of Court under 45th section. Letter, 12th June, received all right.

No. 43.

*The Officer administering the Government to the Earl of Carnarvon.—(Received July 23.)*My Lord, *Halifax, Nova Scotia, July 12, 1875.*

I HAVE the honour to transmit to you herewith a printed copy, certified by the Attorney-General of Prince Edward Island, of an Act, entitled the "Land Purchase Act, 1875," which was passed by the Legislature of that Province in its last Session.†

To this Act I have given my assent, in accordance with the advice tendered to me by my Council in a Memorandum of which I have also the honour to inclose a copy.

I have, &c.  
(Signed) WM. O'G. HALY, *Lieutenant-General.*

No. 44.

*The Officer administering the Government to the Earl of Carnarvon.—(Received July 23.)*My Lord, *Halifax, Nova Scotia, July 13, 1875.*

I HAVE the honour to forward, herein inclosed, a Memorial addressed to Her Majesty the Queen, which has been to-day received by me, in which the resident proprietors of township lands in Prince Edward Island pray that Her Majesty may be pleased to disallow the Act passed at the last Session of the Legislature of that Province, entitled the "Land Purchase Act, 1875."

I have, &c.  
(Signed) WM. O'G. HALY, *Lieutenant-General.*

Inclosure in No. 44.

*Memorial.*

To Her Most Gracious Sovereign Majesty the Queen.

The Humble Memorial and Petition of the Undersigned Proprietors of Township Lands in Prince Edward Island,

Most humbly and respectfully sheweth—

THAT a Bill, intituled "The Land Purchase Act, 1875," has been passed by the Legislative Assembly and Council of Prince Edward Island, and your Memorialists are

\* Not printed.

† Vide Appendix No.

informed has been assented to by his Excellency the Administrator of the Government of the Dominion of Canada, in the absence of his Excellency the Governor-General.

That the said Bill embodies a most unconstitutional principle, and is oppressive and unjust to your Memorialists; that it is utterly destructive of the rights and property of your Memorialists, to the protection of which they know of no reason why they should be deprived.

That this Bill, by the instrumentality of a Commission to be appointed summarily, deprives your Memorialists of the use and occupation of their estates; gives the power to a certain official called the "Public Trustee," to execute conveyances of their property, by which it is at once taken from them and vested in the Provincial Commission of Crown Lands; deprives your Memorialists of all power of receiving existing arrears of rent; and places them entirely at the mercy and discretion of the Commission, which Commission, in its proposed power of fine and imprisonment, reproduces to a considerable extent the worst features of the Star Chamber.

That the Local Government of this Island having for many years past laboured most perseveringly to reduce the value of your Memorialists' property by class-legislation of great injustice by placing every obstacle in the way of your Memorialists receiving their rents and by inciting and encouraging an agitation on agrarian and Communistic principles against the rights of your Memorialists, have now consummated their work by an act of open and sweeping confiscation, against which, as a last resource, we now humbly pray and petition the Queen's Majesty.

That the said Bill is in many respects as objectionable, and in some respects more injurious, to the interests of your Memorialists than was a Bill passed by the Local Government in the year 1874, which said Bill was disallowed by the Governor-General, on the ground that it was unfair and unjust to your Memorialists.

That in the neighbouring provinces there are estates of many thousand acres held by individuals and bodies corporate without hindrance or objection hitherto, and that to such vested interests, as well as all vested interests in every part of your Majesty's Dominions, the Bill now petitioned against is a most dangerous precedent.

That the destruction by this Bill of the common right of appeal from any decision of the proposed Commission, however absurd, unjust, or illegal its decisions may be, is unconstitutional and very cruel. The traitor or the felon convicted of the greatest crimes is permitted to appeal to your Majesty. We, whose only crime it is that we are possessed of lands in Prince Edward Island, are debarred from exercising that right which the Constitution of our country freely awards to the greatest criminals.

That the appointment of one arbitrary Commissioner by the Dominion of Canada, and one by the Local Government of this island, is in effect giving two Commissioners opposed to the proprietors, while there is to be but one in their behalf.

For the above, and for many other reasons detailed in Memorials to his Excellency the Governor-General, your Memorialists now petition and humbly pray that your Majesty will be pleased to disallow the "Land Purchase Act, 1875."

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

(Signed)

ROBERT BRUCE STEWART, Proprietor of Townships No. 7, 10, 12, 30, and part of Townships No. 27, 46, and 47.

WM. CUNDALL, Proprietor of part of Township No. 20.

W. J. CUNDALL, Proprietor of part of Townships No. 20 and 24.

JAMES F. MONTGOMERY, Proprietor of part of Township No. 34.

JOHN A. McDONELL, Proprietor of part of Township No. 35.

JAMES P. DOUSE, Proprietor of part of Lot 31.

WILLIAM DOUSE, Proprietor of part of Lot 31 (per James P. Douse).

JOHN DOUSE, Proprietor of part of Lot 31 (per James P. Douse).

HENRY C. DOUSE, Proprietor of part of Lot 31 (per James P. Douse).

G. W. DE BLOIS, Owner of part of Lot 28.

*Charlotte Town, Prince Edward Island,*

*July 10, 1875.*

No. 45.

*The Earl of Carnarvon to the Officer administering the Government.*

Sir,

*Downing Street, September 3, 1875.*

I HAVE the honour to acknowledge the receipt of your despatch of the 12th of July,\* inclosing a certified copy of an Act passed by the Legislature of Prince Edward Island, entitled "The Land Purchase Act, 1875," and informing me that you had given your assent to this Act in accordance with the advice of your Privy Council.

I have, &c.  
(Signed) CARNARVON.

No. 46.

*The Earl of Carnarvon to the Officer administering the Government.*

Sir,

*Downing Street, September 3, 1875.*

I HAVE the honour to acknowledge the receipt of your despatch of the 13th of July,† forwarding a Memorial addressed to the Queen, signed by several resident proprietors of township lands in Prince Edward Island, praying that Her Majesty may be pleased to disallow the Act passed by the Legislature of Prince Edward Island, entitled "The Land Purchase Act, 1875," to which you gave your assent, as reported in your despatch No. 27 of the 12th of July.\*

I have also received a duplicate of this Memorial through the Lieutenant-Governor of Prince Edward Island.

I request that you will be so good as to inform the Memorialists that their petition has been laid before the Queen, but that I have not felt myself at liberty to advise Her Majesty to interfere in the course taken in regard to this Act by the Officer Administering the Government of Canada.

I have, &c.  
(Signed) CARNARVON.

No. 47.

*The Officer administering the Government to the Earl of Carnarvon.*

My Lord,

*Halifax, September 6, 1875.*

I HAVE the honour to inform you that Mr. Childers, the intelligence of whose appointment to be Second Commissioner in the Arbitration instituted under the Prince Edward Island Land Act, I communicated to your Lordship in my despatch of July 5,‡ has, I regret to say, as he anticipated at the time he accepted the office, found himself unable to act after the first week in the present month, and has requested in a letter of the 4th instant§ to be relieved of his duties from that date.

I hope before long to be in a position to convey to your Lordship some account of the services which Mr. Childers has rendered upon the Commission, and of the results which that body has so far been enabled to arrive at.

I have, &c.  
(Signed) WM. O'G. HALY, *Lieutenant-General.*

No. 48.

*The Officer administering the Government to the Earl of Carnarvon.*

My Lord,

*Halifax, September 9, 1875.*

WITH reference to my despatch of the 6th instant,|| informing you that Mr. Childers had been unable to continue his services as Second Commissioner in the Prince Edward Island Land Arbitration, I have now the honour to inclose to your Lordship a copy of a Minute of my Privy Council recording the advice, upon which I

\* No. 43.

† No. 44.

‡ No. 41.

§ Not printed.

|| No. 47.

have acted, that the Honourable Mr. Lemuel Allan Wilmot, of Fredericton, New Brunswick, formerly a Judge, and latterly Lieutenant-Governor of New Brunswick, should be appointed to fill the office vacated by Mr. Childers.

I have, &c.

(Signed) WM. O'G. HALY, *Lieutenant-General.*

Inclosure in No. 48.

*Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator, September 9, 1875.*

ON a Memorandum dated 3rd September, 1875, from the Honourable Mr. Mackenzie, reporting that by Order in Council of the 5th July, the Honourable Hugh Cullen Eardley Childers, M.P., was appointed a Second Commissioner for the purposes of an Act of the Legislature of the Province of Prince Edward, Island known as "The Land Purchase Act, 1875."

That Mr. Childers has communicated his incapacity further to act as such Commissioner, Mr. Mackenzie therefore recommends, under the authority of the 8th section of the said Act, that the Honourable Lemuel Allan Wilmot, of Fredericton, New Brunswick, be nominated and appointed as the successor of Mr. Childers in such office, and as the Second Commissioner for the purposes of "The Land Purchase Act, 1875," of the Legislature of Prince Edward Island.

The Committee submit the above recommendation for your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,  
*Clerk, Privy Council.*

No. 49.

*The Officer administering the Government to the Earl of Carnarvon.*

My Lord,

*Halifax, September 16, 1875.*

IN accordance with the hope which I expressed in my despatch of the 6th instant,\* that I might before long be enabled to lay before your Lordship some account of the proceedings of the Prince Edward Island Land Purchase Commission, during the period for which Mr. Childers acted upon it as Second Commissioner, I have now the honour to inform your Lordship that the Lieutenant-Governor of Prince Edward Island, in a despatch addressed to the Secretary of State for Canada has expressed a very high opinion of the services rendered by Mr. Childers, whose ability, energy, and impartiality are characterized as most conspicuous throughout the work in which he was engaged.

The Commission commenced to sit upon the 16th of August last, and closed its proceedings, owing to the inability of Mr. Childers to act further, upon the 3rd of September following, having adjudicated during that period upon the claims of ten proprietors, and having been composed, in the adjudication upon the claims of the first two, of Mr. H. C. E. Childers appointed by the Governor-General in Council, Mr. John Theophilus Jenkins, appointed by the Lieutenant-Governor in Council, and Mr. Jedediah Slason Carvell, as Third Commissioner, appointed by the two proprietors whose claims were under consideration; while in the adjudication upon the eight claims subsequently dealt with, Mr. Robert Grant Haliburton acted throughout as Third Commissioner, representing in turn each proprietor.

The Commission having disposed of these claims adjourned until the 11th of October.

I inclose for your Lordship's information a statement exhibiting in a compendious form the result of the proceedings here recorded, in which is tabulated the number of acres allowed by the Commission as the property of each proprietor, the rate per acre at which the property was valued, and the aggregate amount awarded as an equivalent for it.

Your Lordship will learn, I believe with much satisfaction, that in eight out of the



ten complicated and important cases thus decided the award made was concurred in by all the Commissioners.

I have, &c.  
(Signed) WM. O'G. HALY, *Lieutenant-General.*

Inclosure in No. 49.

TABULAR Statement, with reference to showing the number of acres allowed to each Proprietor, and the rate per acre and aggregate amount awarded him.

Name.	Leased.	Unleased.	Total.	Price.	Rate per Acre.	
				Dols.	D.	c.
William Cundall .. .. .	2,844	..	2,844	9,200	3	23
Eliza M. Cundall .. .. .	1,455	..	1,455	4,450	3	06
C. A. Sullivan .. .. .	44,387	21,602	65,989	31,500	1	23
Robert B. Stewart .. .. .	38,018	28,674	66,692	76,500	1	14
Sir G. G. Montgomery .. .. .	5,610	..	5,610	12,400	2	21
Hon. Ponsonby Fane .. .. .	8,653	5,847	14,500	21,200	1	46
Lord Melville .. .. .	11,310	300	11,610	34,000	2	92
Jas. F. Montgomery .. .. .	5,512	..	5,512	15,200	2	77
Captain B. H. Cumberland .. .. .	6,216	..	6,216	31,900	5	13
Miss Fanning .. .. .	7,271	..	7,271	20,200	2	77
Total .. .. .	131,276	56,423	187,699	306,550		

(Signed) FREDERICK BRECKEN, *Attorney-General.*

## APPENDIX.

No. 1.

CAP. IX.

*The Tenants' Compensation Act, 1871.*

[Passed April 17, 1871.]

