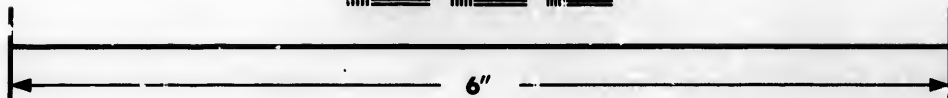
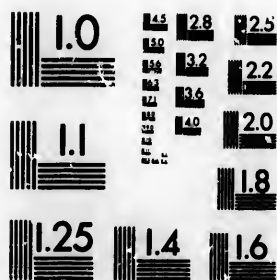


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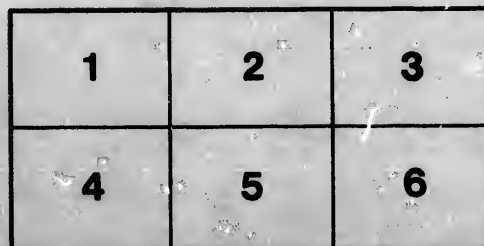
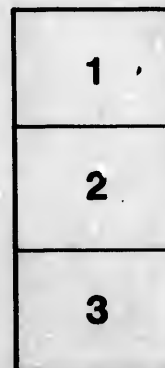
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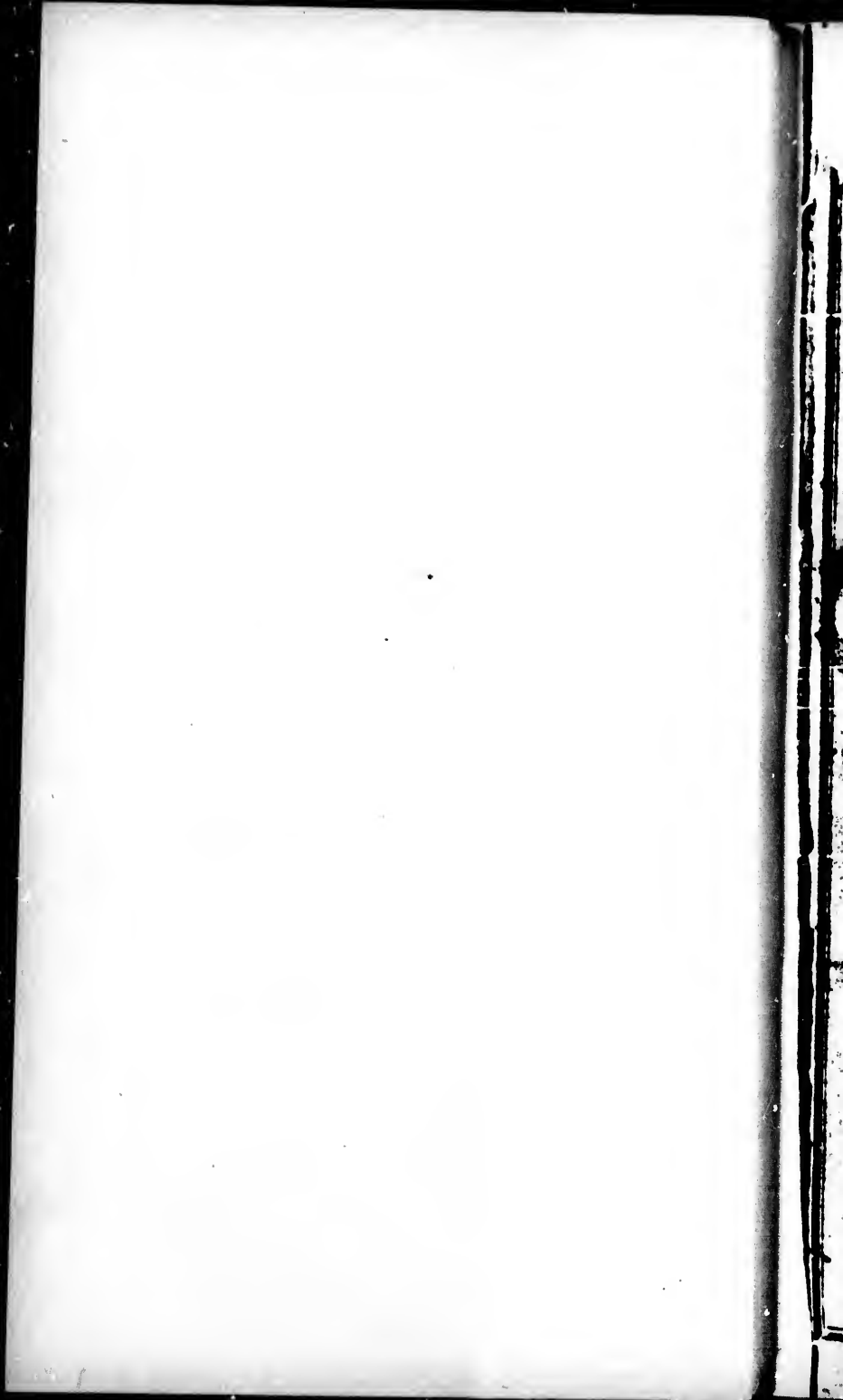
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ABSTRACT



PROCEEDINGS

Held

LAND COMMISSIONERS' COURT,

Held

During the Summer of 1860,

TO INQUIRE INTO THE DIFFERENCES RELATIVE TO  
THE RIGHTS OF LANDOWNERS AND TENANTS

PRINCE EDWARD ISLAND.

J. D. GORDON & D. LAIRD, REPORTERS.

CHARLOTTETOWN, P. E. I.

PRINTED AT "THE PROTESTANT" OFFICE.

1862.

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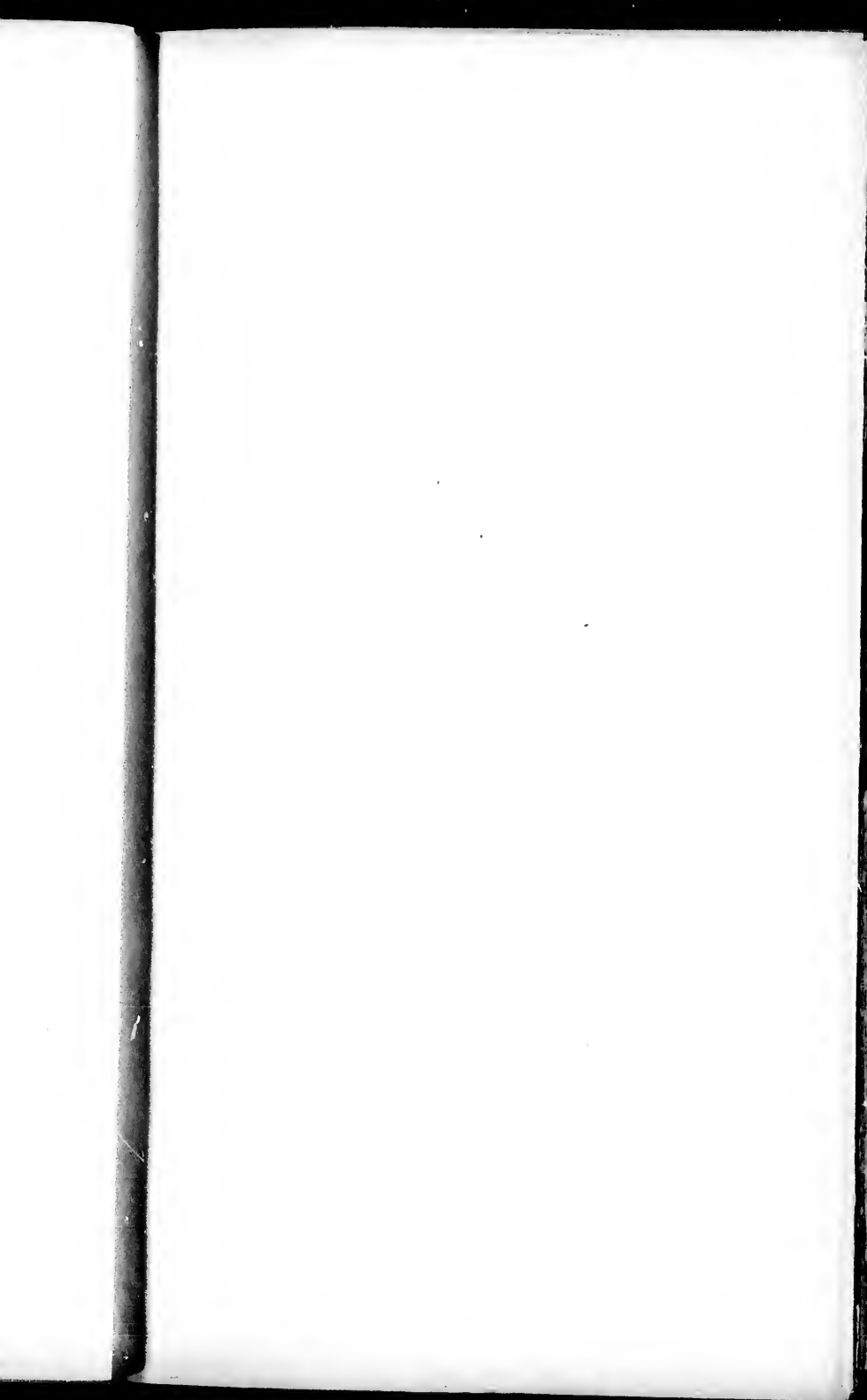
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**CHARLOTTETOWN, P. E. I.:**  
**PRINTED AT "THE PROTESTANT" OFFICE.**

**1862.**

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## PREFACE.

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THE delay in the publication of this volume has principally resulted from two causes. One of these was that the Reporters intended that the report should first appear in the *Protestant* newspaper; but as only a limited space could be given up in that journal to its publication, and the report proved much more lengthy than was expected, it could not be completed before the Legislative Session of 1861, during which the work had to cease, owing to the parliamentary debates occupying all the available space in the public prints.

The other cause was the detention by Mr Halliburton of the manuscript of his two speeches before the Commission, forwarded to him for correction. In compliance with his own urgent request to be favored with a sight of the report of his speeches before published, the manuscript of the first was sent to him in May, and that of the second in June, 1861. In October of the same year, the manuscript not being forthcoming, one of the Reporters took the time and trouble to re-write Mr Halliburton's first speech, and the publication was then proceeded with in the hope that his concluding speech would be returned in time to be inserted in its proper place. Another delay occurred about the close of the year; and after waiting two or three weeks, the first part of his closing speech was received, when the publication of the report was resumed. The conclusion of the speech has not yet been returned, which accounts for its omission in the following pages. The Reporters will not attribute any motives to Mr Halliburton in withholding the manuscript; one excuse in his favor they will admit, namely, that owing to his holding, last summer, the office of Secretary to the Commissioners in Nova Scotia for the Great International Exhibition of 1862, he was perhaps unable to attend to what was certainly an important duty—a



duty to his clients as well as to the Reporters and to the public.

One benefit, however, has resulted from the delay in the appearance of the Report; the Award of the Land Commissioners having been received before its issue, the publishers have deemed it advisable to print the Award and have it bound up in the same volume. They here, then, present to the public an abstract of the evidence given before the Commission, and also the Award; and as both together will be a book worth possessing and preserving, they hope that their endeavors to furnish an account of the progress—so far as it was publicly conducted—and then of the result of an investigation the most important by far which has taken place in the history of Prince Edward Island, will receive a commensurate reward in the liberal patronage of the public.

April, 1862.

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# ABSTRACT OF THE PROCEEDINGS BEFORE THE LAND COMMISSIONERS' COURT.

WEDNESDAY, September 5, 1860.

This day, according to a Proclamation by His Excellency the Lieut. Governor in the *Royal Gazette* of yesterday, the Commissioners appointed to settle the questions arising out of the Land tenures of this Island, viz., the Hon John Hamilton Gray of New Brunswick, and the Hon Joseph Howe and John William Ritchie, Esq., of Nova Scotia, opened their Court at the Colonial Building, Charlottetown—Hon Mr Gray, nominee of the British Government, presiding. There appeared at the Court a Counsel for the Government of the Colony, on behalf of the Tenantry, Samuel Thomson, Esq., of St. John N. B., and the Hon. Joseph Hensley; and for the Proprietors, R. G. Haliburton, Esq., of Halifax, and Charles Palmer, Esq. Benjamin Deshay, Esq., was present, by appointment, as Clerk to the Commissioners. After the Royal Warrant appointing the Commissioners was read by the Clerk, called upon the Counsel for the Government to state on whose behalf they had appeared at the Court, and their views in regard to its jurisdiction. Hon J. H. Gray then addressed the Court at considerable length. He appeared as Counsel for the Government, on behalf of the Tenantry of the Island, to lay before the Court the grievances complained of by that body, and to seek redress at their hands. The question of the Land Tenures had agitated the public mind for upwards of half a century, and had been productive of injury both to the prosperity of the Island and the comfort of its inhabitants, and he sincerely trusted that the gentlemen now appointed to examine into the question would be enabled to make some settlement of it which would be just and satisfactory to all parties. Various attempts had from time to time been made, by legislation, to meet the difficulty, and measures had been introduced, respecting the wisdom and

justice of which grave differences of opinion had existed; but on one point all were unanimously agreed—namely, that the system of Leasehold tenure was a bad one, and should if possible be destroyed. He then referred to the resolutions of the House of Assembly on this question, passed in 1859; and the Statute of the last Session based on these resolutions, which, he contended, clearly gave to the Commissioners ample power to deal finally with all the vexed questions connected with the Township lands of the Island, not only those pointedly referred to in the Resolutions, but other questions which had largely occupied the public mind—namely, Escheat for non-performance of the conditions of the original Grants, and the payment of the arrears of Quit Rents. He stated that, at the outset of the case, he and his learned associate (Mr. Thomas) held, as their instructions or brief from the Government, the Resolutions alluded to; and it was their intention to bring the points referred to in the Resolutions, in the first instance, before the Commissioners, as they embody the views of the majority of the House of Assembly, who were represented by the present Government; but at the same time, he begged leave to state, and wished clearly to make it known, that the Government—although they did not themselves advance the questions of Escheat and the payment of Quit Rents—desired that it should be open to any one who wished to have those questions considered, to come into Court and seek its decision respecting them, so as to make the present investigation full and comprehensive, and, if possible, embrace all views and points in dispute. He referred then to the Resolutions in detail, and explained, that whilst they referred to other matters, they pointed principally at a remission of the arrears of rent due, and the settling a price by the Commissioners at which the Proprietors should be called upon to sell the Freehold of the land to the Tenant. The latter, he contended, should be at a low figure; for whatever value might now attach to the lands in this Island, had been entirely created by the industry and exertions of the tenantry. He hoped the Commissioners would visit some of the wild and distant settlements of the Island, look at the heavy trees which the tenant had to clear away and root out before the land was fit for tillage; and they could not but return with the conviction on their minds that he who sells the trees and clears the forests should be the freeholder, and not the far-distant proprietor, who, perhaps, has never set eyes upon the wilds of America or encountered the cold blasts of its winter. Some seemed to think that the tenants deserved no consideration at all. It was said that they must, whatever their difficulties, pay their rents to the uttermost farthing, because they had taken leases wherein they had solemnly undertaken to do so. The proprietors, too, when they took their grants, had as solemnly bound themselves within a certain time to settle the lands in a certain way, otherwise the grants were to be void; and had also as solemnly undertaken to pay certain amounts of Quit Rents—yet, as he believed, these conditions were not even in a single case punctually observed or performed by any of the grantees; but indulgences and discharges had been from time to

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time sought by them from the Crown; yet it had been a very common thing for proprietors and parties interested in supporting their views, to proclaim those who dared to advocate the cause of the tenants, or bring in measures for their relief, or to plead the practices of remitting their arrears of rent, as agitators, or dishonest, or political demagogues. Such conduct came, he thought, with very bad grace from those who for half a century past had been always clamoring for a remission of the Quit Rents, which they had agreed to pay; or a release from conditions which they had undertaken to perform; and some of whom had gone still further, and had taken possession of, leased and received rent on the Fishery Reserve lands, on certain Townships, where they were expressly reserved out of their grants, and to which they had no manner of claim. He then explained the Fishery Reserve question, and referred to various opinions of Crown Officers, given on the subject, and called attention of the Commissioners to the fact that this was one of the questions to which their attention was invited by the terms of the Resolutions and address accompanying them. He could not enter at this stage of the case into the Escheat and Quit Rent question, further than to say, that the Commissioners had full power to deal with them, and would therefore be called upon to do so. It was not for him or his learned associate to find remedies for all these evils—it was the Commissioners' province to do that. They had only to bring the evils to their notice. But he would remark that he thought the remitting of Rents should not be confined to those only in arrears, because otherwise those who, by hard industry, had kept all their Rents paid up, would derive no benefit. The Commissioners might, in these cases, free the parties from payment of Rent for a certain time to come, or they might make a proportionate reduction in their future Rent in the price at which they might order the Proprietor to sell the fee simple of the land. If they should think Escheat impracticable, or difficult to be carried out, they might order the large Proprietors to pay a certain sum into the Treasury in discharge of the broken conditions; and in the case of the Quit Rents, the proprietors might also be ordered to pay a certain sum into the Treasury, as a satisfaction for all arrears due. These were merely preliminary suggestions—the actual solution remained with the Commissioners, who had an important duty to perform; and if by their award they should set at rest these long agitated matters, in a manner satisfactory to all parties, they would indeed have earned, and be entitled to the gratitude of every inhabitant of Prince Edward Island.

Mr THOMSON followed. He began by commenting on an Editorial in the last issue of the *Examiner*, in which it was suggested that the powers of the Commissioners were only negotiatory—that they could merely recommend the fixing upon a rate per acre which would lighten the burden of the tenantry, &c., as any other person might do;—and that it was uncertain whether they would entertain the question of Escheat. He ridiculed the idea of an Act being passed by the local Legislature, and a Royal Commission issued appointing three dis-

tinguished men as Commissioners, conferring only the power of negotiation; and maintained that the Court had ample authority to settle all questions in dispute. He was surprised upon looking over the Journals of the Legislature to see petitions to the Home Government praying for a Court of Escheat, as every British Colony with a separate government, possessed the power within itself of establishing its own courts. But if such a court never existed in this Colony before, it did now, for the Court whom he addressed were vested with powers more formidable than were ever held by any Court of Escheat. He also stated he had heard, that certain of the Proprietors who had not signed a paper agreeing to the Commission, considered they would not be bound by its decision. He told them of their error, showed by several clauses in the Act to give effect to the Report of the Commission, that they would be as much bound by it as if their names were to paper, and warned them not to neglect their interests before the court through this belief. He also adverted to the condition of the Tenantry of this Island—it was much worse than that of the people of the neighboring Colonies where the proprietary system was unknown; and therefore it was not to be wondered at if they loudly complained of injustice. He compared them to serfs, as they could not only be deprived of their lands, but be pursued and taken in any of the British Colonies, or even in the United States for arrears of rent. The Counsel on the other side might say that they themselves were to blame for their position, as a bargain was a bargain. He knew this and would not argue as he had done before a court of justice; he was not, however, addressing such a tribunal, but stood before a court of equity—a court whose province it was to view the question in all its aspects.

Mr HALIBURTON spoke briefly to the effect that he hoped the Counsel for the Tenantry would lay before the Court some written proposition, stating grievances and what remedies they would suggest, that he and his colleague might have something to take hold of, and be prepared, if necessary, with evidence to meet them. He did not consider it was necessary to reply to mere clap-trap.

Mr CHAS. PALMER made a few remarks of a similar nature, and stated that they, on behalf of their clients, were perfectly willing to meet the other party on any division or view of the subject which they might choose to bring forward.

Mr HENSLEY remarked that they had no intention of laying any document of the kind described before the court; but would, take as a guide the resolutions and the Act of the Assembly, and bring up from time to time what was laid before them.

