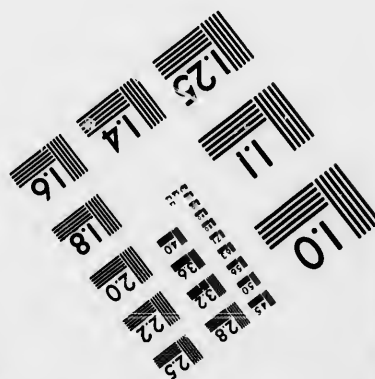
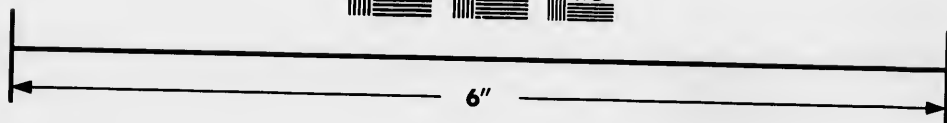
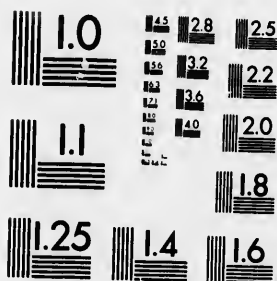


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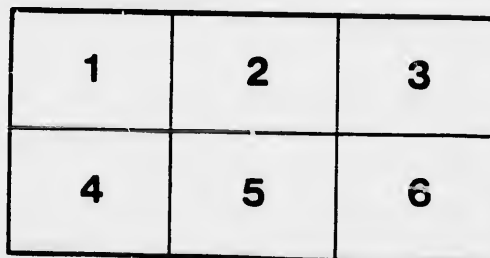
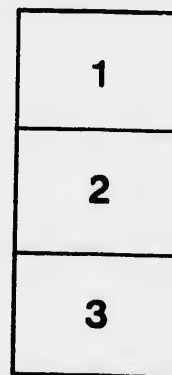
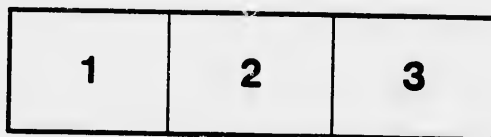
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2
A REPLY

TO THE

FIRST REPORT

OF THE

Committee of the House of Assembly,

ON THE SUBJECT

OF THE

CROWN LANDS.

Quebec :

1821.

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THE science of political economy in established nations may be said to consist in population, subsistence and revenue; but in a colony like Canada, it may be comprised in one word, settlement, which is the foundation of the other three.

Whatever are the causes that have retarded the settlement of the country; they are important and worthy of enquiry; whatever will facilitate it equally so.

The House of Assembly was directed to this subject by His Excellency's Speech at the opening of the present Parliament, and a Committee has reported upon it.

To the abandonment of the ancient mode of granting lands in Fief or Seigneury and the introduction of the tenure of free and common soccage, the Committee attributes the unsettled state of the waste lands of the Province.

The enthusiasm of party feeling could not have selected any cause so likely to gain popularity. It is easy to understand why an unlearned peasantry should rejoice in the perpetuation of ancient prejudices, so tenaciously retained and faithfully handed down by their Sires; but that the educated Chairman should adopt such sentiments may rather be ascribed to a compassionate deference to the prejudices of others, than to an exertion of the char-

racteristic powers of his own mind. It would be useless to question whether or not Lower-Canada possesses a population equal to the settlement of the waste lands; for in either case it has nothing to do with the conclusion.

The question at issue is not: whether Lower-Canada possesses the capability of populating new Seigneuries; but whether her population has the will to do so. In the catalogue of Canadian virtues, energy and enterprize have seldom or rarely been admitted; their domesticated natures, undisturbed by ambition, or the wants that impel others, scarcely explore the confines of their own parish, much less a wilderness of uninhabited leagues. Content with the simple tenour of their lives of uninterrupted prosperity, the richest and happiest peasantry in the world, their prejudices are little more than a grateful acknowledgment of the blessings they possess and to which they are probably induced to anticipate their duration. Accustomed to society and the bustle of thickly populated places, it is not to be expected that they will figure to themselves a second Arcadia in the regions of a wilderness.