**WHEREAS** upon several township lands in this island leases have been granted to tenants of lands in a wilderness state for short terms of years, or at will in some instances, by indentures of lease or memoranda of agreements, and in others by verbal agreements, such lands having been at the commencement of such tenancies entirely in a wilderness or uncultivated state, and without any buildings or improvements of any kind, and without any allowance having been made by the lessor in such lease or agreement to the lessee, in consideration of such improvements made by clearing the forest, fencing, erecting buildings, draining, or otherwise, for the culture of the soil, in case of the determination of the tenancy, by the expiration of the term reserved in the said indentures of lease, or the termination of such tenancies at will, or other tenancies, and such improvements pass to the landlord without any compensation to the tenants therefor. Be it therefore enacted by the Lieutenant-Governor, Council and Assembly :

Preamble.

I. From and after the passing of this Act, any tenant occupying lands under a lease or agreement, verbal or in writing, or any memorandum of agreement whereby any term or estate is reserved to the landlord, which lands shall have been in a wilderness or unimproved state when the possession was given, or such lease or agreement made or tenancy created, and when permanent improvements shall have been made in such land or premises since the commencement of such occupation, any such tenants shall, at the expiration of the term of years limited in such lease or agreement, or on the determination of any tenancy at will, or other tenancy, be entitled to receive compensation for the value of such improvements as hereinafter is mentioned.

Every tenant where land was unimproved at commencement of tenancy entitled to compensation on expiry of term.

II. After the expiration of any term of years granted by any lease, or upon any notice to quit or demand of possession by any landlord, or any act done by such landlord to determine the tenancy of any tenant, or which shall have the effect of determining such tenancy, the tenant shall serve a notice in writing upon the landlord that he will apply to the Supreme Court for the appointment of arbitrators to determine the amount of compensation to which he may be entitled; and which notice shall be served ten clear days before the next sitting of the said Court in Charlottetown.

After expiry of term, or service of notice to quit, tenant to serve notice of application for appointment of arbitrators.

III. At the term or sitting of the Supreme Court next after such notice shall have been served (provided that ten clear days shall have elapsed between the day of such service and the said term) the tenant may apply for the appointment of three arbitrators to value the improvements upon the said lands and premises, and the tenant having shown to the said Court, by affidavit, or in such other manner as the said Court shall direct, that he is entitled to compensation under the provisions of this Act, and no cause to the contrary being shown by the landlord, or upon hearing the landlord the Court shall decide that such tenant is entitled to such compensation, it shall be lawful for the said Court to make an order appointing three fit and proper persons as arbitrators, who shall not reside upon the township upon which the tenant's lands and premises are situated, or the township adjacent thereto, who have given to each party due and reasonable notice of the time and place of their meetings, to consider the matters to them referred, shall, or any two of them shall, and are hereby authorised and empowered to settle the amount of compensation, if any, to which the tenant shall be entitled under the provisions of this Act, and to make their award therein, under their hands and seals, or any two of them, within such time as shall be specified in the order of the said Court for such award to be made, and shall return such award when so made to the Clerk of the Supreme Court, which award shall be in the form of schedule (A), to this Act annexed, or as near thereto as the circumstances of the case will allow.

Mode of application to Supreme Court for appointment of three arbitrators to value improvements.

Arbitrators not to reside on township where tenant's lands are situate, or township adjacent thereto.

Arbitrators, or any two of them, to settle amount of compensation, and make award in writing under seal.

Award to be returned to Clerk of Supreme Court.

Form of award.

IV. The Arbitrators who may be appointed as in the last preceding section is specified, shall proceed to compute the compensation as follows: they shall proceed to ascertain the improvements of all kinds for which the tenant is entitled to compensation, according to the terms and meaning of the provisions of this Act, whether the same be in the form of clearing and reducing the land into cultivation, or of buildings, or of works to increase the productive power of the soil, by draining, or by any other productive expenditure of labour, and the expense of such improvements, and the amount of increased value created by the same, and they shall award to the tenant the full costs of all improvements so made by which the value of the premises may be increased, or such amount therein as they shall think fair and just, according to the circumstances of the tenancy, and according to the rules

Mode of proceeding by the arbitrators in determining their award.

herein provided, in such manner as best to carry out the principles upon which the provisions of this Act are founded.

**Mode of determining.**

No buildings to be allowed for, which do not increase the rent for which the premises would be let.

Mode of determining the value of improvements of the soil.

Landlord may rebut tenant's claim for compensation, and require the arbitrators to make allowance or reduction. Allowances of rents, debts, &c., due to landlord to be deducted out of compensation, and to be retained by landlord. Costs of arbitration &c.

Right of appeal to Supreme Court by landlord or tenant from award.

Court may cancel, alter, or amend, or refer it back to arbitrators.

Power to appoint new arbitrators.

Form of notice of appeal, and time of service.

Mode of procedure by tenant to obtain protection on commencement of action of ejectment by landlord.

Court or a Judge to issue an order restraining the landlord from further prosecuting his ejectment, until compensation, &c.]

V. In any estimate of the amount of compensation to be allowed for buildings under this Act, the Arbitrators aforesaid shall first estimate the cost at which new buildings might be erected; of the quality and extent of those for which compensation may be claimed, and afterwards they shall estimate whether any and what deduction should be made for deterioration from age or other causes, and, having deducted such amount, if any, from the sum first ascertained, the remainder shall, in all cases, be deemed and taken to be the amount of compensation to be awarded to the tenant or lessee for such buildings; provided always, that in case it shall appear that any building or buildings for which compensation shall be demanded, are of greater extent, or erected at a higher cost, or for purposes other than what are suitable for the premises, and from any of these causes do not increase the value of the same, or do not produce an increased rent, equal to the cost, the compensation shall be reduced in amount accordingly; and in determining the amount of compensation which shall be allowed to any claimant for the improvement of the soil, credit shall be given by the said Arbitrators for all works of every description, and all expenditure of labour and capital proved to have been made, whether in clearing and reducing the land into cultivation, or in any other way which shall have produced a permanent increase of the real value of annual rent of the property unimproved, and none other; and the nature, extent, expense, and present condition of all such improvements having been ascertained, by the evidence which shall be produced on the part of the tenant or lessee, the amount of compensation to be awarded shall be determined in the following manner, that is to say: an estimate shall be first made of the annual rent which the lands would produce as then improved, and an estimate shall be next made of the inferior rent which the same lands would be capable of producing if such improvements had not been made, and the difference of the two sums shall be considered the amount of annual profit to the landlord, created by the tenant or lessee's improvements on the soil, and the amount of compensation to be awarded as due to the claimant for improvements on the soil, shall be so much principal money as the amount of annual profits represents in the shape of interest, for one year, at the rate of five pounds per centum per annum; for instance, if the amount of annual profit shall be two pounds ten shillings, then the amount to be awarded as compensation for improvements on the soil shall be fifty pounds, and so on in like proportion for a greater or less amount; and in determining such amount, it shall be lawful for the arbitrators to inquire into and take into consideration the length of previous tenure or occupancy, and the rent paid, and the extent to which the tenant or lessee had been or might have been remunerated for the clearing of the land or improvement of the soil during his past occupancy; and it shall also be lawful for the arbitrators aforesaid to take into consideration any expenditure of manure, lime, or any other matter calculated to improve the temporary fertility of the soil, although not in the class of permanent improvements, and to award such recompense as they may think right for all such unremunerated expenditure.

VI. It shall be lawful for any landlord against whom claim for compensation shall be made by any tenant as aforesaid, to rebut such claims thereto if in his power, and to require the arbitrators to inquire into objections made by such landlord, and to make such allowance or reduction after such objections as to such arbitrators may seem just; and all rent, and arrears of rent, debts, fines, or penalties due to the landlord by the tenant, shall in all cases of allowance of compensation for improvements of any kind be discharged out of the money paid for the purpose of such compensation; the costs of such arbitration to be in the discretion of the arbitrators, and the costs of any application to the Supreme Court shall be in the discretion of the said Court.

VII. Either the landlord or the tenant, if he shall think himself aggrieved by such arbitrators having failed to observe the rules herein provided for the regulation of their proceedings, and for the determining the amount of compensation to be awarded, or if the duties and requirements contained in the order appointing such arbitrators as aforesaid have not been complied with, it shall be lawful for such landlord or tenant to appeal against such award to the said Court, and if it shall appear to the said Court that the objections so made to the proceedings of the arbitrators in the matter of any award made by them were valid against the same, it shall thereupon be lawful for such Court to cancel, alter, or amend any such award, and, if necessary, to refer the question of compensation back to the arbitrators, or to remove any arbitrator or arbitrators, if he or they shall have been guilty of any misconduct, and to appoint new arbitrators, or a new arbitrator, as the case may require, and to make such other order with relation to the said matter as to the said Court shall be deemed advisable.

VIII. When either party shall appeal to the said Supreme Court against any such award as aforesaid, he shall serve upon the opposite party a notice in writing, in the form of schedule (B) to this Act annexed, at least ten clear days before the next term of such Court, after such award shall have been filed as aforesaid, and in case there should not be ten clear days between the time of filing such award and the then next term of the said Supreme Court, such notice of appeal shall be given for the next ensuing term thereof.

IX. When any tenancy shall determine or have been determined, as aforesaid, and proceedings shall have been commenced to eject the tenant from the land and premises so in his occupation, such tenant may apply to the Supreme Court, or to a Judge thereof, for an order restraining the landlord from further proceedings to eject such tenant, and if such tenant shall satisfy the said Court, or a Judge thereof, that he is entitled to compensation under the provisions of this Act, the said Court, or a Judge thereof shall, and he is hereby required (upon the said tenant undertaking, immediately, to institute proceedings under this Act to ascertain the amount of compensation to which he is entitled), to issue an order under the seal of the said Court, restraining the landlord from further prosecuting his suit to eject the said tenant from the lands and premises so in his possession, to which such landlord might otherwise be entitled, until the amount of compensation, if any, determined by the award of such

arbitrators shall have been paid to such tenant, or lodged in such Court for or to the credit of such tenant, less such deduction as specified in the sixth section of this Act.

X. Whenever any such award shall have been made in manner hereinbefore mentioned, and is in favour of the tenant, the landlord where such lease under which such compensation has been awarded, is under seal, shall have fourteen clear days after a copy of such award shall have been served upon him to make his election whether he will pay the amount awarded for compensation, or in lieu thereof grant to the tenant an extension of the term of the said lease of the said land and premises; for the term of nine hundred and ninety-nine years, at a yearly rent similar in amount to the last year's rent reserved by the said lease, the term of which has expired, or has been determined as aforesaid.

Landlord to have fourteen clear days after service of award to make his election whether he will pay compensation or grant extension of lease. Term of years and rent of extended lease.

XI. When the landlord shall elect to grant an extension of the lease, as in the last preceding section is specified, he shall serve a notice upon the tenant at least ten clear days before the next ensuing term of the Supreme Court, at Charlotte Town, in the form and to the effect of the Schedule to this Act annexed, marked (C), and which said notice shall require the tenant to produce his lease, upon the expiration of the term of years thereby demised, or forfeiture of which he has been awarded compensation to the said Court, and proof having been made of the due service of such notice upon the tenant, the said Court shall thereupon direct the following memorandum to be endorsed upon the said lease and the counterpart thereof:—

Mode of procedure by landlord, when he elects to grant an extension of lease.

"It is ordered that this lease shall be extended for the term of nine hundred and ninety-nine years from the            day of            A.D. 18            (being the day upon which the tenancy expired or was determined).

Form of memorandum of extension to be endorsed upon the lease and counterpart.

"By the Court,

"A. B., Prothonotary."

Which said Memorandum shall have the like effect, and shall be deemed and taken as if the additional term of nine hundred and ninety-nine years had been originally inserted in the said indenture of lease, in addition to the term therein mentioned, and shall be so held and construed for all purposes whatsoever.

Effect of memorandum

XII. Whenever any tenant entitled to compensation under the provisions of this Act shall hold the land and premises in his possession under a lease not under seal or any agreement for a lease, or any memorandum in writing or verbal agreement, and the landlord shall have been adjudged to make compensation as aforesaid, such landlord, if he shall so elect, shall give the notice mentioned in the preceding section.

When tenant entitled to compensation shall hold the land under a lease not under seal, &c., landlord may elect to give notice mentioned in preceding section.

