

CANADA.

COPIES OR EXTRACTS
OF
CORRESPONDENCE
RELATIVE TO THE
AFFAIRS OF CANADA.

(Presented to Parliament by Her Majesty's Command).

*Ordered, by The House of Commons, to be Printed,
10 July 1839.*

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CANADA.

COPIES OR EXTRACTS

OF

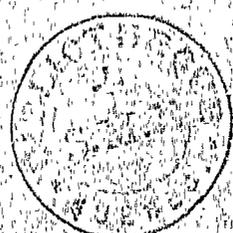
CORRESPONDENCE

RELATIVE TO THE

AFFAIRS OF CANADA.

(PRESENTED TO PARLIAMENT BY HER MAJESTY'S COMMAND)

Ordered, by The House of Commons, to be Printed,
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SCHEDULE.

- No. 1.—Extract of a Despatch from Lieut.-General Sir J. Colborne, G.C.B., to Lord Glenelg; dated Montreal, 31 January 1839 - - - - - p. 3
- No. 2.—Copy of a Despatch from Lieut.-General Sir J. Colborne, G.C.B., to Lord Glenelg; dated Montreal, 15 March 1839; (One Enclosure) - - - - - p. 3
- No. 3.—Extract of a Despatch from Lieut.-General Sir J. Colborne, G.C.B., to the Marquess of Normanby; dated Government House, Montreal, 13 April 1839 - - - - - p. 5
- No. 4.—Copy of a Despatch from Lieut.-General Sir J. Colborne, G.C.B., to the Marquess of Normanby; dated Government House, Montreal, 19 April 1839; (Three Enclosures,) p. 5

C A N A D A.

CANADA.

No. 1.

— No. 1. —

(No. 24.)

EXTRACT of a DESPATCH from Lieut.-General Sir *J. Colborne*, G.C.B., to Lord *Glenelg*, dated Government House, Montreal, 31 January 1839.

My Lord,

I BEG leave to state to your Lordship that I am persuaded that the most important remedial measures required in the present situation of the country are those which would tend to the reconstruction and enlargement of the judicature, to the establishment of registry-offices, to the commutation or abolition of the lods-et-ventes, particularly in towns, and the other oppressive incidents of the feudal tenure, to the continuation and completion of local improvements, and to the introduction of a well regulated system of district police.

With returning tranquillity it is justly expected that the measures to which I advert will be speedily carried into effect preparatory to the changes of a more difficult nature which may be proposed for the permanent government of this province. Lord Durham, I am aware, appointed commissioners to report upon several of the subjects in question, and had, I believe, framed Ordinances for the consideration of Her Majesty's Government to authorize a commutation of the lods-et-ventes in Montreal, and the establishment of registry-offices; but I imagine that the reforms which he was desirous of introducing were not finally determined on, and I have therefore requested the Executive Council to collect such information as will enable me either to promote the views of my predecessor, or to propose measures for reconstructing the Court of Appeal and the judicature of the province, if the alterations which may be suggested can be effected through the legislative power granted to the Special Council.

* * * * *

Most of the measures to which I have thought it right to draw your Lordship's attention as being of a character to demand the prompt interposition of Her Majesty's Government, or of the Special Council, might, if found to be practically beneficial, be subsequently embodied in an Imperial Act, providing for the future government of the province. I have no doubt that they are immediately required to impress a conviction of the efficacy of the law in parts of this province where justice has been hitherto imperfectly administered, to repair in some degree the evils under which the loyal inhabitants have long laboured, and relieve all classes from burthens which they have reluctantly borne, and to deprive the disaffected of that influence which acknowledged grievances, speciously exaggerated, have unhappily obtained for them.

— No. 2. —

(No. 39.)

COPY of a DESPATCH from Lieutenant-General Sir *J. Colborne*, G.C.B., to Lord *Glenelg*.

No. 2.

Government-House, Montreal,
15 March 1839.

