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No. 242.

2nd Session, 6th Parliament, 22 Victoria, 1859.

BILL.

An Act further to amend and to extend
the Seignorial Act of 1854, and the
Acts amending the same.

Received and Read, 1st time, Thursday, 14th
April, 1859.

Second Reading, Tuesday, 19th April, 1859.

Hon. Mr. Atty. Genl. **CARTIER**

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

An Act further to amend and to extend the Seigniorial Act of 1854, and the Acts amending the same.

WHEREAS the thirteenth section of the Seigniorial Act of 1854 enacts, that as soon as the Schedules of the different Seigniories directed to be made by the said Act are completed, the Commissioners shall respectively prepare triplicates thereof, and shall dispose of and deposit the same in the manner set forth in the said section of the said Act (that is to say)—that they shall transmit one triplicate to the Receiver General of this Province, and shall deposit another triplicate in the office of the Superior Court in the District in which each Seigniorie is situated, and that they shall retain the other triplicate in their hands until otherwise provided by law ;

Preamble.

Sect. 13 of 18 V. c. 3, cited.

And that the Clerk (that is the Prothonotary) of the Superior Court shall furnish one copy of every such Schedule as above mentioned, on demand, to the Seignior of the Seigniorie to which it relates, and that the costs thereof shall be paid out of the funds provided by the said Act ;

And whereas the preparing of the said Schedules in triplicate, and the furnishing of a copy of each by the Prothonotary of the Superior Court to each Seignior, in the manner so prescribed, would entail great delay, inconvenience and expense, without securing any adequate advantage or protection to the parties interested in the operation of the said Acts, and intended to be benefitted thereby : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. The said thirteenth section of the said Act shall be and the same is hereby repealed.

Sect. 13 repealed.

2. As soon as the Schedules of any Seigniorie or Seigniories is or are respectively completed, the Commissioners or any one or more of them shall make one full and complete duplicate of each such Schedule, and shall deposit the same in the office of the Prothonotary of the Superior Court of the district of Montreal, Three-Rivers, Quebec, Gaspé, Ottawa, or Kamouraska, according as the Seigniorie to which each such Schedule relates is situate within either of the above mentioned districts, as they existed at the time of the said Seigniorial Act of 1854, or if such Seigniorie be situate in two Districts, then in the office of the Prothonotary of the said Court for that District in which the greater part of such Seigniorie is situate, and the other duplicate of duplicate of each such Schedule shall

Schedules may be deposited all together, or any number at once as the Commissioners see fit.

remain in the hands of the Commissioners until otherwise disposed of by order of the Governor in Council; and any one or more or all the said Schedules may be deposited at the same time, and the deposit thereof may be notified at the same time, as the Commissioners shall see fit. 5

Abridged Schedules to be made in triplicate for certain purposes.

3. The said Commissioners or any one or more of them shall also make triplicate abridged Schedules, containing true and faithful extracts from the Schedules so deposited in the office of the said Prothonotaries, under the following columns headings, that is to say : 10

1st. Number of reference in the Schedule ;

2nd. Name of the Censitaire ;

3rd. Extent or contents of each land or emplacement ;

4th. *Rentes constituées* to be paid by each *Censitaire* under the provisions of the said Seignorial Act of 1854, and the several Acts amending the same, that is to say, the amount established under the said Act to be paid in lieu of all Seignorial rights or dues, entering the *rentes constituées* representing *lods et ventes* and casual dues, and those representing *cens et rentes* in two separate columns. 20

What they shall contain. How the said triplicates shall be disposed of, and their effect.

4. One of such triplicate abridged Schedules shall be delivered on demand to the Seigneur of the Seigniority to which the abridged Schedule so demanded relates, in lieu of the copy of the Schedule which under the said Act was to have been furnished him by the Prothonotary,—another shall be deposited with the Receiver General of this Province,—and the third shall be deposited in the office of the Prothonotary with whom the Schedule is deposited, who may deliver extracts from the Schedule or from the abridged Schedule, or copies of either, which shall be *prima facie* evidence of the facts therein stated;—and the Commissioners or any one or more of them may also deliver any number of certified copies of the abridged Schedules, so long as one of the said triplicates remains in their hands. 25 30

Copies and Extracts from them.

