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No. 285.

4th Session, 3d Parliament, 14 & 15 Vict., 1851.

BILL.

An Act to define certain rights of Seigniors and Censitaires in Lower Canada, and to facilitate the exercise thereof.

Received and read a first time, Thursday, 7th August, 1851.

Second reading, Friday, 8th August, 1851.

Mr. Sol. Gen. DRUMMOND.

TORONTO : PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to define certain rights of Seigniors and *Censitaires* in Lower Canada, and to facilitate the exercise thereof.

WHEREAS by the laws, usages and customs of Preamble.
Lower Canada, the proprietors of seigniories are bound to concede lands to the inhabitants of the Country in order that they may settle thereon and occupy the same on payment of certain rents and dues, (*a titre de redevances*;) and whereas on divers pretexts, and against the said laws, usages and customs, and in violation of the conditions under which the original grants by virtue whereof they hold the said seigniories, were made, many of the said Seigniors have refused to concede lots of land in the said seigniories, for settlement, and have retained in their hands large tracts of waste and unsettled lands, with intent to sell the same and to receive therefor large sums of money, as the price thereof, over and above the said rents and dues, thereby greatly retarding the settlement of the Country; and whereas before the Cession of the Country, it was provided in and by a decree (*arrêt*) of His Most Christian Majesty the King of France, in relation to lands in New France or Canada, granted as seigniories, and remaining uncultivated and unconceded by the Seigniors in possession thereof, dated at Marly, the sixth day of July one thousand seven hundred and eleven, that whenever any Seignior should refuse or fail to concede to the inhabitants of New France aforesaid any lots of land in the said Seigniories which the said inhabitants should ask of them in order to settle upon and occupy the same *a titre de redevances*, without the said proprietors of seigniories being entitled to require from the said inhabitants any sum of money whatsoever, it should be lawful for the said inhabitants to demand the said lands from the said Seigniors, by summons, and in case of refusal to apply to the Governor and Lieutenant Governor and Intendant of the said Country called New France, who were authorised and required to concede to the said inhabitants the lands so demanded by them in the said seigniories, subject to the same rents and dues as were payable on the other lands in the said Seigniories, which said rents and dues were to be paid into the hands of the Receiver General of His Majesty's Domain in the City of Quebec, without any right on the part of the proprietors of the said seigniories to claim any rights and dues thereon of any

nature whatsoever; and whereas it is just and expedient that the powers heretofore exercised, as above mentioned, by the Governor, Lieutenant Governor and the Intendant of New France or Canada, should be now vested in the Superior Court of Lower Canada, subject to the 5 modifications required by the present state of the Country: Be it therefore enacted, &c.

CONCESSION OF LANDS.

The Superior Court of Lower Canada vested with the same powers as the Governor of New France, as respects the concession of lands.

I. That from and after the passing of this Act, all and every the jurisdiction, powers, and authority vested in and granted to the Governor, Lieutenant Governor, and to 10 the Intendant of New France or Canada, by the aforesaid *arrêt* of His Most Christian Majesty the King of France, dated at Marly, the sixth day of July, one thousand seven hundred and eleven, in relation to lands in New France or Canada, aforesaid, conceded in seignio- 15 ries, and remaining uncultivated and unconceded by the Seigniors in possession thereof, and by any other laws in force in Canada at the time of the Cession of the Country, shall and may be exercised by the Superior Court of Lower Canada, and by the Judges of the said 20 Court at their weekly sittings, except in so far as the said jurisdiction, powers and authority, shall have been increased, extended, limited, restricted or modified by this Act.

And in order to facilitate the exercise of the said jur- 25 isdiction, powers and authority, be it enacted:

Not more than 120 arpents to be conceded by the same deed.

II. That no Seignior shall hereafter concede to any one individual any extent of wild land, or any land the reunion whereof to the domain shall have been ordered by authority of justice in the manner hereinafter 30 provided, exceeding one hundred and twenty superficial arpents, otherwise than by two or more separate deeds of concession, and bearing date, at least two years, from each other, or unless the excess over the said quantity of one hundred and twenty arpents be conceded to the 35 father, mother or tutor for the use of one or more minor children; and in the latter case, the extent of land conceded for each such minor shall not exceed one hundred and twenty superficial arpents, and the minor in favour of whom each such concession shall be made, shall be 40 named in the deed of concession.