But were it otherwise, to what cause are we to attribute the many hundred thousand acres, unconceded in the Seigneuries already granted. This appears almost an answer that the nature of the tenure can afford little assistance towards the population of the waste lands; or that the Canadians are very little inclined to make any such attempt.

Of the advantages and disadvantages of the two tenures, the Committee without hesitation prefers the ancient one for the settlement of a new country; but for reasons, which in any mind unprepossessed by local habit and association, will be found very far from warranting any such deduction. The future operation of such tenure in a more advanced state of society is left totally out of the question; as if the duty of legislation were merely to provide for the exigencies of the day and to bequeath every prospective inconvenience as a legacy to their executors. Had our ancestors been as little solicitous about us, we should have cared but indifferently in the boasted pillars of our constitution, the Magna Charta, and the Habeas Corpus Act. That the British descendants upon this continent

and indeed upon the whole, are more free and happy than the *en fief*, is not a question they made to and how little they care to retain them to retain the gothic barbarism.

I am fully aware that a free country, divested of its former vassalage, is no longer a former vassal and terms vassal and have, by an avowed and the most oppressive.

However useful the terms may have been to an enemy, or to the Barons, yet it will, following the same time of newly acquired country, excite the rulers.

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His Majesty's tythes to the Church and a Colonial that such indu upon him. Do any such obligation

and indeed upon every other, should be partial to the tenure by free and common soccage, in preference to tenure *en fief*; is not at all surprising, considering the sacrifices they made to obtain it; the nature of the tenure itself; and how little the polish of civilization would incline them to retain the military policy of the darkest ages of gothic barbarity.

I am fully aware that the tenure in fief is, in this country, divested of all those services and oppressions which formerly accompanied it; nor can it be forgotten that the terms vassal and villain, originally innocent in themselves, have, by an aversion to the system, descended to us as the most opprobrious epithets of our language.

However useful, in the early ages, the Feudal institutions may have been towards repelling the incursions of an enemy, or resisting the encroachments of neighbouring Barons, yet it seldom or ever was the precursor of good will, following only in the train of conquering armies; at the same time the reward of services, and the protection of newly acquired territories—a canker in the heart of a country, exciting and betraying the suspicion of its rulers.

From the report of the Committee, it would appear that a most culpable neglect, not to say wilful mal-administration of the colonial government, had existed from the government of Lord Dorchester downwards, and to which alone is to be attributed the unsettled state of the Crown lands. That the orders of his Majesty had been disregarded, and from thence only is the disorder to be traced.

It is true that his Majesty authorized Lord D. to grant lands, *en Fief* or *Seigneurie*, subject to the Royal ratification, or disallowance. At this period such grants might have been necessary for the Royal Treasury for many purposes at that time, and which have now ceased; but does it therefore follow, because it was granted then, that it now is to be assumed as a right.

His Majesty has likewise authorized the payment of tythes to the Clergy, the administration of French law, and a Colonial Parliament; but does it therefore follow that such indulgence was then, or is now, obligatory upon him. Do the articles of capitulation acknowledge any such obligation on his part or right of theirs? No!

The 27th (18th Sept. 1759) and the 42d articles, these articles, which stipulate for the payment of tythes and the *Coutume de Paris*, are refused: The answer is: "They become subjects of the King."

While the Assembly is thus stickling, inch for inch, about rights and privileges, it may be no unsalutary caution to have reminded them of those they now enjoy by indulgence, not by right.

In 1788, the free and common soccage tenure was referred to a Committee of the Legislative Council, and at the same time the petition of an enlightened Canadian, (Mr. Lanandière) for the conversion of his estates into that of free and common soccage, and the Committee derives consolation that his Majesty's Government did not participate in this scheme—a scheme alienating from his Majesty and his successors the improving revenue of Seigniorial possessions. What calamitous catastrophe the Committee foresees, or what fatal results we are to expect from a measure that scarcely admits of misinterpretation—a measure designed only to reward the veteran soldier for his services, and the loyalist for his adherence to the crown, however imminent in danger, may very safely be consigned to the same legatees, who are to provide for the inconveniences of feudal tenure in the more advanced state of society, with much less probability of risk.