Hons Messrs. Coles, Swabey, Whelan, as well as several other gentlemen also briefly addressed the Commissioners, chiefly on points respecting the course they intended to pursue in hearing the statements of parties. The Commissioners expressed their desire to give every case an impartial hearing, either through the counsel, or from the individuals themselves.

About half-past two, the Court adjourned till 10 o'clock tomorrow.

THURSDAY, Sept. 6.

Mr COOPER before the Court. After a few introductory remarks, he referred to page 77 of the Journal of the House of Assembly for 1835, and commenced reading extracts from a copy of one of the original Grants.

Commissioner GRAY.—We wish you to explain your views on this subject. Mr C.—My views can be better presented to you from what I have written, than by any verbal statement. [Reads from a Memorial to the Queen adopted at a public meeting held at St. Peter's Road in 1855, partly as follows—"But the time for settlement expired, without the introduction of foreigners, and the land remained unoccupied, a snare for British subjects, who believed that the forfeiture would be enforced, and that they would be settled without disparagement, in fee-simple."]

Com. HOWE.—Did I understand you to say that people settled upon these lands, believing they would be forfeited? Yes! [Reads again—"It appears that there were only a party here of the Grantees in the conspiracy to make tenants of British subjects, and the main objects for moving in such enactments at that time, were to induce the Grantees who were not in the conspiracy, to give up their grants to the Lieut. Governor and other speculators in the Island, (for nominal or trifling sums,) who would join in the conspiracy."]

Com GRAY.—From whom did the speculators obtain the grants? From the Grantees. You say these nominal prices rose from the fact of the Grantees believing the grants would become void? Yes. Can you state for what sum any of these were purchased? I believe one sold as low as £9. Who purchased any of them? One person, Cambridge, bought about 10 Townships, and Governor Fanning also obtained several.—Afterwards, the result of the people's petitioning for a Court of Appeal, was so much persecution from the Proprietors, that they were induced to desist; still they were kept in hopes by promises that the question would ultimately be settled.

Com. HOWE.—Suppose these promises were at an end, and the hopes lost, what then? I think there would be disturbance. Mr Cooper here read an extract from Gov. Fanning's speech on the opening of the Session of 1802-3, in reference to the legal position of the Government here should be prepared to pursue, when circumstances should render it advisable for effectually revesting in the Crown such lands as may be liable to be escheated; also a minute of Council of April 2, 1803, stating that the Lieut. Governor gave his assent to a Bill for effectually revesting in His Majesty all such lands as are liable to forfeiture within this land; and also a series of resolutions passed 20th Nov., 1805, with respect to the Royal allowance to said Act not being communicated to the Colony.]

Com. HOWE.—Could the Legislature trace that Act through the archives to satisfy themselves? Not satisfactorily.

Com. RITCHIE.—Had the Island at any time an agent in England? Yes. Who? Myself. At what time were you here? In 1839. Did you take any steps when there to see what became of this Bill? I did not. Has any steps been taken by the Colony to search the records in the Colonial Office? I am not aware of any.



Com. HOWE.—Had the Act a suspending clause? Not any. Are there any traces on the records of this Colony to show that the Act was disallowed? None.

Coun. HENSLEY.—Is the Act printed among the laws? No, it is only referred to in the marginal notes.

Com. HOWE.—The marginal note says—"the Act has not received the Royal Allowance," and any Clerk in England known to have made a false statement in a matter of this kind, would be committed to the Tower. Is there any despatch to show that it was disallowed? None.

The Act as printed in the Journals of 1835 was then read. After several inquiries on the part of the Commissioners, it could not be ascertained how the marginal note stating that the Act was disallowed came on the Statute Book.

Com. RITCHIE.—If there had been no disallowance, after three years it would have fully become the law of the land.

Coun. THOMSON.—In the absence of positive evidence that the law was disallowed, why not act upon it?

Hon. Mr. COLES.—It is supposed Gov. Smith did act upon it, when he secheated two townships; but they construed it as if it had not been the law of the land. Since it was the only Act sent home that year, perhaps the despatch was not recorded.

Mr. W. H. POPE before the Commissioners.

Com. GRAY.—Will you explain to us the allowing or disallowing of this Act? I know nothing about it, save what appears in the marginal notes;—I have never been able to find a copy of the Act as it was passed. Are the records of that period kept with any regularity? I have not searched fully for a copy of the original bill. It appears by the manuscript journals of the House that in 1803 the Act just read was passed by that body in March, and afterwards assented to by Gov. Fanning. The next session was in 1805, when an address was presented to the Governor, inquiring what had become of the Act, and a Committee appointed to bring in a new bill of the same nature; but I cannot ascertain that it was ever introduced.

Hon. Mr. COLES.—I find a document dated 1806, among the records of the Legislature, purporting to be an extract of a letter from Mr. Knox, the colonial agent, in which he alludes to the Act as being mislaid in the Colonial office, and then refers to the new bill and the opposition made to it by the proprietors.

Com. GRAY.—Was there a suspending clause to the first bill?

Mr. POPE.—There was, founding my opinion on a minute of Council.

Com. HOWE.—The Act as printed in the journal of 1835 has no suspending clause; and having been based on a despatch, it is not reasonable to suppose that a clause of that kind was necessary. I think it singular the despatch disallowing it cannot be found.

Mr COOPER resumes.—In 1817 it was the general opinion that the Act was laid aside, or kept over by some means till the

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proprietors had forfeited their lands, and that then it was dis-  
allowed. [Here reads a proclamation by Gov. Smith in 1818,  
and speaks of its injurious results as being calculated to deceive  
the people].

Coun. PALMER cross-examines Mr Cooper.—You have resid-  
ed here for some time? I have. Are you a leaseholder? Both a  
free and a lease holder. When did you take your lease? About  
1826. From whom? I was agent of the Lot at the time. I  
did not think it right to take it myself. Another leased it in my  
name, and I took a bond from him &c. Who was proprietor?  
Lord Townsend. What was the term? 84 years. What rent?  
1s. an acre. What quantity of land? 106 acres, including a  
marsh. I had also a lease of a mill stream with which I parted,  
that contained 80 acres. What did you receive for it? £600  
for the mills and it. Have you any idea of the value of the  
marsh and all? I never negotiated for its sale. If I sold it, I  
would be glad to get 20s. an acre for it and the price of the  
buildings. How long has the lease run? 44 years. Did you  
re-lease it? I did. For what sum? £25a year—that is a full-  
stocked farm.

Commissioners propose a few questions.—Did you get your  
rent? I had to arrest the tenant. Why did he not pay you?  
(No satisfactory answer.) He meant to pay. Did he dispute  
your title? He did not. Did you pay the Quit rents to the  
proprietors? They were suspended for a long time, or not  
exact. What actual amount did Lord Townsend expend upon  
it before you took it? Nothing. Your labor has made it valu-  
able? It has. Lord Townsend proposed to sell his estate for  
2s. an acre. I called a meeting of the tenants and proposed to  
them to purchase it, but could not make any arrangement.  
When was the Land Tax act passed? About 1830. If called  
upon to pay the Quit Rents from the time you went there would  
you think it proper? I think the tenants would not be willing.  
How long were you agent? From '19 to '28. Were the quit  
rents collected with regularity? I did not collect them from  
them. Did Lord Townsend receive rent from these lands? I  
think he received about £360 during the time I was agent. Did  
you receive a fixed salary? I was paid my expenses. How  
many tenants were there? From 80 to 100. Did Lord Town-  
send receive rent from any of the previous agents? He would  
receive about £300 or £400 a year. [Com. Howx remarked  
that during his agency Townsend would be entitled to £24,-  
000.] My impression was that the absentee proprietors receiv-  
ed little or nothing from the tenants. Whether would you  
rather have been proprietor or agent? In fact it was worth  
little or nothing to the proprietor.

Counsel, HENZLEY.—How long had you been on the Island  
when you became agent? A short time. Did you give leases  
to many? I did. Where did the tenants come from? Cape  
Breton, Newfoundland &c. You did not send for them? I did  
not. All the leases were for unimproved land? Yes. Does this  
Township (56) front on the sea shore? It does. Did you lease  
land on the shore? Yes, for at that time there was very little

said about fishery reserves; and in this particular I followed the example of those who preceded me. Have you fishery reserves on your land? Yes, and pay rent for them to Mr Haviland. Can you give the name of any farmer who has land leased down to high water mark? One M'Donald has. I gave no leases on the outside shore. Were any freeholds sold by Townsend? Mr Haviland has sold some, I believe. Do you owe any rent yourself? One or two years'. What is the cost of clearing land? From £3 to £4 per acre.—2000 acres of Refugee land were rented with the rest.

Hon. Mr. COLLES before the Court.

Mr. COLLES.—I was not aware until yesterday that I would have the privilege of addressing this honorable Court. It behoves, however, every man interested in the welfare of this Colony, to render every assistance he can afford your Honors in coming to a correct decision upon this question. It is a question out of which different political parties have made political capital. I was for some time opposed to the Escheat movement; because the Home Government appeared to have set its face against the agitation of the question. Taking this view of the matter, I thought it would be much better to enter into an arrangement with the Proprietors respecting the purchase of their lands. After I had obtained a seat in the Legislature, in 1842, I proposed a Land Purchase Bill similar to the one now in operation. This Bill was opposed, and another, one somewhat repulsive, as it would compel the proprietors to sell, was introduced. When Responsible Government was granted, the Purchase Bill passed, and £30,000 appropriated for purchasing lands. Subsequently the Tenants' Compensation Bill, and Rent Roll Bill, were passed. [Mr. C. explained the objects contemplated by these Bills.] When Mr. Labouchere came into office in 1855, he proposed an extension of the Purchase Bill, based upon a guarantee by the Lt. Governor. During the next Session of Parliament, Lord Stanley, in an able speech on the subject, proposed that £100,000 be guaranteed to establish the bill. Before the bill was read a second time, Lord S. was appointed to another office, and his successor viewed the subject in a different light. In the mean time the proprietors had used their influence against the bill.

Com. HOWE.—What motive could they have had in endeavoring to defeat it?

Mr. COLLES.—Agents were more opposed to it than proprietors, though in the House of Assembly both voted against it. Proprietors opposed the present Commission? A rumor has gone abroad that this hon. Commission is bound down by Lord Russell's Despatch. The Loan Bill Despatch was not binding. Another rumor has been circulated to this effect, that 60 years' possession by the proprietors will exclude the Commission from interfering; but the proprietors are bound by the conditions of the grants, even if a thousand years have transpired. In reference to the settlement of the tenantry, it has been said their eyes were open. But the people were poor; besides, many of them were induced to come here by the proprietors. They paid their own passage, and

upon landing, had not a shilling. Agents here were interested in getting them settled. Frequently they were compelled to make roads for themselves, and to carry their provisions home upon their backs. In many cases, they only received a Minute of agreement for their farms. The lease was withheld until they procured money to pay for it. Many signed leases without scarcely knowing what they did. These leases bound their persons as well as their properties. Some lost their lives by means of incarceration for rent. There are but little or no arrears of rent due by the tenantry, all things considered.

Mr COLES next entered fully into the Quit Rent question. He read various Despatches upon this subject, which showed that the proprietors had never paid any Quit Rent up to 1823, and that they were liable for about £140,000, which he thought should, in justice, be rigorously demanded. He did not know why they should claim to be relieved from them when the people had to pay their Quit Rents for lands worth nothing. Sometimes they put expenses of £8 or £9 on pasture lots to collect 2s. Thus they had given a precedent for proceeding against defaulters. He read extracts from the Legislative Journal of 1839, to prove that as late as that date the British Government held the proprietors liable for all the arrears of quit rents. During the session of that year, Lieut. Governor FitzRoy sent the following message to the House of Assembly—"The Lieutenant Governor lays before the House of Assembly, for their information, the copies of a correspondence which has passed between Her Majesty's Government and Mr George R. Young, relative to the arrangement agreed to by the Earl of Ripon, in 1833, for the commutation of the Quit Rents in this Island." The nature of the arrangement of the Earl of Ripon, mentioned in this message, may be learned from this extract of his despatch, viz:—"During the first two years after the expiration of the five years for which the claim to Quit Rent has been suspended [i.e., during the continuance of the first Land Assessment Act,] the Quit Rents should be redeemable at fifteen years' purchase; during the next period of two years, they should be redeemable at eighteen years' purchase. At all subsequent periods, they should be redeemable at twenty years' purchase. The claim to Quit Rent will revive retrospectively, as well as prospectively, at the termination of the existing agreement. But following the analogy of the measure adopted for New Brunswick, I am of opinion, that the arrears, up to the time when the plan I have described will come into operation should be remitted."

In reference to this proposed arrangement for commutation, it is stated in a letter from Mr Spearman, Secretary to the Lords Commissioners of Her Majesty's Treasury, published among the above-mentioned copies of correspondence in the Journal of 1839, that "the Pro-

prietors omitting or deferring to commute become liable to the Tax or Rent; and no remission of such liability would be granted nor would the commutation be completed nor the title of the Proprietor to the unincumbered property, or to the release from the condition respecting location of settlers, be perfected, without the liquidation of all arrears of Rent."

From these and other extracts, Mr Coles argued that as 60 years, according to the statute of limitation, had not elapsed since 1838, the date of Mr Spearman's letter, by which they were held liable for arrears of quit rent, they were still under obligation to liquidate them.

At the close, the Commissioners thanked Mr Coles for the information he had afforded, and expressed a desire to receive any further information he had to communicate at a future time.

Court adjourned at 4 o'clock.

FRIDAY, Sept. 7.

Mr Coles again before Commissioners.—He proceeds further to prove that at different periods far short of 60 years since, not only did the Home Government claim the right to the arrears of quit rent, but that this right was acknowledged by the Colony. He reads from the Journal of 1852 p. 115, extracts from an Address of the House to Governor Bannerman, as follows—

"The House of Assembly would here observe, that in the year 1820, an Address was presented by the House of that day to the then Lieut. Governor, to be forwarded to His late Majesty King George the Fourth, wherein His Majesty's right is fully recognized, as is shown by the following paragraph taken therefrom—

'We have learned with dismay that your Majesty has been advised to order the collection of the arrears of Quit Rents, due by this Island, from the 1st day of January, 1823. While we acknowledge the justice of your Majesty's claim, which we would most cheerfully discharge, did our ability correspond with our inclination, we are constrained to declare—humiliating as the confession is—that the whole circulating medium of the Colony would be inadequate to meet one-fourth of this large accumulating sum.'

"To which the following reply was conveyed to the Lieut. Governor, by Despatch, bearing date Downing st, 1st Sept., 1829."

'I have to desire you will acquaint the Legislature in reply, that as far as circumstances will permit. His Majesty's Government have every desire to comply with the prayer of the Address: I shall therefore be prepared to advise His Majesty to accept of a permanent grant of £1000 per annum, in lieu of any further demand on account of arrears of accruing Quit Rents, &c.'

"To this Despatch the House of Assembly, on 26th April, 1830, drew up a reply, from which the following extract is respectfully submitted:

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'While we acknowledge your Majesty's undoubted right to the payment of these rents, and feel grateful for the liberality displayed in the offer to commute them, our duty to your Majesty compels us to state the reasons by which we have been actuated in not availing ourselves of the proposed commutation.'"

Com. GRAY.—In this Island was there ever anything contributed out of the funds arising from land towards the public buildings?

Mr. COLES.—There was a fund accruing from Lots 15 and 55, which were escheated in 1818, which was appropriated to the building of the Lunatic Asylum. The Colonial Building and Government House were built out of the general fund. [He then remarked that neither to the proprietors nor the people was there ever any commutation of quit rents, as they had not complied with the offers of the Crown, and referred to some old cases concerning the collection of quit rents at Cavendish about 1830. He also showed the different rates of quit rent which the several Townships were liable to, stating that he obtained his information from public documents, as there were 8 Townships not on the records.]

Com. HOWE.—I thought that all these grants were given at one time.

Mr. COLES.—So it appears, but still 8 are not on record.

Com. GRAY.—The claimants of these 8 Townships have never received copies of their grants. Did the persons to whom they were said to be granted take possession, and have they been in possession ever since?

Mr. COLES.—Some took possession.

Com. GRAY.—If there were no grants under which they claimed, would they not be in adverse possession?

Mr. COLES.—The mandamus under the authority of which the grants were drawn out would show what amount of quit rent was to be paid on each Township.

Com. RITCHIE.—What you have advanced is of no practical utility. Their position would be all the better if they had not maintained that they had titles. I think we may assume that they had grants; it is for the interest of the Colony to assume this, for they would have a good title by possession. If they had no grants, how could they have fixed conditions. It is so much the better for the country that they did pretend to have them.

Com. GRAY.—For which Townships are there no grants recorded?

Coun. HENSLEY.—6, 8, 12, 20, 25, 44 and 46. The tenants on these Townships have been disputing for many years with the claimants.

Mr COLES then read a report from the House of Assembly Journal for 1853, respecting the case of Neil Darrach, to prove that if tenants cannot produce receipts, when sued for rent, they are in for any sum which the proprietor may assume. The attorney of B. H. Cumberland issued two writs, at different periods, for rent and arrears of rent, against Neil Darrach, obtained judgment, and levied two executions, for the sums respectively of £44



12s 6d, and £37 12s 6d; and when the lease and vouchers and the periods for which the said rent was claimed under the first writ were examined, it was found that the sum of £3 18s 2d only was due. For the first sum a levy was made and Darrach, not being able to pay, was arrested and imprisoned; though upwards of 70 years of age; and whilst so imprisoned was served with another writ for the second sum, being arrears of rent and costs.

Com. RITCHIE.—I think this case does not come within our jurisdiction. The House of Assembly had a better opportunity than we to investigate the matter.

Mr COLES again read from the Journals respecting a case in Chancery in reference to rent and the oppression of the proprietors. The proprietors, he remarked, by not making good their claims, had caused these disputes. Different persons claimed the same Township, then they made a compromise and divided the Lot among them. All they require is to get a man to attorn, and when this is accomplished, they are all right. An Act cannot be passed in the local Legislature, affecting the proprietors, but what is met by their opposition in the Colonial Office. Petitions had been sent to the Home Government representing the grievances of the people. They are continually troubled with these petitions, and if this system be not wiped away, they would be always troubled. He might mention another case with respect to constituencies. When a proprietor becomes involved, a man would come along and offer him a sum for his estate; a bargain is made for a small sum, and after he becomes established, he begins to exercise political power over his tenants.

Coun. HALIBURTON thought these remarks were foreign to the subject.

Com. GRAY.—It shows the state and feelings of the Colony.

Mr COLES.—Another thing I might mention is, that when a new proprietor comes in, tenants must take new leases; and if they resist, what is the result? Writs of ejectment are issued against them.

Coun. THOMSON.—Is it the case with leases for a term of 999 years, that when a new heir comes in, new leases must be taken.

Mr. COLES.—No, in every case.

Com. RITCHIE.—It occurs to me that these parties in point of law could eject the tenant; but the honest proprietor says to him, you have not a good title, I wish to give you one. In this respect, I think the landlord acts honorably.

Mr. COLES.—After all the people are at the mercy of the proprietors. Lately there has been, I understand, diligence on the part of the proprietors to obtain notes of hand from tenants in arrears. [Proprietors' attorneys showing uneasiness at this statement, Com. Howe remarked, these gentlemen think it is a fore-



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one case if this has occurred.] In case you decide to escheat these lands, I like to strengthen your hands. I turn up the census ten years after the indulgence, and ascertain the population at that period. The proprietors were bound to have the Townships settled by that time in the proportion of one person to every two hundred acres, whether with foreign Protestants or not. I know Mr. Cooper has been censured by many for his extreme views, but by the census of 1827, I find that only 15 Townships had 100 male persons on them over 20 years of age. On Lot 66 there was only one, and on 87 none.

Com. GRAY.—You say *male* settlers. Would you not call a good healthy woman a settler? (Laughter.)

Mr. COLES.—Women and children could not be included, for that case the proprietors would soon get their lands settled. Consulting the Journal of 1839, p 85, I ascertain that 54 Townships were not settled in accordance with the indulgence of 1818.