Not less than 40 arpents.

III. No Seignior shall hereafter concede any wild land or any land the reunion whereof to the domain shall have been ordered as aforesaid, of a less extent than forty superficial arpents, unless such concession be made for 45 a town or village lot, or unless the said land be so circumscribed or situate as to prevent its being otherwise conceded than in a less quantity than forty superficial arpents.

IV. No Seigneur shall establish by any deed or contract of concession, or otherwise, on any lands which shall hereinafter be conceded, any other rights, charges, conditions or reservations than the following, namely:—

Condition on which the Seigniors may concede.

5 1. That there shall be paid to him, his heirs and assigns, by the *cessionnaire*, his heirs and assigns, an annual rent (*redevance*) which shall not in any case exceed the sum of two pence currency for each superficial arpent of the land conceded, and which, in any seigniory wherein the customary rents are under the said rate, shall not exceed the highest annual rent stipulated or payable in the said Seigniory.

2. That the land conceded shall be surveyed and bounded at the expense of the *cessionnaire*.

15 3. That the deeds of concession shall be exhibited, new title deeds (*titres nouveaux*) shall be passed, and mutation fines, (*lods et ventes*,) shall be paid, according to law.

4. That the grain grown on the conceded land, and intended for the use of the family or families occupying the same, shall be ground at the Banal Mill.

5. That the Seigneur shall be entitled to exercise the right of Pre-emption (*droit de retrait*) in all cases of fraudulent sales or mutations.

25 6. And all such other conditions and reservations as may have been made or imposed in favor of the Crown or of the public in the original grant of the Seigniory.

V. That any Seigneur who shall, after the passing of this Act, cut or fell, or cause to be cut or felled, or allow any person whomsoever to cut or fell, any tree of any description whatsoever, and growing on any part of the land remaining wild and unconceded within the limits of the *censive* of such Seigneur, and not included within the domain reserved by him for his own particular use, and any Seigneur who shall sell or cause to be sold, or shall allow any person whomsoever to sell, any quantity of wood whatsoever produced from one or more trees cut on any part of such lands, shall incur a penalty equal to treble the value of the tree or trees, or wood so cut, felled or sold.

No Seigneur shall cut down trees on unconceded lands.

VI. All penalties so incurred shall belong to Her Majesty, Her Heirs and Successors, and may be recovered by an action or information brought by the Attorney General or Solicitor General for Lower Canada for and in the name of Her Majesty, in any Court of competent jurisdiction, and shall be paid by the prosecuting officer

Recovery of penalties.

to the Receiver General, and form part of the Consolidated Revenue Fund of this Province.

Sales, &c. contrary to this Act, to be null.

VII. All sales, agreements or stipulations which may hereafter be made, contrary to the preceding provisions, shall be null and of none effect.

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Recovery of sums, &c. paid as the price of a concess. in.

VIII. Every Seigneur who has received or shall receive, directly or indirectly, any sum of money or any other valuable thing as and for the price or consideration of the concession of a quantity of wild and unimproved land, over and above the annual rents and dues, shall repay 10 such surplus to the party who shall have so paid or given the same, or to his representatives; and any person who shall have so paid or given, or who shall so pay, or give any sum of money or any other valuable thing shall have an action for the recovery thereof with costs in 15 any Court of competent jurisdiction.

The Seigneur may in certain cases reserve a domain.

IX. Every Seigneur who possesses within his *censive* any waste lands which have not been conceded either by him, or his predecessors, and who shall, within the space of two months from the passing of this Act, deposit, in 20 the office by law established for the enregistration of deeds for the conveyance of property in the County in which his Seigniority is situate, a figurative plan of such seigniority, shewing the manner in which he intends to divide and concede the wild lands therein, the 25 number of concessions he intends to make therein, the extent in front and in depth of the lands in each concession, and the extent, boundaries and limits of the domain which he intends to reserve for himself therein, may and shall be entitled to dismember from such wild lands and 30 to reserve for his own private use, without being obliged to concede any part thereof, a domain which shall not consist of more than five hundred superficial arpents; provided always, that the Seigniors who have already domains within their *censives*, intended for their private 35 use, shall not have the right of reserving for such use any part of the wild and unconceded lands in the same *censive*.

