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No. 228.

2d Session, 5th Parliament, 19 Victoria, 1856.

B I L L .

**An Act to amend the Seigniorial Act of
1854, and the Seigniorial Amendment
Act of 1855.**

Received and read first time, Friday, 25th
April, 1856.

Second reading, Tuesday, 28th April, 1856.

Hon. Mr. Atty. Genl. DRUMMOND.

S. De. b. shire & G. Desbarats, Queen's Printer.

An Act to amend the Seigniorial Act of 1854, and the Seigniorial Amendment Act of 1855.

WHEREAS it is expedient to amend the Seigniorial Act of 1854 and the Seigniorial Amendment Act of 1855, in order to facilitate the operation of the same, Her Majesty, &c., enacts as follows :

5 I. Whenever any Commissioner is of opinion that the rule prescribed by the second sub-section of the sixth section of the Seigniorial Act of 1854 for determining the yearly value of any casual rights cannot be fairly applied in any Seigniority, or whenever the Seignior or the *Censitaires* shall object to the said
10 rule as unfair, the Commissioner shall himself adopt some other equitable mode of estimating such yearly value, or may, in his discretion, refer the determination of such yearly value to *Experts* to be appointed in the manner prescribed by the said Seigniorial Act of 1854 as amended by this Act.

The ten year average rule may be dispensed with in certain cases.

15 II. The seventh sub-section of the sixth section of the said Seigniorial Act of 1854, is hereby repealed.

Sub-section 7 of section 6, repealed.

III. In estimating the casual rights of the Crown in the several Seigniories in Lower Canada, the Commissioners shall establish the average yearly revenue of the Crown arising
20 from these rights throughout Lower Canada, and such average yearly revenue shall be taken as representing the interest at six per cent. of a capital sum to be apportioned among all the Seigniories in proportion to their value; the amount apportioned to each Seigniority shall represent the rights of the Crown
25 therein, and shall be deducted from the amount to be paid by the *Censitaires* for the redemption of the casual rights of the Seignior.

Casual rights of the Crown, how to be estimated.

IV. Notwithstanding any thing in the tenth section of the said Seigniorial Act of 1854 contained, whenever *Experts*
30 shall be appointed under the provisions of the said last mentioned section, the public notice therein mentioned shall be given in the manner prescribed by the seventh section of the said Seigniorial Act of 1854, but on one Sunday only, and the day to be fixed in every such notice for the meeting to appoint *Experts*, shall be one of the six days immediately following the
35 Sunday next after that upon which such notice shall have been given.

Notice in case of appointment of experts.

V. Whenever a Commissioner shall deem the appointment of *Experts* necessary as provided for by the tenth section of the

Experts required by a Com-

missioner to value only particular rights, assigned to them.

said Seigniorial Act of 1854, such Commissioner shall state in writing the particular class of rights the value of which he shall require the *Experts* to determine, and the *Experts* so appointed shall determine the value of that particular class and of no other, and the Commissioner shall determine the value of all others. 5

Either party may desist from their demand for *experts*.

VI. In all cases where *Experts* have been, or shall hereafter be required, either by the Seignior or by the *Censitaires* of a Seignior, it shall be in the power of the Seignior, if he have required them, or of the majority of those *Censitaires* who signed the requisition for the public meeting to appoint *Experts*, 10 if *Experts* were required by *Censitaires*, to withdraw, with the consent of the other party, such requisition for *Experts*, by filing a declaration in writing to that effect, at the time and place appointed for the meeting called to name *Experts*, or by causing such declaration to be delivered to the Commissioner at any 15 time before such meeting.

Sub-section 2 of section 10 amended.

VII. The second sub-section of the said tenth section of the Seigniorial Act of 1854, in so far as it empowers the *Experts* to value any other than casual rights, or any other than the casual rights referred to them when the Commissioner shall 20 have required the *expertise*, or as empowers the *Experts* or any Judge to appoint a third *Expert*, is hereby repealed.

Experts to value none but casual rights.

VIII. Notwithstanding anything in the said Acts or this Act contained, no *Expert* shall be appointed to determine any other 25 rights than casual rights, nor shall any *Expert* already named determine the value of any other than those rights, and the Commissioner shall determine the value of all others.

Experts to be sworn.