Notice of deposit of Schedules.

5. So soon as and whenever the said Commissioners shall have made and deposited in the office of the Prothonotary of the Superior Court of any one or more of the above mentioned districts of Montreal, Three-Rivers, Quebec, Ottawa, Kamouraska and Gaspé, as above provided, one full and complete duplicate of the Schedule of any Seigniority or Seigniories, the said Commissioners or any one or more of them shall give public notice of the deposit thereof, in the terms of the Form A, annexed to this Act, or in other terms of the like import, in the English and French languages, in the *Canada Gazette*, or other newspaper recognized as the Official Gazette 35 40 45

Form ;—

of this Province ; and the publication of the notice prescribed by this Act shall have the like effect, and be subject to and affected by all the unrepealed provisions of the said Seignorial Act of 1854, and the several Acts amending the same, as the notice prescribed by the said Seignorial Act of 1854 and the publication thereof, except in so far as such provisions are contrary to or inconsistent with those of this Act.

And effect.

6. The Prothonotary of the Superior Court shall furnish copies or extracts from each such Schedule or abridged Schedule, duly certified in the usual form, to any person applying for the same, upon the payment of five cents for every hundred words or figures in any such copy or extract ; and all such copies or extracts, whether in words or figures, and also the triplicate of the abridged Schedule directed by this Act to be furnished to each Seignior by the Commissioners, shall be deemed authentic, and shall serve as *prima facie* evidence of all matters therein set forth.

Prothonotaries to furnish Copies of Extracts ;—fee.

FURTHER AID TO THE CENSITAIRES FOR THE REDEMPTION OF THE CASUAL RIGHTS.

7. So much of the constituted rents representing the *lods et ventes* and other casual rights, as will not be redeemed out of the Fund appropriated for the Relief of the *Censitaires* by the Seignorial Act of 1854, shall be assumed by the Province and paid by the Receiver General out of the Consolidated Revenue Fund, to the Seigniors or parties respectively entitled to such rents, half-yearly, on the First of January and July, and the *Censitaires* shall be discharged from the payment thereof.

Balance of rents representing casual rights assumed by the Province.

8. With the consent of the Provincial Government and of the Seignior or other party entitled absolutely to any such constituted rents, a sum of money equal to seventy-five per cent. of the Capital representing the same at six per cent. per annum, may be paid out of the Consolidated Revenue Fund to such Seignior or party, in full satisfaction of such rents for ever.

Capital may be paid at a certain rate.

9. The constituted rents or sum of money to be so paid shall be liable to the claims and oppositions of third parties in like manner as the sum payable to any Seignior out of the said Fund for the Relief of the *Censitaires*.

Monies to be liable to oppositions, &c.

10. The assumption by the Province of the payment of the said constituted Rents, shall not interrupt or prevent any appeal by the *Censitaires* or by the Seignior, of any Seignior, concerning the amount of the said rents or the *lods et ventes* and casual rights they represent,—but Her Majesty's Attorney General for Lower Canada may institute or continue any such appeal in the name of the Crown or of the *Censitaires*.

Assumption not to prevent appeals.

**ABOLITION OF THE SEIGNORIAL TENURE IN THE SEIGNORIES
BELONGING TO THE SEMINARY OF ST. SULPICE.**

Lods et Ventes
abolished in
the said
Seignories.