The domain shall be held in free and common soccage.

X. That all lands and parcels of land which shall be so reserved, and all lands and parcels of land reserved 40 before the passing of this Act as the private domains of Seigniors, being the proprietors of the seigniorities in which such lands or parcels of land are situate, shall hereafter be freed from all feudal rights and dues, shall cease to be held *en fief* or *en roture* and shall be held in 45 free and common soccage.

Proceedings to oblige the Seigneur to concede.

XI. Any person who after the expiration of two months from the passing of this Act, shall have called upon the Seigneur of any Seigniority whatsoever to concede to him

1705

a lot of land forming part of the waste and unconceded lands of the seignior, or of the lands the reunion whereof to the domain shall have been ordered by judicial authority, may, if the Seignior so called upon shall refuse or neglect to concede such lot of land, summon and sue the Seignior by action or demand in the form of a declaratory petition, *requête libellée* in the Superior Court or before the Judges thereof, at their weekly sittings, in the District in which such lot of land is situate, for the purpose of obliging the said Seignior to concede the same.

XII. Whenever the Seignior shall have no domicile in the seignior in which such concession is required, the writ of summons and the petition thereunto annexed shall be served upon his agent, or upon the person charged with the collection of the rents of the said seignior, and if there be no such agent or no such person having his domicile in the seignior, the service of the writ of summons and of the petition thereunto annexed shall be made by posting on the door of the place appointed for the collection of the seigniorial rents, for the year next preceding such service, a duly certified copy of such writ of summons, and of the petition thereunto annexed.

Service of writ of summons.

XIII. Every such action or demand shall be determined in a summary manner, unless the Court or the Judges, before whom the same shall be brought shall think fit, for the interests of justice, to order a plea to be filed and written evidence to be adduced; and in every such action the said Court or the said Judges shall condemn the Seignior against whom the said action shall be so brought, to give a deed of concession of the lot of land so required, in favor of the plaintiff, within such period as they shall think fit to determine, unless the Seignior against whom the said action shall be so brought shall show that he has conformed to the provisions of the ninth section of this Act, and that the lot of land so required as a concession forms part of the lands reserved by him for his own private use, or that he is not by law obliged to make such concession; and in any case in which it shall be more in accordance with equity and the laws and customs of the country, to order that a lot of land other than the one required, be conceded to the Plaintiff, it shall be lawful for the said Court or for the said Judges so to do; and whenever the Seignior shall, after the expiration of the delay allowed, have neglected to grant a concession deed in favour of the Plaintiff, such judgment shall to all intents and purposes be for the said Plaintiff as a concession deed of the lot of land designated therein, on the conditions therein specified.

How the Court shall proceed.

RE-UNION TO THE DOMAIN

And whereas it was lawful for any Seignior, under the ancient forms of proceeding in use in the Courts of Jus-

Récital.

tice in this Province, before the Cession thereof, to demand and obtain the re-union to the domain of his seignior, any number of lands or parcels of lands conceded *en roture*, the re-union whereof to the domain might, according to law be demanded, and whereof such Seignior thought proper to demand the re-union to the domain, in and by the same action, (*exploit de demande*,) although such lands or parcels of land had been conceded to divers persons, or were held by divers tenants; and whereas doubts exist, whether, under the laws now in force in Lower Canada, it is still lawful so to do; and in order to facilitate the re-union of the domain of such lands or parcels of land, and to render such re-union less expensive to the Seigniors and to the Censitaires; Be it enacted,

Action en ré-union.

XIV. That any Seignior, proprietor of a seignior, may by action or demand, in the form of a declaratory petition, *requête libellée*, sue and summon before the Superior Court, or the Justices thereof at their weekly sittings, in the District in which such seignior, or the greater part of such seignior is situate, any number he shall deem proper, of persons holding lands in the said Seignior, on the condition of settling on the same, and of performing the duties of actual residence (*tenir feu et lieu*,) thereupon, and who shall have failed to perform any one of the said conditions, and to demand, in and by such action, the re-union to the domain of such seignior, within such reasonable delay as shall be ordered by the Court, of all the lots of land, in respect to which such condition or conditions shall not have been fulfilled; and it shall be lawful for the said Court, or for the said Judges, to proceed and to give such judgment in the action as to law and justice shall appertain, with regard to the re-union of all such lots of land to the domain of the Seignior in which they are situate.