"The want of capital, and the consequent want of a market for labor, are, in the opinion of the Committee, the chief obstacles to settlement;" and then, by the assumption of an impossible case, inferences are deduced to sanction a conclusion that never has, and never will arrive. As if it were possible to compound a new settlement of artisans, having all the same commodity for sale—a settlement of all the same sellers and no buyers—a sort of anomaly, unknown since the colonization of the country in the days of Louis the XIV. or the deluge—a quotation of Adam Smith's deprived of its context or perverted in its meaning. Were a settlement of Jewellers or Confectioners formed in an instant by a coup-de-main, and that those were all mad, such a position might be maintainable. But as settlements have hitherto proceeded by slow and painful degrees of labor and privation, no great difficulty has ever been found in disposing of such surplus

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produce as may arise. The influx of new settlers readily absorbs all that the elder settler can spare; and though money may not, in all cases, be the currency, (which money is only the representation of labor) the labor itself is readily exchanged for it; and such is the demand for labor in new settlements, that it possesses even a representative value, and is commonly circulated in Bonds or Promissory Notes, and as easily negotiated as a Bill of Exchange or legal tender. "That the minimum of capital required to be employed for any productive labor will be regulated by the quickness or slowness of the return," is a self-evident proposition; but it is a maxim that cannot be applicable to the decision of the superiority of either tenure. Whether feudal or free, the land will not produce quicker by any difference in the deeds; the labor alone will produce—the sun alone ripen—and vegetation itself have no reference to either. Mutual wants incline to mutual assistance, and the settlers depend more upon themselves than upon any expected assistance from the grantors.

Have the Seigneurs of Lower-Canada been found so much to patronize the efforts of labouring want, or productive industry, as to deserve the pre-eminence so incautiously admitted? and if they have, why remain such large portions of their Seigniories still unconceded. The fact is the reverse, and there is scarcely a Seigniorial grant since the settlement of the Province that has not become forfeited to the crown, if advantage were taken of this neglect.

The Committee then proceeds to state in what manner the settlements upon the continent of North America have surmounted the obstacles: either

1st—"Fortuitously, by the accidental coming together of persons having capital and persons having labor, at the formation of a new settlement, as in the case of Massachusetts."

These fortuitous circumstances are by no means confined to the settlement of Massachusetts, for they have attended every settlement in a greater or lesser degree. Nor is the great capitalist of that advantage to the new settlement that many are led to imagine; he too frequently descends to land jobbing, and counteracts the

very principles he was intended to promote. A hundred settlers, of fifty to a hundred pounds each, will contribute more to the settlement of twenty or thirty thousand acres of land than a single capitalist or Seigneur; of ten thousand, will twelve thousand acres, with all the train he may pretend to have on the ground, or promise to bring. The hundred settlers, upon every alternate lot, by their own exertions, would render the adjoining lands a consideration for settlement, that would be eagerly accepted; whilst the land jobber, or greater capitalist, can only expect to realize an equal return, by protracting the settlement of many lots, and for a number of years, to the great injury of the early settlers, whose labors alone render the vacant lots valuable. Indeed, in the whole Province of Upper-Canada, in the number of Townships that were formerly granted in this way, how very few have attained even tolerable success. Lands left to their own settlement have, in almost every case, succeeded much better, both in the prosperity and comfort of the settlers themselves, and in a much shorter period. The settler improves his land under the intention of living on it—the land jobber merely for the purposes of speculation: small profits and a quick return are by no means the consideration; for land, in this situation, has by no means been found less accumulative than the interest of money; if money in this country will double itself in twelve years, Townships, partially settled, will more than quadruple in the same time. The one system promotes a compact and quick settlement, and the other only retards it.