Com. HOWE.—The census show that if a Court of escheat had then been established, these lands could have been escheated.

At the present day, it is another question.

Mr. COLES then referred to the Land Purchase Bill.—The proprietors and agents were unwilling to comply with the views of the Legislature in carrying out its provisions. At the purchase of the Worrel Estate, the acting trustee and solicitor of that estate interfered. The estate was not sold by the proprietor but by his trustees. Some of the trustees by private communication to members of the local Government of that day, were aware of the fact, that the Government wished to purchase it. They went to recommend to the proprietor to sell it for £10,000. A letter was forwarded to Mr. Worrell's solicitor at home. The trustees were authorized to sell, but the proposition was not submitted to the Government. The attorney of Mr. Worrell, brother-in-law to the acting trustees, went to England about this and shortly after returned, having purchased the estate for considerably less than Mr. Worrell had authorized it to be sold to the Government, to whom it was then offered for double the price. In making out a case for the tenantry, the Counsel should take all these circumstances into consideration, and not be content with what is merely represented to them by the friends of the Government.

Mr. THOMSON.—The Government have placed into my hands a brief of which I need not be ashamed.

Mr. Col. GRAY.—I beg leave to remark that the Government, of which I am a member, have solicited the services of Mr. Thomson, and placed in his hands an *unlimited* brief.

Mr. COLES.—In another case, an estate, that of Lord Selkirk, about to be offered to the Government was purchased by an agent acting for that proprietor. Lord Selkirk knew the Government were desirous to purchase his estate, as the loan bill had been passed. But through the representations of his agent, he sold part of it, for something less than the Government had offered for the Worrel estate. The result of this transfer was that the agent who purchased it, sells it for £3 an acre, or lets it at less. These facts show that the tenants have been dealt

with unfairly.—I may next refer to the case of the loyalists. It is well known that these persons gave up their lands in the United States under the belief that they would receive as good properties as they left. In the Journal of 1833, p. 11, I find Mr. Brecken and others took up the question on behalf of the loyalists. It appears from their report that a number of proprietors had induced American Loyalists to settle here. They were promised indulgence, or abatement of quit rent, and one fourth of the lands set opposite the respective proprietors' names. They thus gave up 200,000 acres for the loyalists on terms similar to those received by others in Nova Scotia. They promised to put them in possession of them free of expense. There was, however, no disposition on the part of the proprietors, with one or two exceptions, to fulfil their agreement. The loyalists were kept in a state of constant disquietude. At length an Act was passed in 1790, with a suspending clause, giving the Lieut. Governor power to grant them such lands as had been agreed to be given them by the proprietors. Few, however, obtained them. They remonstrated. One of their number who had been a soldier, and was personally known to one of the authorities in England, went to the Colonial Office, and the consequence of his mission was that nearly all the loyalists on the Township owned by Governor Fanning, shortly afterwards received their lands.

Com. HOWE.—Is there a large body of these people here now?

Mr. COLES.—No, many of them became disheartened and left the country. The proprietors gave up these lands to the Government, and they were considered to belong to it for the loyalists; but the proprietors have since taken possession of them. In short, the loyalists were persecuted in a shameful manner.—I may next refer to the Fishery Reserves. With respect to them I learn from the Journal of 1839, appendix B, that they are of two kinds, and that the proprietors up to that time had never thought they had a right to them. In 32 Townships the reservation is as follows:—"And further saving a reserve, for the disposal of his Majesty, his heirs and successors, of 500 feet from high water mark, on the coast of the tract of land hereby granted, to erect stages and other necessary buildings for carrying on the fishery." In 12 Townships the reservation runs thus—"And further saving a reserve and free liberty to all His Majesty's subjects, of carrying on a free fishery or fisheries, within the distance of 500 feet from high water mark." Of the remaining 23 Townships, 11 contain no fishery reserves; and of five no grants whatever are on record. In proof that at that time, the proprietors considered they had no right to the fishery reserves is, (I read from the Journal of 1829), "a letter from Mr. Robert Stewart under date 22d March, 1833, in which he agrees to accept a lease of the fishery abutting on his property, at a reasonable rate. This letter is transmitted in a despatch from Viscount Goderich to Sir A. W. Young, dated 23th March, 1833, wherein he is authorized to grant to Mr. Stewart, or any other proprietor under similar circumstances, who may apply to him, a lease on equitable conditions, of such parts on the space of 500 feet above high water mark, reserved to the Crown as may border on the property of persons applying to him." From the whole of the com-

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respondence out of which I have read these extracts, I conclude the proprietors have no right whatever to these reserves. The opinion of the Crown law officers taken in 1844 in reference to this question is found in the Journal of that date, appendix C. This opinion goes to show that where the land was reserved in the Crown, the proprietors had no right to it whatever. It appears to be on the same footing with the Clergy Reserves.

Com. RITCHIE.—Assuming it to be questionable that the Government have a right to grant the fishery reserves for agricultural purposes, what would be the result?

Mr COLES.—According to the opinion of the crown law officers they have no such right.

Com. RITCHIE.—You misunderstand me. Were it thus that the Crown could no more grant the reserves for any other purpose than it could a road, what would be the practical result?

Mr COLES.—I may assume that it could not; but the Government should be the conservators of the public interest, and see that the proprietors did not appropriate them.

Com. RITCHIE.—Is it essential for the prosperity of the Island that they be reserved for this purpose?

Mr COLES.—The idea is that the fishermen should have some land to cultivate also.

Com. RITCHIE.—This is not satisfactory yet. Denying that they have been transferred to the proprietors, what use is this belt separating their land from the coast? Would it not accord with public sentiment to have some appropriation of it?

Mr COLES.—Certainly.

Com. GRAY.—We wish to know what is for the interest of the Island. Supposing a person desired to build a ship there, could he build one?

Mr COLES.—There is where legislation is required.

Com. RITCHIE.—Legislation never violates private rights. Supposing the Crown granted them for fishing purposes only, it would be direct violation of the proprietors' rights to appropriate them for agricultural purposes. It appears to me also that if a person builds a ship there, he violates the proprietors' rights.

Com. HOWE.—Looking at the prosperity of the Colony, do you not think that these reserves ought to be broken up and merged into private property?

Mr COLES.—This is what we have been contending for.

Com. HOWE.—If 500 feet were reserved all round the Island, the sea coast would never improve because its settlement would be prevented. Not looking at it as a question of law, but as a practical man, what is your opinion on this matter? Would it not be infinitely bet-

ter if the system were adopted which exists in Nova Scotia, where the sea coast is cut up into small holdings, instead of preserving it as a barren?

Mr COLES.—Yes, but the money obtained for it should not go to the proprietors.

Com. GRAY.—I think it would be for the interest of the Colony, if it could grant this 500 feet for other purposes, instead of reserving it wholly and solely for the fisheries.

Mr COLES.—I think it should be left to the Legislature to deal with it.

Com. GRAY.—Suppose a proprietor in England sold a fee simple to you, and you had no right to put on it anything except what is essential for fishing purposes, do you not think that to give possession of it to another man, would be depriving the proprietor of some right?

Mr COLES.—The proprietors have no right there except as fishermen.

Com. GRAY.—Supposing the British Government could not sell it for any other purpose, and you sold it for another, if the Government called upon you for compensation, would you be prepared to say that you would give it?

Mr COLES.—The Government of this Island, or of Great Britain have never asked for compensation.

Com. HOWE.—In point of practice, have these fishery reserves been fenced down to the water by the inhabitants?

Mr COLES.—They have.

Com. HOWE.—Suppose the proprietors could be brought to such terms as would be beneficial to the colony, would it not be better to let the reserves go into private occupancy?

Mr COLES.—This is what we have been seeking. All licenses have been for fishing purposes. The Legislature wished to pass a bill that the land should be given when required for the fisheries.

Com. HOWE.—Do you contemplate by your law to give the individual a right to the 500 feet, without reference to the proprietor?

Mr COLES.—As the law stands, they are bound to pay rent to the proprietor.

Com. GRAY.—The result of your statements is that it would be better for these reserves to become as other lands.

Mr COLES.—I do not go to that extent. I hold that the right of the fisheries ought to be reserved. The intention of the Legislature was that the Colony should pay a small sum to compensate individuals for their improvements.

Com. GRAY.—Would it not be better to leave those in possession to do what they please with the land?

Mr COLES.—I dispute this.

After some further conversation, Com. Ritchie remarked, we understand you now. That belt is not required for fishing purposes.

Mr COLES.—Not all.

Com. RITCHIE.—Would it not be better for commissioners to go round and lay off particular parts suitable for fishing purposes?

Mr COLES.—I think it would be better to leave it open, and that licenses be granted by the Government.—I wish to direct the attention of your honors to another point. It is not known when your decision on this question will be given. Proprietors of late have been forcing tenants to give notes of hand; but pending the award of this Hon. Commission, I think there should be no enforcement of claims. I consider it resembles a disputed account,—it is never expected that a part of it is to be paid about which the arbitrators are settling.

Com. HOWE.—How much money goes out of the Island annually for rent?

Mr COLES.—Large sums—say £20,000. Sir Samuel Ounard receives more than any other.

The information afforded by Mr Coles having been courteously acknowledged by the Commissioners, he resumed his seat.—

Coun. THOMSON then introduced a Committee from Township 23, the Chairman of which, William McNeill, Esq., presented a statement of grievances, agreed upon at a public meeting held at New Glasgow, which was read by Mr. Thomson, and is as follows:—

Your Committee appointed to prepare and submit a statement of the disadvantages to which the tenants and other settlers have been subjected, by means of their land tenures, on Township Number Twenty-three, beg leave respectfully to report, that your Committee have deemed it their duty to submit for the information of the Royal Commission the following historical statements, from the first attempt at permanent settlement made by the original grantee subsequent to the date of his grant.

It appears the Township was granted by Walter Patterson, Esquire, the first Governor of this Island, to William Winter, Esquire, who had been a subaltern officer in the 12th Regiment of Foot, and had served in Germany under the command of Prince Ferdinand of Brunswick, and fought at the celebrated battle of Minden, but whether the grant was obtained as a remuneration for military services, or otherwise, your Committee have no means of ascertaining. Be this as it may, Mr. Winter came to the Island about the year 1771 or '72, and having brought with his family a few servants and trades-people, established himself on the northern extremity of the Township, fronting on the Gulf of St. Lawrence. The Township was then, and, indeed, nearly the whole Island, an unbroken forest, desti-

tute of all means of communication, except by water, either with the infant settlements that began about that time to be formed, or with Charlotte-town, the capital. Winter's resources being limited, and his habits far from economical, in order to obtain the means of subsistence, mortgaged the Township to Robert Clark, of the firm of Clark & Campbell, of London, who had about the same period established a Fishery at the harbor of New London, six miles from the residence of Winter, which he had named Cavendish, in honor of his patron Lord John Cavendish, which name it still retains. On the breaking out of the American Revolutionary War in 1775, Winter returned to England, re-entered the army, and was in the West Indies during the greatest part of the war; but after the Peace of 1783, having obtained the appointment of Provost Marshal of the Colony, returned to the Island, in order to make the most of his precarious interest in the Township, which he had again mortgaged to a Mr Kirkman of London, for a large sum, obtained at exorbitant interest. Kirkman redeeming Clark's mortgage to secure his own. Winter, after an absence of thirteen or fourteen years, found the Township without a human inhabitant, and having located himself on that part that is intersected by the Hunter River, near to what is now called New Glasgow, he induced several families to settle in Cavendish, where he had formerly resided, giving leases for the term of 999 years, and to one individual executed a Deed in fee simple of a farm, for which he received payment; the leases were at the rate of one shilling per acre, and Winter continued to receive the rents until the year 1805, when he last went to England, where he died, after he had executed a Deed in fee simple for the entire Township to Kirkman, who some years afterward sold it to David Rennie, Esq, of Glasgow, who appointed Mr Peter McAuslane, his brother-in-law, his agent and attorney. McAuslane refused to acknowledge the validity of any tenures given by Winter, on the ground that his title to make any such disposition of the land was superseded by the mortgagee, and brought actions of ejectment against the lessees of Winter; and although he was nonsuited, through the incapacity of his attorney, the tenants were thereby subjected to much harrassing inconvenience and considerable costs, and in the year 1818, when the payment of Quit Rents was enforced, the Cavendish settlers were distrained upon by the Receiver General's Bailiff for the full amount of Quit Rent, and subjected to a ruinous amount of costs attendant upon the distraint, though not acknowledged as legal tenants by the proprietor; and subsequently were compelled to purchase their farms at the rate of one pound per acre, which had been rendered valuable solely by their hard labor and industry,—in reclaiming from the forest what was of no value to the proprietor without their exertions, in which they had persevered without the slightest encouragement from either the original grantee or his immediate successors.

Thus far your Committee have deemed it a duty to recite the history of the Township, as a specimen of the injury the early settlers have sustained through defective title; and now proceed



to remark on the terms that have been imposed at later periods. In the years 1819 and '20, the proprietor sent from the West of Scotland a number of families, consisting of agriculturists and mechanics, to settle the Township, which before this time had no more than ten or twelve families on its whole area of 20,000 acres. These emigrants, though good practical farmers in their own country, had no experience of the difficulty of subduing the primitive forest, in order to their knowledge of the improved systems of agriculture being made available here: the lands were leased to them at what has been deemed an exorbitant rent, rising from one penny to two shillings sterling per acre, in thirty years, and to remain at that rent until the end of the term. Now, it has been estimated, at the lowest calculation, that the reclamation of an acre of forest land into an arable state costs not less than Five Pounds; and as nearly all settlers are without any other capital than their own labor, and most have helpless families to support and to educate,—their surplus produce being merely nominal for the first twelve or fifteen years,—it is only to be expected that arrears of rent should accumulate, producing a paralyzing effect on their energies, discouraging their families, inducing their sons to emigrate to the Western States or Canada, thereby depriving them of the aid of which they had indulged the fond anticipation; whilst in their earlier days they were exhausting their strength and undermining their constitutions by the crushing labor inevitably connected with the process of reclaiming forest land. The residue of the Township has since been settled on equally disadvantageous terms; and in many cases short leases have been given, so that every year as it passes renders the tenure of less value to the tenant and more to the proprietor. Such tenures have been very general on the Island, and their tendency has been most injurious to the development of its agricultural resources,—and if not remedied by some equitable measure, by which the leasehold tenures may be converted into freeholds, the state of the rural population of the colony will be little superior to that of the serfs of the Russian empire, and will continue, as it already has too often been, the dupes of political demagogues, who, in order to secure for themselves power and position in society, have held out to the deluded tenantry hopes and expectations which some of themselves knew well could never be realized.

Your committee are constrained to remark, that the circulating medium of the colony is totally inadequate to meet the demand of the annually accruing rent; and when, as has sometimes been the case, the landlords or their agents have agreed to commute for produce payments, the tenant is under the necessity of submitting to such valuation of the property as may suit the cupidity or caprice of the exactor. And the consideration that the Island, by the length and severity of the winter, is for nearly six months of the year excluded from all foreign markets, the surplus produce is thereby subjected to a depreciation in prices, which operates to the discouragement of production. And in addition to this unhappy state of things, the greater number of the proprietors of extensive tracts of land, being non residents



in the colony, the remittance of rents operates as a perpetual drain, exhausting the limited money resources of the Island.

It is also worthy of grave consideration, that the expense of all public buildings, road communication, bridges and wharfs, has been chiefly borne by the tenantry, who constitute four-fifths of the consumer of dutiable merchandize, and are bound by their leases to pay all Quit Rents to the Crown, and taxes and assessments levied by acts of the local legislature, upon the Township lands of the colony.

It appears by the original grant of this Township, that a Reserve is made of 500 feet from high-water mark on the coast, shores and bays, to all British subjects, for the benefit of the fisheries; but the grantee and his assigns, totally disregarding this prudent reservation, have, by selling and leasing all and every portion of those reserves, thereby precluded the public, a large of all ingress and egress in certain portions of the coast which present the greatest facilities for prosecuting the fisheries with advantage, and from all other benefits that may be derived from that important and increasing branch of industry,—preventing the investment of capital, not only by Her Majesty's subjects, but many enterprising foreigners, who are anxious to obtain locations on the coasts and shores for fishing purposes; whilst the experience of the last few years has led to the itable that such was not the case, as regards the reserves for the benefit of the fishery on the coasts and shores of the Gulf of St. Lawrence, where the water teems with almost interminable shoals, in great variety, of a commodity sure to command remunerative prices in the markets of the world.

Such are some, and only a part of the evils that have resulted from the proprietary grants in general, and that of this Township in particular, to which the tenants and other settlers have been subjected, and to which they most earnestly solicit the consideration of the Royal Commission, believing, as they do, and it is their settled conviction, in common with all loyal subjects of the British crown in this colony, that it could not possibly have been the intention of the Imperial Government, in giving grants of township lands to individuals, to subject the settlers of those townships to a state of vassalage, from which the people of the other North American Provinces are wholly exempt, as regards their land tenures; and have made the foregoing statement of facts, which are susceptible of proof, confidently expecting that the Royal Commission will take the whole into its favorable consideration, and adopt such measures in the premises as may seem best calculated to promote the ends of justice and equity, and allay an excitement that has for nearly half a century greatly impeded the progress, and retarded not only the prosperity of this township, but of the Island, as compared with other Colonies.

Commissioners propose a few questions to Mr. McNeill.—Is there much of that Township held in fee simple? Considerable. What is the term of the leases? From 60 to 999 years. You desire to have them converted into freeholds? Most certainly. What is the value of land? I would give about half of what the

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proprietor asks—10s. an acre—for my own farm, which, how-  
ever, having a water front, possesses advantages superior to  
lands in the interior of the Township. Suppose we gave you a  
clear title for a piece of land extending 500 feet from high water  
mark, what would it be worth? No more than the rest. What  
is your opinion respecting the land tenures? I believe they are  
the bane of the Colony.—From the knowledge I have of the  
feeling of the people, I believe they would rather emigrate than  
pay rent.

Conn. HENSLEY then introduced a Committee from Lot 22.  
Their chairman, Mr Robert Simpson, presented a Memorial,  
which was read by Mr Hensley, and is as follows:—

*To the Honorables J. H. GRAY, JOSEPH HOWE, and J. W.  
RITCHIE, Commissioners appointed by Her Majesty for  
investigating matters in dispute between Landlord and  
Tenants on Township lands in P. E. Island.*

The Memorial of the Tenants on Lot or Township Twenty-  
two, respectfully sheweth—

That we, your memorialists, are settlers on the above Town-  
ship, claimed to be the property of the Right Hon. Lawrence  
Sullivan; and we beg to lay before your Honorable Commission  
the claims which we prefer, and the grievances, privations, and  
hardships under which we have labored, and do still labor, as  
tenants.

In the first place, we would state that the settlement of this  
Township began in the year 1816, about which time ten or  
twelve leases were granted by Mr Haszard, who was then agent,  
at six-pence currency per acre, for a term of 1000 years. From  
his time until 1839—a period of about thirty years—no person  
had authority to let or sell land in the Township. Hence it  
appears that this Lot became liable to forfeiture, not having a  
sufficient number of settlers at the expiration of the indulgence  
of 1826. In 1839, Mr Lewellin having been empowered to sell  
and let, granted a large number of leases on this Lot at one shil-  
ling sterling per acre, for the term of one hundred years, con-  
taining a clause enabling the tenant to purchase at any time  
within the term of lease—which clause the subsequent agent,  
soon after appointed, positively refused to act upon, thus disap-  
pointing certain individuals who demanded a fee simple convey-  
ance of their leasehold interests in accordance with their leases.

In the second place, we deeply regret to have it to state that  
we are involved in large arrears of rent, due to the Proprietor,  
from sheer inability on the part of the tenants to pay—for the  
following reasons, to which we beg leave to call your attention:

1. We believe that in no new country, even when possessing  
superior soil and climate, can the new settler, commencing  
without capital (as is invariably the case here) clear away the  
forest and obtain from the soil a sufficient return to give him  
even a scanty subsistence in a less period of time than twenty  
years' cultivation. In proof of this, we submit that clearing  
away the wood costs at least Four pounds ten shillings per acre,  
while any crop which can be grown will not realize the cost of

removing the wood, together with fencing, planting and harvesting, for many years.