Service of writ of summons.

XV. In every such action, the writ of summons and the petition thereunto annexed, shall be served upon each of the concessionaires or tenants of the lands or parcels of land, the re-union whereof to the domain shall be demanded in and by such petition, by leaving with each of them individually, or at the domicile of each of them in the limits of the Seignior in which such lands or parcels of lands shall be situate, a duly certified copy of such writ of summons and of the petition thereunto annexed; or in case such concessionaires or tenants shall have no known domicile within the limits of such seignior, by posting such duly certified copy, on or near the principal entrance door of the church of the parish in which the said lands or parcels of land are situate; and if there be no church, then in the most conspicuous part of such lands or parcels of land.

Interlocutory judgment.

XVI. Whenever the said Court or the said Judges shall be of opinion that the lands, the re-union whereof

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to the domain of the Seignior, in which they are situate, is demanded, ought to be so re-united, it shall be the duty of such Court or of such Judges, to order, by an interlocutory judgment, that on a day, which shall be at least six months from the date of the said judgment, the said lands shall be so re-united to the domain, unless some party interested, shall then shew to the satisfaction of the said Court, or of the said Judges, that the re-union of such lands, or of any part thereof, ought not to take place.

XVII. A copy of every such judgment so rendered, shall be published in the Canada Gazette, in the English and French languages, at least three times during the period which shall intervene between the date of the said judgment and of the day fixed therein for the re-union of such lands to the seigniorial domain; and such publications shall not be made at an interval of less than four weeks, nor more than six weeks from each other.

To be published.

XVIII. All persons or corporations who have, or pretend to have any privileges or hypothecs, usufructuary rights or servitudes whatsoever on the lands, in respect of which such judgment shall be so rendered, or on any part thereof, and all persons or corporations who have or pretend to have any claims, even of a chirographical nature, against the last occupier of such lands or any part thereof, shall file their oppositions, containing the usual election of domicile, in the office of the Prothonotary of the District in which such judgment shall be rendered, at least eight days before the day fixed for such re-union; in default whereof such usufructuary rights, servitudes, privileges, hypothecs or claims, shall be lost and extinguished.

Oppositions.

XIX. All minors, interdicted persons, absentees, *femes covert*, even in the case of dower not yet open, (*non encore ouvert*) shall be also required, for the preservation of their rights, to file their oppositions to the reunion of the lands affected by such rights, or the proprietor whereof shall be indebted to them, in the manner and within the period above specified; and in default thereof, such rights or debts shall be lost and extinguished, in so far as they may affect such lands; but the tutors, curators and husbands who shall have neglected to file such oppositions, shall, nevertheless, continue to be responsible towards the persons under their charge or authority, for any loss which may result from their negligence in the said behalf.

Minors, femes covert, &c.

XX. On the day fixed by such interlocutory judgment, or on any other subsequent juridical day, the Court or the said Judges shall proceed to order the reunion to the domain of the Seignior, in which they are situate, of such lands as ought, according to law,

Judgment en reunion.

to be so reunited, and to the reunion whereof no opposition shall have been made, and to declare the *Censitaires* who had taken them *à titre de concession*, or who previously held them, to be forever debarred of all rights of property therein.

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Sale of lands
in certain
cases.

XXI. In any case in which the Court or the said Justices shall maintain or declare to be valid, any one or more of the oppositions made to the reunion to the domain of the lands the reunion whereof is so demanded, it shall be the duty of the said Court or of the said Justices, to order the Sheriff of the District to proceed to the sale of the lands or of such of the lands the reunion whereof to the domain is so opposed, subject to such charges or servitudes as may have been established by such oppositions.

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Sales how
proceeded
with.

XXII. The Sheriff shall proceed to the sale of any land the sale whereof shall be so ordered, after having three times advertised in the English and French languages in at least one newspaper in the District wherein such land shall be situate, or if there be no newspaper published in such District, then in at least one newspaper published in one of the neighbouring Districts, the place at which, and the day and hour, when such sale shall take place; and no such sale shall take place at an earlier period than fifteen days from the first advertisement, nor elsewhere than at the door of the Church of the Parish in which such land shall be situate, or at such other public place as shall have been mentioned in the advertisements, if there be no Church in such Parish.