XIII. Upon proof having been made to the Supreme Court of due service of such notice upon such landlord as in section second of this Act, is required, the said Court shall thereupon direct the Prothonotary of the said Court to execute a lease to the tenant of lands in his possession, for the term of nine hundred and ninety-nine years from the day of the date of the execution thence next ensuing, which said lease shall be prepared under the orders and by the directions of the said Court, and shall shortly set forth the facts and circumstances of each case, and shall express to be made in pursuance of this Act, and shall reserve a rent equal in amount to the last year's rent of the lease which has expired or been determined, as aforesaid, payable to the landlord or to such person as would, for the time being, be entitled to receive the rent thereof, if the said lease or agreement for a lease or other agreement had originally been for the term of nine hundred and ninety-nine years, which said lease shall contain a clause of re-entry upon non-payment of rent, and such covenants and provisions as are usual and customary in the leases granted upon the estate wherein such lands and premises are situate, to be approved of by the Court, and which said covenants shall be made to and with the landlord, and such persons entitled to the rent as last aforesaid, and which said lease shall be signed by the Prothonotary of the Court and the tenant and the landlord or party for the time being entitled to the rent as aforesaid, shall be entitled to the same remedies in law, in any respect, as if such landlord or other person, entitled as aforesaid, had executed such lease; provided that nothing herein contained shall estop any person not in possession of such land and premises, but who may be entitled to the same, or a part or share thereof, from recovering the same from the tenant in possession, to whom such lease shall have been made.

Supreme Court, upon proof of service of notice on landlord, as mentioned in 2nd section, shall direct Prothonotary to execute a lease to the tenant for 99 years. Lease to be prepared under the directions of the Court. Recited therein. Rent to be reserved. To whom payable. Clause of re-entry. Covenants, &c. Lease to be signed by the Prothonotary and the tenant. Landlord entitled to same remedies as if he had executed lease.

Proviso.

XIV. The lease or the extension of the term of any lease mentioned in the eleventh and thirteenth sections of this Act shall be binding upon the landlord, and those claiming under or through him, whether he be tenant in fee, tail in his own right, or in that of his wife, or jointly with his wife, and it shall bind the issue of his body, and all persons having any estate whatever in the said lands and premises in possession, reversion, remainder, or expectancy.

Lease on extension of term of any lease under 11th and 13th sections to be binding upon the landlord and those claiming under him, &c.

XV. Whenever any tenant shall serve a notice demanding compensation as hereinbefore specified, the landlord may immediately elect to extend the term of the lease of such tenant, or to agree to the granting of a new lease as hereinbefore provided for, and he shall thereupon proceed as if such award had been made as hereinbefore set forth, and such lease when so made shall be in all respects as binding and conclusive both upon the landlord granting the same, and upon the tenant to whom the same is granted, and all persons claiming through either of them, as if the said lease had been executed in pursuance of the order of the Supreme Court by the Prothonotary thereof.

On service of notice demanding compensation by tenants, landlord may immediately elect to the granting of a new lease without proceeding to an award, &c. Effect of such lease.

XVI. No tenant shall be entitled to any compensation under the provisions of this Act where his tenancy has become forfeited by reason of the non-payment of rent, or of the breach of any condition or proviso, wherein a right of re-entry is reserved or contained in any indenture of lease, unless any landlord has waived the breach of any such condition or proviso, either by express stipulation, or by any Act which shall be deemed in law a waiver thereof, and no tenant shall be deprived of

No tenant to be entitled to any compensation where his tenancy forfeited for non-payment of rent &c., unless the land-

lord has waived the forfeiture.  
Tenant not to be deprived of compensation in consequence of arrears of rent.

Only original tenant who went into actual possession of unimproved lands and those claiming under him, to be entitled to compensation.  
Lands must have been in a wilderness, or wholly unimproved state at commencement of entry.  
No compensation when occupation for one or two years, &c.  
Other exceptions.  
Act not to apply to any town, common, or royalty.

Definition of words :

"Landlord."

"Improvement."

Landlord residing without this island, all notices, &c., &c., to be served upon his agent.

Judges of Supreme Court to make rules, &c.

Orders may be made returnable at Chambers.  
Judge at Chambers to have same power as Supreme Court.

No proceedings taken by any landlord to eject any tenant between time of Lieutenant-Governor's assent and assent of Her Majesty, to debar any tenant from claiming compensation under this Act.

Time of service of notices, &c.  
Proviso.]

Title of Act.

Suspending clause.]

any such compensation under the provisions of this Act by reason of the fact of his being in arrear of rent.

XVII. No tenant shall be entitled to compensation under the provisions of this Act unless he is the original tenant who went into actual possession of such unimproved lands, under the lease or agreement for a lease or other memorandum or agreement, verbal or in writing, the term of which has expired or been determined as aforesaid; and also his executors, administrators, and assigns, or those claiming from or through him, them, or any of them, under any statute for the distribution of the estate of intestates, or in any other way, and unless such lands were at the commencement of such entry in a wilderness or wholly unimproved state, or unless at the time of the creation of the tenancy for the determination of which he claims compensation as aforesaid, the said lands and premises were in a wilderness state; and no compensation shall be awarded if his occupation was for one or two years, or for any special or temporary purpose, or if the said lands and premises were let for the express purpose of building, or were let by the foot or other lineal measurement, denoting that such letting was actually *bonâ fide* for the purpose of building; nor shall any tenant be entitled to compensation to any lands situate in any town, common, or royalty thereof, or to any water lots.

XVIII. The word "landlord" shall be understood to mean the person or party entitled to the immediate possession or the reversion of the lands and premises upon the determination of the tenancy, and the legal representatives of such persons and those claiming from or through him; and the word "improvement" shall be taken to include all buildings and repairs of buildings, fences, clearing lands from the forest, and reducing them to a state of cultivation, and all works of any kind which have tended to increase the permanent value of the lands and premises.

XIX. If any landlord shall reside without this island and beyond the jurisdiction of the Supreme Court, any notice or other proceeding required to be served upon him shall be served upon his agent residing within this island, and such service shall be held and deemed a good service upon the landlord.

XX. The Judges of the Supreme Court are hereby empowered to make such rules and regulations for the better and more efficient working of this Act, with reference to such matters and things as shall be brought before them or the said Court.

XXI. The Supreme Court may, in its discretion, direct any order to be returnable, or any proceedings to be had before a Judge thereof, at chambers, and such Judge shall have full power and authority to make any such order in as full and ample a manner as the Supreme Court is authorized and empowered to do under the provisions of this Act.

XXII. When any proceedings shall be commenced by any landlord against any tenant to eject him from any lands and premises, after this Act shall have received the assent of the Lieutenant-Governor, but before the assent of Her Majesty shall have been given, and notified in manner required by the last section of this Act, and such tenant would, if such proceedings had been commenced, after such assent and notification thereof, as last aforesaid, be entitled to compensation under the provisions of this Act, then such tenant shall be entitled to such compensation, and shall, in all respects, be deemed and taken to be within the provisions of this Act, and all notices or other proceedings shall be given or taken by any such tenant, for the sitting of the Supreme Court of Charlottetown, next after this Act shall have received Her Majesty's assent, and notification thereof shall have been published as aforesaid; provided there be the requisite number of days between such publication and the next sitting of the said Court, otherwise such notices shall be served and proceedings taken for the then next term of the said Court at Charlottetown.

XXIII. This Act shall be cited as "The Tenants' Compensation Act, 1871."

XXIV. This Act shall not go into operation until Her Majesty's pleasure is known, and notification thereof shall have been published in the "Royal Gazette" of this island.

#### SCHEDULE (A).

In the matter of the application of X. Y., a tenant claiming compensation under "The Tenants' Compensation Act, one thousand eight hundred and seventy-one."

Form of award of arbitrators.

Whereas, by an order made by the Supreme Court of Judicature of Prince Edward Island on the \_\_\_\_\_ day of \_\_\_\_\_ (last or instant), A.D. 187\_\_\_\_, A. B., of \_\_\_\_\_, in the said island, C. D., of \_\_\_\_\_, in the said island, and E. F., of \_\_\_\_\_, were appointed arbitrators to settle the amount of compensation, if any, to which the said X. Y. is entitled under the provisions of the "Tenants' Compensation Act, one thousand eight hundred and seventy-one," and did, after such appointment, duly give the notices required by the said Act of the time and place of their meetings; and whereas the said A. B., C. D., and E. F., arbitrators as aforesaid, did, pursuant to the provisions of the said Act, and of the order of the said Court (or if only two of them attend such meetings, then say, the said A. B., and E. F., two of such arbitrators as aforesaid, did, pursuant to the provisions of the said Act, and of the order of the said Court), compute and estimate the amount of compensation to which the said X. Y., the tenant, is entitled for improvements on the farm of land situate at \_\_\_\_\_ in the said island, consisting of \_\_\_\_\_ acres heretofore held or occupied by the said X. Y., as tenant to \_\_\_\_\_ Now, these presents witness that they, the said A. B., C. D., and E. F., arbitrators as aforesaid (or if only two of them, then

say A. B. and C. D., two of such arbitrators as aforesaid), in pursuance of the powers vested in them by the said Act, and by the said order of the Supreme Court, do award, order and adjudge the sum of pounds to the said X. Y., as the compensation to which he is entitled under the "Tenants' Compensation Act, one thousand eight hundred and seventy one," for improvements on the said farm. In witness whereof we have hereto our hands and seals subscribed and set on the day of , A.D. 187 .

(Seal.)

(Seal.)

(Seal.)

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SCHEDULE (B.)

In the matter of the application of A. B., a tenant claiming compensation under "The Tenants' Compensation Act, one thousand eight hundred and seventy-one."

Sir,

Take notice that I have appealed from the decision of the arbitrators in this matter, and shall, on the first day of the next term of the Supreme Court, or as soon thereafter as counsel can be heard, move to have the said award set aside, or such other order made therein as to the said Court shall be deemed just.

Form of notice of appeal from award of arbitrators.

To A. B., the above-named tenant, or C. D., the landlord, as the case may be.

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SCHEDULE (C.)

In the matter of the application of A. B., a tenant, claiming compensation under "The Tenants' Compensation Act, one thousand eight hundred and seventy-one."

Sir,

Take notice that I elect to the granting of an extension of terms of the lease under which you claim compensation, instead of paying any compensation therefor, and take notice that I shall, on the first day of next term of the Supreme Court at Charlottetown, or as soon thereafter as counsel can be heard, move that the term of such lease be extended for nine hundred and ninety-nine years, and further take notice that I require you to produce such lease at the said Court.

Form of notice from landlord to tenant that he elects to extend the lease for 999 years.

C. D., Landlord,

By E. F., his Agent.

To A. B.,

The above Tenant.

A true copy, which I certify,

(Signed) FREDK. BRECKEN,

Attorney-General for Prince Edward Island.

9th June, 1871.

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No. 2.

CAP. X.

*The Tenants' Compensation Act, 1872.*

[Passed June 29, 1872.]

WHEREAS it is expedient to amend the law relating to the occupation and ownership of land in this island. Be it enacted by the Lieutenant-Governor, Council, and Assembly as follows:—

I. Any tenant occupying lands under a lease or agreement, verbal or in writing, or any memorandum or agreement whereby any term or estate is reserved or will revert to the landlord may, on the expiration of his lease or upon the legal determination of his tenancy, by any act of himself or his landlord, claim compensation to be paid by the landlord in respect of all improvements on such lands made by him or his predecessors in title.

Tenants' right on expiry of lease.

(a.) Provided that a tenant shall not be entitled to any compensation in respect of any improvement made before the passing of this Act, and twenty years before the claim of such compensation shall have been made, except permanent buildings and reclamation of waste or wilderness lands, or,

Proviso.

(b.) In respect of any improvement prohibited in writing by the landlord as being and appearing to the Court to be calculated to diminish the general value of the landlord's estate, and made within two years after the passing of this Act, or made during the unexpired residue of a lease granted before the passing of this Act, or

Cases where not allowed compensation.

(c.) In respect of any improvement made either before or after the passing of this Act, in pursuance of a contract entered into between landlord and tenant for valuable consideration therefor, or

(d.) Subject to the rule in this section mentioned, as to contracts in respect of any improvement made either before or after the passing of this Act in contravention of a contract in writing not to make such improvement, or

(e.) In respect of any improvement made either before or after the passing of this Act, which the landlord has undertaken to make, except in the cases where the landlord has failed to perform his undertakings within a reasonable time.

II. A tenant of any lands under a lease or written contract made before the passing of this Act, shall not be entitled on being disturbed by the act of the landlord in or on quitting his lands to any

Compensation where excluded by lease.

compensation in respect to any improvement, his right to which compensation is expressly excluded by such lease or contract.

Landlord where entitled to set-off.