11. In order to provide for the commutation of the Seignorial Tenure, in the Seignories of St. Sulpice, and the Lake of Two Mountains belonging to the Corporation of the Ecclesiastics of the Seminary of St. Sulpice of Montreal, (hereinafter called the Seminary,) and those parts of the Seignioriness of the Island of Montreal, belonging to the same, which are not within the Parish or City of Montreal,—no *lods et ventes* or mutation fine shall accrue on any mutation in the ownership of any property in the said Seignories and part of a Seignioriness, subsequent to the passing of this Act,—and the said Seignories and parts of Seignioriness shall be and are hereby brought under and shall be subject to the provisions of the Seignorial Act of 1854 and the Acts amending the same, which shall apply to the said Seignories and parts of Seignioriness, so far as regards the ascertaining of the value of the *cens et rentes* and other rights of the Seigniors, and Schedules and abridged schedules shall be made for the same as provided by the said Acts and by this Act, subject to the following modifications :

They shall be
subject to the
Seignorial
Act of 1854,
&c.

Subject to cer-
tain modifica-
tions.

Lods et Ventes
how reckoned.

1. The value of the *lods et ventes* shall be reckoned, not at the reduced rate fixed by the Ordinance passed by the Governor and special Council for the affairs of Lower Canada, in the Session held in the third and fourth years of Her Majesty's Reign, and chaptered thirty, but at the full rate of one-twelfth of the price or value of the property, for each mutation of ownership producing *lods et ventes* ;

As to muta-
tions of owner-
ship of com-
muted proper-
ty.

2. Every mutation of the ownership of any property commuted under the said Ordinance, which occurred during the ten years immediately preceding the passing of the Seignorial Act of 1854, shall be taken into account in estimating the value of the said *lods et ventes*, (although such mutation may have happened after the said commutation,) if without such commutation it would have produced *lods et ventes* ; and the commutation itself shall be reckoned as a mutation producing *lods et ventes* : but if in any case the commutation money has exceeded one full *lods et ventes*, the excess shall be deducted from the amount to be paid by as hereinafter provided in lieu of the said *lods et ventes* and casual rights ;

Sums approp-
riated for the
relief of the
Censitaires.

3. The *Censitaires* of the said Seignories and part of a Seignioriness shall have no share of the fund for the relief of the *Censitaires* provided by the Seignorial Acts :—but instead thereof, for the relief of the said *Censitaires*, there shall be paid to the Seigniors : 1st. the sum of £35,000 out of Provincial Funds : 2nd. a sum to be agreed upon between the Government and the Seigniors as the value of the outstanding arrears of *lods et ventes* belonging to the Province under the Ordinance aforesaid, which value shall be taken by the said Seminary as money ; and the

said arrears shall then belong to the said Seminary, whatever their amount may be :

The said sums shall go in reduction of the Capital of the *Rentes Constituées* representing the *lods et ventes* and casual rights, and the remainder (if any) of the said *Rentes* is hereby guaranteed to be paid half yearly on the first of January and July, out of the Lower Canada Municipalities Fund (arising from the Clergy Reserves) after paying the charges on the said Fund and under the Act 20 Vict. c. 44, and the Acts amending it ; and if at any time the moneys in the hands of the Receiver General belonging to the said Fund are insufficient to pay the said remainder of the said *Rentes*, he shall advance the sum required to pay the same out of the Consolidated Revenue Fund, to which it shall afterwards be repaid out of the said Lower Canada Municipalities Fund ;

Remainder of the rents representing casual rights, how payable.

4. The interest on the said sum of thirty-five thousand pounds, shall also be payable to the said Seminary half yearly on the first of January and July : and the said Corporation shall have the same privilege as other Seignors of receiving the Capital of the said sum, and the capital of the said remainder of the said *Rentes*, at the rate of seventy-five per cent. on such Capital in full satisfaction of the whole ;

Interest on the £35,000 to be payable half yearly.

5. The said payments by the Province shall include the commutation of the tenure of all property now held by the Province or the Crown, or by the War Department as representing the late Ordnance Department, in any Seignory belonging to the said Seminary, and such commutation shall be perfected by the passing of this Act.