It is true that owing to the burning of the wood where cut down, the potash which is deposited in the soil will force one or even two crops on our best lands; but it is then exhausted and rendered useless for six or seven years. When the stumps are sufficiently rotted to be removed, there is a second expensive operation, costing not less than Three pounds per acre,—thus it requires eight or nine years of hard labor and privation to bring the plough into operation on but a small portion of the farm, during which time the returns are small.

The soil of this Island, owing to its light and sandy nature and the openness of the subsoil, though with sufficient manure, it will in favorable seasons yield fair crops with rapid vegetation yet without manure (which it is impossible for the new and back settler to obtain) it is soon exhausted and becomes barren.

We would in the next place direct your attention to our climate. It is a common complaint among our best and oldest farmers, that the winter eats up all the produce of the summer, and it is a true one. Winter here sets in about the twentieth of November. The experience of some of your memorialists who have kept records of their farming operations has found this to be about the average time when the frost stops the plough. From this time until the May following the cultivation of the soil is entirely suspended.

Your memorialists would also call attention to the fact that to a certain extent the crops have failed for a number of years, particularly the potato crop, which is most suitable to the virgin soil in burned land, and the chief dependence of every new settler. The disease in this plant began about the year 1846. Since this time the crop has frequently been a total loss, and always uncertain. For the last ten or twelve years the wheat midge has prevented the culture of wheat, except a little late sown which is of little value; whilst the circulating medium of the Island has been extracted for the importation of flour.

It may appear to your Hon. Commission that some Townships have paid a greater proportion of rent than we. In answer to this we would submit that on those Townships the rent is taken in farm produce, cattle, and often in lumber which is procured on the farm of the tenant, at we presume a considerable inconvenience and loss to the proprietor, while it is an accommodation to the tenant.

We would also claim attention to the fact that demanding rent for wilderness lands has given dissatisfaction in every new country. In both Eastern and Western Canada it has been a source of contention, as also in parts of the United States. A little reasoning, however, will teach us that it must be so. We have already shown that clearing land and bringing it into even partial cultivation, costs much more than the fee simple value of it when cleared, while the industry and perseverance of a robust man will not for many years afford him and his family a sufficient supply of food and clothes. In the meantime, his rent is accumulating, and perhaps other debts which he can

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scarcely avoid, while he must at least spend twenty years of hard labor and sore privation before he can obtain from his farm, with continual industry, a moderately decent living without paying rent.

We, your memorialists, though tenants laboring under all the disadvantages above stated, and earning our bread from the soil claimed by others, wish to have it understood that we recognize the right and ownership of our Landlord (if original and authentic documents exist to prove the same), but while we thus acknowledge the right, we most humbly and respectfully claim to be dealt with as the circumstances of the case and the nature of the country evidently require, that is to say, that it is our humble and we trust honest opinion that our arrears of rent should be remitted, and that we should be permitted to obtain our farms in fee simple at such a price as every industrious tenant can pay. Farther, we would with all deference to your Hon. Commission suggest that the price be in accordance with the voluntary offer of those proprietors who have sold their Estates here to the Government, particularly the latter, viz., the Earl of Selkirk, whose recently sold lands, we understand to be of good quality.

In support of our prayer that the tenantry generally may become freeholders of the lands which they occupy, we beg leave to give the following reasons, which are of general application.

First, we presume that your Hon. Commission is aware that the question of land tenure in this Island has been a constant source of political agitation for the last thirty years, and we contend that this agitation has had a most demoralizing influence not only upon the people but also upon Legislature of the Colony, inasmuch as those out of power constantly advocated escheat of proprietary lands, while they as eagerly repudiated the same when in power, thereby causing an immense amount of ill feeling, contention and disturbance throughout the Island. A satisfactory settlement of the land question, now, will we firmly believe put an end for ever to these direful evils; but if unsatisfactory we fear that they will rekindle with tenfold force.

2. We submit that the satisfactory settlement of this question is as essential to the prosperity as to the peace of our Island, it being a fact beyond controversy that a discouraged and discontented people make no progress, and such is precisely the state of the tenant portion of our Island. The reason of this is obvious. Thousands are involved in arrears of rent, many of whom owe one pound stg. per acre which amount far exceeds the value of the moveable property on the premises, and are still unable to pay the accruing rent. This state of things paralyzes the energy of the man. He feels that it is useless to attempt even the commonest improvements on a property which under the present system, he must soon lose. In consequence of these hindrances, numbers of our very best young men are continually leaving the Island and settling in other countries.

We believe that not more than one third of the annual rental of this Township has been paid on an average for the last seven

years, and the probability is that for the time to come a larger amount cannot be collected.

In conclusion, we would submit that the granting of this Island in large tracts to be re-let to actual settlers (though nothen fault of the present proprietors) was nevertheless a grievous error having a baneful influence on the prosperity of the colony, which will never cease until modified, and placing us upon a much worse footing than settlers, on new land in Nova Scotia and New Brunswick. We do not wish to infer that the latter settlers do not suffer the same toils and privations as we, but with this difference, that they have no arrears of rent like a threatening cloud hanging over them damping their energy and darkening their prospects.

Lastly your memorialists pray that their Committee may be heard before your Hon Commission in whom they repose every confidence, in support and proof of their allegations in this their humble memorial.

ROBERT SIMPSON,  
ALEX. SIMPSON,  
LAWRENCE HOGAN,  
JOHN SIMPSON,  
JOHN HODGSON.

Committee acting on behalf of the  
Tenants.

Hope River, Lot 22, Sept. 6, 1860.

After the reading of the Memorial, and the proposing of a few questions to the Committee, the Court adjourned.

SATURDAY, Sept. 8.

Hon. Col. SWABEY before the Court:—I am thankful for the indulgence you have afforded in allowing me to appear before your honors. I do not intend to travel over the ground which has been so ably occupied by Mr. Cooper, and shall confine myself to supplementary remarks. If you will permit me, I shall make one or two suggestions. The first is, that it is necessary to receive statements made here with considerable caution. You can scarcely form a correct estimate of the state and intelligence of the people of the Colony generally, by judging from the delegates who appeared before you yesterday. They came from one of the most flourishing districts of the Island. I can show you this by referring to the census for 1827. In that year the population on Township 23, was 1753, and on Township 22, 1369. During that year 17,118 bushels of wheat were raised on Lot 23—nearly ten bushels to each individual; and on Lot 22 only 7,965 bushels. I would beg leave to suggest in the next place, that the value of the information you obtain here, be received in connection with collateral circumstances when your honors travel through the country.—I may now refer to the question which was raised

yesterday, as to whether it would be advantageous to the Colony if the fishery reserves were thrown into private properties; and also in regard to granting licenses of the land for fishing purposes. I may state that when I was at the head of the Land Department, my instructions were to avoid granting licenses where the land was occupied, if I could help doing so.

Com. GRAY proposes a few questions to Mr. Swabey.—Before exercising the liberty of appropriating a portion of the reserves for fishing purposes, was it necessary to obtain a license from the Government? It was. Has the Government ever drawn a revenue from this source? I am speaking of the reserves of the Crown now, and I have never heard of any being received. Has it been understood in the country that before a person engaged in fishing—before he erected a stage on the 500 feet, he should apply to the Government for a license? In the proclamation made by Sir Alexander Bannerman, parties were warned not to erect stages without license upon the lots reserved to the Crown, over which the Government exercised authority. To how many lots did the proclamation extend? It was applicable to the whole island. What number of licenses were issued? About 8. Were these licenses acceptable to the parties on whose lands they were granted? They were. [Mr. Swabey then remarked that some maintained it was by mistake the grants were given with these reserves. He thought the impression at that time was that the prosperity of the Island would greatly depend upon its fisheries, and was of opinion that the Crown reserved these to foster the interests of the Colony in futurity; therefore it appeared to him that any action taken on this point should be with extreme caution.]

Com. GRAY.—You think it would be better for the Colony to reserve these?

Mr. SWABEY.—I do. It would be very easy for the Government to let them on short leases for agricultural purposes, said leases to expire when the land comes to be required for the use of fishermen.—I can if necessary lay before you a few statements respecting the Selkirk estate. I was in the Land office at the time negotiations were going on for its purchase, and am conversant with the facts. The tenants on that estate presented a petition to Lord Selkirk, which was forwarded by me, concerning the purchase of their lands. The people thought that if he would sell to the Government, they might become shareholders. The reply to their petition was that he would be glad to sell, and referred them to his agent, Mr. Douse, respecting the terms. Mr. Douse, who is member of Parliament for the same district, was in England at



this time. I showed the letter of Lord Selkirk to his son, and he remarked that it was a matter of such importance that he could not reply in his father's absence. I, however, did not remain in office, and am not aware of what was done afterwards.

Hon. Col. GRAY.—How many years have elapsed since the late Government held any communication in regard to the purchase of this estate?

Mr. SWABEY.—Since I was in office—I do not remember the year.

Col. GRAY.—Can Col. Swabey state the reason why the Government did not continue their application to Lord Selkirk?

Hon. Mr. COLLE.—The Government were waiting for the Loan Bill to be sanctioned.

Mr. SWABEY.—I think the time lost which was taken up the other day in discussion upon the bill for re-investing in the Crown lands liable to forfeiture, which appears to be missing from the archives. The common right of the Crown could have been exercised without any particular legislation on the subject. The escheat of Lots 15 and 55 took place without legislation at all. This has been the practice in Nova Scotia and New Brunswick. [Commissioners here remarked that they were satisfied on that point.] Much has been said respecting Mr. Spearman's letter. I will mention one fact. By referring to the Journals for 1839, you will find that the late George Young was employed as counsel for the proprietors respecting their consent to the proposed commutation of quit rents by purchase. Subsequently, only, however, to Mr. Spearman's letter does he write signing himself "counsel." He treated of the subject indefinitely, thus: provided the conditions of redemption proposed by the Earl of Ripon were carried out; *provided* all arrears were remitted, &c. Now, if the redemption at so many years' purchase was never made, and the remission of arrears spoken of in connection with that redemption never took place, any argument founded upon it is worth but little. But respecting the 60 years' possession, I need scarcely offer a remark. The learned Counsel will argue that point by and by. It is a maxim, however, recognized by some statutes that possession must be uninterrupted or undisputed to give a title. I think the proprietors have not a legal right to the lands which they claim by possession, as that possession has not been uninterrupted.

Com. RITCHIE.—I think the Counsel will not agree with you. This only shows their possession to be adverse. Intellectual opposition strengthens right by possession.

Col. SWABEY.—I think that protests and objections interfere with the right. The Crown has put its claims from time to time.

Com. RITCHIE.—The claims urged by the Crown do not prevent the 60 years from running.

Col. SWABEY.—I think otherwise. The Crown has from time to time exercised certain rights over the lands of the Colony.

Com. RITCHIE.—It would be important if you could show that such has been the case.

Com. HOWE.—In the acts to which you refer, you consider the Crown exercising its right on account of the non-performance of the conditions of the grants, or for non-payment of quit rents. Is it your opinion that the arrears of quit rents could be collected at any time?

Col. SWABEY.—I am strongly inclined to that opinion.—I desire to make another observation. The Counsel for the tenantry, on the day that this Court opened, were asked to make proposals on behalf of their clients. Will these gentlemen pardon me for encroaching upon their prerogative, when I say that the time had not come for them so to do? Before proposals be made, I would like the proprietors to see they are in such a position that their lands are liable to forfeiture.

Com. HOWE.—We asked not the Counsel to make proposals of compromise; we asked them to define what they expected of this Commission,—did they demand escheat, remission of quit rents, &c.

Com. GRAY.—We desired to know what would suit the tenants. We said to them, "Lay down the propositions which you contend for," &c.

Com. HOWE.—By and by, when this Commission has given a decision, we do not wish any person to be able to turn round and say "You misunderstood the grounds of complaint;" we desire to know first what the tenantry wish us to do, and then we shall have the subject fairly before us.

Com. GRAY.—We are not tied down by what either Counsel say advance. Our object in hearing all parties is to ascertain the feelings and sentiments of the people.

Comm. HENSLEY.—I think I clearly stated at the opening the questions which would come before the Commission.

Com. GRAY.—Certainly. The views of the Government are set forth in the resolutions of the House. It is the desire of the Government, however, that this be an open court, and that every person who has information to afford or grievances to bring forward bearing upon our present business should receive a hearing.

One member of the Government, (hon. Col. Gray) has stated that the Counsel for the tenantry have an unlimited brief liberty to take any position which they please. [Col. Swabey: Others expressed their entire satisfaction with these remarks.]

Hon. Mr. COLES.—I hope the Counsel will consult other parties as well as the Government.

Com. HOWE.—If this be done no person can blame us hereafter that our decision did not embrace all necessary points. As far as we can, we wish to hear from all parties, that every phase of the subject may be brought to our notice.—Assuming that by the Act of 1803, Lots 15 and 55 were escheated by the exercise of the power of the Crown, how did it happen that when the people were in favor of escheat the other Townships were not dealt with in the same manner?

Col. SWABEY.—I think it was owing to interference from some,—that they received no encouragement to prosecute it,—that it could not be done by an act of their own. If the Crown was advised not to be a party to the escheat, it could not take



place here. When the Civil List Bill was passed, and sent Home, we were directed to preserve the Queen's name in all titles of property. I did not perceive the reason for this at that time, but now I see it was for the purpose of enabling us to avail ourselves of her assistance.

Com. HOWE.—In Nova Scotia we had no direct authority from the Home Government, yet we escheated our lands. Why under responsible government was it not done here?

Mr COLES.—The Government thought it would be better to take another course—that the Land Purchase Bill was preferable, and more in accordance with the wishes of the Home Government.

Coun. PALMER reads a passage from one of the grants, and remarks I do not read here that forfeiture was to be for non payment of quit rents.

Col. SWABEY.—I am not prepared to argue that subject now.

Coun. PALMER.—You say persons cannot get portions of the fishery reserves without licenses from the Government.

Col. SWABEY.—I do.

Coun. PALMER.—You gave 6 or 7 you say?

Col. SWABEY.—About that number.

Coun. PALMER.—Were those acquiesced in by the proprietors?

Col. SWABEY.—I do not know what you understand by the term *acquiesce*.—They made no objection.

Com. GRAY.—You say the licenses were acceptable to the proprietors?

Col. SWABEY.—I think I heard some of them say granting them would benefit their estates.

Coun. PALMER.—Did you hear them say they would surrender any right?

Col. SWABEY.—I am of opinion that it would not interfere with their rights.

Com. HOWE.—Did ever any proprietor object to the right of the Crown?

Col. SWABEY.—I never heard of any.

Coun. PALMER.—When you granted licenses, did you not know they could not be successfully carried out by legal objections coming either from the proprietor or tenant?

Col. SWABEY.—I did not.

Coun. PALMER.—Did not representations come to you against granting them?

Col. SWABEY.—I am not aware of any during the time I was in office.

Coun. PALMER.—Were these licenses granted to those who had, or had not land on the shore?

Col. SWABEY.—To both descriptions of persons.

Coun. PALMER.—Name an individual who carried the license into successful operation.

Col. SWABEY.—I cannot without reference.

Coun. HANSLEY then proposed a few questions to Mr Swabey.—Did you ever grant a license to a person named Fitzgibbon?

I did. Where? On Lot One. Did he go into possession of it? There was some dispute respecting it, I believe. Do you recollect who disputed? I do not. Did he refuse to give up? He did. [Coun. Hensley here remarked that this case was still pending.]

Mr. Hogan, one of the delegates from Lot 22, whom the Court had not time to examine on the previous day was introduced by Mr Simpson to represent another class of the tenantry. Mr Hogan's arrears of rent amount to £40 or £50. Thinks he can never pay them. Pays as much rent every year as he is able. Would take £130 for his farm. Finally he desires to know what he may do, supposing the proprietors pounce upon him before the hon. Commissioners have given their decision.

Coun. PALMER thinks that such insinuations should not be thrown out.

Com. HOWE.—I take it that no proprietor who is a gentleman, would put himself in such a position as to encounter public sentiment by committing an act of petty oppression during the time this Commission is sitting.

A Committee from Lot 24 was introduced to the Court by Coun. Thomson, who read their memorial. They attributed the grievances which they and their fathers had borne to the non-fulfilment of the conditions of the original grants. When they obtained their leases, advantage was taken both of their necessity and ignorance. The term, of their leases are from 2s to 2s 6d per acre. Ejectments for non-payment of quit rents have occurred in the Township. The proprietor was called upon in the Supreme Court to produce his title, but did not. From that period the tenant whom he brought to court, paid no rent. Their opinion is that there never will be a contented people till the present system is abolished. Their proprietor is an absentee. There are two restrictions in their leases. One is, the tenant cannot sell without a writing from the proprietor. The other is, cannot sell unless a person makes an offer for the land. Many persons are settled on the Township without leases.

Coun. HENSLEY then read a memorial from Mr William Cousins of Lots 20 and 21. His father came to this Island in 1700, and bought 100 acres of land from Mr Haszard. When he had cleared a part of it, and built a house, a Mr Cambridge came along and threatened to take proceedings against him. The Governor of that day advised him to remove to Lot 20. He did so, and in less than three years, a Mr Stewart laid claim to the property there. Mr Cousins valued the land on that Township from 5s to 10s an acre. Mr Cundall, the proprietor, being present, was asked by the Commission what he would say to that valuation. He replied that he would object to it. Some time since Mr Cousins had offered Mr Cundall 20s an acre for the farm, but the latter wanted that much Halifax currency.

A memorial from Township 65, was next read. The tenants there complain that they were compelled to take new leases, at their rates of rent are too high &c.

The Court adjourned.

MONDAY, Sept. 10.

CAY. ABERCROMBIE WILLOCK appeared before the Court, and after reading from a petition which had been forwarded by him to Her Majesty, he handed it and another document which he held, to the Commissioners.

Mr W. H. POPE presented to the Commission a paper in the hand writing of Mr Cambridge, purporting to be a copy of the Act of 1803, which copy contained a suspending clause.

Coun. HENSLEY handed in a certified copy of the grant of Lot 1, and of Lot 6, which contained the reservations of the Crown.

Coun. HENSLEY then introduced Mr Wise from Lot 32, and read his memorial. Mr Wise came to this Island in 1830. Some of the Loyalist land was leased to him by Mr Curtis, agent for Mr Cambridge. The Counsel remarked, as this is a private case I question whether your honors will take it into consideration. The principal complaint of Mr Wise is, that he cannot sell his property. He has been distrained upon for two years' rent by Mr DeBlois. He is willing to pay to the rightful owners.

Com. RITCHIE.—Why can you not sell your property?

Mr WISE.—My lease is no good

Com. RITCHIE.—You took a lease 30 years ago, have paid rent ever since, and now you wish us to step in between you and the parties to whom you have paid rent.

Com. GRAY.—Our object is not to interfere with the ordinary tribunals of the country, but to ascertain how you may purchase your property from the owners at a fair price. We have come to look into the whole matter, and to lay down a rule by which you and others may purchase.

The Counsel on both sides then proposed a number of questions to Mr Wise.

Coun. HENSLEY.—There is a respectable body of men present from Lot 34, who will testify to the value of land on that Township, &c. The members of this delegation are Messrs. J. Robertson, J. S. McLeod, G. Deacon, I. Thompson, and D. Douglass. Mr Hensley then read the resolutions which were passed at a public meeting in which they expressed their confidence in the Commissioners, and desired their lands on the same terms as the Selkirk estate had been sold to the Government. With respect to the fishery reserves, in the event of their being forfeited, they wished that the parties occupying them should be privileged to retain them by paying a small sum annually into the Treasury.

Com. GRAY.—Have these reserves been held by the persons occupying them by the same tenure as the adjoining lands?