III. Out of any moneys payable to the tenant under this Act, all sums due to the landlord from the tenant or his predecessors, in title, in respect of rent, or in respect of any deterioration of the holding; arising from non-observance on the part of the tenant of any express or implied covenant or agreement, may be deducted by the landlord, and also any taxes payable by the tenant, due in respect of the lands, and not recoverable by him from the landlord.

Contracts against improvements to be void.

IV. Any contract between a landlord and a tenant, whereby the tenant is prohibited from making such improvements as may be required for the suitable occupation and due cultivation of his lands, shall be void, both at law and in equity, but no improvement shall be deemed to be required for the suitable occupation of a tenant's farm and its due cultivation, which appears to the Court to diminish the general value of the estate of the landlord in which such farm is situated.

Tenant, by his own contract, not to be deprived of his claim.

V. Any contract made by a tenant, by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this Act, shall, so far as relates to such claim, be void both at law and in equity, subject to the provision herein contained as to any improvement made in pursuance of a contract entered into for valuable consideration therefor.

Evidence of improvements.

VI. For the purposes of compensation under this Act, all improvements on a farm shall, until the contrary is proved, be deemed to have been made by the tenant or his predecessors, in title, except in the following cases where compensation is claimed in respect of improvements made before the passing of this Act.

Exceptions.

(a.) Where such improvements have been made previous to the time at which the farm, in reference to which the claim is made, was conveyed on actual sale to the landlord or those through whom he derives title.

(b.) Where such improvements were made twenty years or upwards before the passing of this Act.

(c.) Where, from the entire circumstances of the case, the Court is reasonably satisfied that such improvements were not made by the tenant or his predecessors in title.

Predecessors and successors of tenants.

VII. For the purposes of this Act a tenant shall be deemed to have derived his holding from the preceding tenant, if he has paid to such preceding tenant any money, or given to him any money's worth, in respect of his farm, or has taken such farm by assignment, demise, or operation of law, from the preceding tenant, and where a succession of tenants have derived title each from the other, the earlier in such succession shall be deemed to be the predecessor of the later, and the later in such succession shall be deemed to be the successor of the earlier.

Persons ejected excluded from compensation.

VIII. No person shall be entitled to any compensation under the provisions of this Act, where he shall have been actually ejected from his farm or holding, by reason of the non-payment of his rent, or of the breach of any condition or proviso, wherein a right of re-entry is reserved or contained in any indenture of lease, and no tenant shall be deprived of any such compensation under the provisions of this Act, by reason of the fact of his being in arrear of rent.

Three months' notice to be given by tenant.

IX. Every tenant entitled under this Act to make any claim in respect of any right or for payment of any sums due to him by way of compensation, and about to quit his farm or holding may, within three months prior to the expiration or other determination of his tenancy or lease, or within three months subsequent to such expiration or other determination, serve a notice of such claim on his landlord, or, in his absence, his known agent, the notice shall be in writing and shall state the particulars of such claim, subject to such amendment as the Court may allow, together with the dates at which, and the periods within which, such particulars are severally alleged to have accrued, as nearly as the same can be ascertained.

Two months' notice to be given by landlord

X. On the receipt of the notice, the landlord shall be deemed to have admitted the claim made by the tenant, unless within two months he serves a notice on the tenant, stating that he disputes the whole or some portion of the claim made by the latter, and upon service of such notice by a landlord on the tenant, a dispute shall be deemed to have arisen between the landlord and the tenant, as to the whole or a portion of such claim, and such dispute shall be decided by the Court, unless within the time and in the manner prescribed in that behalf such dispute shall have been settled by agreement between the landlord and the tenant.

Tenant, when to apply to a Judge at Chambers.

XI. On the receipt of any such notice from the landlord, the tenant shall, within one month from the receipt thereof, apply to the Court or to a Judge thereof at Chambers, on an affidavit of the facts, for an order or summons calling upon the landlord to show cause, at the then next sitting of the Court, why the claim for compensation of the said tenant should not be allowed and paid, a copy of which summons or order shall, together with the affidavit upon which the same was granted, be served upon the landlord at least fifteen days before the first day of the term or sitting of the Court at which the said summons or order is made returnable.

Judge's power.

XII. On the return of any such summons or order, either party may make any claim, urge any objection to the claim of the other, or plead any set-off such party may think fit, and the Court shall take into consideration any such claim, objection, or set-off; also, any such default or unreasonable conduct of either party as may appear to the Court to affect any matter in dispute between the parties, and shall admit, reduce, or disallow altogether any such claim, objection, or set-off, made or pleaded on behalf of either party, as the Court thinks just, giving judgment on the case with regard to all its circumstances, and the Court shall have jurisdiction at the hearing of any such dispute to ascertain what rent, if any, is due to the landlord in respect of the farm or holding for the improvements on which compensation is claimed.

Affidavit and *visá voce* evidence receivable.

XIII. On the hearing of every such order or summons, the Court may receive any affidavits from either party, and hear any evidence, *visá voce* or otherwise, they shall deem necessary, and they shall have full power to adjourn the hearing of such dispute from time to time, and to admit such new evidence or supplementary affidavits as they may deem necessary to enable them to give a proper judgment on the matters in dispute, and the adjournment of such hearing may be from term to vacation, and *vice versa*.

XIV. In every case of dispute between landlord and tenant heard before the Court, the order of the Court shall be reduced into writing, in the form of a decree or award (as the case may be), and shall state the items of the claim allowed, and also the particulars of any set-off, objection, default, or conduct, allowed or taken into account, such decree or award to be and to have in every respect the effect of a judgment regularly entered up in the said Court; provided that in no case shall any execution issue on such judgment against the landlord until the tenant shall have quitted his holding, and given up possession of his farm.

Judge's decree or award, how made.

XV. A tenant who may be decided by the Court to be entitled to compensation to be paid by any landlord, shall not be compelled by process of law to quit his holding until the amount of compensation due to him has been paid or deposited in manner hereinafter mentioned, a landlord, shall in all cases, have the option of depositing the amount of the compensation awarded or decreed to any tenant in the hands of the Prothonotary of the Court, and if at any time after the making of a claim for compensation, as hereinbefore directed, and before finally giving up possession of his farm or holding, a tenant shall be alleged to have done any damage to his farm or holding, or the buildings thereon, the Court shall inquire into the same and allow to the landlord, out of the money so deposited, such compensation as it may deem just. In no case shall a tenant, except by special leave of the Court, be entitled to receive the money so deposited until he shall have given up possession of his farm or holding, and in no case shall the Prothonotary charge any poundage on any money so deposited in his hands.

Tenant to retain farm till compensation paid, which may be lodged with Prothonotary.

XVI. The Court shall have full power in its discretion to appoint two or more assessors to examine the farm and holding of any tenant, and any improvements thereon for which compensation is claimed, and such assessors, when so appointed, shall examine such farm and holding, and shall make their report to the Court within such time and in such mode and manner as the Court shall direct.

Assessors, their appointment and duty

XVII. When any tenancy shall determine or have been determined as aforesaid, and proceedings shall have been commenced to eject the tenant from the land and premises so in his occupation, such tenant may apply to the Court or to a Judge thereof for an order restraining the landlord from further proceedings to eject such tenant, and if such tenant shall satisfy the Court or a Judge thereof that he is entitled to compensation under the provisions of this Act, the said Court or a Judge thereof shall, and he is hereby required (upon the said tenant undertaking immediately to institute proceedings under this Act, to ascertain the amount of compensation to which he is entitled) to issue an order under the seal of the said Court, restraining the landlord from further prosecuting his suit to eject the said tenant from the lands and premises so in his possession, to which such landlord might otherwise be entitled, until the amount of compensation, if any, determined by the said Court shall have been paid to such tenant or lodged in the hands of the Prothonotary for or to the credit of such tenant.

Ejectment, where and how restrained on application of tenant.

XVIII. Where the parties to any such dispute, as aforesaid, respecting any farm or holding, or the improvements thereon, are desirous that such dispute should be settled by arbitration, they shall, in the manner and time prescribed in the Schedule to this Act, refer the same to an arbitrator or arbitrators, with an umpire to be appointed in manner appearing in the Schedule annexed hereto, and the Tribunal so selected shall be deemed in respect of such dispute the Court of Arbitration under this Act.

Arbitration, how available.

XIX. The Court of Arbitration shall in all cases brought before it, under this Act, have all and the like powers, jurisdiction, and authority as the Supreme Court under this Act, with this exception, that the Court of Arbitration shall have no power to appoint assessors, or to punish persons for contempt or to enforce its awards, but it may report to the Supreme Court the name of any person refusing to give evidence, or to produce documents, or guilty of contempt of Court when sitting judicially, and the Supreme Court may, upon such report, punish the offender in the same manner as if the offence had been committed in, or in respect of a matter under the cognizance of the Supreme Court. The award of the Court of Arbitration may, at the instance of either party, be recorded in the Supreme Court in the manner and time prescribed in the said Schedule to this Act, and when so recorded shall be of the same effect, and shall be enforceable as if the same were an order of the said Court. No such award shall, so far as relates to the dispute under this Act, be held to be invalid by reason of the violation of, or non-compliance with, any technical rule of law respecting awards, where such award substantially decides the dispute referred to the Court of Arbitration.

Powers of Arbitration Court.

Award may be recorded in Supreme Court.

XX. No appeal shall lie from an award of the Court of Arbitration, nor shall any such award be removeable by *certiorari*.

No appeal.

XXI. No compensation shall be awarded to any tenant under this Act whose occupation was for one or two years only, or for any special or temporary purpose, or if the said lands and premises were let for the express purpose of building on, or were let by the foot or other lineal measurement denoting that such letting was actually *bond fide* for the purpose of building, nor shall any tenant be entitled to compensation to any lands situate in any town, common and royalty of this island, or to any water lots.

Certain tenants excluded from compensation. Also towns and royalties.

XXII. In the construction of this Act the following words and expressions shall have the force and meaning hereby assigned to them, unless there be something in the subject or context repugnant thereto.

Construction of certain words, viz.:

XXIII. The term "landlord," in relation to a farm or holding, shall include a superior mesne or immediate landlord, or any person for the time being entitled to receive the rents and profits, or to take possession of any farm or holding.

"Landlord."

XXIV. The term "tenant," in relation to a farm or holding, shall include any tenant from year to year, or any tenant for a life or lives, or for a term of years, under a lease or contract for a lease, whether the interest of such tenant has been acquired by original contract, lawful assignment, devise, bequest, or act, or operation of law, and where the tenancy of any person entitled to compensation under this Act is determined or expiring, he shall, notwithstanding such determination or expiration, be deemed to be a tenant until the compensation, if any, due to him under this Act has been paid or deposited as hereinbefore provided.

"Tenant."



- "Improvements.": XXV. The term "improvements" shall mean, in relation to a farm or holding :—  
 (1.) Any work which, being executed, adds to the letting or selling value of the farm or holding on which it is executed, and is suitable to such farm or holding.  
 (2.) Tillages, manures, or other like farming works, the benefit of which is unexhausted at the time of the tenant quitting his farm or holding.
- "The Court." XXVI. The term "the Court" shall mean the Supreme Court of this Island.
- Absent landlords. XXVII. If any landlord shall reside without this island, and beyond the jurisdiction of the Supreme Court, any notice or other proceeding required to be served upon him, shall be served upon his Agent residing within this island, and such service shall be held and deemed a good service upon the landlord.
- Judges may make rules, &c. XXVIII. The Judges of the Supreme Court are hereby empowered to make such rules and regulations for the better and more efficient working of this Act, with reference to such matters and things as shall be brought before them, as they may deem necessary or advisable.
- Proceedings taken before Royal Assent XXIX. If any proceedings shall be commenced by any landlord against any tenant, to eject him from any lands and premises after this Act shall have received the assent of the Lieutenant-Governor, but before the assent of Her Majesty shall have been notified in manner required by the last section of this Act, and such tenant would, if such proceedings had been commenced after such assent and notification thereof, as last aforesaid, be entitled to compensation under the provisions of this Act, then such tenant shall be entitled to such compensation, and shall in all respects be deemed and taken to be within the provisions of this Act, in as full and ample and beneficial a manner, as if such proceedings had been commenced after Her Majesty's Assent had been published as aforesaid.
- Suspending clause. XXX. This Act shall be cited as "The Tenants' Compensation Act, 1872."  
 XXXI. This Act shall not go into operation until Her Majesty's pleasure is known, and a notification thereof published in the "Royal Gazette" of this island.

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SCHEDULE.