2dly. "By the Government making a donation to the new settler of capital sufficient to support him, until his labor became productive as was done in Upper-Canada at the commencement of its settlement; in 1783, 84, and has, it is believed, since been done in some of the late military settlements in that country."

However this position may be objected to as expensive to the crown; its effects have been most happy as respects the Province, nor can the continuance of it present an objectionable feature on *this* side the Atlantic. Before the Committee can pronounce decidedly, upon such a measure either relative to its scale or permanency, they must be in possession of some facts and indeed some

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contingencies that they must, at present, be ignorant of. They must first ascertain in what estimation this colony is held at home? What is to be done with her disbanded soldiery, and her surplus population? The financial capabilities of Great-Britain are inexhaustible and the expences of settlement a drop in the ocean.

However long this mode of settlement continues, it will be happy for Canada and the event equally so I trust for the Mother Country. The policy of Greece continues to be the policy of Great-Britain, in providing lands for her superabundant population.

The expences of settlements in this method must not be estimated merely upon the settlements immediately so settled; the influence extends further. The very report of such settlement increases the settlements in the vicinity without any expences at all. People are glad of the opportunity of settling in the neighbourhood and require nothing more than the land and liberty to do so. I might corroborate this by a reference to the eagerness with which lands in the vicinity of Perth and Richmond have been bought since those settlements have commenced.

3dly. "By the Government granting the lands in a manner to secure the laying out of a sufficient capital by individuals for this purpose with a view to their own profit."

Here is in fact a feudal operation under the cloak of free and common soccage, a combination of many for the benefit of one. Better that the Crown lands should be left to their own common fate and chance of settlement, than this system be continued. The Committee calculate upon the probability of capital being drawn into the country by these means, unfortunately the experiment has realized no such expectation; and the hope has been abandoned, not only as visionary, but as prejudicial to the general interests of settlement. The liberality of the Government countermines its success. While the Government is giving one and two hundred acres perfectly unfettered and sometimes with great assistance; is it to be imagined that a settler will take half that quantity from a grantee? What equivalent can the Grantee offer, keeping his own interest in view, that will induce this preference

Were the lands of the Crown only sold, the purchaser of large tracts might be able to retail his lots more advantageously perhaps to the common settler, than Government would think it worth its while to be troubled for in detail. But here the settler of the first class and the settler of the second class both get their lands for nothing and this proposition can scarcely operate while such a practice continues.

While capital is considered the powerful engine, that it is, and necessarily must be, in many cases, this plan will not be without its advocates, but money in new settlements must not be estimated by its relative value in Capitals and Cities.

Here it is the representative of arts, manufactures, food and labor. But arts, manufactures and food are nothing but subdivisions or representatives of that labor. Gold and silver do not regulate the value or price of labor: in all countries and in all situations, labor alone regulates the value of the precious metals. The labor is the *primum mobile* of every thing. In a new settlement, if the industry of one man produces more than his individual wants require, that surplus is exchanged, either for some other articles that he has necessity for; or for that which will represent them.

Barter is more immediately the process of exchange in new settlements than in cities, the difficulties may be a little greater but not insuperable.

It is the general diffusion of capital, the respectable yeomanry of a country, not the overgrown capitalist or seigneur that increases a nation or a settlement. Capital may be a sinew; but labor is the heart. Great grants may be very well if it were wanted to raise an hereditary nobility in Canada; but it is the yeomanry to whom a country looks for protection.

"The system least onerous," says the Committee, "to the actual settler, is unquestionably the French system of seigneuries."

It is difficult to construct a system of ordinary utility or general practicability that may be beneficial or deemed so by every class of persons by the mere calculations of theoretic knowledge, for however smooth the materials or however capable of polish some unfortunate facts soon

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dispel the illusion. But to gloss over or avoid that evidence, which would arise from facts easily produced, but discarded only as militating against a favorite or popular prejudice; though accompanied by the bitterest invective, is not always an unequivocal proof of intellectual superiority. But to weigh every measure in the scale of political jealousy, to make every matter a subject of competition; and leave the interests of a country a sacrifice to the triumph of party, excites an impression that scarcely allows a charitable excuse. A display of ingenious sophistry may be admired by partizans as characteristic of political consistency; but will fail in strengthening political justice. It may be proper to sympathize with the feelings or even prejudices of a country; but approbation cannot accompany that willing perversion which by the effort of genius, would distort the imagination, "to make the worse appear the better cause."