Mr ROBERTSON.—I think so.

Com. HOWE.—If you five gentlemen had this question to decide, how would you settle it? [Laughter.] As candid men, tell us how you would restore peace to the Island?

Mr DOUGLASS.—I would look at the state of the country when first inhabited. In looking at it now, I would consider the people as possessing the labor of their fathers. As the land was reclaimed from the forest by much labor and expense, and that

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our own, I would look at what it was worth when the people first settled upon it, and fix that as the purchase price for the tenant.

Com. HOWE.—Would not the fair way be to look at what wilderness land is worth now? Would it be just to go back and regulate prices now by the value of land at that period?

Com. RITCHIE.—Assume now that the landlords have good titles, and they receive £5 rent annually for 100 acres. how are their rights to be respected if the lands are to be sold as you propose?

Mr ROBERTSON.—I have no inclination to contend for a single farthing. I would treat their case in two ways, namely, by taking into consideration those who have good titles, and those whose titles are questionable.

Com. RITCHIE.—Assuming a proprietor had a good title, what would you say?

Mr ROBERTSON.—20 years' rent.

Com. RITCHIE.—The people appear to be actuated by a fair spirit.

Com. HOWE.—Take the case of the man who has had to work his way into comfortable circumstances, when you name 20 years' rent do you think it would be fair to give that much now to purchase the land out and out?

Mr ROBERTSON.—When I obtained my land it was not worth a single penny; yet if the titles are good, I am willing to pay a reasonable price. But I contend we ought to consider in the valuation what it was worth at first.

Com. HOWE.—Suppose an old officer received 20,000 acres of land as compensation for his services, and suppose he took it without due consideration, like the people with their leases, and that he discovered he could not comply with the conditions: you would not press him to the wall? and suppose some agent plundered him and you, so that he received but little from it, as candid men would you go back and look at the value of land years ago; or do you not think looking at the rights of all parties, there should be some consideration on account of these circumstances?

Mr ROBERTSON.—We have paid rent ever since; we have toiled hard under inconvenience, cut down the forest, cleared the land, and thus enhanced its value; besides, the wood on it at that time was not worth a farthing.

Com. RITCHIE proposes a few questions to the delegates.—How long since you settled? 40 years. Was it known to you that you would have to pay rent? Yes, land in Britain was £2 or £3 an acre, and oh, a shilling we thought was nothing! We came, took acres from some land-sharper, not knowing what we did, and when once settled we were loath to leave. Are not people doing the same now? Yes, they cannot help it, but our young men are going away. We pay £5 a year, but let us explain what that means. It takes a good man to cut down 2 acres the first year; for these there is paid £5 or 50s.—the rest of the farm being worth nothing. After this, it is 7 or 10 years before you can have one single acre of clear land. Supposing 10 acres are cleared; well then there is 10s an acre to pay for it; when 20

acres are cleared, the man begins to be somewhat comfortable, yet even then it costs him 5s. an acre,—the remainder being worth nothing unless it be for the beach nuts which the pigs eat. Com. HOWE interrogates Mr Thompson.—In the administration of this system have you met with harshness? No. Has the proprietor spent money for improvements on the Lot? Not any. It is a system which retards the development of the resources of our country.

Com. GRAY.—No doubt about that. A man who pays rent never sees the end of it. It is a very long chain. What would you be willing to pay to convert your farm into a free-hold? Something less than 20 years' purchase—2s 6d. an acre. You would like to make a good bargain; we all like to do that I suppose; but we do not want you to tell us how good a bargain you would make, but what would be a fair price: we will consider other things by and by—whether lands are liable to forfeiture, or whether there ought to be a remission of back rents &c.—tell us what you think would be the fair value? I would give 7s. an acre.

Mr COLES.—Your honors will remember that this is one of the best townships on the Island.

Com. HOWE.—Suppose all the titles of these estates pronounced perfectly good, and rents fixed for ever on the Island, do you think a large number of the people would leave the country?

Mr THOMPSON.—I believe as many as could get away would.

Coun. HENSLEY questions Mr McLeod.—You live on Lot 84? Yes. You have land leased on Lot 35? I have. What are the terms of your lease on 35? The term is 70 years; rent 1s 6d, rising to 2s; some with longer leases rise to 3s. It is one of the best lots on the Island? It is. Has the title been disputed? No. Do you think it a good sample of other lots? It is as different from some of them as day is from night. How long have you been settled? Twenty years. I have paid £115 in rent. I have nine sons, who, having no chance, must go to Canada or elsewhere. Many of our young men would remain if they could get land at a moderate rate. It is a hardship to see fine young men leaving our shores—and for what? Sheer tyranny. If proprietors would sell their lands they would need no agents and might pocket the money.

Com. GRAY.—Will you set a value upon the land?

Mr McLeod.—I pay £5 for 100 acres. I paid £2 an acre for cutting down; and £3 for clearing it, &c. All done, my farm is worth about £400—now, making these deductions, what is left would for the land? Nothing. Still, after paying £115 in rent, I be willing to give 10s. an acre for the fee simple,—a high figure.

Com. HOWE.—You do not intend this to apply to other lands on this Island? No; I am near a pocket, others are not.

Com. GRAY.—Taking the island generally, how many years would you give in which to purchase? Ten. Several questions respecting the fishery reserves were put to the members of the delegation. They concluded it would be better for each man to own what was on his own farm, and if a person wanted a piece of land for fishing purposes, to let him go to the owner and make the best bargain for it which he could.

Mr. THEOPHILUS STEWART before the Court.—Mr. Stewart after making several introductory remarks, proceeded to narrate the particulars respecting the trial and imprisonment of Neil Darrach, who, being incarcerated for rent, lay in jail about nine months.

Com. HOWE.—Mr. Stewart, you have mistaken our jurisdiction.

Com. GRAY.—We thank you for the clearness with which you have spoken. You have left no doubt upon our minds that we cannot adjudicate upon that case.

Mr. S.—I wish to say something about the aborigines of this country.

Com. HOWE.—How many are there?

Mr. S.—About 300. When this Island was granted away, no provision whatever was made for these people. They were looked upon in quite a different light in the neighboring Provinces, where, they are "in clover" when compared with the Micmacs here. For many years, they and the range of this Island; but as the Legislature and individuals have extended their power, they have shut the Indians out with little else than the sea before them. Being driven from a small island which they occupied, they took possession of another—Lennox Island. Up to 1856 they were regarded as isolated from the rest of the community. Since then, a transcript of the Nova Scotia Act respecting the Micmacs has been passed here. For 50 years, they have been in possession of Lennox Island. About 16 years ago, a gentleman who occupies an elevated position in the present Government, endeavored to dispossess them. What they complain of is, that they are deprived of the benefit of marsh upon which about 30 tons of hay are annually cut. I desire to bring these facts prominently before you, as the Indians are in danger of becoming extinct.

Com. HOWE.—If by and by we discover there are any forfeited lands, we may consider their case. You have brought before us a fact which has not previously been presented to our notice.

Mr. G. W. DEBLOIS before the Court.

Com. HENSLEY.—You are agent, Mr. DeBlois, for Sir Cunard? I am. What part of Queen's County are you agent for? For half of Lot 20, for Lots 21 and 32, and part of 48, 49 and 65. How long have you been agent? 10 years. What are the terms of the leases? Cunard's are for 999 years. The rent varies from 1s. to 1s. 6d. stg.; in a few instances persons give more. Any special terms in any of them? In some, the tenant is required to clear 3 acres the first year, and build a house.

Com. GRAY.—How much rent is due Cunard in this County?

Mr. DEBLOIS.—About £5000.



Com. GRAY.—Has much of this been long standing?

Mr. DeBLOIS.—In Queen's County the average would be three or four years.

Coun. HENSLEY.—Can you state the amount of receipts for last year?

Mr. DeB.—About £3,500 for his whole property in the Island. Out of this there is paid for Assessment about £280.

Coun. HENSLEY.—What is the average expense of collecting these rents?

Mr. DeB.—About £300.

Com. GRAY.—What amount do you expend in the improvement of the estate for the benefit of the tenants?

Mr. DeB.—We expend some on bridges and in opening roads. What is expended in this way assists the tenants to pay back rent. In Prince County large amounts of rent are taken in produce, and sometimes we lose upon it. We give the highest market prices.

Coun. HENSLEY.—Respecting Lot 32, is it entirely leased? Are the tenants in arrears? Yes, about £450.

Have you been selling land in fee simple? Constantly. At what? Twenty years' purchase, when all the rents are paid up. Have there been any ejectments for arrears during your agency? Not of parties in regular possession. Many cases of distraint in Queen's County? Twenty odd this year. For what sums? Some for £15, others for £20, or more. Any fishery reserves on your Lots? I cannot tell you anything about that, you can refer to the grants. You do not reserve any? No: I consider they belong to the proprietors till wanted for fishing purposes. You lease down to the water and take rent for them? Yes. Can you state what arrears of rent are due Mr. Cunard for the whole Island. Not just now. Can you give an approximation? I think about £10,000 in King's County and £5,000 in Queen's County. How far back do they run? Some portion of the arrears commenced thirty or forty years ago.

Com. GRAY.—Would it not be better to wipe off these arrears and commence anew? That will be for your Excellency to decide. You speak of 20 years purchase, do you think that a fair price? I do. Do you think it would be for the whole Island? I cannot answer your Excellency, as I know not what proprietors in general would think a fair price for their lands. Do you think they could redeem their farms at that? I do. In Lot 32 they do not seem inclined to purchase. I know that the terms upon which lands are obtained here from private individuals are much easier than they are in Nova Scotia, New Brunswick or Canada. In Canada interest is charged upon the purchase money, and wild lands sell from \$1.50 to \$20 per acre. When a man takes land here, he gets it free for the first year or so, then the rent is only 3d, next 6d, rising to 1s. an acre.

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Com. RITCHIE.—Notwithstanding, do the people not find it hard to make a living, and pay even at these rates? I have travelled in the other provinces, and considering the terms upon which lands are obtained there, and seeing the quality of the lands here, I have always considered the terms very easy indeed. What is the value of farms here? From £300 to £400. Many are sold for £500 and more.

Com. HOWE.—Assuming that this is the real state of the case,—that this Island originally belonged to Nova Scotia, that some individual induced them to form it into a separate government, that he agreed to make stated payments to the Government, and to expend money to improve the country for the benefit of the inhabitants, say this Island was granted on these conditions, assume that these conditions were never fulfilled, and that he has drawn, nevertheless, a large revenue from these people,—does not the question assume a quite different aspect? If that man got these lands under false pretences, and upon conditions, which, at the point of fact he never fulfilled, what right had he to waylay a poor fellow drifting about, convert him into a tenant, make him pay rent for many years, and, finally sell it to him at 20 years' purchase. (Laughter.)

Mr DEB.—If men drifted into the Island, they took land of their own free will.

Coun. THOMPSON.—You have seen the original grants, Mr. DeBlois? One or two of them. That would be a sample of the others? You know Sir Samuel Cunard? Yes. You do not pretend to say he complied with the conditions of these grants? He did not receive his rights from the original grantees. He took their rights, however, subject to the burdens attached to them? How much money have you remitted to the Home Government for quit rents? None. You have access to the books,—have any been paid before you came into office? [Coun. PALMER.—You had better ask him first if any are due.] I think Mr. Cunard never paid any quit rents, because he was never asked for them.

Well, then, it comes to this; Mr. Cunard is in a position to take £2000 annually from this Colony and not give one shilling? He pays at least 10 per cent. taxes on the money which goes out of this Island to him. Then you are not at all astonished at Cunard taking and holding these grants, which involved arrearages of rents due the crown; you are not at all astonished that he allows these to remain unpaid? At the least. You think these gentlemen under solemn covenant, who agreed to these conditions, can come here with a face and say, we owe nothing? It has not been legally proved they do owe them. That is another thing altogether; a fact may have an existence and its existence may not be able to be proved, but is it not a fact they are in arrears? I believe not. What? From the claims in the grants



having been given up by the British Government. Unconditionally! I am not aware they should pay quit rent. Do you mean to say that the arrears were given up? Yes. What is your evidence? I know from a common sense view of the matter. Do you hold this seriously as your opinion, that the British Government without any consideration remitted all arrears of rent due by the proprietors? As far as my knowledge goes I believe they have. As an honest man do you not think a large amount of arrears is due to the British Government? I think not. Then as an act of grace they were given up by the crown; and assuming this to be the case, are you prepared on behalf of the landlord as another act of grace to say you will give up all arrears of rent to the tenants? You will remember I am acting as agent. I assume you are the proprietor, then, and with this great act of grace sent to you by the crown; do you find it in your heart to extend a similar one to the tenantry? Did it ever strike you that the tenants as a body are inferior in intelligence to the proprietors? A great many of them, replies Mr. DeBlois, are intelligent men. I believe they are equal to the proprietors in many cases. I do not doubt that for a moment, continues Mr. Thomson, I believe many of them are educated gentlemen; but taking them as a class. I imagine the example of a proprietor has some weight; now, if a proprietor with his superior intelligence sets the example of repudiating arrears of rents due the crown, may not the tenants also do the same with respect to the back rents which they owe the proprietors? No reply.

Com. GRAY.—I have two or three legal questions to submit to you, gentlemen of the Bar, respecting which I desire your opinion at the close of this case. They may have a bearing upon the settlement of this question. The questions which I submit are the following:—

- 1st. Whether special conditions of settlement in grants not complied with, after the lapse of 60 years, can be considered as abandoned? Or could ejectment in information for intrusion be sustained 60 years after condition broken?
- 2nd. Whether there are any circumstances in the case of the grants of Prince Edward Island which would take them out of such general rule?
- 3rd. If so, briefly state such facts, and the particular grants to which they would be applicable?
- 4th. Where rent is reserved in a grant or deed payable annually, does not the statute of limitations apply, to bar recovery twenty years after each time of payment?
- 5th. If any such rule exists, are Quit-rents reserved in grants from the Crown, any exception to such rule?
- 6th. Has the term "retrospectively" in the Despatches, any and what effect?
- 7th. Assuming the statute of limitations to be running as against the Quit-rent, is there anything in the Land Assessment Act

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which would prevent its running as against the Quit-rents be-  
coming due during the twenty years preceding the first passing  
of that Act—and could such arrears be now recovered in a Court  
of Law?

h. Explain legal position of Fishery Reserves.

The Court then adjourned, to meet at St. Eleanor's on  
Wednesday, at 10 o'clock.

### WEDNESDAY, Sept. 12.

The Court met in the Court House at St. Eleanor's this  
day according to adjournment.

Com GRAY.—I desire Mr Hensley that you should state  
the object of this Commission,—that it is to inquire into  
the differences at present existing between proprietors and  
tenants. It is of a general more than of a particular  
nature. We wish to see by what mode the present system  
which causes dissatisfaction can be removed, and a better  
one introduced. We wish it to be understood that we  
are not here to enter into private disputes, nor to super-  
sede the ordinary tribunals of the country; but to inquire  
generally into the whole system, and to solicit not from  
the Counsel for the tenantry in particular, but from the  
people generally all the information they can afford  
touching any thing which points out or shows that the  
system is working injuriously for the country.

Coun. HENSLEY.—There is one question which I wish to  
touch, touching the powers of this Commission. Suppose  
there are present representatives of single townships,  
to come here seeking redress independently of the  
general question,—persons to whom parties coming  
requiring them to pay rent cannot produce titles;  
we desire to know if your Excellencies will take those  
persons' case into consideration, and decide whether the  
parties who claim the land have a right to it. There  
are several such persons here, and they have requested  
the information.

This inquiry elicited a somewhat lengthy discussion.  
It was argued that this question would come within the  
province of the ordinary tribunals of the country, that  
before there ought to be any investigation into the vali-  
dity of the titles, the opposite parties should be present—  
that inquiries would necessarily require to be made into  
the disposition of property, whether by wills or other-  
wise.

Com. GRAY.—We have perfect liberty to say it is a  
bad system, that it has carried many out of the country,  
that grants have been forfeited, that arrears of rent  
ought to be given up—these and other things come with-  
in the general question; but when individual cases arise

they must be determined by the ordinary tribunals of the country. We may decide that arrears of rent be given up, that the man who has a leasehold farm shall have the opportunity to convert it into a freehold at a reasonable rate;—in this case you have brought up or supposed however, the owner must prove his title in the courts of the land. I believe no person present would ask us to deprive any man of his rights without giving him an opportunity to defend his claims. It would be unjust to adjudicate upon this case on the testimony of the tenants without affording the proprietors an opportunity to make good their claims.

Com. HOWE.—After we have collected all the evidence we can, and heard generally from both parties, it may happen that this Commission may be compelled to go into a more particular investigation. At present, however, we hope to be spared this labor.

Com. GRAY.—We have a perfect right to say that owing to the peculiar circumstances of the Island these tenants ought not to run so many years back; but we cannot say that Mr Jones, or Mr anybody else does not own this or that piece of land because he cannot trace his ancestry. Gentlemen around must feel that we desire to accomplish all we can. We are prepared to go into any particular case which has a bearing upon a general principle.

Com. HOWE.—Suppose that witnesses were now present, to show that the minds of all in the country are distracted about proprietary titles, that would be perfectly legitimate evidence which we might hear at once.

Coun. THOMSON.—For the information of parties present, not for your honors at all, I think it important to mention the position which we occupy. I hold in my hand a copy of the resolutions of the House of Assembly, in which certain propositions are laid down, and to which the Government are pledged. I stand here as Counsel for the Government on behalf of the tenantry to the extent of carrying out these resolutions; but I am instructed to state also, that it is their anxious desire, that I, on behalf of the tenantry, if they wish it, should, advocate their (the tenants) views much further than what is embodied in these resolutions. I am not restricted in any way. I state this to be my position, in order that any body of tenants, or individual persons, who may choose to bring their case before me, may feel at perfect liberty to do so. Further, it is not generally known whether the proprietors who have not submitted to the Commission will be bound by its decision. I may remark as regards the Act to give effect to the award of your Excellencies, its wording is so full and explicit, that it is my opinion, and I believe Mr

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ment agreeing to the Commission are as much bound by  
decision as those who have.

Com. GRAY.—Will you read the Act?

Coun. THOMSON reads it, and remarks this Act passed  
the Legislature speaks for itself. We are aware of no  
mitation respecting certain persons. It shows that it  
affects the rights of all.

Coun. HALLIBURTON.—I believe it is the desire of the  
proprietors that the award of this Commission be a final  
settlement of all disputes in regard to the land tenures of  
this Colony. I understand it is equally their wish with  
the tenants that the whole question be fully investigated  
this Court; and I sincerely trust and believe this  
investigation will be as full as possible, and that it will  
never settle these disputes. The desire is that the  
tenants come forward and state their cases so that the  
objects for which this Commission was appointed may  
not be fruitless. Any expression of opinion respecting  
persons who have not agreed to this Commission, is, I  
think, unnecessary.

Coun. HENSLEY.—I am sure we are gratified to hear  
these sentiments expressed by our friend Mr Halliburton.  
It is the wish of the proprietors, equally with the  
tenants, to proceed with the investigation, we will go  
forward more quickly than ever. At some time, I hope,  
Mr Halliburton will not consider anything which we may  
advance mere clap trap.

Com. GRAY.—We cannot say what Mr Halliburton may  
think, but we will prevent him from expressing himself  
uncourteously.

Coun. HENSLEY then read the resolutions which were  
passed at a meeting in Lot 1. The people there had ap-  
pointed Mr Benjamin Davies to represent them before the  
Land Commission. Besides Mr Davies, Mr Conroy, M.  
P., Hon. James Warburton, and Mr Doyle, M.P.P.,  
were present as delegates from that section of the country.