*Arbitrations.*

1. If both parties concur a single arbitrator may be appointed.
- Death of arbitrator. 2. If the single arbitrator dies, or becomes incapable to act before he has made his award, the matters referred to him shall be determined by arbitration, under the provisions of this Act, in the same manner as if no appointment of an arbitrator had taken place.
- Two arbitrators. 3. If both parties do not concur in the appointment of a single arbitrator, each party, on the request of the other party, shall appoint an arbitrator.
- Appointment to be in writing. 4. An arbitrator shall, in all cases, be appointed in writing, and the delivery of an appointment to an arbitrator shall be deemed a submission to arbitration, on the part of the party by whom the same is made, and after any such appointment has been made, neither party shall have power to revoke the same without the consent of the other.
- Fourteen days' notice. 5. If, for the space of fourteen days after the service by one party or the other of a request made in writing to appoint an arbitrator, such last-mentioned party fails to appoint an arbitrator, then upon such failure, the party making the request may apply to the Court, and thereupon the dispute shall be decided by the Court according to the provisions of this Act.
- Death of arbitrator before award. 6. If any arbitrator appointed by either party dies or becomes incapable to act before an award has been made, the party by whom such arbitrator was appointed may appoint some other person to act in his place, and if for the space of fourteen days after notice in writing from the other party for that purpose, he fails to do so, the remaining or other arbitrator may proceed *ex parte*.
- Refusal to act. 7. If, where more than one arbitrator has been appointed, either of the arbitrators refuses, or for fourteen days neglects, to act, the other arbitrator may proceed *ex parte*, and the decision of such arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.
- Refusal or neglect to make award. 8. If where more than one arbitrator has been appointed, and when neither of them refuses or neglects to act, as aforesaid, such arbitrators fail to make their award within twenty-one days after the day on which the last of such arbitrators was appointed, or within such extended time, if any, as may have been appointed for that purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire, to be appointed as hereinafter mentioned.
- Umpire. 9. Where more than one arbitrator has been appointed, the arbitrators shall, before they enter upon the matters referred to them, appoint, by writing under their hands, an umpire to decide on any matters on which they may differ.
- Death or incapacity of umpire. 10. If the umpire dies or becomes incapable to act before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the arbitrators shall forthwith, after such death, incapacity, or refusal, appoint another umpire in his place.
- Refusal to appoint umpire. 11. If, in any of the cases aforesaid, the said arbitrators refuse, or for fourteen days after the request of either party to such arbitration, neglect to appoint an umpire, the Court, as defined by this Act shall, on application of either party to such arbitration, appoint an umpire.
- Decision, when final. 12. The decision of every umpire on the matters referred to him shall be final.

Certified.

(Signed) E. PALMER, *Attorney-General.*

*An Act to alter and amend "The Tenants' Compensation Act, 1872."*

Whereas it is desirable to alter and amend "The Tenants' Compensation Act, 1872": Be it therefore enacted by the Lieutenant-Governor, Council, and Assembly, as follows; that is to say:—

ALL tenants shall be intitled to compensation under the provisions of the said recited Act, except such as are therein specially excluded.

2. When any tenancy shall determine, or have been determined, as in the said Act mentioned (except where such tenancy shall determine or have been determined, by reason of the non-payment of rent or of the breach of any condition or proviso wherein a right to re-entry is reserved or contained in any Indenture of Lease), and proceedings shall have been commenced to eject the tenant from the land and premises so in his occupation, such tenant may apply to the Court or to a Judge thereof, for an order restraining the landlord from further proceedings to eject such tenant, and if such tenant shall satisfy the Court or a Judge thereof that he is entitled to compensation under the provisions of the said Act, the said Court or Judge thereof shall, and he is hereby required (upon the said tenant undertaking immediately to institute proceedings under this Act, to ascertain the amount of compensation to which he is entitled) to issue an order under the seal of the said Court, restraining the landlord from further prosecuting his suit to eject the said tenant from the lands and premises so in his possession, to which such landlord might otherwise be entitled, until the amount of compensation, if any, determined by the said Court, shall have been paid to such tenant or lodged in the hands of the Prothonotary for or to the credit of such tenant.

When tenant may apply to Court for order to restrain landlord from ejecting him.

Terms upon which order may be granted.

3. Where a tenant has made any improvements before the passing of this Act on a holding held by him under a tenancy existing at the time of the passing thereof, the Court, in awarding compensation to such tenant in respect of such improvements, shall, in reduction of the claim of the tenant, take into consideration the time during which such tenant may have enjoyed the advantage of such improvements; also the rent at which such holding has been held, and any benefits which such tenant may have received from his landlord in consideration expressly or impliedly of the improvements so made.

Matters to be taken into consideration by Court in awarding compensation for improvements made before passing of this Act.

4. The 17th section of the said "Tenants' Compensation Act, 1872," shall be and the same is hereby repealed.

Sec. 17, Tenant's Compensation Act, 1872, repealed. Suspending clause.

5. This Act shall not go into operation until Her Majesty's pleasure therein shall be made known and a notification thereof published in the "Royal Gazette" of this island.

A true copy, which I certify.

(Signed)

FREDK. BRECKEN, *Attorney-General.*

*Charlottetown, Prince Edward Island,  
November 13, 1873.*

*An Act to alter and amend "The Tenant Compensation Act, 1872."*

This Act was introduced by the Government and carried through the Legislature for the purpose of enacting certain suggestions of the Colonial Minister the Right Honourable the Earl of Kimberley, contained in a despatch from him to the Lieutenant-Governor of Prince Edward Island, bearing date the 22nd day of April, A.D. 1873.

This Act contains a suspending clause.

(Signed)

FREDK. BRECKEN,

*Attorney-General for Prince Edward Island.*

*November 13, 1873.*

*The Land Purchase Act, 1874*

[On the 28th of April, 1874, this Act was reserved by his Honour the Administrator of the Government for the assent of his Excellency the Governor-General.]

WHEREAS the leasehold tenures of this island have long been a subject of contention and have proved seriously detrimental to the prosperity of this province, and to the contentment and happiness of its people; and whereas it appears from correspondence which has recently taken place between the Government of this island and certain proprietors, that there is no reasonable hope of the latter voluntarily selling their township lands to the Government at moderate prices; and whereas it is very desirable to convert the leasehold tenures into freehold estates on terms just and equitable to the tenants as well as to the proprietors.

Preamble:

Be it enacted by the administrator of the Government, Council and Assembly, as follows :

Definition of the term  
"Proprietor."

I. The terms and expressions hereinafter mentioned, which, in their ordinary signification, have a more confined or different meaning, shall, in this Act, except where the nature of the provisions in the context shall exclude such construction, be interpreted as follows: "Proprietor" shall be construed to include and extend to any person for the time being, receiving or entitled to receive the rents, issues or profits of any land in this island (exceeding five hundred acres in the aggregate), in his or their own right, or as trustee, guardian, executor or administrator, for any other person or persons, or as a husband in right of, or together with his wife, and whether such lands are leased or unleased, occupied or unoccupied, cultivated or wilderness, provided that nothing herein contained shall be construed to affect any proprietor whose lands in his actual use and occupation and untenanted, do not exceed one thousand acres.

Colonial Secretary to  
notify proprietor of  
intention to purchase  
his land.

II. The Colonial Secretary shall notify any proprietor owning or possessing five hundred acres of land or upwards, that the Government of this province intend to purchase his land under the provisions of this Act.

What to be sufficient  
notification to prop-  
rietor.

III. Every such notification may be served upon a proprietor either by delivering the same to him personally, or in his absence from this island, to his known agent or attorney, or in any case, by posting the same to such proprietor, through the General Post Office, in Charlottetown, addressed to him at his last known place of abode, and by publishing a copy of such notice for eight consecutive weeks in the "Royal Gazette," and the posting of such notice and publication of the same, as aforesaid, shall be deemed and held to be as good and valid notice as if the same had been personally served on such proprietor or his known agent.

Government and pro-  
prietor each to nomi-  
nate a Commissioner.

IV. The Government and the proprietor so notified shall each nominate a Commissioner to award the amount of money to be paid to such proprietor as hereinafter mentioned.

Commissioners to  
nominate a third.

V. The Commissioners so appointed by the Government and the proprietor shall nominate a third Commissioner who shall act in conjunction with them.

Application to be  
made to Supreme  
Court to nominate a  
Commissioner when  
proprietor refuses so  
to do.

VI. If any proprietor shall not, within sixty days after the notification prescribed in the first section, appoint a Commissioner, application may be made on behalf of the Government to the Supreme Court to nominate a Commissioner on behalf of such proprietor.

Supreme Court to  
appoint proprietor's  
Commissioner.

VII. The Supreme Court shall upon such application, appoint a Commissioner for such proprietor so refusing to appoint, who, when appointed, shall have the same powers and authorities as though such Commissioner had been appointed by such proprietor, under the second section of this Act.

When two Commis-  
sioners cannot agree  
upon a third, appli-  
cation to be made to  
Supreme Court.

VIII. If the Commissioner appointed by the Government, and the Commissioner appointed by the proprietor cannot agree upon the appointment of the third Commissioner, either party may apply to the Supreme Court for the appointment of such third Commissioner.

Power to Supreme  
Court to appoint third  
Commissioner.

IX. The Supreme Court shall, upon such application, appoint a third Commissioner, who, when appointed, shall have the same powers and authority as though he had been appointed by the Commissioners so appointed by the Government and the proprietor.

Application to Supreme  
Court to appoint  
guardian for lunatic  
proprietor, &c.

X. In case any proprietor shall be a lunatic, a person of unsound mind, or a minor, or labouring under any other disability, and has no guardian, an application shall be made on behalf of the Government to the Supreme Court, for the appointment of a guardian for such lunatic, person of unsound mind, or minor, or such other person.

Supreme Court to  
appoint guardian *ad  
item*.

XI. Upon such application, the said Court may appoint a guardian *ad litem* for such lunatic, person of unsound mind, minor, or other person.

In case of Commis-  
sioner dying, successor  
how appointed.

XII. When and so often as any Commissioner shall die, or become incapable, or refuse to act before performing the duties imposed upon him under this Act, the party or parties who shall have appointed the Commissioner so dying or becoming incapable, or refusing to act, shall, within twenty days after such death, incapacity or refusal, appoint a Commissioner in the stead of the one so dying, or becoming incapable, or refusing to act.

In case of vacancy not  
filled up by the party  
entitled so to do,  
application may be  
made to Supreme  
Court to appoint.

XIII. In case the Commissioner appointed by the Government, and any proprietor shall refuse or neglect to appoint a Commissioner in the stead of the Commissioner so dying, or becoming incapable, or refusing to act as aforesaid, within ten days after such death or incompetency, or refusal, application shall be made on behalf of the Government under the sixth section of this Act, to the Supreme Court, for the appointment of a Commissioner on behalf of such proprietor or Commissioner so refusing or neglecting as aforesaid.

Notice to be given to  
proprietor that Com-  
missioners intend to  
value his land.

XIV. When the three Commissioners shall have been appointed, not less than thirty days' notice shall be given on behalf of the Government to any proprietor (or his agent residing in this island) authorised by power of attorney, duly registered in the office of the Registrar of Deeds, that the Commissioners will be called upon to value the lands of the proprietor.

Counsel to be  
employed.  
Subpœnas.

XV. The Government and any proprietor may be represented by counsel before the Commis-  
sioners.

XVI. Either party shall have power to issue subpœnas, and subpœnas *duces tecum* to witnesses, to give evidence before the the Commissioners, which subpœnas shall be issued from the Prothonotary's Office upon payment of the usual fees.

Commissioners have  
power to examine on  
oath, &c.

XVII. The said Commissioners shall have full power and authority to examine, on oath, any person who shall appear before them, either as a party interested, or as a witness, and to summon before them all persons whom they, or a majority 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, any book, paper, plan, instrument, document, or thing mentioned in such summons, and necessary for the purposes of this Act; and if any person so summoned shall refuse or neglect to appear before them, or appearing, shall refuse to answer any lawful question put to him, or to produce any such book, paper, plan, instru-

To compel production  
of books, &c.

ment, document, or thing whatsoever, which may be in his possession, or under his control, and which he shall have been required, by such summons, to bring with him, or to produce such person, shall, for every such neglect or refusal, incur a penalty of not less than five dollars, or more than fifty dollars, payable to Her Majesty, to be recovered with costs in the names of the Commissioners, or of any or either of them, upon bill, information, or plaint before the Supreme Court, and, in default of payment, shall be imprisoned for a period not exceeding three months in addition to any punishment for contempt which such Supreme Court may inflict.

Penalty for refusing.