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Sheriff's Re-
turn.

XXIII. The Sheriff shall make a return of his proceedings upon the judgment ordering the said sale, within fifteen days from the date of the sale, or, if possible, at an earlier day.

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Opposition
by Seigneur.

XXIV. The Seigneur, plaintiff in the cause, may file in the office of the said Prothonotary, at any time between the date of the judgment ordering such sale and the expiration of the two days immediately following the return made by the Sheriff of his proceedings thereon, an opposition *afin de conserver* in order to obtain payment of the arrears due to him upon any land so sold.

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Collocation.

XXV. The said Seigneur and the other privileged opposants, if any there be, shall be the first paid out of the amount arising from such sale, according to the preference of their respective privileges; the hypothecary creditors shall be collocated according to the order and rank of their respective privileges, and the remainder of the amount arising from the said sale shall be distributed among the opposing creditors claiming for chirographical debts, at so much in the pound, or according to the preference of the privileges they may be entitled to.

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9 see Page 1708.

XXVI. Nothing in this Act, nor in any other Act or law, contained, shall be interpreted so as to give to any Seignior the right of demanding the reunion to his domain, of any Town or Village lot or emplacement, nor of any land belonging to any person occupying or residing on any other land, lot or emplacement in the same Seignior, or at a distance of less than ten leagues from the land or lands, lot or lots, emplacement or emplacements, the reunion whereof shall be so demanded, as aforesaid.

MILLS, WATER POWERS, AND BANALITY.

And whereas several Seigniors claim rights with respect to unnavigable rivers which, by law, they are not entitled to, and it is expedient to remove all doubts which exist in relation to the extent of the said rights: Be it therefore declared and enacted,

XXVII. That no Seignior is, nor shall hereafter be, entitled to the exclusive use of unnavigable rivers, except such part or parts of the said rivers the waters whereof run through or along the domain reserved, or hereafter to be reserved by him, and through or along the lands and lots of land acquired, or to be hereafter acquired by him for his own private use; and any agreement made between the Seignior and the proprietor who has the *domaine utile* of any land held by him *à titre de cens*, in any Seignior, whatsoever, with the view of depriving such proprietor of the right of building mills, factories, or manufacturing establishments, is hereby declared to be null as having been made contrary to law and to the public good; and every such agreement shall, to all intents and purposes, be hereafter considered as not having taken place, whether the same be stipulated hereafter, or made before the passing of this Act.

XXVIII. The right of the Seignior to require the *consitaire* to carry his grain to the *banal* mill to be there ground, on paying to the Seignior the ordinary price for the grinding of such grain, extends and applies and shall hereafter be considered as extending and applying to no other grain than such as is or shall be grown on the lands held *à titre de cens* in the Seignior in which such *banal* mill is situate, and intended for the use of the family or families occupying the said lands.

And whereas the right of banality was only granted to the Seigniors as a compensation for the expenses they are obliged to incur in constructing *banal* mills for the use of the *consitaires* holding lands in their respective Seignories, be it enacted:

XXIX. That every Seignior having more than one hundred *consitaires* holding lands in his *censive*, and who,

struct mills
or lose his
right of
banality.

after the expiration of two years from the passing of this Act, shall not have constructed at least one *banal* mill for the grinding of the grain in his Seignior, and every Seignior who, after the expiration of two years from the period in which there shall be more than one hundred *censitaires* holding lands in his *censive*, shall not have constructed such mill, shall, as well as his heirs and representatives for ever forfeit his right of banality in such Seignior, and it shall be lawful for any person to construct one or more mills for the grinding of grain in the said Seignior, and to grind or cause to be ground in any such mill all grain brought thereto, without being liable to be troubled by the Seignior as such, in the enjoyment of the said rights; but no such person shall be entitled to exercise the right of banality in respect to any mill so constructed.

Court may
order repair-
ing of banal
mills.

XXX. Whenever a banal mill shall not be in proper order or shall be insufficient for the grinding of the grain belonging to the *Censitaires* of the Seignior, or of the part of the Seignior in which it is situate, any *censitaire* inhabiting any land in such Seignior shall be entitled to sue and summon the Seignior of such Seignior before the Superior Court, or before the Judges thereof at their weekly sittings, in the District in which such mill is situate, for the purpose of obliging him to repair such mill or to place it in such a state as will make it sufficient for the wants of the *censitaires*; and it shall be lawful for the said Court or for the said Judges to proceed and give such judgment in the said action as to law and justice shall appertain.