Payments to include commutation of all Provincial property.

12. In those parts of the Seignories belonging to the said Seminary, which are within the City and Parish of Montreal, *lods et ventes* and other casual rights shall be abolished by the passing of this Act,—and instead thereof, a commutation fine, calculated and ascertained in the manner prescribed by the Ordinance aforesaid, subject to the provisions of this Act, shall be payable to the said Seminary on the first mutation of the ownership of any property after the said abolition of the *lods et ventes* and other casual rights thereon, whether such mutation occur by sale, exchange, descent, bequest or in any other way ; and such commutation fine shall be secured by the same privileges and recoverable in the same manner as the *lods et ventes* and other casual rights for which it is substituted now are : but in the case of mere descent, such commutation fine shall not be exigible by the said Seminary until the expiration of one year after the decease of the person from whom the property descends.

Lods et Ventes abolished in Montreal.

Commutation fine payable instead in certain cases.

13. All property held in mortmain or by any Corporation, in those parts of the said Seignories which are within the City

Property held in mortmain to be commu-

ted within 20
years.

and Parish of Montreal as aforesaid, and the tenure whereof is not already commuted, shall be commuted within twenty years from the passing of this Act, and if not so commuted voluntarily, the commutation fine thereon, calculated and ascertained in the manner prescribed by the said Ordinance, and subject to the provisions of this Act, shall become payable to the Seminary, and shall be secured by the same privileges as the commutation fine mentioned in the next preceding Section. 5

How the value
of the prop-
erty, &c., shall
be ascertained
if not agreed
upon.

14. If the value of the property, the tenure of which is to be commuted under the two next preceding Sections and of the capital of the *cens et rentes* thereon, have not been ascertained or agreed upon them, the said Seminary, whenever such commutation has become compulsory on the owner thereof, may serve a notice on such owner naming some disinterested person as their arbitrator to fix such value, and requiring such owner to name another disinterested person as his arbitrator, and if the owner does not within six days after the service of such notice notify to the said Seminary the name of such arbitrator, or appoints a person who is disqualified, the said Seminary may apply by summary petition to any Judge of the Superior Court at Montreal, who may on such application appoint an arbitrator on behalf of such owner, and the two arbitrators, or if they cannot agree, any Judge of a Superior Court, on the application of either, may name a third arbitrator, and the award of such three arbitrators, or of any two of them, fixing the value of the property or of any buildings thereon, and of the capital of the *cens et rentes*, shall be conclusive evidence of such value and capital for the purpose of ascertaining the commutation fine or indemnity to be paid by such owner, and shall be returned into, filed and enrolled by the Superior Court at Montreal and by the said Court duly confirmed, and may then be enforced by the Seminary by action if need shall be: and the costs of such arbitration shall be borne by the parties in equal shares. 10 15 20 25 30

Arbitration.

Costs.

Act not to
prevent vo-
luntary com-
mutation.

Owner may
convert com-
mutation mo-
ney into con-
stituted Rent,
if it amounts
to £100.

15. Provided always, that nothing in the three next preceding sections of this Act shall prevent the owner of any such property from commuting the tenure thereof in the manner prescribed by the said Ordinance at any time, if he thinks fit so to do; and that whenever the commutation fine or indemnity amounts to not less than one hundred pounds currency, the owner of the property shall always have the right to declare his option that such commutation fine or indemnity, shall remain charged upon the property at and for a constituted rent according to the laws of Lower Canada, as provided by the seventh section of the said Ordinance, and the same shall remain so charged accordingly: And whenever a commutation fine is paid, or converted into a constituted rent, the Seminary shall, on demand of the owner of the property, execute a notarial Deed acknowledging the same and that the property is held by him in *franc aleu roturier*, subject to the charges (if any) therein to be expressed. 35 40 45 50

16. The unconceded lands in any of the said Seigniories and all landed property held by the said Seminary within the same, (including the City and Parish of Montreal) shall be vested absolutely in the said Seminary in *franc aleu roturier*, and they may sell or dispose of any such lands or of any other property belonging to them, either for money or for redeemable ground rents, and may invest the proceeds, as hereinafter mentioned.