XVIII. The Commissioners when appointed as aforesaid, shall make oath before one of the Judges of the Supreme Court, that they will well and faithfully discharge the duties imposed upon them under this Act, and adjudicate on all matters coming before them, to the best of their judgment, without fear, favour, or affection.

Commissioners to be sworn.

XIX. If any proprietor shall neglect to appear before the Commissioners, pursuant to notice, the Commissioners shall be at liberty to proceed *ex parte*.

When Commissioners may proceed *ex parte*.

XX. The Commissioners may, upon application made by any proprietor, upon cause being shown to the satisfaction of the Commissioners, grant an extension of time to such proprietor, before entering upon the hearing of such proceedings before them.

Commissioners may extend time to proprietor before entering on case.

XXI. It shall be lawful for the Commissioners to be appointed under the provisions of this Act, to enter upon all lands, concerning which they shall be empowered to adjudicate, in order to make such examination thereof as may be necessary, without being subjected in respect hereof to any obstruction or prosecution, and with the right to command the assistance of all Justices of the Peace, and others, in order to enter and make such examination in case of opposition.

Commissioners to have power to enter on lands.

XXII. The Commissioners, or a majority of them, may adjourn the hearing of any matter from time to time, as they may deem necessary and expedient.

Commissioners may adjourn proceedings.

XXIII. After hearing the evidence adduced before them, the Commissioners, or any two of them, shall award the sum due to such proprietor as compensation or price, to which he shall be entitled by reason of his being divested of his lands and all interest therein and thereto.

Commissioners, or any two of them, to award compensation to proprietor.

XXIV. The fact of the purchase or sale of the lands of any proprietor being compulsory, and not voluntary, shall not entitle any such proprietor to any compensation by reason of such compulsory purchase or sale, the object of this Act being to pay every proprietor a fair indemnity or equivalent for the value of his interest, and no more.

No allowance to be made on account of sale being compulsory.

XXV. In estimating the amount of compensation to be paid to any proprietor for his interest or right to any lands, the Commissioners shall take the following facts or circumstances into their consideration:—

Circumstances to be taken into consideration by Commissioners in estimating compensation to proprietors.

(a.) The price at which other proprietors in this island have heretofore sold their lands to the Government.

(b.) The number of acres under lease in the estate or lands they are valuing: the length of the leases on such estate; the rents reserved by such leases; the arrears of rent and the years over which they extend, and the reasonable probability of their being recovered.

(c.) The number of acres of vacant or unleased lands; their quality and value to the proprietor.

(d.) (1) The gross rental actually paid by the tenants on any estate yearly for the previous six years; (2) the expenses and charges connected with, and incidental to the recovery of such rent, and its receipt by the proprietor; and (3) the actual net receipts of the proprietor for the said period of six years.

(e.) The number of acres possessed or occupied by any persons who have not attorned to or paid rent to the proprietor, and who claim to hold such land adversely to such proprietor, and the reasonable probabilities and expenses of the proprietor sustaining his claim against such persons holding adversely in a Court of Law, shall be an element to be taken into consideration by the said Commissioners in estimating the value of any such proprietor's lands.

XXVI. When the award shall have been made by the Commissioners, or any two of them, the same shall be published by delivering a copy thereof to the proprietor or to his agent, duly authorized, as aforesaid, and filing the original in the office of the Prothonotary of the Supreme Court.

Award of Commissioners, how to be published.

XXVII. At the expiration of thirty days from such publication of the award, the Government shall pay into the Colonial Treasury the sum so awarded by the said Commissioners, or any two of them, to the credit of the suit or proceeding in which such award shall have been made.

Government to pay amount of award into Colonial Treasury.

XXVIII. The Colonial Treasurer shall immediately after such payment deliver to the Prothonotary of the Supreme Court, a certificate of the amount paid into the Treasury as aforesaid, which certificate shall be in the form to this Act annexed marked A.

Notice to Prothonotary that award has been so paid in.

XXIX. It shall be the duty of the Lieutenant-Governor in Council to nominate a fit and proper person to be called the "Public Trustee," who, when the sum so awarded to the proprietor as aforesaid, shall have been paid into the Treasury as aforesaid, shall (unless restrained by the Supreme Court or a Judge thereof), after fourteen days' notice to the proprietor or his agent authorized as aforesaid, execute a conveyance of the estate of such proprietor to the Commissioner of Public Lands, which said conveyance may be in the form to this Act annexed, marked B.

Public Trustee to be appointed; his duties.

XXX. The conveyance mentioned in the last preceding section, shall vest in the Commissioner of Public Lands an absolute and indefeasible estate of fee simple, free from all incumbrances of every description, and shall be held by and disposed of by him as if such lands had been purchased under the provisions of the Act passed in the sixteenth year of the reign of Her present Majesty, Queen Victoria, chapter 18, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," and shall also vest in the Commissioner of Public Lands all arrears of rent due upon the said lands.

Conveyance from Public Trustee to vest lands in Commissioner of Public Lands to be held and disposed of under provisions of 16 Vict., cap. 18.

XXXI. The appointment of the Public Trustee shall be under the great seal of this Province, and shall be registered in the office of the Registrar of Deeds.

Appointment of Public Trustee to be under Great Seal.

Party entitled to sum awarded, how to proceed to obtain same.

XXXII. The party entitled to the sum awarded, or any party or parties entitled to a portion of such sums for the lands so conveyed by the Public Trustee to the Commissioner of Public Lands, may receive the same by obtaining an order from the Supreme Court, upon presenting a petition, and upon proving his or their right to such sum or any portion thereof.

Supreme Court to make proper persons parties to proceedings.

XXXIII. It shall be the duty of the Supreme Court, upon any such application, to require that all proper persons shall be made parties to such proceedings and to apportion such sums in such shares and proportions as such parties shall be entitled to receive.

Conveyance from Public Trustee to exonerate Government from all claims on the estate.

XXXIV. When the full sum for any lands shall have been paid into the Treasury, and the conveyance executed by the Public Trustee to the Commissioner of Public Lands, the Government shall be absolutely exonerated from all liability to any person or persons whomsoever who may claim any estate so conveyed as aforesaid, or any interest therein, except as is mentioned in the next section.

Party obtaining amount of award to be paid his costs. Proviso.

XXXV. The party obtaining an order from the Supreme Court for any money to which he shall be entitled for his estate so vested in the Commissioner of Public Lands, or any interest therein, shall be indemnified in his costs incurred by reason of any proceedings under this Act: Provided, always that no party shall receive or be entitled to any costs who has made an unsuccessful application to the Court for an order for the money so paid into the Treasury, as aforesaid, but such party shall pay to and reimburse the party who has received such order such costs as he shall have been put to by reason of such unsuccessful application.

When lands taken from any trustee, purchase money how to be invested.

XXXVI. When any estate shall be vested in the Commissioner of Public Lands, under the provisions of this Act, which shall, previous thereto, have been vested in the name or names of any trustee or trustees, the Court shall order the purchase money of such estate to be invested in the name or names of such trustee or trustees upon trust, to pay the interest arising from such investment in the same manner and to the same parties as the rents, issues and profits of the said land were payable previously to the sale thereof.

Supreme Court to make orders as to investment of purchase money to meet the case of dower estates, &c.

XXXVII. It shall be the duty of the said Court to make such order as to the investment and payment of the purchase money, and the interest arising therefrom, as may meet the circumstances of each case, so that widows entitled to dower, infants, judgment creditors, mortgagees, and all persons entitled to any estate or interest in the said lands, or the rents arising or to arise therefrom, or the arrears thereof, may receive either the interest of the said purchase money when invested as aforesaid, or the purchase money or shares thereof, as shall represent their estate or interest in said lands, or the rents arising therefrom, or the arrears thereof, previous to the vesting of the same in the Commissioner of Public Lands as aforesaid.

Trustees to hold purchase money upon same trusts as they held the lands. When Supreme Court may appoint trustees.

XXXVIII. In every case when such lands have been vested in trustees, the purchase money shall be paid to such trustees to hold the same upon the same trust as they held the lands; and when there are no trustees, the Supreme Court shall have power to appoint trustees, and shall, by an order or rule of Court, declare the trusts upon which they shall hold the said purchase money, and the manner in which the purchase money shall be invested.

Supreme Court may dismiss trustee, &c. Remuneration of Commissioners, &c.

XXXIX. The Supreme Court shall have power to dismiss any trustee or trustees so appointed by them, and appoint a trustee or trustees in the room or stead of the trustees so dismissed.

Supreme Court may remit award back to Commissioners to correct any error, &c. Proviso.

XL. The Commissioners and Public Trustee shall be allowed such remuneration for their services as the Lieutenant-Governor in Council shall deem them entitled to, under the circumstances of each case, which shall be paid by the Government of the Province.

Proviso:

XLI. No award made by the said Commissioners, or any two of them, shall be held or deemed to be invalid or void for any reason, defect, or informality whatsoever, but the Supreme Court shall have power, on the application of either the Local Government or the proprietor, to remit to the Commissioners any award which shall have been made by them, to correct any error or informality or omission made in their award: Provided always that any such application to the Supreme Court to remit such award to the Commissioners, shall be made within thirty days from the publication thereof as aforesaid: and provided further that in case any such award is remitted back to the Commissioners, they shall have full power to revise and re-execute the same, and their powers shall not be held to have ceased by reason of their executing their first award, and in no case shall any appeal be from any such award, either to the Supreme Court, the Court of Chancery, or any other legal tribunal; nor shall any such award, or the proceedings before such Commissioners be removed, or taken into, or inquired into by any Court, by *certiorari*, or any other process, but with the exception of the aforesaid power given to such Supreme Court to remit back the matter to such Commissioners, their award shall be binding, final and conclusive, on all parties.

No appeal from award Commissioners to Supreme Court or Court of Chancery.

Supreme Court to have power to make rules.

XLII. The Supreme Court shall have power to make any rules and regulations, not inconsistent with the provisions of this Act, for the purpose of more effectually carrying out the requirements of this Act, which rules shall be published in the "Royal Gazette" newspaper.

Supreme Court may appoint special sessions.

XLIII. Inasmuch as it is expedient that the matters referred to the Supreme Court, under this Act, shall not interfere with the ordinary business of said Court during term time, the said Court may, from time to time, appoint Sessions for the purpose of hearing proceedings under this Act: Provided always that one week's notice of such Session be given in the "Royal Gazette" newspaper.

Suit at law to be brought for the recovery of more in the current and subsequent years' rent.

XLIV. After the passing of this Act, no action at law shall be maintained by any proprietor for the recovery of more than the current and subsequent years' rent, and in case any such action is brought against any tenant by any proprietor, such tenant may plead this Act in bar of such action, nor shall any execution issue on any judgment recovered or to be recovered for rent by any proprietor against any tenant in this Island, excepting the current and subsequent accruing years' rent, and in case any such execution is issued the Supreme Court or a judge thereof shall, on application, stay any such execution until the award of the said Commissioners shall be made.

Title of Act.

XLV. This Act shall be cited and known as the "Land Purchase Act, 1874."

(A.)

Dominion of Canada,  
Province of Prince Edward Island.

(L.S.)

Re the Estate of A. B. C. D. and others and the "Land Purchase Act, 1874."

I hereby certify that the sum of \_\_\_\_\_ has been placed to the credit of the account opened in the above matter, which said amount will be paid together with costs, to such party or parties as the Supreme Court shall, by rule in the above matter, order and direct.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 187

Treasurer.

Form of notice from Treasurer to Prothonotary that amount awarded has been paid into the Treasury.

(B.)

Dominion of Canada,  
Province of Prince Edward Island.

Re the Estate of A. B., &c., and the "Land Purchase Act, 1874."

Know all men by these presents that I, C. D., the Public Trustee duly appointed under the provisions of the "Land Purchase Act, 1874," do by these presents and by virtue of this Act (the sum of \$ \_\_\_\_\_ having been paid into the Treasury of this Province in the above matter, as appears by the certificate of the Treasurer of said Province, hereto annexed) grant unto E. F., the Commissioner of Public Lands and his successors in office, all that (here describe land) to have and to hold the same, together with all arrears of rent due thereon, to the said E. F. Commissioner of Public Lands and his successors in office, in trust, for such purposes and subject to such powers, provisions, regulations and authorities in every respect, and to be managed and disposed of in such modes as are set forth, declared and contained in an Act passed in the sixteenth year of Her present Majesty Queen Victoria, cap. 18, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," and of all other Acts in amendment thereof, and concerning lands purchased thereunder, by, and conveyed to the Commissioner of Public Lands therein mentioned.