"Under this tenure," adds the Committee, "the actual settler had several advantages: he was not obliged to disburse any money for his land; whatever little stock he possessed might be entirely laid out upon the improvement of his farm." All these advantages are in common to the poorest settler whoever went upon the Crown lands. Why this is stated as any claim to preference which is common to both, is more easy to imagine than to justify.

"The Seigneur in certain cases, not universally, was bound by the conditions of the original grant to open a road to communicate from the most remote settlement in his seigneurie to the next concession of ungranted lands therein. He was expected to build a mill, and the rate of *mouture* was fixed at a lower rate (1-14th) than it now stands at in the United States, where the greatest competition obtains (1-12)."

"The new settler had the countenance, support and assistance of the Seigneur, who was interested in effecting a settlement to save his Seigneurie from forfeiture, and all this was obtained for a moderate rent." There is hardly any subject or action in the world, however contradictory to the received notions of morality or good government, but may present some fair side or admit something in extenuation. These obligations on the part of

the Seigneur were wise and necessary; and had they been faithfully observed, probably the present enquiry might have been unnecessary, but they are merely the record of the good intention of the monarch who compelled them. The roads upon the present system of granting crown lands, afford as little exception and are more rigidly adhered to. The good ordinances of Louis the fourteenth, are nothing where the neglect of them is attended with no inconvenience; and which I might, without danger, assert has been committed with impunity in almost every Seigneury granted since his reign. The mill which here makes a figure is nothing upon the settlement; it is less than nothing; it becomes an oppressive monopoly; it obliges the settler to take his grain to an inconvenient distance, one of the last remains of feudal vassalage. At present, in the new settled Townships, the Mills are one of the first considerations. That a settler may suffer no inconvenience for want of a Mill, a Mill-seat upon the opening of a Township is only given under the condition of a flour mill being erected and in operation by the first harvest; with saw-mills much earlier.

Here then there is no monopoly; other mills soon spring up; competition is excited; the rate of *mouture* regulated, and preference only given to vicinity or good work. Surely this is not inferior to "the expected Mill of a Seigneur!" If the roads are not as obligatory, they are infinitely better observed; there is a general assessment of labor (which may be commuted) upon every Landholder, for the repairing and making of roads, a service as willingly performed as that under any tenure *en fief*.

The "countenance, support and assistance of the Seigneur" may be implied or expected—a doubtful tenure! whilst the rent moderate or otherwise is inalienable.

The free and common soccage loses nothing so far; but there is a train of exactions that are entirely passed over by the Committee. Do the *lods et ventes*, *cus et rentes*, *redevances*, *droit de retrait*, *dîme de poisson*, &c. constitute any part of the system least onerous to the actual settler; and can it for a moment be imagined, that the free and common soccage tenure is less advantageous, because it exacts none of these tributes? Can that which pays a rent, whether moderate or not, be equal to that which is

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not encumbered by any. What advantage to the settler is it, that if upon an opportunity of selling or a desire to move, his tenure obliges the payment of the *lods et ventes*. It is nothing but a constant property tax, a perpetual excise upon his labor and improvement. It may be said that the *lods et ventes* are paid by the purchaser ; but nevertheless such a payment being certain will always be taken into the calculation, and were there no such tax, the settler would get the amount of both.