Unconceded lands, &c., vested in the Seminary.

17. Except in cases where before the passing of this Act, some other agreement has been made--or where suits have been brought,--or where either before or after the passing of this Act, oppositions *afin de conserver* have been or may be filed by the said Seminary,--the arrears of *lods et ventes* and *cens et rentes* due by any party personally or hypothecarily before the passing of this Act in the said Seigniories (including the said City and Parish of Montreal) shall not be exigible immediately by the said Seminary if they exceed the amount of one hundred dollars; but if such arrears amount to more than one hundred dollars they shall be payable in four equal annual payments, the first to be made in the year 1859, the second in the year 1860, the third in the year 1861, and the fourth in the year 1862;--provided that the failure to make any one such payment within the year prescribed, shall render the whole sum then owing exigible, and it shall bear interest (even without suit) from the end of the year in which such failure shall take place.

Except in certain cases--arrears over \$100 shall be payable by instalments.

18. A further period of twenty years beyond that limited by the said Ordinance, shall be allowed to the said Seminary to dispose of the portion of the St. Gabriel Farm now remaining undisposed of,--with power to the Governor in Council, to extend such period, if in his discretion he shall deem such extension just and necessary, and with power to the Seminary to make such sale either by auction or private agreement, and in one block or in such parcels as they think proper: And the thirteenth section of the said Ordinance is hereby amended so that it shall be lawful for the Seminary to invest its funds in hypothecs or securities of any kind,--the amount to be invested in the purchase of real property remaining limited as it now is.

Further period allowed for disposing of St. Gabriel Farm;

Seminary may invest its funds in certain securities.

SUMS PAYABLE UNDER THIS ACT, TO BE DEDUCTED FROM THE LOWER CANADA MUNICIPAL LOAN FUND.

19. A sum of money equal in amount to the capital at six per cent per annum, of the sum which under the foregoing provisions will be payable yearly to Seigniors in Lower Canada out of Provincial Funds, added to the sum of thirty-five thousand pounds payable to the Seminary,--shall be deducted from the amount of the Lower Canada Municipal Loan Fund.

Sums payable to Seigniors under this Act, to be deducted from the said Fund.

INDEMNITY TO UPPER CANADA, AND TO THE TOWNSHIPS OF
LOWER CANADA.

Sum payable
to Upper Ca-
nada Muni-
cipal Loan
Fund.

20. A sum of money equal to that which under the foregoing provisions will be payable yearly to Seigniors in Lower Canada out of Provincial Funds, over and above the amount payable to them out of the Fund for the relief of the *ceusitaires* under the Seigniorial Act of 1854,—shall be payable yearly out of the Consolidated Revenue Fund of this Province to the credit of the Upper Canada Municipal Loan Fund, in reduction of the advances that have been or may be made from time to time from Provincial funds on account of the said Fund : 5

Payment not
to diminish
liability of
Municipali-
ties.

Such payment shall not in any way extinguish or diminish the individual liability of the Municipalities, which have become indebted upon the security of the said Loan Fund,—but the said yearly sum shall, so soon as the Province ceases to be under advances to the said Loan Fund, be added to the Upper Canada Municipalities Fund (Clergy Reserves) and distributed in like manner; And so long as any Municipality shall at any time be in default in any payment which ought to have been made by it to the said Loan Fund, such Municipality shall have no share in any distribution of the Upper Canada Municipalities Fund (arising from the Clergy Reserves) which shall be made while such Municipality is so in default, and the share it would otherwise have had shall go to the other Municipalities ; 10 15 20

To be in addi-
tion to sum
payable under
Act of 1854.