My Lord,

WITH reference to Lord Durham's despatch of the 16th of June, No. 10, respecting an additional power being granted to authorize the Special Council to provide means for improving the province, and enabling municipal bodies to carry on and complete the public works now in progress, I beg to transmit to your Lordship the accompanying copy of a Report of the Executive Council upon this subject. I have adverted, in my despatch of the 31st January, No. 24, to the benefits of extending the system of police, which has been introduced into the cities of Quebec and Montreal, to the rural districts. The continuance, however, of the police already established must depend on the enlargement of the powers of the Special Council, which can alone adequately provide for its support. Among other measures connected with local improve-

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ments, which in the present situation of the country are highly desirable, and which must be deferred till the Special Council is invested with the authority to raise loans applied for by Lord Durham, are the establishment of inferior tribunals in every district, for the summary trial of petty offences, which may obviate the evil and inconvenience of bringing complainants and witnesses from remote distances; and the erection of court-houses and gaols.

Whatever may be the restrictions which it might be deemed expedient to impose upon the exercise of the required important power by the Special Council, I cannot but express my opinion that to promote the future tranquillity of the province, and to deprive the influential factious individuals who have long exercised a dangerous control in several sections of this province, the speedy concession of this additional power is indispensable.

I have, &c.
(signed) J. Colborne.

Enclosure in No. 2.

Encl. in No. 2.

TO His Excellency Lieutenant-General Sir John Colborne, G.C.B., G.C.H., Governor General of British North America, &c. &c. &c.

REPORT of a Committee of the whole Council.—Present: The Hon. Mr. Stewart, Mr. Heney, Mr. Pemberton, Mr. Sheppard, Mr. Daly, Mr. Commissary-general Routh, Mr. Pothier, Mr. M'Gill, and Mr. de Rocheblave.

May it please your Excellency,

THE committee have read and adopted the following Report made by the sub-committee on the subject matter of your Excellency's reference in Council of the 26th January last, whether it may be necessary to propose to Her Majesty's Government to grant additional powers to the Special Council to provide means for improving the province, and establishing an efficient police, and to enable municipal bodies to carry on and complete their local works, and how far it may be desirable to raise funds by imposing taxes, or by borrowing on the security of the Provincial Government.

REPORT of the Sub-Committee.—Present: The Hon. Mr. Stewart, Mr. Heney, Mr. M'Gill, and Mr. de Rocheblave.

THE sub-committee have not failed to give to his Excellency's reference that deliberation which its importance so justly merits, and being of opinion that an enlargement of the powers of the Governor and Special Council would essentially tend to the improvement of the province and the development of its resources, they humbly recommend the repeal of so much of the Imperial Act of the 1st Vic. c. 9, which prohibits the imposition of "any tax, duty, rate or impost, save only in so far as any tax, duty, rate or impost which at the passing of this Act is payable within the said province may be thereby continued," and which enacts that "no appropriation to be made by such law or ordinance of monies aforesaid in respect of the public service for any one year shall exceed the total amount of the sums appropriated by law within the said province for the public service thereof for the year 1832."

And that the Governor and Special Council be empowered to impose taxes for purposes altogether local, such as the maintenance of a police force, the lighting and paving of streets, and for otherwise improving towns and villages, and to increase or reduce local rates already existing, and further to pass ordinances for the under-mentioned purposes, viz.

For the inspection of produce, and to impose rates of inspection; for authorizing companies or individuals to construct railroads, canals, bridges, and other internal communications, and to impose tolls and rates of transport thereon; for the borrowing of money for internal improvements on the security of the revenues of the province; and the committee beg leave to state that they consider that the negotiation of a loan would be greatly facilitated were the Treasury to lend their aid by becoming responsible for the regular payment of the interest in London, a measure which could not in any manner involve the parent State, inasmuch as the provincial revenues would be equally answerable for both principal and interest.

Before closing this Report, the sub-committee may be permitted to state, that under existing circumstances, they cannot propose, as recommended in the despatch of the Earl of Durham to Lord Glenelg, No. 10, dated 16th June 1838, to give the municipal bodies the power of taxation.

All which is respectfully submitted to your Excellency's wisdom.

Council Chambers, Government House,
Montreal, 7 Feb. 1839.

By order.

(signed) J. Sewart, Chairman.

Certified,
G. H. Ryland.

— No. 3. —

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(No. 55.)

EXTRACT of a DESPATCH from Lieutenant-General Sir *J. Colborne*, G. C. B.,
to the Marquis of *Normanby*; dated Government-House, Montreal,
13 April 1839.