Form of deed from Public Trustee to the Commissioner of Public Lands.

In witness whereof I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 187 .

Witness to the execution by the said C. D.

No. 5.

*Land Purchase Act, 1875.*

WHEREAS the Government of Prince Edward Island is intituled to receive from the Government of the Dominion of Canada the sum of Eight Hundred Thousand Dollars, under the terms on which this island became confederated with Canada for the purpose of enabling the Government of this Province to purchase the township lands held by the proprietors in this island.

Preamble.

And whereas it is very desirable to convert the leasehold tenures into freehold estates upon terms just and equitable to the tenants as well as to the proprietors.

Be it enacted by the Lieutenant-Governor, Council, and Assembly, as follows:—

I. The terms and expressions hereinafter mentioned, which in their ordinary signification have a more confined or different meaning, shall in this Act—except where the nature of the provisions in the context shall exclude such construction—be interpreted as follows:—"Proprietor" shall be construed to include and extend to any person, for the time being, receiving or entitled to receive the rents, issues, or profits of any township lands in this island (exceeding five hundred acres in the aggregate) in his or their own right, or as trustee, guardian, executor, or administrator for any other person or persons, or as a husband in right of or together with his wife, or whether such lands are leased or unleased, occupied or unoccupied, cultivated or wilderness, provided that nothing herein contained shall be construed to affect any proprietor whose lands in his actual use and occupation, and untenanted do not exceed one thousand acres.

Definition of the term Proprietor.

II. The Commissioner of Public Lands shall within sixty days after the publication of the Governor-General's assent to this Act in the Canada "Gazette" notify any proprietor or proprietors that the Government of this Province intend to purchase his or their township lands under this Act.

The Commissioner of Public lands to notify Proprietor of his intent to purchase his lands.

III. Every such notification may be served upon a proprietor either by delivering the same to him personally, or in his absence from this Island to his known agent or attorney, or in any case by posting the same to such proprietor through the General Post Office in Charlottetown, addressed to him at his last known place of abode, and by publishing a copy of such notice for twelve consecutive weeks in the "Royal Gazette" of this Province, and the posting of such notice and the publication of the same as aforesaid shall be deemed and held to be as good and valid notice as if the same had been personally served on such proprietor or his known agent.

What to be sufficient notification to proprietor.

IV. The amount of money to be paid to any such proprietor shall be found and ascertained by three Commissioners or any two of them to be appointed as hereinafter mentioned.

Amount to be paid to proprietor—how ascertained.

Government of Prince Edward Island to appoint a Commissioner.

In case of vacancy to appoint a successor.

Governor-General to appoint a second Commissioner.

In case of vacancy to appoint a successor.

Proprietor to appoint third Commissioner.

Proviso.

Vacancy of third Commissioner—how filled.

Supreme Court to appoint third Commissioner in case proprietor refuses to do so.

No precedence to be claimed by one Commissioner over the others.

Presiding Commissioner—how appointed.

Proviso.

Commissioner of Public Lands to be notified.

Notice of sitting of Commissioner.

Commissioner of Public Lands to be claimant in all proceedings.

Supreme Court to appoint guardian for lunatic proprietor.

Supreme Court to appoint guardian *ad litem*.  
Commissioner of Public Lands to appoint a solicitor.  
Subpœnas.

Commissioner to have power to examine on oath.

To compel production of books, &c.

Penalty for refusing.

V. The Lieutenant-Governor of this Island in Council, shall, within sixty days after the publication of the Governor-General's assent to this Act in the Canada "Gazette" nominate and appoint one Commissioner on behalf of the Government of this Island, for the purposes of this Act.

VI. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so appointed by the Lieutenant-Governor in Council, he shall appoint a successor or successors as often as may be.

VII. The Governor-General of the Dominion of Canada in Council, shall, within sixty days after the publication of his assent as aforesaid, nominate and appoint the second Commissioner for the purposes of this Act.

VIII. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so appointed by the Governor-General in Council, he shall in Council nominate and appoint a successor or successors as often as the case may be.

IX. Any proprietor who shall have been notified under the second section of this Act, shall, within sixty days thereafter, nominate and appoint a third Commissioner on his or her behalf to act with the Commissioners so to be appointed as aforesaid: Provided that such Commissioner shall not be deemed to be a Commissioner under the terms of this Act until he shall have first given notice to the Commissioner of Public Lands of such his appointment.

X. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so to be appointed by any proprietor, as aforesaid, any such proprietor may appoint a successor or successors as often as may be.

XI. If any proprietor shall not, within sixty days after the notification prescribed in the third section of this Act, appoint a Commissioner, or should not within thirty days of the death, neglect, refusal, or incompetence to act of any Commissioner appointed by any proprietor, as aforesaid, appoint his successor, then and in either of such cases application shall be made by the Commissioner of Public Lands to the Supreme Court of Judicature of this Island, to nominate a Commissioner on behalf of such proprietor.

XII. No precedence shall be claimed by one Commissioner over the others of them, merely because he may have been appointed by the Governor-General in Council, or the Lieutenant-Governor in Council, but the three Commissioners so appointed, as aforesaid, shall elect which one of them shall preside at the meeting of such Commission, to take into consideration the matters referred to them under the provisions of this Act: Provided that in case the said Commissioners shall be unable to agree upon a presiding Commissioner, then such presiding Commissioner shall be the Commissioner who shall have been appointed by the Governor-General in Council.

XIII. When any third Commissioner shall have been appointed, the said Commissioners, or any two of them, shall within thirty days after the appointment of the said third Commissioner notify the Commissioner of Public Lands in writing of such their appointment.

XIV. The said Commissioners or any two of them, shall, upon the petition of the Commissioner of Public Lands, publish a notice in the "Royal Gazette" newspaper of this Province of a day and place in Charlottetown when and whereat they will hear and consider the matters referred to them under the provisions of this Act, relating to the lands of the proprietor whose Commissioner shall have been appointed, and in such notice shall specify the name of the proprietor or proprietors whose lands the Commissioners are empowered to value, and such notice shall be published for three consecutive weeks in the "Royal Gazette" newspaper of this Island.

XV. All proceedings under this Act shall be entitled in the name of the then Commissioner of Public Lands, who in his official capacity as such Commissioner of Public Lands shall be and be considered the claimant or applicant, and shall be subject to process of contempt, and shall be personally liable for the performance of all duties imposed upon him under the provisions of this Act, and for the costs of all proceedings in as full and ample a manner in all respects as though he were a Plaintiff in the Supreme Court or a Complainant in the Court of Chancery in any suit in either of said Courts.

XVI. In case any proprietor shall be a lunatic, a person of unsound mind, or a minor, or labouring under any other disability, and has no guardian, an application shall be made by the Commissioner of Public Lands to the Supreme Court for the appointment of a guardian for such lunatic, person of unsound mind or a minor, or such other person.

XVII. Upon such application, the said Court may appoint a guardian, *ad litem*, for such lunatic, person of unsound mind, minor or other person.

XVIII. The Commissioner of Public Lands may appoint a solicitor to act for him in all matters required to be performed by him under the provisions of this Act, and any proprietor or party in any-wise interested in the matter then pending, may be represented by Counsel before the Commissioners.

XIX. Either party shall have power to issue Subpœnas and Subpœnas *duces tecum* to witnesses to give evidence before the Commissioners, which Subpœnas shall be issued from the Prothonotary's office upon payment of the usual fees.

XX. The said Commissioners shall have full power and authority to examine, on oath, any person who shall appear before them, either as a party interested or as a witness, and to summon before them all persons whom they or any two of them may deem it expedient to examine upon the matters submitted 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 any book, paper, plan, instrument, document or thing mentioned in such Subpœna, and necessary for the purposes of this Act; and if any person so subpoenaed shall refuse or neglect to appear before them, or appearing, shall refuse to answer any lawful question put to him, or to produce any such book, paper, plan, instrument, document or thing whatsoever, which may be in his possession or under his control, and which he shall have been required by such Subpœna to bring with him or to produce, such person shall, for every such neglect or refusal, incur a penalty of not less than five dollars or more than fifty dollars, payable to Her Majesty, to be recovered with costs in the names of the Commissioners, or any

or either of them, upon bill, information or plaint, before the Supreme Court, and in default of payment, shall be imprisoned for a period not exceeding three months, in addition to any punishment for contempt which the Supreme Court may inflict.

XXI. The Commissioners, when appointed as aforesaid, shall make an oath before one of the Judges of the Supreme Court that they will well and faithfully discharge the duties imposed upon them under this Act, and adjudicate on all matters coming before them, to the best of their judgment, without fear, favour, or affection.

XXII. If any proprietor shall either by himself, his agent, guardian, committee, trustee or counsel, neglect to appear before the Commissioners pursuant to notice, under the provisions of this Act, the Commissioners shall be at liberty to proceed *ex parte*.

XXIII. The Commissioners may, upon application made by any proprietor upon cause being shown to the satisfaction of the Commissioners, grant an extension of time to such proprietor before entering upon the hearing of such proceedings before them.

XXIV. It shall be lawful for the Commissioners to be appointed under the provisions of this Act, to enter upon all lands concerning which they shall be empowered to adjudicate, in order to make such examination thereof as may be necessary, without being subjected in respect thereof to any obstruction or prosecution and with the right to command the assistance of all Justices of the Peace and others, in order to enter and make such examination in case of opposition.

XXV. The Commissioners or any two of them may adjourn the hearing of any matter from time to time as they may deem necessary and expedient.

XXVI. After hearing the evidence adduced before them the Commissioners or any two of them shall award the sum due to such proprietor as the compensation or price to which he shall be entitled by reason of his being divested of his lands and all interest therein and thereto.

XXVII. The fact of the purchase or sale of the lands of any proprietor being compulsory and not voluntary shall not entitle any such proprietor to any compensation by reason of such compulsory purchase or sale, the object of this Act being to pay every proprietor a fair indemnity or equivalent for the value of his interest and no more.

XXVIII. In estimating the amount of compensation to be paid to any proprietor for his interest or right to any lands the Commissioners shall take the following facts or circumstances into their consideration.

(a.) The price at which other proprietors in this Island have heretofore sold their lands to the Government.

(b.) The number of acres under lease in the estate or lands they are valuing, the length of the leases on such estates; the rents reserved by such leases; the arrears of rent and the years over which they extend, and the reasonable probability of their being recovered.

(c.) The number of acres of vacant or unleased lands; their quality and value to the proprietor.

(d.) (1.) The gross rental actually paid by the tenants on any estate yearly for the previous six years; (2.) the expenses and charges connected with and incidental to the recovery of such rent, and its receipt by the proprietor; and (3) the actual net receipts of the proprietor for the said period of six years.

(e.) The number of acres possessed or occupied by any persons who have not attorned to or paid rent to the proprietor, and who claim to hold such land adversely to such proprietor, and the reasonable probabilities and expenses of the proprietor sustaining his claim against such persons holding adversely in a court of law, shall each and all be elements to be taken into consideration by the said Commissioners in estimating the value of such proprietor's lands; (1) the conditions of the original grants from the Crown; (2) the performance or non-performance of those conditions; (3) the effects of such non-performance, and how far the despatches from the English Colonial Secretaries to the different Lieutenant-Governors of this Island, or other action of the Crown or Government, have operated as waivers of any forfeitures; (f.) the quit rents reserved in the original grants, and how far the payments of the same have been waived or remitted by the Crown.

XXVIII. When the award shall have been made by the Commissioners or any two of them, the same shall be published by delivering a copy thereof to the proprietor, or to his agent, duly authorised as aforesaid, and filing the original in the office of the Prothonotary of the Supreme Court.

XXIX. At the expiration of sixty days from such publication of the award, the Government shall pay into the Colonial Treasury the sum so awarded by the said Commissioners or any two of them to the credit of the suit or proceeding in which such award shall have been made.

XXX. The Colonial Treasurer shall, immediately after such payment, deliver to the Prothonotary of the Supreme Court a certificate of the amount paid into the Treasury, as aforesaid, which certificate shall be in the form of this Act, annexed, marked A.

XXXI. It shall be the duty of the Lieutenant-Governor in Council to nominate a fit and proper person to be called the "Public Trustee," who, when the sum so awarded to the proprietor as aforesaid shall have been paid into the Treasury as aforesaid, shall (unless restrained by the Supreme Court or a Judge thereof), after fourteen days' notice to the proprietor or his agent authorised as aforesaid, execute a conveyance of the estate of such proprietor to the Commissioner of Public Lands, which said conveyance may be in the form to this Act annexed marked B.