Hon. Mr WARBURTON addresses the Court.—I represent  
the district from which I come several years in the  
House of Assembly. It will afford me pleasure to com-  
municate to you any information which will forward the  
business of this hon. Commission. I presume it will first  
be necessary to show the feelings of the people against the  
proprietary system, and state what they consider to be a  
fair demand for rents. Not long ago that part of the  
country was in an actual state of rebellion. I think it  
was in '46, that nearly the whole population—about 600,  
assembled to attack the peace officers. The sheriff had  
been restrained upon them for rent. I was called upon to aid  
him in arresting those who had violated the law. When

I entered the settlement, I met about 500 men armed with sticks and guns. I remonstrated with them. The sheriff succeeded in arresting the ringleader of the disturbance. It is my opinion that we could not have raised a sufficient force to have resisted that body of men successfully. Persons passing the road at that time were seized and had their papers taken from them. From these facts you must see how injurious the system is to this country. The Colony can never thrive as long as it is carried out. The opinion that the original titles should be investigated is growing stronger every day. This opinion was fully allayed some time ago, by the Land Purchase Act—an excellent measure, had it not been thwarted by the Opposition of that day. I lost one Election in that district because I opposed escheat in every way. Proprietors exerted themselves, and succeeded in thwarting the Loan Bill. I opposed escheat once; but, considering the obstacles which have been thrown in the way of the Purchase measures by the proprietors, had I an opportunity again I would support it. Your honors have stated that private questions cannot be entered into; but I cannot well discuss the general question without adverting to individual cases.

COMM. GRAY.—That is quite admissible.

MR. WARBURTON.—The system is certainly an extraordinary one. Three gentlemen Mr Palmer, the leader of the Government, Mr Yeo, the driver of the Government, and Mr Anderson proceeded to Lot 3 to take possession of some land which Mr Palmer claimed to belong to him. The occupants of the land refused to attorn to him or any one else. Mr Anderson was directed to survey the property. The people on the land were under the impression that placing his compass upon it was taking possession, and so would not allow him to proceed with the survey. These facts are generally known. I will now instance the manner in which an agent of one of the largest proprietors, treated one of his tenants who in some way had displeased him. You are, I presume, acquainted with the One Ninth Bill. Sterling is mentioned in the leases, which virtually makes 1s. to be 1s. 6d; but the practice was to take the shilling with 1/9 added. Mr Gordon, one of the oldest and most respectable inhabitants of Cascumpee, who has a son a missionary in the South Seas, and who has spent his whole life on a farm on Lot 4, had purchased a property on Lot 3. Mr Peters, the agent, endeavored to run a line by which he would deprive Mr Gordon of part of this property. The agent, however, could not gain his point by law, and to obtain revenge exacted British Sterling for the rent. Other cases of the same nature have occurred on the

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land. I may now refer to another point, namely, the  
loyalist question, which has agitated the country. One  
the loyalists, a Mr Meggison, Captain of an East  
diamond, who was subject to epileptic fits, falling out  
a canoe was drowned. The proprietor, where this  
loyalist's farm was situated, Mr Hill, however, afterwards  
liged his wife to attorn to him as her landlord. This  
circumstance shows how this portion of Her Majesty's  
objects have been treated.—Here is an agreement given  
a party renting land, in which besides the usual  
ords of such a document, we read the following:—"The  
ed James Yeo does not bind himself to grant a lease at  
esent as he has not the power to do so, but as soon as  
gets power he will grant a long lease." This is only  
e out of hundreds of this sort of agreements which  
ve aroused the tenantry. I will now read a clause in  
e lease of Robert Vincent, who is a tenant of Mr Robert  
uce Stewart on Lot 10:—

"Except all timber trees, which are only to be felled by the  
d Robert Vincent, his heirs, executors, administrators, and as-  
ns, as the land is cleared for agricultural purposes, and for  
ber to be used only for building purposes on said premises.  
d saving and excepting to the said Robert Bruce Stewart, his  
rs, executors, administrators, and assigns, the power and  
ht of making, or to the consenting to the making, through or  
or the said premises hereby demised, any tram-rail or waggon  
de, drains, watercourses, ponds, dams, weirs, and other  
imilar works and conveniences, paying to the said Robert  
cent, his heirs, executors, administrators, and assigns such  
mages as he or they may thereby sustain, and the fair value  
the land so taken, at the same rate per acre as the rest of the  
rm is let per acre, the damages to be ascertained by arbitra-  
rs mutually chosen, or their umpire, in the usual manner, who  
ll, in ascertaining the damages, take into consideration any  
rovements the said Robert Vincent may have previously  
de on the land taken for such tram-rail, or waggon roads,  
ins, watercourses, ponds, weirs, and other similar works  
and conveniences.)"

Mr WARBURTON.—From my knowledge of the affairs of  
this Island, I know that upon a farm it is as much as a  
man can do to keep himself and his family from starving;  
to clear my farm, has cost me about £5 an acre. I have  
lent £1000 on buildings, and I believe I would not, to-  
day, get £1000 for my property from any one. I saw the  
mode of the rent-paying system, therefore I recommended  
General Welsh to sell to the Government the Lot for  
which I was acting as agent, and he did so.  
Com. GRAY.—It would appear they do not encourage  
mining in this country.

Mr W.—Mr Conroy can show you one of Mr Cunard's  
leases which has a clause in it similar to the one in Mr  
Stewart's.



Coun. HALIBURTON.—I think it would be difficult to find leases anywhere without such clauses. I think it is customary to insert similar clauses in leases in all countries.

Coun. THOMSON.—I am much obliged to my friend for admitting that all the leases on this Island have these clauses.

Coun. PALMER.—Many took leases just for the sake of cutting the timber which grew on the land.

Com. HOWE.—These leases might do in England where there is no timber, but it is hard to tie down a poor fellow in America in that way.

Coun. HALIBURTON.—It is open to be shown that advantage has been taken of these clauses.

Com. GRAY.—I understand Mr W. to argue, that, under such leases, they have the power, and that this power is inconsistent with the general welfare.

Mr W.—When I came out here, I had the power to grant such leases; but I refused to act, if I could not give people leases by which they could live.

Com. GRAY.—In our province a man likes to sell wood, knees, &c., off his farm, to help him along while he is clearing it.

Com. HOWE.—I understand it: here is a poor man; he is made to sign a lease which is full of pit falls: if this poor man falls into the hands of an arbitrary proprietor, he can say to him at any time, it is never his or.

Mr W.—Just so; and there are many of these unfortunate wretches who dare not, for their souls, even give up these documents. I may now refer to a threatening letter which was sent to one of the people by Mr Yeoman, which I published in the *Examiner*. And here I would remark that many of the people are in such a state of bondage that they dare not come before this Court to state their grievances. Such is the system which is working against this country. If the landlords themselves were living in the country, it would not be so bad; their agents, who get their living in this way, cause the trouble. A few days ago, for example, a deputation from Lot 10 waited upon me, desiring me to attend a meeting in their district: I did so. When the people assembled, an understrapper of the proprietor, Mr Nichol, came also. He is wood-ranger for Mr Stewart, and when he came he wished to know if they would deprive Mr S. of his rights. The fact is, the people were sent home without doing any thing. Some of these people are present. They can corroborate my statements.

Com. HOWE.—Do I understand you to say the people are afraid to come to this Court?



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Mr W.—Such is the fact; and what can be expected from such a system? A committee was afterwards appointed to draw up resolutions to present to this Commission. Here is a copy of them, and you will see how mild they are. Here Mr W. read their resolutions. They merely stated that they could never be happy or prosperous under the rent system; that they were anxious to become freeholders, and would use every exertion to comply with the terms which the Royal Commission might propose.] Respecting the actual value of the land, I may make a few remarks. I have 600 acres in my farm; of these 150 are cleared. The clearing and fencing cost me £1000; and if you place the value on the improvements it will come to about 7s 6d per acre, that is, if my statements are borne out. I am not ashamed to say I work for my living; but I maintain that people in this country, without means, cannot make a living out of a wilderness farm. There may be a few exceptions. You will find many farms cleared in this Island, but the persons who cleared them do not now own them.

Com. Howz.—Do you mean to say that these fine farms we have passed have changed hands?

Mr W.—I believe many of them have. In fact, if a man clears a farm, a present of it to him would be all it is worth; still if the titles are good, the people would not object to paying the price at which the Government has sold their lands.

Com. GRAY.—What is that?

Mr W.—Some for 10s an acre, and some for 1s 6d.

Hon. Col. GRAY.—I wish to elucidate a point. They were not, properly speaking, Government lands; but were bought by the Government under trust; and the Government was bound to sell them for a sum which would pay expenses.

Mr W.—It was purchased by the Government, though not properly speaking, Government land.

Hon. Col. GRAY.—May I ask Mr Warburton if he has stated that the people would not object to the terms which he has now mentioned? Would they pay 7s for lands worth only 1s 6d an acre?

Com. Howe.—I understand you to say, Mr W., that the people would not object to pay 10s for the front lands; 5s on the back; and for the poorest on the back, they would not give 1s 6d an acre?

Mr W.—Yes; and including a proviso respecting the time allowed for paying.

Hon. Col. GRAY.—Does not Mr Warburton think that if another plan can be adopted, such as the payment of instalments to the landlords, with reduction of rent, would it not be preferable to subjecting himself to the provisions of a Land Purchase

Bill? For my own part, I would like to see the tenants have the liberty of paying an instalment when they pleased.

A little altercation taking place between parties at this juncture—

Com. GRAY remarks—Our object is to elicit full information.

Coun. PALMER.—I think that one acting upon the proprietors' interests, would better understand the question if Government matters were left out of the investigation.

Com. GRAY.—I stated before, that, in this Court, we did not confine ourselves within those limits which were recognized in ordinary Courts. Though there may be occasionally a little ebullition of feeling, we can make allowance. We, however, apart from the politics of the Island, are here conducting a fair inquiry. Men long in public life know that it is difficult, on such occasions, to exclude party feeling. We felt that, as the counsel represented the tenantry, the questions should come through them. We allowed Mr Warburton to make the statements he desired, [and questions may be put to him by a member of the Government, or by any other party, so as to elicit all the information possible.] We have opened our Court in the most liberal way; therefore it would not be fair to exclude Col. Gray.

Coun. PALMER.—Col. Gray is here on the part of the Government.

Hon. Col. GRAY.—I am not here as a member of the Government, but as a private citizen, native born, seeking the public good. Counsel for the tenantry have been appointed, but that does not exclude a private man from coming here to render aid in eliciting information.

Com. HOWE.—Mr W. you have mentioned a very important point, touching the liberties of the whole Island. It is useless to bestow free institutions on any country, if the people are not allowed to vote as they please. Has it been the practice of the proprietors by means of these leases to deter people from voting as they chose?

Mr W.—It has, and some have been compelled to vote.

Com. GRAY.—People may use their influence in this way, but not by intimidation.

Mr W.—Mr John McLean, of Lot 9, received a threatening letter from Mr Yeo.

Com. GRAY.—Was it in reference to voting?

Mr W.—It was.

Com. RITCHIE.—Were letters addressed to all on the Lot?

Mr JOHN McLEAN.—The letter was addressed to me, but specially for all the tenants.

Mr WARBURTON.—I am glad Mr McLean has come forward. Since Mr McLean has come out, I believe other gentlemen will come, with documents which will keep you for a year. It may be said this species of work has lately come into operation; but when I was a proprietor's man some years ago, Mr Yeo took me into his office one

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his office one

day after an election, and shewed me thirty-two writs, which he was going to issue against voters. There is another class worthy attention, not represented here to-day. I refer to the freeholders who are obliged to pay taxes to support the Government, which the proprietors agreed to do in former years. I, and many others pay taxes for this purpose, but had the quit rents been collected, the Government could have been supported without our doing so.

Com. GRAY.—You say “if the quit rents were collected.” When you ask them to pay these rents, do you not acknowledge the validity of their titles?

Mr W.—I speak of proprietors in regular possession.

Com. RITCHIE.—Would not the Crown, proceeding to take these rents from the landlords, also collect them from the tenants?

Com. GRAY.—Suppose a Lot where the proprietor never paid these rents, what would you do under such circumstances?

Mr W.—I would sell his claim.

Coun. THOMSON.—I understand Mr W. to state that if the proprietor will not pay these rents, their interest in the land should be sold out.

Com. HOWE.—Suppose the proprietors' titles not to be disturbed, and that as a measure of policy, this Commission reports a mode by which lease-holders may convert their properties into freeholds, I assume the rights of proprietors are in some way to be recognized. We shut out the enquiry to the fullest extent respecting the titles of proprietors, but suppose a system by which tenants, by some instrumentality, were enabled, in a reasonable period, to become free-holders, do you think the prices paid by the Government for the estates which it has bought, would be a fair purchase for the whole Island?

Mr W.—I am not in a position to answer; but I know there is a decided objection to paying rent. You will find in the public journals and records an account of a whole district in actual rebellion on account of unjust demands for rent. After all, the system which would enable tenants to purchase, would not be satisfactory unless the parties selling proved that their titles were good.

Com. HOWE.—I imagine you are descended from an aristocratic family; your ancestors, no doubt, did service in military campaigns.

Mr W.—My father was Aidecamp to General Wolfe at the taking of Quebec.

Com. HOWE.—The old gentleman did good service, I am sure, for the fall of Quebec settled the title to all our lands.—We will suppose then that General Welsh re-

ceived in consideration for his services a grant of land in this Island; suppose he agreed to put 200 foreign Protestants on it, which he could not do; the conditions upon which he received it, not being able to be fulfilled, do you think it would be right after the lapse of 60 or 70 years, that the descendants of that old soldier be deprived of their possessions?

Mr. W.—I consider so; if he did not endeavor to sell his property.

Com. GRAY.—Take, for example, a person like yourself, who has gone on the land of a man who has not fulfilled the conditions upon which he received it; and considering the improvements you have put upon it, and looking forward to it as the inheritance of your children, have you acquired any right in it? Mr. W.—No.

Com. GRAY.—Do you think it would be right for a person to come and say to you, we will take this property from you, because Gen. Welsh did not perform the conditions of his grant?

Mr. W.—I think that case does not refer to the general question. If the land is forfeited, however, I am prepared to purchase mine over again.

Com. GRAY.—Has not the Government recognized the validity of the titles by offering to purchase proprietors' estates?

Mr. W.—I think not. The law says the titles shall be examined.

Com. GRAY.—Assuming these lands which have been purchased by the Government to be forfeited on account of non-settlement with foreign protestants, would that not apply to all other estates? Yes. Does this fact not show, then, that no Government on the Island has ventured to face the confiscation of estates on these grounds?

Mr. W.—It does in some measure. The people, however, do not expect to get their lands for nothing.

Com. GRAY.—If a system were adopted, by which in 15 years the name of proprietor should cease, and the people be enabled to become freeholders, and those holding the estates be compelled to prove their titles in a court of law, would not such a system give satisfaction?

Mr. W.—I think it would.

Com. GRAY.—Now, as a practical man, and one who has been in the country twenty-six years, and who has represented large constituencies in Parliament, block out some system by which, in 15 or 20 years, leaseholders may be converted into freeholders, without doing injustice to any one?

Mr. W.—I think if the Purchase Bill were carried out, it might effect that object.

Com. HOWE.—Is it not an objection that you would not get your money back very soon?

Mr. W.—There is a difficulty there.

Com. GRAY.—Would it not be better for the people to depend upon themselves; for this reason, if the lands were purchased by a loan, it would be a burden on the whole Island?

Mr. W.—I think a loan of £100,000 would be preferable. The number of people desiring to purchase would be increased, and they would be in a better position and better able to pay interest on the money.

Cem. HOWE.—Suppose arrears of back rents to be swept off, and the fishery reserves settled by allowing every man's land to run to the sea, reserving in the Government the right to give power to erect stages on the sea coast, in the front of a man's land where he objects to it, and suppose the proprietor to be compelled to sell at a certain price, giving the tenant time to pay, and allowing him the privilege of paying £5 whenever he liked, and he received interest on that sum, assuming such a system were adopted, as a man of experience, what price would you fix upon the lands?

Mr. W.—I think 10s. ought to be the maximum price for best lands.

Com. RITCHIE.—Assuming that the rent was regularly paid, do you think to give 10s. an acre would be doing justice to the proprietor?

Mr. W.—I think so; he ought not to live out of the labor of the poor man.

Com. RITCHIE.—Suppose a man has 100 acres in his possession, and he has made it worth £1000, you would allow him to give the proprietor for it only 10s. an acre?

Mr. W.—No more.

Com. RITCHIE.—That would reduce it to about 10 years purchase.

Coun. PALMER.—You were formerly a land agent and a representative in the Legislature, but now you are neither—what is your position, is it? Yes. Very well.—You have stated that proprietary influence was used in several places in elections; and you mentioned Mr Yeo's name.—

Mr. WARBURTON.—I beg pardon a moment, there is another case in which you yourself are personally concerned; I thank you for the reference; I have it from Mr. Coles; it occurred at Tignish; do you wish to hear it now?

Coun. PALMER.—I object to second-hand information.

Coun. HALIBURTON.—Since my learned friend is now brought in, and so much of politics has been introduced, if Mr. W. thinks it necessary, let him bring Mr. Coles, that he may hear the circumstance from himself.

Coun. THOMSON.—It is admitted that this Court is not conducted merely on legal principles, documents are alluded to without being produced, &c. Mr. Haliburton thinks politics should not be alluded to, but I say politics should be mentioned; it is for this Commission to break down that oppres-

sive system, and so politics must come in to this extent, that it is a legitimate subject of investigation to consider how Proprietors' interests in this Colony have shackled down the tenantry so that their rights dare not be exercised.

COUN. PALMER.—I will have this matter investigated in the proper time and way; but it would be contrary to everything fair to hear it now from third parties.

COM. HOWE.—Mr. Warburton has made statements here, and Mr. Palmer may cross-examine him; I think, too, it would be perfectly legitimate for Mr. Yeo, being in Court, to have an opportunity to make any statements he might choose to offer. I take it, however, that Mr. W. has given this information irrespective of any feeling towards Mr. Yeo.

COUN. PALMER.—Respecting Escheat, Mr. W., from your remarks I understand you do not deem it impracticable; but how do you explain this opinion with your views on this subject as taken by the Parliamentary Reporter—and here I will read from the volume in which they are contained.—In this report it is stated that the hopes of escheat are without foundation?

MR. WARBURTON.—At different political meetings I stated I would not advocate the escheat of lands. I said I thought it was necessary some measure should be adopted without having recourse to one which had been refused by different Colonial Secretaries. I thought the Purchase Bill would settle all disputes between landlord and tenant. A Bill was passed authorizing the Home Government to guarantee £100 000 sterling. But I also said that if the Proprietors resisted I would forego my opinions concerning escheat. And thus it happened; at the last election the Proprietors did all they could to oppose the views of the Government. I offer this in explanation.

COM. HOWE.—I do not yet understand why you revert to your old opinion.

MR. WARBURTON.—I do so, because the Proprietors used their influence against the Purchase Bill. They even petitioned against the loan.

COM. HOWE.—Did they!

MR. WARBURTON.—You will find their petition in the Journals of the House of Assembly.

COM. GRAY.—That is important.

MR. WARBURTON.—Agents and Proprietors were the means of having it disallowed.

COM. GRAY.—You thought the question must be settled in some way? MR. W.—Yes.

COUN. HALIBURTON.—Do you know the highest price paid for wild lands?

MR. WARBURTON.—In some localities I believe £3 per acre, for wood lands, for the fuel; but I would be glad to get that price for any cleared lands.



Com. HOWE.—You would take £3 for the lands which cost you £5 to clear them; what makes that land of so little value? One reason is the climate; cattle need to be housed seven months in the year.

Coun. HALIBURTON.—Suppose the Government became Proprietor, would it not require great influence in this way? Not if controlled by law. Would it not give the Government the same power the landlord now possesses? No; public opinion would be a check. Would it not give them the power to give the good lands to their friends? I think not; the law provides that the occupant have the first offer. I consider the influence of the Government would be trifling, compared with that of the Proprietor under the existing system.

Com. HOWE.—You spoke about the threats of Mr. Yeo, are you aware of anything being done under them? Mr. W.—I merely stated the facts.