No. 3.

THE Ordinance to incorporate the ecclesiastics of the seminary of St. Sulpice, to confirm their title, and to provide for the general extinction of seigniorial rights and dues within their fiefs and seignories, I trust will be sanctioned by Her Majesty's Government as soon as possible, and be authorized by an Imperial Act, to be continued in force till repealed or revoked by competent Legislative authority in the province. The provisions of this Ordinance appear to give satisfaction generally to the inhabitants of Montreal, and also to the superior and ecclesiastics of the seminary, but certainly demand the confirmation of the Imperial Parliament with reference to the extensive interests which would be affected by any doubt as to the permanency of the arrangements proposed.

— No. 4. —

(No. 62.)

COPY of a DESPATCH from Lieutenant-General Sir *J. Colborne*, G. C. B.,
to the Marquis of *Normanby*.

No. 4.

My Lord,

Government-House, Montreal,
19 April 1839.

I HAVE the honour to acknowledge the receipt of your despatch of the 11th ult., and to transmit to your Lordship the accompanying copies of three Reports of the Executive Council, upon the several subjects to which I adverted in my despatch of the 31st January last.

The measures recommended by the Council for the enlargement of the judicature, the formation of a new court of appeal, and the establishment of registry offices, have been laid before the Special Council; and if the Ordinances which have been framed on the Reports of the Executive Council can be so modified and improved as to afford satisfaction generally in the province, I shall assent to them, with the conditional clause that they are not to go into operation till the sanction of Her Majesty's Government may be obtained.

With respect to the Report on the Lods et Ventés, the projects which have been laid before me having in view their commutation, are considered objectionable; but I hope that some measure may yet be proposed, which will enable the seigneurs to make an arrangement with their censitaires for the extinction of this prejudicial right, without injuring their interests.

I have, &c.

(signed) *J. Colborne.*

Enclosure 1, in No. 4.

Monday, 11 February 1839.

Encl. 1, in No. 4.

At the Council Chamber in the Government House at Montreal; present, the Hon. Mr. Stewart, Mr. Heney, Mr. Pemberton, Mr. Sheppard, Mr. Daly, Mr. Commissary-general Routh, Mr. Pothier, Mr. McGill, and M. De Rocheblave.

Mr. Heney, the chairman of the sub-committee to which was referred those parts of his Excellency's Reference in Council of the 26th of January last, which relate to the establishment of a court of appeals, and alterations in the judicature of the province, having laid before the Board the Report of the sub-committee on these subjects, the same was ordered to lie on the table for consideration.

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Report to his Excellency Lieutenant-general Sir John Colborne, G. C. B., G. C. H.,
Governor-general, &c. &c. &c.

Report of a Committee of the whole Council; present, the Hon. Mr. Stewart, Mr. Cochran, Mr. Heney, Mr. Pemberton, Mr. Mondelet, Mr. Sheppard, Mr. Daly, Mr. M'Gill, and M. De Rocheblave.

May it please your Excellency,

The Committee having resumed the consideration of the Report of the sub-committee, submitted by Mr. Heney, on the subject-matter of your Excellency's Reference in Council of 26th January last, have, after discussion, agreed to adopt the same as their Report, and which they now annex.

All which is respectfully submitted to your Excellency's wisdom.

Council Chambers, Government House, }
Montreal, 19 February 1839. }

By Order,
(signed) J. Stewart, Chairman.

Government House,
Committee-room of the Executive Council,
Montreal, 9 February 1839.

Present the Honourable Mr. Heney, Mr. Pemberton, and Mr. Mondelet.

In special committee on that part of his Excellency's reference in Council of the 26th January 1839, relative to the establishment of a court of appeals, in which the duties of the judges appointed to decide on appeals shall be limited to cases brought into that court, and alterations in the judicature of the province and the establishment of circuits; having read the order of reference, and extracts from different despatches accompanying the same, the Committee adjourned to the call of the president.

The special committee having met frequently, and carefully examined the subject referred to it, agreed to submit the following Report to the Committee of the whole Council.

The special committee, knowing that the subject referred to it had for a long time, and at various intervals, occupied the attention of the provincial legislature, believed it to be its duty to have recourse to the labours of the Legislative Council and the House of Assembly on the subject.