IX. Every *Expert* shall before acting take the following oath :

I, A. B., duly appointed an *Expert* to determine the value 30 of (*here state the rights*), in the Seignior of _____, do solemnly swear that I will honestly and faithfully, to the best of my knowledge and ability, determine the value of the said rights, without partiality or favor either to the Seignior or the *Censitaires*.—So help me God. 35

By whom oaths may be administered.

X. Any other oath than that to be taken by the Commissioners, required by this Act or by either of the said Acts, shall and may be administered by any Judge of the Superior or Circuit Courts, by any Justice of the Peace or by any one 40 the Commissioners.

Commissioner to be third *expert* unless objected to.

XI. Whenever *Experts* are appointed, the Commissioner making the Schedule shall be *ex officio* the third *Expert*, unless either party notify him in writing that he objects to his acting as such ;—in which case the third *Expert* shall be appointed by the two *Experts*, or if they cannot agree, then such third *Ex-* 45

perts shall be appointed by a Judge of the Superior or of the Circuit Court on the application of either *Expert* after three clear days notice to the other, and shall be one of the Members of the Board of Notaries of the District in which the Seigniority is situate or of the next adjoining District if there be no Board of Notaries for such District ; and whenever one of the Commissioners acts as third *Expert*, he shall act under his oath of office, without taking any other.

XII. All the words after the words "following the said notice" in the first paragraph of the eleventh section of the said Seigniorial Act of 1854, (including both the sub-sections,) are repealed, and in lieu thereof the following are substituted "in some convenient place in the Seigniority, in charge of some fit and proper person, and the name of such person and the place of deposit shall be indicated in such notice ; and any person interested in the Schedule may point out in writing, addressed to the Commissioner and left with the person in charge of the Schedule, any error or omission therein, and require that the same be corrected or supplied ; and at the expiration of the said thirty days it shall be the duty of the Commissioner to be present at the place indicated in such Notice, and to examine into and decide upon the objections made in writing as aforesaid, but he shall not alter any value determined by *Experts*, without the consent of the majority of the *Experts*, or of the sole *Expert*."

Section 11 of Seigniorial Act of 1854 amended.

Where the Schedule shall be left for examination.

XIII. The fourth sub-section of the twelfth section of the said Seigniorial Act of 1854, shall apply only to the Commissioner who shall have finally completed the Schedule in question, and not to the Commissioner or Commissioners who shall have taken any of the proceedings preliminary to the completion of the schedule.

Sub-section 4 of section 12, to apply only to Commissioner completing the Schedule.

XIV. The fifth and sixth sub-sections of the twelfth section of the said Seigniorial Act of 1854, are hereby repealed.

Sub-sections 5 & 6 of section 12 repealed.

XV. No revision of any schedule shall be allowed unless application be made for the same within fifteen days after the Commissioner shall have given his decision, as provided for by the eleventh section of the Seigniorial Act of 1854 as amended by this Act ; and every such application shall be made by a petition presented on behalf of the party interested to the revising Commissioners or any one of them, specifying the objections made to such schedules.

Period for demand of revision of Schedule limited.

1. Upon the receipt of any such petition, it shall be the duty of the revising Commissioners, after having given eight days' notice to the parties interested, in the manner prescribed by the seventh section of the said Seigniorial Act of 1854, to proceed to revise the schedule therein mentioned, and for that purpose, to hear, try and determine the matters alleged in the said

Proceedings where revision is demanded.

petition. The proceedings upon such revision shall be kept of record, and if the Commissioners find any error they shall correct the same, in so far as, but no further than it shall have been specially objected to.

Where the revising Commissioners shall sit.

XVI. The Commissioners selected to form a Court for the revision of the schedules, shall sit at Montreal for the Seigniories in the Districts of Montreal and Ottawa; at Three Rivers for those in the District of Three Rivers; at Quebec for those in the District of Quebec; at Kamouraska for those in the District of Kamouraska, and at New Carlisle for those in the District of Gaspé; but any petition for the revision of a schedule may be presented to the revising Commissioners, or any one of them, in any District. 5 10

Special provision as to certain unsettled Seigniories.