XXXII. The conveyance mentioned in the last preceding section shall vest in the Commissioner of Public Lands an absolute and indefeasible estate of fee simple free from all incumbrances of every description and shall be held by and disposed of by him as if such lands had been purchased under the provisions of the Act passed in the sixteenth year of the reign of Her present Majesty Queen Victoria, Chapter Eighteen, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward Island and to regulate the sale and management thereof and for other purposes therein mentioned," and shall also vest in the Commissioner of Public Lands all arrears of rent due upon the said lands.

Commissioners to be sworn.

When Commissioners may proceed *ex parte*.

Commissioners may extend time to proprietor before entering on case.

Commissioners to have power to enter on lands.

Commissioners may adjourn proceedings.

After hearing evidence Commissioners to award compensation.

No allowance to be made on account of sale being compulsory.

Matters to be taken into consideration by Commissioners in estimating compensation to proprietors.

Award of Commissioner—how to be published.

Government to pay amount of award into Colonial Treasury.

Notice to Prothonotary that award has been paid in.

Public Trustee to be appointed.

Conveyance from Public Trustee to vest lands in Commissioner of Public Lands to be held and disposed of under provisions of 16th Vict., cap. 18.



Appointment of Public Trustee to be under Great Seal.  
Party entitled to sum awarded—how to proceed to obtain the same.

Supreme Court to make proper persons parties to proceedings

Conveyance from Public Trustee to exonerate Government from all claims on the estate.

Party obtaining amount of award to be paid his costs for application.

Proviso.

When lands taken from any trustee purchase-money—how to be invested.

Supreme Court to make orders as to investment of purchase-money to meet the case of dower estates, &c.

Trustees to hold purchase-money upon same trusts as they held the lands.

When Supreme Court may appoint trustees. Supreme Court may dismiss trustees.

Remuneration of Commissioners.

Remuneration of Trustee.

When Supreme Court may remit award to Commissioners.

When application to remit shall be made. Commissioners have power to revise award. No appeal. No *certiorari* or other process.

Supreme Court power to make rules.

Supreme Court may appoint special sessions.

XXXIII. The appointment of the Public Trustee shall be under the great seal of this Province, and shall be registered in the office of the Registrar of Deeds.

XXXIV. The party entitled to the sum awarded, or any party or parties entitled to a portion of such sum for the lands so conveyed by the Public Trustee to the Commissioner of Public Lands, may receive the same by obtaining an order from the Supreme Court upon presenting a petition, and upon proving his or their right to such sum or any portion thereof: Provided that the Commissioner of Public Lands be made a party to such application.

XXXV. It shall be the duty of the Supreme Court upon any such application to require that all proper persons shall be made parties to such proceedings and to apportion such sums in such shares and proportions as such parties shall be entitled to receive.

XXXVI. When the full sum for any lands shall have been paid into the Treasury and the conveyance executed by the Public Trustee to the Commissioner of Public Lands, the Government shall be absolutely exonerated from all liability to any person or persons whomsoever who may claim any estate so conveyed as aforesaid or any interest therein except as is mentioned in the next section.

XXXVII. The party obtaining an order from the Supreme Court for any money to which he shall be entitled for his estate so vested in the Commissioner of Public Lands, or any interest therein, shall be indemnified in his costs incurred in making such application: Provided always, that no party shall receive or be entitled to any costs who has made an unsuccessful application to the Court for an order for the money so paid into the Treasury, as aforesaid, but such party shall pay to and reimburse the party who has received such order, such costs as he shall have been put to by reason of such unsuccessful application.

XXXVIII. When any estate shall be vested in the Commissioner of Public Lands under the provisions of this Act, which shall, previous thereto, have been vested in the name or names of any trustee or trustees, the Court shall order the purchase money of such estate to be invested in the name or names of such trustee or trustees upon trust to pay the interest arising from such investment, in the same manner and to the same parties as the rents, issues and profits of the said land were payable previously to the sale thereof.

XXXIX. It shall be the duty of the said Court to make such order as to the investment and payment of the purchase money and the interest arising therefrom, as may meet the circumstances of each case, so that widows entitled to dower, infants, judgment creditors, mortgagees, and all persons entitled to any estate or interest in the said lands, or the rents arising or to arise therefrom, or the arrears thereof, may receive either the interest of the said purchase money when invested, as aforesaid, or the purchase money or shares thereof, as shall represent their estate or interest in said lands, or the rents arising therefrom, or the arrears thereof, previous to the vesting of the same in the Commissioners of Public Lands, as aforesaid.

XL. In every case when such lands have been vested in trustees, the purchase money shall be paid to such trustees, to hold the same upon the same trusts as they held the lands; and when there are no trustees the Supreme Court shall have power to appoint trustees, and shall, by an order or rule of Court, declare the trusts upon which they shall hold the said purchase money, and the manner in which the purchase money shall be invested.

XLI. The Supreme Court shall have power to dismiss any trustee or trustees so appointed by them, and appoint a trustee or trustees in the room or stead of the trustees so dismissed.

XLII. The said Commissioners shall be paid by the Government of this Province for their services under and by virtue of this Act, 10 dollars per day for each and every day such Commissioners shall actually be engaged in duties imposed upon them by this Act or by any reference in pursuance thereof, and such other reasonable remuneration as the Lieutenant-Governor in Council shall consider them entitled to.

XLIII. The public trustee shall be allowed such remuneration for his services as the Lieutenant-Governor in Council shall deem him entitled to under the circumstances of each case, which shall be paid by the Government of this Province.

XLIV. No award made by the said Commissioners or any two of them shall be held or deemed to be invalid or void for any reason, defect or informality whatsoever, but the Supreme Court shall have power on the application of either the Commissioner of Public Lands or the proprietor to remit to the Commissioners any award which shall have been made by them to correct any error, or informality, or omission made in their award: Provided always that any such application to the Supreme Court to remit such award to the Commissioners shall be made within thirty days after the publication thereof as aforesaid; and provided further, that in case any such award is remitted back to the Commissioners they shall have full power to revise and re-execute the same, and their powers shall not be held to have ceased by reason of their executing their first award, and in no case shall any appeal lie from any such award either to the Supreme Court, the Court of Chancery, or any other legal Tribunal; nor shall any such award, or the proceedings before such Commissioners, be removed or taken into or inquired into by any Court by *Certiorari* or any other process, but with the exception of the aforesaid power given to such Supreme Court to remit back the matter to such Commissioners, their award shall be binding, final, and conclusive on all parties.

XLV. The Supreme Court shall have power to make any rules and regulations not inconsistent with the provisions of this Act, for the purpose of more effectually carrying out the requirements of this Act, which rules shall be published in the "Royal Gazette" newspaper.

XLVI. Inasmuch as it is expedient that the matters referred to the Supreme Court under this Act, shall not interfere with the ordinary business of the said Court during term time, the said Court may, from time to time, appoint Sessions for the purpose of hearing proceedings under this Act: provided always, that one week's notice of such Session be given in the "Royal Gazette" newspaper.

XLVII. If the Commissioner of Public Lands shall neglect to proceed with any case pending before the Commissioners, or shall refuse to petition the Commissioners to appoint a time and place to hear the matters referred to them, under the thirteenth section of this Act, when requested by any proprietor who shall have appointed a Commissioner so to do, or who shall delay or impede the proceedings in any way, such Commissioner of Public Lands shall, upon proof thereof, before the Supreme Court, be punished by fine or imprisonment.

Penalty on Commissioner of Public Land for neglecting to proceed under the provisions of this Act.

XLVIII. After the Commissioner of Public Lands shall have given notice to any proprietor, under the second section of this Act, no such proprietor to whom such notice shall have been given, shall maintain any action at law for the recovery of more than the current year and subsequent accruing rents due to him, from any tenant or occupier upon his lands, and in case any such action is brought against any tenant by any such proprietor, such tenant may plead this Act in bar of such action, nor shall any execution issue on any Judgment recovered or to be recovered for rent by any such proprietor against any tenant on this Island, except the current year's rent and subsequent accruing rents, and in case any such execution is issued, the Supreme Court, or a Judge thereof shall, on application, stay any such execution until the award of the said Commissioners shall be made.

After Commissioner of Public Lands shall have given notice to proprietor, he shall not collect more than current year and subsequent accruing rents.

XLIX. This Act shall be cited and known as "The Land Purchase Act, 1875."

Title of Act.

(A.)

Schedule A.

Dominion of Canada,  
Province of Prince Edward Island.

In the matter of the application of X. Y., the Commissioner of Public Lands for the purchase of the estate of A. B. and "The Land Purchase Act, 1875."

I certify that the sum of \_\_\_\_\_ has been placed to the credit of the account opened in the above matter, which said amount will be paid to such party or parties as the Supreme Court shall, by rule in the above matter, order and direct.

Form of notice from Treasurer to Prothonotary that amount awarded has been paid into Treasury.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 187

Treasurer.

(B.)

Schedule B.

Dominion of Canada,  
Province of Prince Edward Island.

In the matter of X. Y., the Commissioner of Public Lands for the purchase of the estate of A. B., and "The Land Purchase Act, 1875."

Know all men by these presents that I, C. D., the Public Trustee duly appointed under the provisions of "The Land Purchase Act, 1875," do by these presents and by virtue of this Act (the sum of \_\_\_\_\_ dollars having been paid into the Treasury of this Province in the above matter, as appears by the certificate of the Treasurer of said province hereto annexed), grant unto X. Y., the Commissioner of Public Lands and his successors in office all that (here describe land particularly by metes and bounds) to have and to hold the same, together with all arrears of rent due thereon to the said X. Y., Commissioner of Public Lands and his successors in office in trust for such purposes, and subject to such powers, provisions, regulations and authorities in every respect, and to be managed and disposed of in such modes as are set forth, declared and contained in an Act passed in the sixteenth year of the reign of Her present Majesty Queen Victoria, cap. 18, intituled, "An Act for the Purchase of Lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," and of all other Acts in amendment thereof and concerning lands purchased thereunder by and conveyed to the Commissioner of Public Lands therein mentioned.

Form of deed from Public Trustee to Commissioner of Public Lands.

In witness whereof I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 187

Witness to the execution by the said C. D.

A true copy, which I certify.

(Signed) FREDK. BRECKEN, *Attorney-General.*

*Charlottetown, Prince Edward Island,  
May 11, 1875.*

*Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator of the Government in Council on the 14th June, 1875.*

THE Committee of the Privy Council have had under consideration the Report hereunto annexed, from the Honourable the Minister of Justice, in reference to an Act passed by the Legislature of Prince Edward Island during the last Session thereof, intituled, "The Land Purchase Act, 1875;" and they respectfully submit their concurrence in the said Report, and accordingly advise that the said Act receive the assent of your Excellency in Council.

Certified.

(Signed) W. A. HIMSWORTH, *Clerk, Privy Council, Canada.*

*Department of Justice, Canada, Ottawa, May 26, 1875.*

The Undersigned has the honour to report—

That, at the last Session of the Legislature of Prince Edward Island, a Bill was passed by both Houses, intituled, "The Land Purchase Act, 1875," which has been reserved by the Lieutenant-Governor for the signification of the pleasure of your Excellency in Council.

The objects in this Bill are the same as those contemplated in the Bill passed during the previous Session, intituled, "The Land Purchase Act, 1874," which was also reserved for the signification of your Excellency's pleasure, but which was not assented to by your Excellency for reasons contained in a Report of the Minister of Justice of the 23rd December, 1874. By referring to this Report it will be observed that the reason adduced for withholding your Excellency's assent was chiefly that no provision was made for an impartial arbitration, or in which the proprietors would have a representation in arriving at the value of their property; neither did it seem to provide for a speedy determination of the matters in dispute between the parties interested.

In the Bill which is now referred, those objections have been removed, and a fair representation of the interests of all parties concerned has been provided for, and an impartial tribunal has been insured to each proprietor, the Bill providing for the appointment of three arbitrators—one to be named by the land proprietor, another to be named by the Lieutenant-Governor in Council, and the third by your Excellency in Council.

The Undersigned is of opinion that the subject dealt with in the Bill is one coming within the competence of a provincial Legislature, and inasmuch as the objectionable features of the previous Bill have been removed, the Undersigned recommends that the Reserved Bill intituled, "The Land Purchase Act, 1875," receive the assent of your Excellency in Council.

(Signed) T. FOURNIER, *Acting Minister of Justice.*

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