It took more particularly into consideration the last Bill of this nature submitted to the legislature then existing, and passed by the House of Assembly on the 18th January 1836, and by the Legislative Council on the 7th March of the same year; that Bill having this advantage over all those that preceded it, that it had been agreed to and adopted by both branches of the legislature.

The special committee having most carefully examined this Bill, and assuming it as the basis of its labours, has deemed it advisable to suggest the following alterations :

Court of Appeals.

The Bill in question fixes the number of judges of appeal at four, and provides for those cases where the judges shall be equally divided in opinion, or legally recused; your Committee is of opinion; that by increasing the number of judges to five, every inconvenience will be obviated. It therefore recommends that this court shall be composed of five members; that the chief justice of the province shall be the president, and in his absence the senior member; it also recommends that one of the judges of this court shall reside in the town of Three Rivers; it recommends further that this court shall be charged with making uniform rules of practice for the different courts of civil jurisdiction in this province.

Criminal Court.

Your Committee, while it preserves the greatest part of the Bill in question as regards criminal courts, recommends nevertheless that the chief justice of the province, and the four other judges of the court of appeals, shall alone and exclusively be charged with this department, in addition to being a court of appeals.

Your Committee does not think it advisable to preserve in the new Judicature Bill the clause (B), added by an amendment of the Legislative Council, and which regards the establishment of a criminal court for the district of St. Francis; it is not within the knowledge of the Members of this Committee that this measure is required by the wants of this district; and if from some unforeseen circumstance such a necessity should arise, it seems to your Committee that the most simple mode of providing for such an exigence would be to name a court of oyer and terminer.

The establishment of this court for a small number of days, as provided for by this clause, would render necessary the appointment of a number of officers of justice, the calling together of a large number of grand and petty jurors who would be taken away from their occupations without any sufficient necessity, and without the public interest demanding it imperatively. Besides, the Acts which establish the district of Saint Francis being temporary, the Committee does not think it would be advisable for the present to extend to this district the provisions of a Judicature Bill, which ought to be permanent.

Court of King's Bench.

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Your Committee, after having carefully examined this part of the Judicature Bill already cited, is of opinion, that the greatest part of the same may be preserved, with the essential difference already recommended in the first part of this Report; namely, that the judges of this court should have no connexion whatever, either with the court of appeals or the criminal court.

Your Committee, while it approves of the establishment of circuit courts, is of opinion, that some advantageous changes may be made in the places where the same are, by this Bill, appointed to be held. By the Bill in question, the judges in circuit are authorized to take and receive verdicts of juries. This is an important part of the Bill; but the Act of the Provincial Parliament 2 Will. 4, c. 22, which fixed the mode of summoning jurors having expired, and there being now no other law in force on this subject than the old Ordinances of the Legislative Council, your Committee deems it of the highest importance to regulate this matter by an express law, without which there would be great risk of losing the advantages expected from a new Judicature Bill.

Certified,
G. H. Ryland.

Enclosure 2, in No. 4.

TO His Excellency Lieutenant-general Sir John Colborne, G. C. B., G. C. H.,
Governor General, &c. &c. &c.

Encl. 2, in No. 4.

REPORT of a Committee of the whole Council.—Present: The Hon. Mr. Stewart,
Mr. Cochran, Mr. Daly, Mr. M'Gill, and Mr. De Rocheblave.

May it please your Excellency,

THE Hon. Mr. Stewart, the chairman of the sub-committee, to whom was referred that part of your Excellency's Reference in Council of the 28th January 1839, "whether it may not be desirable to propose a compulsory arrangement respecting a commutation for lods et ventes," having laid before the board their report on the subject, the same being read, it was approved and adopted as the report of the committee of the whole Council, and it is hereunto accordingly annexed.

All which is respectfully submitted to your Excellency's wisdom.

By order,

Council Chamber,
Government House, Montreal,
1 March 1839.

(signed) J. Stewart, Chairman.

Executive Council Chamber, Government House, Montreal, 27th February 1839.—
Present in Sub-committee: The Hon. Mr. Stewart, Mr. Cochran, Mr. Pothier,
Mr. M'Gill, and Mr. De Rocheblave.