XVII. And inasmuch as the following Fiefs and Seigniories, namely: Perthuis, Hubert, Mille Vaches, Mingan and the Island of Anticosti, are not settled, the Tenure under which the said Seigniories are now held by the present proprietors of the same respectively, shall be and is hereby changed into the Tenure of *franc alevu roturier*: The difference in value between each of the said Seigniories as heretofore held and the same Seigniority when held in *franc alevu roturier*, and also the value of the casual and other rights of the Crown in the said Seigniories, shall be ascertained and entered in the Schedule of the Seigniority, and the amount of the whole shall upon the fying of the said Schedule be come due and payable by the Seignior to the Crown, and shall form part of the fund appropriated in aid of the *Censitaires*. 15 20 25

Special provision as to Crown Seigniories.

XVIII. And whereas the third section of the "Seigniorial Amendment Act of 1855," does not apply to Seigniories held by the Crown in Lower Canada, whether such Seigniories form part of the Domain of the Crown or are so held under any title or from any other cause,; and it is expedient to grant to the *censitaires* in the said Seigniories advantages similar to those granted to the *Censitaires* in other Seigniories by the said Section; therefore it is enacted, that— 30 35

1. No *Lods et Ventes* shall be demanded from purchasers in the said Seigniories held by the Crown, upon purchases made since the thirtieth day of May one thousand eight hundred and fifty-five;

2. The Crown Agents for the said Seigniories shall in the collection of the revenue of the Crown therefrom, take notice of and be guided by the answers and decisions of the Special Court under the Seigniorial Act of 1854, upon the questions of Her Majesty's Attorney General for Lower Canada; 40

3. All unconceded lands and waters in the said Seigniories shall be held by the Crown in absolute property and may be 45

sold or otherwise disposed of accordingly, and when granted shall be granted in *franc alev roturier*.

XIX. And in amendment of the third section of the said Seigniorial Amendment Act of 1855, it is enacted, that the 5 Commissioners or any one or more of them, shall forthwith make a separate statement for each Seignior, shewing, as nearly as can then be ascertained, and subject to correction thereafter :

Section 3 of Act of 1855, amended : approximate value of mutation fines to be paid in the mean time to the Seignior, instead of interest on his approximate share of the fund.

1. The average yearly revenue from *lods et ventes*,—
- 10 2. The average yearly revenue from *quint*,—
3. The average yearly revenue from *relief*,—and
4. The average yearly revenue from other casual rights (if any) which, under the said section, ceased to be payable after the passing of the said Act :

15 Such statement shall be made separately for each Seignior and so soon as the Commissioners are able to make it, and shall be sent to the Receiver General ; and instead of the interest mentioned in the said amended third section, which shall accumulate as part of the Provincial aid to the *Censitaires*, the amount 20 of such yearly revenue in each Seignior as shewn by such statement from the thirtieth day of May one thousand eight hundred and fifty-five, (the day of the passing of the said Act,) up to the first day of January or July last past at the time the statement shall come to the Receiver General, 25 shall be then paid by the Receiver General to the Seignior or Seignior *dominant* of such Seignior ; and thereafter one half of the average yearly revenue mentioned in each such statement respectively, shall be paid to the Seignior or Seignior *dominant* entitled to it, on the first day of January and the first 30 day of July, until the Schedules are finally deposited, and the amount so paid to each Seignior shall be debited to him as so much received by him on account of the portion of the Provincial appropriation for the relief of *Censitaires* payable to him and of the interest on such portion ; but in computing the amount to be deducted on account of the said Provincial aid 35 from the total value of the Seigniorial rights in any Seignior as shewn by the Schedule thereof, in order to ascertain the amount remaining chargeable upon the *Censitaires*, the correct value of such casual rights (as finally ascertained by the Schedule) from the said thirtieth of May one thousand eight 40 hundred and fifty-six, to the publication of the notice of deposit of the Schedule, (and not the approximate value first above mentioned) shall (as representing the average sum saved by the *Censitaires* during the same period by the non- 45 payment of the said casual rights or any compensation therefor,) be deducted from the total amount of principal and interest payable to the Seignior from the said Provincial Aid,

and the remainder shall be the sum to be deducted from the total value of the Seigniorial Rights as shewn by the Schedule, in order to ascertain the amount payable by the *Censitaires*: Provided always, first, that the whole sum to be paid by the Receiver General to any Seignior *dominant*, shall be also deducted from that which would be otherwise payable by the *Censitaires* of the Seignior *servant*; and secondly, that if the approximate sum paid to any Seignior *dominant* under this section by the Receiver General shall be more or less than the true value of his rights for the time, the difference shall be deducted or added (as the case may require) from or to the sum to be paid by the Receiver General to such Seignior *dominant*, under the sixth sub-section of section six of the said Seigniorial Act of 1854.