But however prejudicial to the interests of a rising population, to the interests of children yet unborn, the tenure *en fief* may be ; it vanishes in a moment if the opinion of the settler is in its favor ; and particularly if both tenures are open to his choice. In complying with the prejudices of the country, in granting *en fief*, His Majesty will only raise a perpetual Revenue. Granting, therefore, in free and common soccage, if unsatisfactory, was certainly disinterested. Countries subdued by a despotic Monarch ought to be feudatory says Montesquieu ; but George the Third preferred the more modern usage of the laws of nations. He gave to Canada its own laws, reserving only the political and civil government. It is unnecessary to revert to the many struggles which the people of Great-Britain made in the reigns of Henry the First, John, and Henry the Third ; until the Act of Charles the Second abolished the feudal system and took from that Monarch, his heirs and successors the power of renewing it. While this act betrays the jealous fear of the monarchical power of that period, and evinces the anxious caution with which they guarded the interest of posterity, it might create a doubt almost of the competency of His Majesty to grant lands under other tenure, than that of free and common soccage—12. Charles the Second, Cap. 24, Sec. 4. By this Act Charles the Second and his successors received and receive permanent duties in lieu of Seigniorial rights and dues from their subjects for ever. But this is not the question at present, though it might have been according to the spirit and letter of that Act in 1775 and 1786.

The Committee calculates upon a great surplus of agricultural population in Lower-Canada, and attributes their want of settlement to the abandonment of the ancient

mode of granting lands *en fief* or Seignèry. However great the surplus may be or lamentable the result ; the effect cannot be traced to any such cause. In Bouchette's History of Canada, speaking only of the District of Quebec, he says :—" La quantité de terre accordée en fief et seigneurie monte à 4,552,500 acres, ou 5,109,319 arpents françois ; celle en roture libre et commune à 561,234 acres des anciennes tenures, un tiers ou peut-être un peu moins est en culture ; dans les Townships la proportion des terres en labour est encore assez petite."—page 388. If so there remains 3,406,203 arpents unsettled in the District of Quebec ; sufficient, at 100 acres each, for 34,062 settlers. If in the District of Quebec there is a surplus population of 34,000, there must be some other cause more powerful than the introduction of the free and common soccage tenure. An hereditary dislike of change of place ; a constitutional affection for the vicinity of their birth. It can scarcely be imputed to the free and common soccage tenure, for the whole of lands so granted, from the Government of Lord Dorchester, in all Lower-Canada, in 1795, down to Sir George Prevost, in 1814, amounted only to 2,203,709 $\frac{1}{4}$ acres ; 1,200,000 less acres than now remain uncultivated in the District of Quebec only, since the reign of Louis the fourteenth. But if all the Seigneuries were examined from Bic to Pointe au Baudet, some of which run 20 leagues in depth, and have scarcely any inhabitants ; others not settled ; 3 concessions ; a quantity of land *en fief* and seignèry will be found not likely to be settled by the descendants of Lower Canadians during the next century. For argument, say the distance from Bic to Pointe au Baudet be 400 miles, and that only 10 miles deep of all the lands already granted are unconceded, there will remain 48,000,000 of unsettled Acres, nearly enough for half a million of settlers. If the reluctance for settlement does not arise for the reasons I have stated, the fault must be in the Seigneurs themselves. It may be in the knowledge of the Committee, that more than the *petite rente annuelle* is demanded by a Seigneur before he will concede ; if this is not the case, why are the lands *en fief*, even in the heart of Quebec, at Beauport for example, unsettled ; and if they do not demand more, and act per-

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fectly upon the faith of their grants, the conclusion must be (providing that the lands are good,) that the Canadians have either an unwillingness to separate and settle or that there is no surplus agricultural population.

In the investigation of those causes which retard the settlement of a new country, the Committee has overlooked, one perhaps, of more real importance, than all the results of its research ; I allude to the Crown and Clergy Reserves, which alone contain 2-7ths of all the land surveyed. Were these Reserves instead of *intercepting* the lots of the actual settlers to be placed altogether in the rear concessions of a Township, the effect of them would be less prejudicial to the settler.

Upon the present method, they operate like the lands of non-residents, retard the progress of vegetation and compact settlement, and make the expense of roads a greater burthen only to the actual settler.

In a political point of view, the ingenuity of an enemy could not have devised a plan so fraught with danger and destruction to the future welfare of this Province, and the interests of His Majesty's Government.