THE special committee of the Executive Council appointed to report upon his Excellency's reference of the question, "whether it may not be desirable to propose a compulsory arrangement respecting a commutation for lods et ventes, particularly in towns," have at different meetings deliberated on this important and extensive subject, and have now to report their opinion:

Firstly, That it would not be expedient to compel the inhabitants of this province holding real property in the censive of seigniories to submit to a commutation of tenure; but that it should be made compulsory upon the seigniors of such property throughout the province to grant a commutation and release of all feudal and seigniorial dues, duties, and burthens to any censitaire who shall at any time hereafter apply for the same, such seigniors receiving a compensation for such commutation and release in the manner hereinafter mentioned.

Secondly, That, as a part of the indemnity or compensation to the seignior, it would be advisable that the Crown should, by proclamation, declare its intention to surrender the future quints which might otherwise accrue to it upon all those portions of any seigniorly of which a change of tenure shall have been obtained from the seignior by the censitaire.

Thirdly, That the amount of the commutation or indemnity to be paid or given to the seignior by the censitaire upon such change of tenure should be settled by experts, to be appointed one by each of the parties, and a third, being a disinterested person, to be named by such experts in case of difference between them; or if they cannot agree in such nomination, or shall neglect to make it, then such third expert or umpire shall be named by a judge of the Court of King's Bench, or other superior court of civil jurisdiction.

Fourthly, That the rate of commutation should not in any case exceed two mutation fines, where the real property is situated without the city or banlieue of Quebec, or the city of Montreal, or the town or banlieue of Three Rivers; or one-tenth of the estimated value of the property, if situated within those limits.

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Fifthly, That the seignior shall not in any case be bound to grant such commutation of tenure until all arrears of seigniorial dues and duties are discharged or satisfied by the censitaire applying for the same.

Sixthly, That the amount of the price, indemnity, or compensation, estimated and allowed by such experts, may remain charged upon the property of which the tenure shall have been changed as a redeemable rentcharge (*rente foncière rachetable*), with the like hypothèque et privilège in favour of the seignior as he now has by law in respect of his seigniorial dues and rights.

Seventhly, That in cases where the property, of which the tenure shall be changed, lies within a seigniorly under entail (substitution), the price, indemnity, or compensation, estimated by the experts, shall not be paid to the seignior tenant in tail (*grevé de substitution*), but shall remain charged upon the property whereof the tenure shall have been changed, as a rentcharge, not redeemable (*rente foncière non rachetable*) during the lifetime of such seignior, but shall be redeemable (*rachetable*) when the heir in tail (*substitué*) shall come into possession of the seigniorly (*quand la substitution sera ouverte*).

(signed) J. Stewart, Chairman.

(Certified.)

G. H. Ryland.

Enclosure 3, in No. 4.

Encl. 3, in No. 4. TO His Excellency Lieutenant-general Sir John Colborne, G. C. B., G. C. H., Governor General, &c. &c. &c.

REPORT of a Committee of the whole Council.—Present: The Hon. Mr. Stewart, Mr. Cochran, Mr. Daly, Mr. M'Gill, and Mr. De Rocheblave.

May it please your Excellency,

THE Hon. Mr. Cochran, the chairman of the sub-committee, to whom was referred that part of your Excellency's reference of 28th January last, relative to the establishment of registry-offices, having laid before the board their report thereon, it was read and adopted as the report of the committee of the whole Council; and the same is accordingly annexed.

All which is respectfully submitted to your Excellency's wisdom.

By order,

Executive Council Chamber, Montreal,
2 March 1839.

(signed) J. Stewart, Chairman.

Friday, 1 March 1839.

AT the Council Chamber, in the Government House, Montreal.—Present: The Hon. Mr. Cochran, Mr. Daly, Mr. M'Gill, and M. De Rocheblave.

In sub-committee on that part of his Excellency the Governor-general's Reference in Council of the 26th January last, relative to the establishment of registry-offices.

The special committee of the Executive Council appointed to consider his Excellency's reference respecting the establishment of register-offices, having given their best attention to this important subject, have agreed to the following report:

Although the establishment of offices of general registry of conveyances and incumbrances has been repeatedly under discussion in the legislative bodies of this province for nearly 20 years, it does not appear that any legislative measure has received the concurrence of the two branches of the Provincial Parliament, excepting as regards lands in the townships.