XX. In the event of any Seignior or Seignior *dominant* being indebted to the Crown in any sum of money for any right arising from any Seignior held by such Seignior or Seignior *dominant*, the Receiver General shall retain the amount so due to the Crown from the amount payable to such Seignior or Seignior *dominant* under the provisions of this Act or of the Acts hereby amended; and the amount (if any) due to the Crown by each Seignior shall be ascertained by the Commissioner making the Schedule of each Seignior and certified by him to the Receiver General.

XXI. In any case in which, by reason of an equal division no judgment has been rendered by the Judges of the Court of Queen's Bench and Superior Court for Lower Canada on any of the questions to them submitted by the Attorney General for Lower Canada under the provisions of the sixteenth clause of the said Seigniorial Act of 1854, the Commissioner making the Schedule shall, in any case to which such question refers, decide it in such manner as he shall think most equitable under the circumstances, saving the right of the Court for the revision of Schedules to be appointed under the twelfth section of the said Seigniorial Act of 1854, to pronounce a final decision on such question or questions, and to amend such Schedule according to such decision, if need shall be.

XXII. The Commissioner making the Schedule of any Seignior shall have full power to inspect the Repertory of any Notary whenever he shall think such inspection desirable for obtaining information to ensure the greater correctness of the Schedule, such inspection being demanded and made at reasonable hours and on juridical days; and any Notary refusing to allow such inspection shall thereby incur a penalty of one hundred pounds; and for each such inspection the Notary shall be entitled to for each hour it shall continue.

XXII. For the purpose of making the Schedule of any Seignior, the boundaries thereof shall be deemed to be those

actually possessed by the Seignior, although all or any part thereof may be in dispute.

for the purpose of the Schedule.

XXIII. And whereas the provision in the Seigniorial Act of 1854, prohibiting any Seignior from conceding or alienating the unconceded lands in his Seigniority until after the deposit of the Schedule thereof retards settlement, it is therefore enacted, that from and after the passing of this Act, all unconceded lands in any Seigniority the tenure of which has not been therefore commuted, shall be held by the Seignior *en franc aleu roturier*, and may be dealt with by him in like manner as lands held by other persons under the same tenure may be dealt with; except that if the Seigniority be entailed (*substituée*) or held by any party otherwise than as absolute owner thereof, then the price of such lands shall form the capital of a *rente constituée*, which capital shall not be paid except to some party holding the Seigniority as absolute owner thereof; but any party whose title would before the passing of the Seigniorial Act of 1854, have authorized him to concede such unconceded lands, may after the passing of this Act, sell the same for such *rente constituée* as aforesaid and not otherwise.

Seigniors allowed to alienate unconceded lands.

Proviso when the Seigniority is substituted, &c.

XXIV. No lands held in Free and Common Soccage or *en franc aleu roturier*, shall be charged with any perpetual irredeemable rent; and whenever any such rent shall be so stipulated, the capital thereof may be at any time redeemed at the option of the holder of the land charged therewith, on payment of the capital of such rent calculated at the legal rate of interest, and any stipulation in any deed of conveyance (*translatif de propriété*) of any such land, tending to charge the same with any mutation fine or any payment in labor, or tending to entail upon the holder of any such land the duty of carrying his grain to any particular mill, or any other feudal duty, servitude or burthen whatsoever, shall be null and void.

Lands in soccage or *franc-aleu* not to be charged with irredeemable rents, or mutation fines, &c.

XXV. Whenever the total amount of the *rentes constituées* payable on any land to the Seignior under the Schedule of his Seigniority, shall not exceed two shillings and sixpence per annum, the same shall be redeemed by the *censitaire* within two years from the date of the notice of the deposit of the Schedule, and if not so redeemed, the capital may be demanded and recovered by the Seignior.

Rentes under 2/6 to be redeemed within two years.

XXVI. This Act shall be called and known as "The Seigniorial Amendment Act of 1856."

Short title.