Mr. WARBURTON to the Commissioners:—I have endeavored to show your honors the system is a bad one. I thank you for the honor you have conferred upon me in giving me so respectful a hearing. I hope your labors will be crowned with that success which every person so much desires.

Mr N. CONROY addresses the Court. After making a few preliminary remarks, Mr Conroy spoke as follows:—I know many facts concerning the differences between landlord and tenant. In 1835, when I first settled in Tignish, no proprietors were recognized on Lots One and Two. There had been some competitors for proprietorship, but previous to that period, though the people were asked, and even pressed to pay rent, still they always refused. I was present when the first recognition of a proprietor took place on Lot Two. I saw the first arrangement made for this purpose, and shall briefly relate the particulars. Mr Peters, now Judge Peters, who was at that time agent for Mr Cunard, having some indistinct knowledge of me, came, and desired me as I knew the people to accompany him to a certain house. I did so. When we arrived, many of the inhabitants were assembled. Mr Peters told them, Mr Cunard was the proprietor of the Lot, and wished them to attorn to him as their landlord; but they refused, just as they had refused to attorn to Mr Hill, some years previous. They were free, and desired to remain so if possible. Mr Peters, then spoke to them of the wealth and power of Mr Cunard in Halifax. He said he was an influential gentleman in that City, and to hold out against him would be preposterous. The better way was, to pay rents; he would protect them; and they would have an honorable gentleman for their landlord. After much half coaxing, and half threatening they signed a paper which he wished them to subscribe. Some time after this Mr Peters and Mr Palmer came to some arrangement respecting Lot One. They accordingly sent word to the people, saying they were coming to get them to take leases. The people met them, but



unanimously refused to have anything to do with them. Messrs. Peters and Palmer remained a week, and were on the eve of leaving, when, unfortunately, the people began to misunderstand each other—one thought another was going to get his farm, and so forth, and the result was, all made a rush to the proprietor to attorn. I was present, and saw the rejoicing of the proprietors on that occasion. I will now inform your Honors about the terms upon which these people took leases, and show how they got into difficulties. The leases were for a term of 999 years, and at 1s sterling an acre. In addition to this, they signed notes of hand for £10, to be paid up to the 25th March, then last past. Your Honors will remember that another year's rent was then nearly due, so that by the coming 25th of March, which was about one month hence, they were involved in £15 arrears. Now, some who signed those notes of hand, were very poor, and for them to make good their notes, was impossible. In the meantime, the proprietor pressed and threatened them, so that the greater number left their farms from sheer inability to pay these arrears. This I would call a real grievance. At that time from that district to this place (St. Eleanor's) there was no means of passing without crossing three large ferries. I may say, too, that at the present day there is very little money in circulation, but there was exceedingly less then. The only man you could get money from then, was Mr Yeo; so the people were either at the mercy of the landlord or of their own fears. So much terror was inspired by the thought of a half-dozen Lawyers coming from Charlottetown, that the French, who, then were more simple than they are now, would rather go to the woods than encounter them. [Laughter.] In this manner have these Lots been settled. Parties who then held front lands, have moved back, while others have stepped in and taken their places. They took wood lands, settled down on the same terms, and now, many of them are ready to start again.

Com. RITCHIE.—Had these persons ever signed leases before that time?

Mr CONROY.—It was the first time they came under terms.

Com. GRAY.—Had the people no friends?

Mr CONROY.—However disposed I might have been to be their friend, I could not be of much service to them. I was then only 25 years of age, and a stranger and ignorant of the affairs of the country. I wished to show you, that these £15 of arrears, which became due so soon, rendered them unable ever after to meet the demands of the proprietor. Whenever he chose to say, I want £10 cash, they would have to leave their farms, though they had labored on them for 30 years. In more than 20 instances this took place. Such was their position, that persons coming with a little money in their pockets could take advantage of their labor. To obtain a livelihood, they must, outside of their farms have recourse to fishing and other employments. Look around; take St. Eleanor's for example, go through it; and in not one half dozen of instances will you find that the persons who cleared these farms now own them. The French inhabitants, have made this beautiful coun-

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ry which you now see. They took down the forest, and parties blessed with more means than they, entered upon their labors. The French have been driven back.

Com. HOWE.—Were they driven back by the British Government or by the proprietors?

Mr CONROY.—The cause was their inability to pay rent.

Com. HOWE.—When did the French leave this Lot?

Mr CONROY.—I suppose the settlement of Tignish took place about 59 years ago. At that time there was no house on Lot 12 excepting a Mr Hardy's. These people have gone on clearing on Lots One and Two, and some of them have cleared 100 acres from the water's edge to the rear of their farms. I own 100 acres of this description.

Com. GRAY.—Was no proprietor acknowledged up to 1835?

Mr CONROY.—No. Down to that time rent was never paid to any one. There had been great uncertainty with the people, however; for, for many years they heard parties were coming to claim rent. Like many other acts which men do, when they had attorned, then they knew they had done wrong, and the consequence of this reflection was, that they grew into a rebellion. The notes they signed for arrears was the cause of that disturbance. Writs were issued against them, and after a time the Sheriff came. As happens in all proceedings carried on through fear, so it occurred in this instance; the reaction was most extraordinary. When the Sheriff came they were most submissive, and even rowed themselves to jail—to this very house. [Laughter.]

Coun. THOMSON.—Did they not petition Sir Henry Huntley, the Governor?

Mr CONROY.—They did, acknowledged their wrong and got out on bail, and I am not aware they should be called disloyal because they refused to pay rent. I think they were encouraged by other parts of the Island to resist the proprietor, but they, being them once engaged, left them alone to fight the battle. They became so disgusted with them for treating them in such a manner, that they submitted, perhaps, almost too humbly. I may state farther, that the terms upon which they received their lands were at the option of the proprietor. Here is a paper, sign it, or you will be made to feel the consequence of your refusal. These threats, though not carried out, had the desired effect, for these very people are now the best rent-payers. They have sacrificed even the conveniences of life to meet the demands of the landlord. This rent, too, in many instances, is paid, not off their farms, but comes from the proceeds of fish which they sell. Mr Warburton has stated he thought the land of that district would compare favorably with the land elsewhere; but I think differently. I see a striking difference in the crops; when I travel in this direction, they are so much superior. Concerning the titles of proprietors, I may remark, that if you once give a man the notion that a landlord has no title, the idea causes him much annoyance, and makes considerable confusion in his mind. There is a man on Lot One who bought a farm from a man who had never attorned, and who had lived on it

for a few years. Mr Palmer came, asked him for rent, but he refused to pay, saying,—I have possession, if you have a better right than I have, you can turn me out. Mr Palmer showed him a memorandum which went to say the former occupant took the land, and the man, Mr Doyle, submitted. But had it not been for these lines, offering to take the land, he would have stood him a trial. At present there is a good understanding existing between tenants and the proprietor; still they have been given to understand, that something is going to be done for them. There are fluctuating opinions among them, but their great anxiety is to get their lands as low as possible. I think they would be willing to pay a moderate sum for their freeholds.

Com. HOWE.—What do you call a moderate sum?

Mr CONROY.—About 7s 6d an acre.

Com. HOWE.—Would you think 10s too high?

Mr CONROY.—I would; but it would be received with joy rather than be in the position in which they are at present. I think, however, it would not be fair to put the man, who by much struggling has kept his rent paid up, on the same level with him, who through mismanagement or otherwise is in arrears.

Com. HOWE.—How would you accomplish that object?

Mr CONROY.—I would make a deduction from the amount of rent he had paid.

Com. HOWE.—That would be difficult. The presumption is that a man who has paid his rent, is able to do so, but that the man who has not paid it, is unable; and if he is worse off, he should rejoice that his neighbor is in better circumstances than himself. [Laughter.]

Mr CONROY.—I will now mention a circumstance which will show your Honors how easily some of these people were prevailed upon to attorn. There was one Frenchman, who by some means, was passed over when the others attorned. He had been in possession of his farm for 30 or 40 years. Mr Peters at length becoming aware of him, sent him a note, commanding him to come and attorn. He forthwith resolved to comply. I met him when on his way to Mr Peters, and said, "Well, Eleare, where are you going?" "Oh! I receive this letter from Mr Peters, and I am going to see him." Go home, you foolish man, said I, and I laughed at him. He took my advice; but, had Mr Peters sent him another note, he would have had his farm.

Com. GRAY.—That shows the advantage in having a good friend. [Laughter.]

Com. HOWE.—Are there any cases where they have had pluck enough to hold out against the proprietor?

Mr CONROY.—Yes.

Com. HOWE.—In these cases have the proprietors brought them to Court, and proved their titles?

Mr CONROY.—Not to my knowledge, excepting they had some document or promise from the tenants. I heard a friend of mine say he could not maintain his title unless he had an agreement from the tenants. Whatever may be the feeling

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throughout the Island, and however legal may be the titles of proprietors, still it is my impression that, had the people acted properly at first they would have had their lands free. All in my neighborhood, I believe hold agreements.

[Some questions were proposed to Mr Conroy respecting the very reserves. Of these reserves he thought the tenants could be the proprietors; and he thought the amount of rent received for them, should be deducted from the price of the lands, if the tenants got an opportunity to purchase their freeholds.]

Cross-examined by Coun. PALMER.—You were present, you say, when these people attended. Yes. Were the leases witnessed by you? Many of them were. Are you aware of parties of Lot One wishing to purchase at 20s an acre? I believe many of them would rather do anything than be under a proprietor. To your knowledge, have not some of them considered means? Not with the exception of half a dozen. You say you never knew a proprietor to produce his title in Court, respecting Lot One,—do you know the last tenant who held it? S. Gallant, I believe. You recollect of my going to Court,—do you not know the defendant retained Mr Binne, who is an able Lawyer? He may have done so. You know when the Frenchman came to Court he submitted? I believe he did.

Coun. GRAY.—Was it by proof of the title, or by the admission of the tenant, that is the point?

Mr CONROY.—The Frenchman got frightened, I believe, and submitted. Gallant gave me in his name to appear here as witness. He said he could tell as lamentable a story as any one.

Coun. GRAY.—We are much obliged to you, Mr Conroy.—The information you have afforded has been exceedingly interesting.

MR. B. DAVIES, who appeared as a delegate for Township 1; the Brae, Cascumpec, and for Lots 27 and 28, addressed the Court:—

My Lords: Having been named as a delegate in connection with Hon. J. Warburton and Messrs. Conroy and me, as well as with my colleagues from Lots 27 and 28, I wish to say a few words respecting the Land Tenures of this Island. Your Excellencies have heard from the gentlemen who have preceded me, of the treatment to which French settlers were subjected by the Proprietors; and I now also wish to prove that the same practices have been imposed upon us British settlers. Before doing so I would point out the reasons why the injustice which has been done to the French, is a transgression and a public wrong incurred by the proprietors. Your Excellencies are aware of the fact, that at the time this Island was ceded by France to Great Britain the same privileges were promised to the French settlers here as those guaranteed to the Acadian

French in Canada, and in the other British North American Colonies of Her Majesty. In the Treaty of 1763, it expressly stipulated "that the French who remained at that time were to be peacefully protected in their lands and holdings;" and this stipulation has been faithfully adhered to in all the Provinces, this one excepted. In this Province they have been driven from their ancient possessions and deprived of their improvements, without any consideration.

Com. HOWE.—In Canada, I presume, the same treatment obtains; but there the right is vested in the Seigneurs.

Mr. D.—True, my lord, but perhaps there were Seigneurs here too.

Com. RITCHIE.—Allow me to inform you that the stipulations to which you refer only apply to the Seigneurs as those in Canada. This being the case, the French here do not come within the bounds of the Treaty as the Seigneurs do in Canada.

Mr. D.—With due deference to the opinion of your Excellency, I would remark that the stipulation in the Treaty applied to the holders of land being of French origin; therefore I think the term Seigneur in French means a proprietor of land, or what we call a freeholder. Be this as may, it is certain the French were guaranteed their holdings. I contend these people are "*petite Seigneurs*;" as sometimes we call our freeholders, small proprietors. These people were guaranteed protection on the faith of the Crown, but the proprietors overruling, have driven them from their possessions.

Com. GRAY.—Assuming what you say to be correct would only have reference to them.

Com. RITCHIE.—The Treaty would give the French settlers here no title to the land. The French capitulated upon the terms that they should hold the farms on which they were, but that left the titles as at present.

Mr. DAVIES here read an address which was presented to Her Majesty, from the journals of 1850, page 24, which was as follows:—

#### TO THE QUEEN'S MOST EXCELLENT MAJESTY.

##### MOST GRACIOUS SOVEREIGN ;

We your Majesty's faithful Subjects, the House of Assembly of Prince Edward Island, feel grateful, that in compliance with the Address of the late House of Assembly, dated 28th March 1849, your Majesty has been graciously pleased to direct the Lieutenant Governor, to reduce the upset prices heretofore demanded for Crown Lands in this Island, to the sum of Twenty-five Pence per Acre, in the Currency, for every One Hundred Acres. The House of Assembly beg to bring under your Majesty's consideration, that in the year when this Island, together with the Provinces of Canada

North American Treaty of 1763, it is to be observed that the French who remained in their lands have faithfully adhered to the Treaty. In this Province the French possessions have remained without any considerable change.

the same treatment as the Seigneurs. The French Seigneurs were Seigneurs of the land.

that the stipulations of the Treaty of 1763, the French have faithfully adhered to the Treaty as the Seigneurs.

union of your Majesty's subjects in the Treaty of 1763; the French origin; the means a proper remedy. Be this as it may, the French have not lost their lands; the Seigneurs; the small proprietors on the faith of the Treaty, have driven the French from their lands.

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the French have capitulated the farms on which they are present.

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NT MAJESTY.

House of Assembly in compliance with the order of the 28th March 1840, directed the Lieutenant Governor to demand the French lands. Twenty-five persons of the House of Assembly, that in the Provinces of Canada

and Nova Scotia were ceded by France to Great Britain, it was stipulated by Treaty, dated 10th February 1763, that the French, then inhabitants of those Provinces, should not be disturbed in their possessions. The House of Assembly beg to remark that the French inhabiting this Island, have been the only exception to the stipulation thus made, and while the French people inhabiting the Province of Canada, obtained the full benefits of the foregoing stipulation, the French inhabiting this Island were altogether deprived of the arrangement thus entered into, and so wisely carried out in the former Province. That in the year 1769, the whole of this Island was granted away in Lots of Twenty Thousand Acres, on certain conditions, to private individuals, without any reservation in favor of the French inhabiting the Island at the time, and that in the year 1817, His Excellency the then Lieutenant Governor Smith of this Island, got Escheated two Lots, viz: Nos. 54 and 55, and that at that time, when a number of the French inhabitants were deprived of their possessions by the grantees and their assigns, a deputation of the said French waited upon His Excellency, praying his protection, when His Excellency was pleased to declare unto them, that they might settle on Lot No. 54 and need not fear being thereafter disturbed in their possessions; for that said Lot reverted to the Crown, and that the whole of it would be granted to them in fee simple, for the sum of Four Hundred Ten Shillings Currency, (£4 10s. Cy.) for every One Hundred Acres of land. That notwithstanding the assurance thus given, after His Excellency's departure from the Island, the price of the said lands was raised to the sum of One Hundred Pounds Currency, (£100 Cy.) for every One Hundred Acres, a sum far above the valuation of the land, and higher than said French were able to pay; and now that Your Majesty has been graciously pleased to order the reduction of the price of the Crown Lands in this Island, the House of Assembly beg to submit, that said French Inhabitants are so reduced in circumstances, that they are even unable to comply with the modified order thus made, and the House of Assembly conceiving, that that measure of justice has not been extended to them which was stipulated by the Treaty of 1763, when the North American Provinces were ceded to Great Britain; and that even the assurance made to them by His Excellency Lieutenant Governor Smith, hath not been faithfully carried out, they humbly submit that the French located on Lot 15 have a claim on Your Majesty's Government, and pray that Your Majesty be graciously pleased to take the treatment they have received into consideration, and cause orders to be given to the Lieutenant Governor of this Island, that it is Your Majesty's Royal pleasure that the assurance made to them by His Excellency the late Lieutenant Governor Smith, of this Island, shall be faithfully adhered to.

Hon. THOMSON.—I understand that according to the Treaty the French should be undisturbed in their possessions, and that as an act of indemnity to them the British engaged themselves not to interfere; and I, as a lawyer, say that was equivalent to a grant to the French inhabitants.



Com. HOWE.—It would go to this extent, that the grants to the proprietors were subsequent to the Treaty. When the Treaty was signed there was no proprietor in existence, so the French occupants might be considered the owners of the land. If the grants were issued in violation of a solemn Treaty, that is fair ground for the Counsel to take to shew they have a strong claim upon the British Government.

Coun. THOMSON.—Just so; and I say this Commission is here to redress all wrongs. I maintain the proprietors cannot come here with a better title than the British Government. If they can, the British Government should be arraigned before all nations; for they must have known, or ought to have known, that the proprietors took grants made in violation of a Treaty, and were thus guilty of a fraud.

Com. RITCHIE.—When the grants were passed and recognised for 87 years, would it not be a perfect delusion to think of overturning them now on these grounds? In England and Ireland, titles to land made and confirmed by long practice of law are not now disturbed.

Coun. THOMSON.—I say then, that the other was a perfect snare.

Mr. DAVIES.—On the same ground, if a man stole a horse and kept him for 20 years, he would have a right to him.

Com. GRAY.—I think the British Government did not steal this Island.

Mr. D.—The French have been very badly used. They have been driven from their possessions back into the woods, and the Indians have been treated in a similar manner. The Legislature thought it necessary to call the attention of Her Majesty to this subject, and I thought it was my duty to bring it before your Court. When in Charlotte town your Excellencies courted information respecting the land tenures, from any correct source, and considering this case as not only affecting the French settlers, but one also which might affect the peace of the Empire, I considered it my duty to lay it before your Excellencies. Claims to countries have been set up by France on less founded pretensions. I leave the case in your hands, believing you will do justice to these people.

Com. GRAY.—We are much obliged to you, Mr. Davies for calling our attention to this matter. Everybody must feel that the French have been ill-used, still there is much in what Mr. Ritchie says, that in Britain titles long confirmed are not now disturbed.

Mr. D.—My lords: I have many important points to touch upon, which have not been mentioned by the gentlemen who appeared before you, both here and in Charlotte town. In touching upon those topics I shall be as brief as their importance will admit. I may first refer to a case of swindling on the part of a proprietor. Some years ago

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the French on Lot 10 agreed to buy a large tract of land for 7000 tons of timber. The timber, all to a few tons, was delivered; but when they wished to be put in possession of their land, they were laughed at. Whether the agent or proprietor was to blame in this matter, I cannot say. At any rate the French lost timber, land and all. This shows how little faith a tenant can place in a man claiming to be the proprietor of land. Respecting the history of this Island, your lordships are aware that it was originally joined to Nova Scotia; and that it was to "the prayers and solicitations of the proprietors the Crown listened when it granted a separate and distinct Government,"—the petitioners pledging themselves to pay up their Quit Rents regularly, out of which fund the Lieutenant Governor and other officers of the Crown should draw their salaries, that this Colony become not a burden on the mother country. It is a fact, however, that the proprietors never paid any Quit Rents, and consequently, the officers of the early Government suffered great inconveniences. These men have always exercised a control over our affairs, and in fact they govern this Colony to the present day. In short, they have failed in every engagement, and have been at the bottom of every schism which has been raised in this Colony. Again: the land question which has agitated this Island since the year 1800, is a public one, and distinct from the one arising from the dissatisfaction and oppression of the tenantry. The latter question is one of later birth. The former was promulgated at the time which I have mentioned, and Governor Fanning recommended to the Legislature on the part of the Crown, the passing of a Bill to establish a Court of Escheat for reinvesting in the Crown the forfeited lands of the Colony.

Com. Howe.—We have heard of this before.

Mr. D.—True, my lord, but not in connection with the practices which I would bring to your notice.