In 1823 the Assembly resolved to take into consideration the passing of a law for the public registration of instruments changing or affecting real property. In the close of the same year the Legislative Council passed a Bill, which was committed for consideration in the Assembly, to make provision for this purpose.

In 1825 the Assembly again came to a resolution declaring the expediency of making such provision; and in 1826 the same body, after adopting several resolutions still more strongly affirming the expediency and necessity of passing a law upon this subject, took into consideration a Bill for this purpose, introduced by Mr. Vallières, and adopting the leading provisions of the modern *code civil* of France on this subject, which passed to a second reading, but was dropped in that session, and though taken up again in the following session, was not proceeded with.

In the year 1826 the Legislative Council passed a Bill making provision for this object, which was not taken up in the Assembly, who had then Mr. Vallière's measure before them; and in 1836 the Legislative Council, after an inquiry in which they obtained the opinions of many persons of information, intelligence, and experience from all classes of the community engaged in the active pursuits of life, including several eminent practitioners in the legal and notarial professions, again passed a Bill which was intended to prepare the way for the introduction of a complete and general system of registry, by altering the existing system of law in those points which confessedly interfere with the establishment of such a system; but this measure also dropped in the Assembly.

From

From these various proceedings and efforts at legislation, the special committee find that the existence of the evil arising from the want of register-offices was fully admitted in the Legislature, and although the legislative bodies came to no agreement as to the details of the remedial measures to be adopted, there were some general principles respecting which there was no material difference between them.

The special committee have closely examined and considered Mr. Vallière's Bill of 1826, the Bill sent from the Council in that year, and that sent from the same body to the Assembly in 1836; and they have also had before them a Registry Bill, prepared by a legal gentleman connected with the administration of Lord Durham (founded, in a great measure, on Mr. Vallière's Bill, and modified, as the committee understand, after conferences with Mr. Vallière); and also another draft of a similar measure, compiled by an able member of the bar of Montreal, which, while it is similar in its general outline to that last mentioned, contains some new provisions, and more particularly some of those important but necessary alterations in the existing law, which the Legislative Council proposed to introduce by their Bill of 1836.

To these the special committee are desirous, in the first place, more particularly to advert.

The general or indeterminate mortgage, or hypothèque (that is, without specification of any particular property to which it is to attach), the customary dower, arising, without special contract, from the mere celebration of marriage, and descending as an inheritance with an indefeasible hypothèque to the children, and the legal or tacit mortgage arising from the offices of tutor and curator, which most persons may, by law, be compelled to undertake; these were circumstances in the existing state of the law which materially interfered with the adoption of an effectual system of registry, and seemed to present impediments which no system could entirely surmount while they continued to exist.

But from the evidence obtained from the Legislative Council, as well as from that laid before His Majesty's Commissioners of Inquiry in 1836, it appeared to be the opinion of the best-informed persons, that the general or indeterminate mortgage by notarial act should be abolished, and all such hypothèques be required to be special; that the customary dower should in like manner cease to exist, and the wife be endowed by special contract; and while there seemed to be a well-founded objection to the calling upon tutors and curators to give specific security on property for the due execution of their trusts, from the circumstance of their being compelled to undertake the office, the weight of opinion was yet strongly and decidedly in favour of such specific security being required.

Upon these various points the special committee have come to the conclusion that any Registry Bill, to be effectual, must either contain or be accompanied by legal provisions for abolishing general and indeterminate mortgages and customary dower, and for limiting the responsibilities of tutors and curators by special security on certain property, but providing at the same time that no person shall be compelled to accept those offices, and that tutors appointed by will, if they accept the trust, shall be admitted to the administration and guardianship without security.

With respect to the other leading features of the measure, there does not appear to be any essential difference between the Bill introduced by Mr. Vallières in 1826, and the two, more recently prepared, during and since Lord Durham's administration, which are in most respects improved modifications of the former, and the special committee having collated the whole together, have extracted from them the following general regulations, which they recommend to be adopted in any measure which may be brought forward.