The sums payable under this section shall be in addition to the sum to be appropriated for local purposes in Upper Canada under the Seigniorial Act of 1854. 25

Sum payable
for the benefit
of the town-
ships in Lower
Canada.

21. A sum of money bearing the same proportion to that which under the foregoing provisions will be payable yearly to the Seigniors in Lower Canada, as the population of the Townships of Lower Canada shall by the Census of one thousand eight hundred and sixty-one be found to bear to that of the Seigniories,—shall be payable yearly, out of Provincial Funds, to the credit of the Lower Canada Municipal Loan Fund, but for the benefit of the townships only. 30

ORDNANCE SEIGNIORIES AND JESUITS' ESTATES.

Ordnance Sei-
gnories to be
dealt with as
Crown Sei-
gnories.

22. All Seigniories transferred to the province under the Act nineteen, twenty Victoria, chapter forty-five, as part of the Ordinance property, shall be dealt with as Crown Seigniories, under the said Seigniorial Act of 1854, and the Acts amending it, which shall apply to the said Ordinance Seigniories. 35

Payment of
L. C. Educa-
tion Fund.

23. A sum of money equal to the constituted rents representing *lods et ventes* and casual rights in the Seigniories forming part of the Jesuits' Estates, to be calculated in the manner pres- 40

cribed by the said Seigniorial Act of 1854 and the Acts amending it, and reckoned from the time when the said casual rights were abolished, shall be paid yearly out of the Consolidated Revenue Fund, to the Lower Canada Superior Education Fund.

MISCELLANEOUS.

24. For the purposes of the ninth section of the Seigniorial Amendment Act, of one thousand eight hundred and fifty-six and of this Act, the Districts of Montreal, Ottawa, Three-Rivers, Quebec, Kamouraska and Gaspé, therein referred to, shall be the said Districts as constituted and bounded when the said Seigniorial Act of 1854, was passed, notwithstanding any subsequent redivision of Lower Canada into Districts and the word District, in the Seigniorial Act of 1854, and the Acts amending it and this Act, shall always be understood as meaning one of the said Districts as so constituted and bounded.

Districts—
how constituted
for the purposes
of the
Seigniorial
Acts.

25. The Interpretation Act, and the thirty-seventh Section of the Seigniorial Act of 1854, concerning the Interpretation of certain words, shall apply to this Act.

Interpreta-
tion.

26. This Act shall be called and known as "The Seigniorial Amendment Act of 1859."

Short title.

SCHEDULE.—FORM A.

Public Notice is hereby given that the Schedules of the several Seigniories, Fiefs and Arrière Fiefs,—(or the Schedule or Schedules of the Seignioriy, or Seigniories, Fief or Fiefs, &c., of _____, in the Districts of _____,)—or the Schedules of the several Seigniories, Fiefs, &c., in the District of _____, as the case may be,) in that part of the Province of Canada, known as Lower Canada, shewing the *rentes constituées*, into which the Feudal and Seigniorial rights, dues, charges, obligations and rents, due and payable upon each land and emplacement in each Seignioriy, Fief or Arrière-Fief, respectively (or, in the said Seignioriy &c.,) are converted, are (or is) completed, and that duplicates (or a duplicate) thereof, and abridged triplicates Schedules (or an abridged triplicate Schedule) thereof have been deposited in the offices of the Prothonotaries of the Superior Courts of the Districts of _____ (as the case may be) (or, of the Prothonotary of the Superior Court for the District of _____), and that triplicate abridged Schedules (or a triplicate abridged Schedule) have (or has) been deposited in the office of the Receiver General of this Province; and that the duplicate Schedules (or Schedule) of the said Seigniories, Fiefs, &c., (or Seignioriy, Fief, &c.,) remain (or

remains) in the hands of the Commissioners under the Seignorial Act of 1854, according to the provisions of the Seignorial Amendment Act of 1859.

Dated, &c.

A. B. } Commissioners under the
C. D. } Seignorial Act of 1854.