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

Recital.

And whereas several Seigniors claim or pretend to be entitled to certain honors and honorary rights granted before the Cession of the country, to such of them as were entitled to exercise superior jurisdiction (*haute justice*) in the limits of their *fiefs*: and whereas since the said period the exercise of superior jurisdiction in this country has become the exclusive prerogative of Her Majesty, and the Seigniors in losing the said right which was more of an onerous than of a profitable nature, have also lost the honorary rights attendant thereupon; and whereas it is just and expedient to remove the doubts which may still exist on this subject, be it declared and enacted:

Personal
honors
abolished.

XXXI. That no Seignior whosoever is nor shall hereafter, on any occasion or under any pretext whatsoever, be entitled to claim any honorary distinction or privilege of a purely personal nature, arising out of his quality of Seignior.

And whereas the permission by law granted to the Recital.
 Seignior to reserve by express stipulation with his *censitaires*, the right of pre-emption upon (*retraire*) immovable property, sold within his *censive*, was only intended to furnish him with the means of protecting himself against losses which he might incur through fraudulent sales, and whereas the exercise of the said right in the case of sales in which there is no fraud is equally unjust and contrary to the spirit of the law, be it declared and enacted :

10 XXXII. That the right of conventional pre-emption (*re- Retrait con-
 trait conventionnel*), shall not be exercised in respect to the *ventionnel*.
 sale of any immovable under a writ of execution, *par décret* or other judicial authority in any case whatsoever, and it shall not be exercised in the case of the sale of any
 15 immovable in any other manner than by judicial authority, unless the Seignior shall prove that the said sale is tainted with fraud.

XXXIII. Any sum of money or other valuable thing Recovery of
 which, after the passing of this Act, shall be paid or given to money in cer-
 20 any Seignior, either directly or indirectly to induce him to tain cases.
 refrain from exercising the right of *retrait* in the case of any sale or mutation effected within his *censive*, shall be recoverable, with costs, by action before any Court of competent jurisdiction.

25 And whereas it was provided in and by the above cited Recital.
arrêt, that the Seigniors of New France or Canada should be required to concede the lands in their Seigniories, subject to the same rights as were imposed on other lands conceded in the said Seigniories ; and whereas di-
 30 vers Seigniors, proprietors of Seigniories in Lower Canada, have since the cession of the country imposed on the conceded lands by them in their Seigniories, rights greatly exceeding those to which lands conceded before that period were subject, and in and by deeds of concession
 35 and new title deeds, have made divers reservations and stipulated divers charges and conditions unauthorised by law, and whereas it is just and expedient to remedy the abuses which retard the settlement of the country and prevent the progress of its inhabitants, be it enacted :

40 XXXIV. That hereafter all stipulations in any contract, Stipulations
 new title, or acknowledgment (*titre nouvel ou recognitif*) for rents
 made before the passing of this Act, and which tend to higher than a
 establish on any land conceded *à titre de cens*, any rights, certain rate,
 charges, conditions or reservations other than those to be null.
 45 lowed by the fourth section of this Act to be imposed on lands to be hereafter conceded, are hereby declared to be null and of none effect.

XXXV. No *censitaire* or occupier of land in any seignio- Rent reduced
 ry shall be required to pay as an annual seigniorial rent, to twopence.

to fall due hereafter, any sum of money or other value exceeding the sum of twopence currency for each superficial arpent of the land or lands occupied by him *à titre de cens*; notwithstanding any stipulation to the contrary made by himself or by his predecessors. 5

Corvées, &c. XXXVI. All seigniorial dues payable annually in personal labour (*corvées*), grain, or otherwise than in money, shall be paid in money at the price at which the same shall be worth at the time the said rents shall fall due, and shall be reduced to two pence currency for each 10 superficial arpent of the land upon which the same shall be charged, in the same manner as rents payable in money.