1. All conveyances, instruments and proceedings (except as hereafter), by which real property may be in any way alienated, charged or incumbered, whether by deed, writing, devise, judicial proceeding, or by operation of law, shall be registered; or, if not, shall be void and null as against subsequent registered *bonâ fide* purchasers or incumbrancers for a valuable consideration.

Exceptions.

- 1st. Arrears of cens et rentes, for a period not exceeding five years, and other seigniorial dues (except arrears of lods et ventes).
- 2d. Arrears of rentes foncières, not exceeding five years.
- 3d. Arrears of rent of leasehold property, not exceeding two years.
- 4th. Costs of suit (frais de justice).
- 5th. Funeral expenses, and those of last sickness.
- 6th. Servants' wages, not exceeding two years.

2. That the privileges :

- 1st. Of the seignior for lods et ventes,
- 2d. Of the vendor or bailleur de fonds, or of the persons who shall have furnished monies for purchase of real estate, and have been subrogated to rights of vendor,
- 3d. Of co-heirs or co-partageants, for difference in shares, soultte et retour, or price of licitation,
- 4th. Of architects, builders, &c., and of those who have lent monies to pay them,
- 5th. Of creditors and legatees praying the separation of patrimony of deceased from immovables of heir,

shall be so registered within a certain time, and in a manner to be provided; if not so registered, to take effect as mortgages only from the time they are registered.

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3. Claims for accruing interest on securities for money, or claims for rent of any kind, shall not be an incumbrance on real property for more than three years after registration, as against subsequent *bonâ fide* purchasers, or incumbrancers for a valuable consideration, unless registered afresh as a principal sum, with assent of the person subject to payment.
4. Notarial instruments, or those under signature, wills or testamentary instruments, shall not carry mortgage or hypothèque, unless the real property intended to be affected is specified; and in judgments and acts of tutelle and curatelle, the amount for which real property is to be mortgaged shall be set forth.
5. No instrument, &c., shall carry mortgage on real property, unless at the time of registration such property be the actual *bonâ fide* property of the person intended to be affected.
6. The registration of an instrument of alienation shall be tantamount to delivery of possession.
7. Registration not to confer title upon, or confirm title derived from any person not having a good title to the real property registered, except as against prior purchasers or incumbrancers not registered.
8. Customary dower to be abolished.
9. Persons or corporations having or claiming, either in their own right, or as representing others, any title, claim or incumbrance upon real property, by any such assurance, instrument or proceeding, and wishing to preserve the same against subsequent *bonâ fide* purchasers, may after a certain day cause such assurance, &c. to be registered, and such registration shall preserve all rights appearing in or by such assurance, &c.
10. No such title, &c., shall be capable of being enforced as against third parties until so registered, except that judgments or judicial proceedings may be enforced by execution.
11. Sales and incumbrances to take effect and have priority from the time of registry.
12. Notice of a prior sale or incumbrance not registered not to vitiate a subsequent *bonâ fide* sale for valuable consideration, provided that subsequent purchasers, &c. having such notice give public notice to the prior purchaser, &c. to register his purchase, &c.
13. A person conditionally selling or incumbering, and such sale or incumbrance not being registered, may subsequently sell or incumber the same property subject to such prior conditional sale or incumbrance, which shall preserve the same valid.
14. Persons selling or incumbering the same property a second time, without disclosing the prior sale or incumbrance, if it shall not have been registered, shall be subject to an action by the first purchaser or incumbrancer for original consideration, interest or damages, notwithstanding any positive agreement to the contrary, and such person shall be deemed guilty of misdemeanor, and be punishable accordingly.

With respect to the future enactments necessary for carrying such a measure into effect, as to the manner of registering titles or claims, the manner of authenticating instruments not carrying evidence of authenticity in themselves, the manner of discharging or restricting registered hypothèques, the proper establishment of offices and officers, and the duties, responsibilities and emoluments of the latter, the special committee think it unnecessary to enter into these details; but they recommend that on these points the Bill prepared by Mr. Turton, as abridged and modified by Mr. Badgley, of the Montreal bar, and not essentially differing in its main outline from Mr. Vallière's Bill, should be adopted as a guide.

(signed) A. W. Cochran, Chairman.

Certified,
G. H. Ryland.