The Seignior need not make an opposition *afin de charge.* XXXVII. No sale under execution, *par décret*, shall have the effect of liberating any immovable held *à titre de cens*, 15 and so sold, from any of the rights, charges, conditions or reservations established in respect of such immovable in favor of the Seignior, in whose *censive* such immovable is situate, in his quality of Seignior; but every such immovable shall be considered as having been 20 sold, subject to all such rights, charges, conditions or reservations, except in so far as they may exceed those allowed by the fourth section of this Act, to be imposed in concessions to be hereafter made; and all such rights, charges and conditions, or reservations, shall be preserved 25 unimpaired, as well as regards the future as the past, and without its being necessary for the seignior to make an opposition for the said purpose before the sale.

Effect of opposition. XXXVIII. If, notwithstanding the provisions of this Act, any opposition *afin de charge* be made for the 30 preservation of any of the rights charges, conditions or reservations mentioned in the next preceding section of this Act, such opposition shall not have the effect of staying the sale, and the opposant shall not be entitled to any costs thereon, but it shall be returned into 35 Court by the Sheriff after the sale, to be dealt with as to justice may appertain.

Privilege limited to five years arrears. XXXIX. For the recovery of the seigniorial rights which shall hereafter become due, the privileges and preferences granted by law to the seigniors, to secure 40 to them the payment of such rights, shall only be exercised for the arrears which shall have fallen due during the five years next preceding the exercise of such privileges and preferences.

INTERPRETATION.

General interpretation. And for the interpretation of this Act, be it enacted:— 45
XL. That nothing herein contained, shall be construed to deprive the seignior of the right by law vested in him to take, whenever it may be necessary, a lot of land for

the construction of a mill, with its dependencies, on paying to the proprietor the value of the land so taken, and of the improvements made thereon; nor shall anything herein contained extend to arrears of seigniorial rents 5 due before the passing of this Act; nor shall give or be construed to give or grant to any person whomsoever any right of action for the recovery of money or other value paid by him or his predecessors in the form of rents or other seigniorial dues, or for the recovery of damages 10 which he may pretend to claim by reason of any right acknowledged by this Act, and whereof he may have been deprived by reason of any stipulations made by him or by his predecessors with any Seignior, unless he would have acquired such right of action if this Act had not 15 been passed. And nothing in this Act contained shall affect nor be construed to affect any lease of a mill, mill-site or water-power leased by any Seignior after having been constructed, improved, acquired or reserved by such Seignior for his own use, nor any land conceded by any 20 Seignior after having been cultivated or otherwise improved by him, acquired or dismembered from the domain reserved and set apart for his private use; and nothing in this Act contained shall be interpreted so as to deprive any seignior of any recourse he may have against his 25 predecessors or against whomsoever it may appertain, to be indemnified for the loss of profits, the enjoyment whereof may have been guaranteed to him, although they may have been contrary to the ancient laws and usages of the country.

30 XLI. The word "seignior" wherever it shall occur in this Act, shall be construed as meaning any part of a Word "seignior." fief, *arrière fief*, or seignior held by a single individual or by a corporation, or held by several persons *par indivis*, as well as the whole of a fief, *arrière fief*, or seignior; and 35 the word "seignior" shall be construed as meaning any "Seignior." corporation or any sole proprietor, and all persons who are proprietors in common, *par indivis*, of any part of a fief, *arrière fief* or seignior, as well as any person or corporation, sole proprietor, and all persons, proprietors, 40 jointly and *par indivis*, of the whole of any such fief, *arrière fief* or seignior.

XLII. The words "wild lands" or wild land" wherever they occur in this Act, shall apply and be construed to apply not only to all wood lands or lands "Wild lands." 45 otherwise in their natural state, but also to all land in part settled or cleared, or otherwise improved by any other person than the Seignior of the *censive* within which, such land shall lie, if such land so settled or in part cleared or improved, be not yet conceded.

Jurisdiction
of Superior
Court.

XLIII. That all such parts of this Act as relate to the jurisdiction, powers and authority granted to the Superior Court and to the Judges thereof shall be interpreted so as to grant to the Judges of the said Court the right of deciding at their weekly sittings, upon any action brought, any opposition made, and any proceeding had under the authority of this Act, before the Court sitting in term, and also to grant to the Court the power of adjudging in term upon any such action, opposition or proceeding commenced in weekly sittings. 5 10

To Apply to
L. C.

XLIV. This Act shall apply to Lower Canada only.