Com. Howe.—Go on.

Mr. D.—I stated Governor Fanning was an escheator, and that the Legislature passed a Bill agreeably with his recommendation. Now I want to show how he acted under it; for it is believed that he, as well as other land claimants, obtained their lands for important services, done their country. Governor Fanning, instead of administering the law, became a land-jobber, holding the power of a Court of Escheat over the heads of the proprietors. He bought their claims. He obtained the larger half of Lot 50, about 12,000 acres,—at this time one of the finest tracts of settled land in the country—for £25. That was the value in 1807. Lot 67 in the heart of the Island, and well wooded, he purchased for £7; and other tracts were purchased, some by Lord Selkirk, for example, at about these prices. A few

years after large tracts of the country were bought up, or transferred, at these rates. The public records bear me out in my statements. I mention these things to shew the value of land at that period, and to shew that the grantees considered their grants forfeited, when they transferred their claims for such trifling sums. I have in my possession a letter from John Cambridge, Esq., dated Oct. 1805. I shall hand it to your hon. Court. It was written in reply to an enquiry from Capt. Stewart, the great Warwick, who formerly removed our Governors when they became obnoxious to the proprietary interests, asking how he got Lot 14. In the letter he says "for a cask of wine." In addition I have to state, that there are proprietors who claim lands without grants. These gentlemen we call "squatter proprietors," in contradistinction to a class they denominate "squatters." The latter improve the country, and have no superior save the Crown.

Com. GRAY.—Are not the records of all the grants in the Register's Office?

Mr DAVIES.—There are records of the grants of a number of Townships registered in that office, but 10 or 12 Townships are not recorded. The law does not compel proprietors to record their grants, and this is one of the grievances of which we complain. Another grievance is that a man can claim land, and force a settler to become a tenant, though he may have no right to the land.

Com. GRAY.—Surely not!

Mr DAVIES.—It is true, my Lord, and the Bar helps it out. Gold or an agency ensures many a claim. The party thus claiming land employs one of our pliable attorneys; he gets an instrument from the Court citing the settler to appear, who, when he does so, is told he is not wanted. This practice is kept up in some cases; as Mr Warburton stated for six sittings of the Court; but if by illness or absence from the Island, the settler fails to appear, judgment is given against him by default; and then he must become a tenant or leave his farm. In this way hundreds have been frightened into taking leases.

Mr W. H. POPE.—Your Excellencies, these are isolated cases; it is not the practice.

Mr DAVIES.—My Lords, it is the practice even of the Hon. gentleman himself. He cited about 40 settlers or more from the Worrell estate, on the same plea, to one Court, and never defended a single action. Many of the loyalists have been treated in a similar or in a worse manner; but they will mention this themselves. This terror of the law is kept up in various ways and under different disguises to coerce settlers to attorn. Neil Darrach was imprisoned because he would not deliver up his lease and take another at double the rent. Some years ago, an agent could commit almost any outrage with impunity. Le Page, who bought a piece of land at Rustico at a Sheriff's sale, the owner of which held it from time immemorial, was imprisoned for 9 or 10 years because he would not attorn.

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Though the set under which he was imprisoned expired, still he was re-committed. Every body heard about Le Page. Ultimately he was brought before the Court, by the Grand Jury of which I was foreman. On that occasion one of the Attorneys rose in the Court and said, that the Jury were influenced by political feelings and motives in presenting the case. By such insinuations and charges he insulted the Jury. The Jury retired, and by a Bill of Indictment, presented to the Court that member of the Bar who had openly insulted them before the court in the discharge of their duty. The Court merely thanked the jury for their attendance, and taking no action on the indictment dismissed the Jury. I mention this to show the practice of the proprietors, because Le Page was merely kept in jail to terrify those settlers who would not comply with the terms proposed by claimants of lands. I shall next show that when the Escheat Bill passed, Governor Fanning and the principal men at that time in the Colony, having pacified their rapacity in getting land from the original grantees, then became violent opposers of Escheat. But they could not quiet the country without satisfying the outside supporters. Having secured all the township lands they possibly could, they decided upon applying the Common towards pacifying their partizans. Accordingly the Common was divided among them, and thus became the Spoil of these men.

The upper class got the Township lands, the second class got the Common, but the people came in for no share of the spoliation. I shall now show how the Governor who preceded Fanning respected the Common. It was at that time covered with brush and wood which endangered the safety of the town. The Governor could exercise no right over it without the sanction of the Legislature. Accordingly, he recommended the passing of a Bill authorising him to lease it for a term of 10 years, on conditions that the Common be cleared. The Legislature embodied it in an Act, a copy of which is found in the records of the town Council. Ultimately the Common was granted by Fanning to different individuals, and has been held by them ever since. At the present day perhaps it would be injurious to meddle with it. I shall next refer to the subject of Quit Rents. When Governor Smith presided over this Colony he received instructions concerning the collection of the Quit Rents which were due by the proprietors. Previous to this, the proprietary Legislature of that day passed a law which compelled the Crown to collect arrears of rents due by the under tenants, and apply the same towards paying off the Quit Rents due by the proprietors, for which the law says the under tenants shall receive credit in payment of their rent to the landlord. See xliii. Geo. III., cap. 2, page 195. This law was the cause of the removal of Gov. Smith. According to his instructions he was bound to collect those rents. In doing this he was compelled to distrain upon the under tenants. This caused great agitation. They were given to understand that the exaction would be made yearly, and that the Governor would not convoke the Legislature. Before, however, Gov. Smith could put the law in force against the tenants of the crown, he was shipped away.

**Com. HOWE.**—I do not understand one part of this matter : If Gov. Smith was carrying out his instructions in collecting the rents in payment of the Quit Rents from the under tenants, why were the proprietors opposed to him ?

**Mr DAVIES.**—The law directs that after the Lieut. Governor has collected arrears from the under tenants which arrears were to go towards paying Quit Rents, the balance, which would be about £100,000 Stg. would have to be paid by the proprietors; but the Governor had first to proceed against the under tenants. In doing so, he became unpopular with the people. The proprietary party made the most of the dissatisfaction they could by inducing the people to sign Petitions, calling upon the Crown to remove him from the Colony. *Thus, by removing Governor Smith, the tenants of the Crown effected their design, viz: evading payment of the balance of the Quit Rents.* When Governor Smith went home he received a pension nearly equal to the sum he was to receive in this province; because the charges preferred against him, upon re-investigation, were discovered to be unfounded, and that he had discharged his duty when here agreeably to the Royal instructions and the law. About 1825 Mr Cooper was sent home by the Assembly for the purpose of investigating the land tenures of the proprietors, and to ask for a re-investment of forfeited lands in the Crown. Mr Cooper was not attended to, for the voice of the people could not reach beyond the doors of the Assembly. For this reason he could not but be unsuccessful in the object of his mission. When Governor Campbell was appointed to this Island, he on his arrival offered Responsible Government to the Colony; but the Assembly refused to accept of the terms which he proposed, thinking the country could not bear the burden. He required that the Civil List be paid, the British Government not offering anything in return. When Governor Bannerman came, he stated that he was sent to renew the offer of Governor Campbell; and that if we wished to have the advantages of Self Government, we must pay the Civil List, and provide pensions for the officers of the Government. When we would agree to do so, he said he was authorized on the part of the Crown to transfer to us all the right and interests of the Crown in the Colony. These interests were Crown lands, Fishery Reserves, Arrears of Quit Rents and Forfeitures. We immediately accepted this offer in consideration of the returns the country would draw from these sessions.

**Com. HOWE.**—Do I understand you to say you bought the rights of the Crown over those lands believing them to be forfeited ?

**Mr DAVIES.**—I say so. We closed the bargain, and this colony is bound to pay the Civil list as long as it is a colony. Now, the colony expected something in return; and in the House of Assembly, I moved that an inquiry be instituted to ascertain what amount of Quit rents &c., had been recovered in the Colony. Upon doing so, it was discovered that no records of Quit Rents collected had been preserved. And why not? No doubt the persons collecting these rents were quite competent to keep

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such records; but it was not for the interest of the proprietors that they should be kept.

Com. HOWE.—Why?

Mr DAVIES.—First, because the proprietors themselves had paid nothing; and secondly, because it was from the leaseholders and freeholders only they had been enforced. If the records could be destroyed, it would leave the under-tenants and freeholders liable to be again prosecuted for the amounts they had previously paid, before the Crown could proceed against the proprietors for a forfeiture of their lands for non-payment of the Quit Rents. I have never heard any other reason assigned. It was a piece of complicated villainy; but we rejoice to think the hour of retribution is at hand.

Com. GRAY.—Who kept those records?—and had not the people access to them?

Mr DAVIES.—It was as much or more than a civilian dare do, to walk to a public office and ask for any public document.

Com. RITCHIE.—Were you not aware that the under-tenants paid their Quit Rents in the colony, and the tenants of the crown at London?

Mr DAVIES.—I am aware, my Lord, of the law which allowed proprietors the privilege of paying their Quit Rents either in this island or at London; but I am not aware of any law which compelled the under-tenants to pay arrears of Quit Rents due by them personally. The House of Assembly applied to His Excellency Governor Bannerman, to ascertain what amounts were collected at the Colonial Office, and the reply was that it did not appear anything had been paid.

Com. GRAY.—There must have been records kept in the island, though none are now to be found.

Mr DAVIES.—Governor Bannerman, in a reply to an address presented to him by the House of Assembly on this question, said there were none. Governor Ready's Administration say £3900 were collected. From explanations already made, it must appear that the tenants and freeholders are free from liabilities of Quit Rents up to that time. It has been a dodge of politicians to shew that the lands were not liable to forfeiture for non-payment of Quit Rents. There is a despatch, dated about 1816, I think, which states that His Majesty had released the proprietors from the conditions of settlement; but that release by no means applies to the releasing of lands from forfeiture for non-payment of Quit Rents. This Despatch, I have been given to understand by a member of the late Government, has not been fully copied into the *Royal Gazette*; that the part which states that the proprietors' lands were liable to forfeiture for non-payment of Quit Rents, has been left out. We consider that whatever right the Crown had then, we have the right of exercising now. Governor Bannerman took steps to see that the rights of the Crown were carried out respecting the Fishery Reserves. The proprietors have no reason to expect lenity from this Colony. I conceive that this Honorable Court is appointed by the Crown to settle these recommendations preferred in the Despatch of February, 1851, which called the attention of

the Governor to the necessity of settling the landed tenures at that particular time, when the rights of the Crown were about to be ceded to the Colony. If he neglected to do so, that is no fault of ours. *I claim, on the part of the public, all those rights which were transferred by the Crown at that time, with all the forfeited lands.* If any injustice is committed against the proprietors in their exaction, they should look to the Crown for redress. The Crown rights were conveyed to us, for what we have paid and are in future bound to pay. Nor need proprietors expect any lenity because a grantee's father may have been in the army,—as that of itself was sufficient honor. There are hundreds of men who have fought as valiantly as some of them ever did, who are now serfs to these men. I would pay every respect to men who have obtained their lands fairly; but not one-third of the original grantees now hold land in the Colony.—They are held by *jewish* speculators and land-jobbers. Why, I ask, should lenity be shown men who have stepped in to deprive the people of their rights? No decision, I consider, can be given in this matter without investigating the titles of claimants,—nothing short of this will give satisfaction. Public sentiment is aroused; and the intelligence of the community is rising so fast, and has already progressed so far, that the people will not submit until a decision on this point proceed from this honorable Board. I may say I did not expect that I, as a private individual, could come here to advocate the public rights. The Government has been called upon to furnish you with statements on these questions, but what information have they laid before your Lordships? And yet I believe acts will come to light which will astonish you still more than what you have already heard—acts of which any persons calling themselves men, might well be ashamed. Again, it is the general opinion in this colony, that in the courts of law there is no redress for a tenant. If the landlord commences an action against a tenant, there are so many lawyers in Charlottetown who are agents, more or less under the influence of the proprietors—Mr Hensley excepted, and there are few others to whom I would trust my case—that there are few in whom a tenant can place dependence.

Com. HOWE.—Do I understand you to say a tenant in this country has no chance to obtain justice in a Court of law, owing to the influence of proprietors?

Mr DAVIES.—Such is the general opinion of the country.

Com. GRAY.—Juries would not be influenced.

Mr DAVIES.—It is done by evasion.

Com. GRAY.—The proprietors out-manœuvre them, I suppose.

Mr DAVIES.—The next point to which I would direct the attention of your Lordships, is concerning the expenditure of money by proprietors in opening up roads. I would not say that Mr, now Sir S., Cunard, would knowingly make an untrue statement. He might be led to do so, however, upon the representations of an agent. Be this as it may, he stated before a Committee of the Imperial Parliament that roads were opened up in this Colony at the expense of the proprietors. When it became known he had made that statement, a Committee of the House of Assembly was appointed to inquire into its correctness



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and the result of that inquiry was, that it was ascertained not one farthing was paid towards this object up to the time Cunard made that statement. In regard to this matter, proprietors have evaded the law. Since that statement was made by Mr Cunard, a law has been placed upon our Statute Book, which compels proprietors to contribute towards opening public roads where they have a tendency to improve their estates. Under this law the Great Western Road was opened up through his estate, which enhanced its value immensely. His assessment for that road amounted to £1500r. When the Government called upon the agent for its payment, he was put off. Then the collection of his assessment was put into the hands of the Attorney General. The case was brought on, but, lo! there had been some illegality in the process—some informality was pleaded, and the case was quashed. At the next session of the Legislature the subject was again introduced, and the House ordered the action to be commenced anew. This time the Solicitor General, Mr Peters, obtained leave to plead against the Crown; again the case was set aside, and not one farthing ever paid. In the same way Lord Selkirk avoided the payment of £500, and the people have been taxed to pay these sums. Concerning the Land Purchase Bill, I remark, the lands bought under it were not purchased according to law. The majority in the Legislature at that period, understood that they were not to be bought till the titles were investigated; but such was not attended to. That imprudent act brought down the Coles Administration of that day, and very justly too, for its members had violated their pledges to the people and the Purchase Bill. With respect to the class of emigrants brought over by the proprietors, I may say you will scarcely find an intelligent man among them. They have imported the most ignorant men from England the nation could produce. I knew 300 brought here from Britain, on one occasion, of whom only one could write. These poor, ignorant people, too, before they left Home, thought this was a very fine country. They had heard the winters were clear and frosty, but very pleasant. (laughter.) As regards the price of lands, I think the terms upon which the Government purchased the Selkirk estate, are good; because by them they are enabled to sell the land at reasonable rates. I give the Government credit for anything to which it is entitled. To Col. Gray especially, I think a great deal is due. In my opinion the lands of this Island are not worth the prices stated by several delegates. Our lands are not worth more than the lands in the vicinity of Shediac and Cocagne, in New Brunswick—2s. 6d. an acre that currency; for unimproved lands are not worth more than what the Government paid for Belfast Estate, assuming the titles to be valid; and it appears the rentals collected do not represent a sum the capital of which would be larger than the value of the land I have assumed.

Mr Davies having been thanked by the Commissioners for his address, offered to give any farther explanation, or to answer questions proposed by the Counsels but none were asked.

The Court then adjourned at 6½ o'clock.

THURSDAY, Sept. 12, 1860.

This morning after a few remarks were made respecting the mode of procedure the Court would adopt that day—

Com. GRAY said: We would really like to hear the opinions of the working men themselves. We wish to hear from the men to whom the difficulties of the proprietary system come home, tho' they may not be able to express themselves as fluently as men accustomed to take part in public transactions

Coun. HENSLEY then read over the names of several delegates from different Townships. From Lot 2 were present, Messrs. Wm. Haywood, John White and Florence McArthy.

From Township No. 3. Messrs. Thomas Hockin, John McKay and Martin Foly.

From Lots 4 and 5, Robert Gordon, Esq., Messrs. A. Matthews and John Kieff; and from a different section of Lot 5, Mr. J. Clark.

From Lot 7, Messrs. Strang Hart and James Ramsay.

From Lot 10, Mr. Robert Vincent.

From Lots 12 and 13, Messrs. Thomas Gorman, William Gregg and William Ramsay.

From Lot 14, Messrs. M. McKinnon, D. McLane and F. Perry.

From Lot 16, Messrs. A. Fraser, A. Ramsay, T. Laughlan, J. Ratchford, J. Arsneaux and M. Gallant.

Coun. HENSLEY next read a memorial from Lot 2, in which was stated among other things that the people desired the Royal Commissioners thoroughly to investigate the titles of proprietors who claimed their Township.

The Counsel next read a memorial from the inhabitants of Lot 3, in which it was stated that the Lot originally was granted away by the Imperial Government to one Chauncy Townsend, in 1769, and that his Grant became extinct with himself. The Lot was occupied 46 years afterwards by French settlers, till it was assumed by Mr. John Hill, a trader on Lot 5. Mr. Hill proceeding to Newfoundland, plotted it off and sold it at auction, from £10 to £14, to different individuals. Some of these questioning his title, refused to pay him till he produced it. Returning to the Island, he got the late Mr. Binns to make him out one. This satisfied some of his purchasers, who visited the Island 18 years afterwards. These men exacted rent of the French, who choose to leave the land rather than submit to pay rent. Mr. Joseph Ahern was the next occupant upon the Lot; settling upon one of the farms vacated by the French. He endured many hardships. The early settlers suffered very great privations. Some of the purchasers of John Hill succeeded in duping the actual settlers into the payment of rent, by telling them they would be very easy with them, and take a pair of socks or a bush

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of grain in consideration of their rents; thus the simple ten-  
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original Grant became extinct in the Grantee. False claims  
have been put in for the Township, and the Crown neglect-  
ing to resume this Lot, much of it has been sold at Sheriff's  
sale. False claimants frequently annoy the occupants of  
other portions of the Lot by writing to them, and thus putting  
them to much inconvenience and expense. By putting off  
suits they worry them in some cases into a compliance. It  
was requested that the Royal Commissioners would order  
the Escheat of the Township; and that the leaseholds be con-  
verted into freeholds on the same terms as the Selkirk estate  
was purchased, with time to pay; and that the squatters be  
secured in their possessions at the same rate.

Coun. HENSLEY then read the resolutions which were pass-  
ed at the meeting held in the Temperance Hall, Cascumpec.  
In one of these mention was made of the backward condition  
of that locality on account of the action taken by the proprie-  
tor respecting the fishery reserves.—Mr. Hensley also read  
a memorial from Lot 7. At the first settlement of this Town-  
ship, it was owned by a Mr. Montgomery, an absentee land-  
lord. His agent was Mr. John Stewart. The proprietor  
sold his interest in the Lot for £10 or £15. It is now claim-  
ed by Robert B. Stewart. The memorialists complain that  
the best parts of the Township, which would greatly contri-  
bute to the benefit of the settlers if it were let to them, is re-  
served by the claimant, the validity of whose title they very  
much question. Tenants would be willing to pay five shil-  
lings and six pence an acre for the fee simple of their proper-  
ties, if time were given to raise the purchase money.

Resolutions passed at the meetings held on Lots 12 and 13  
were then read by the Counsel. In common with others,  
they expressed the opinion that neither peace nor prosperity  
would reign in this Island until that intolerable grievance,  
the rental system, be abolished. They stated that claimants  
of the lands on these Lots had no grants of them on record.  
Large amounts of rents were due, though some tenants had  
paid as much as £200. On these grounds they thought they  
ought to receive their farms without paying purchase money.  
No other resolutions or memorials were read at that time.

Coun. HENSLEY questions Mr. William Haywood.—How  
many years have you resided on Lot 2? Two: I formerly  
resided on Lot 1, where I lived 21 or 22 years. From whom  
have you received your land on Lot 2? From Sir S. Cunard.  
Did you ever apply to him to purchase? I did. What price  
did he put upon it? £100 Halifax currency, for as many  
acres. What do you think would be a fair value for wilder-  
ness land? About 5s. an acre. Land has been offered on  
Lot 3 for £44 per hundred acres; but none has yet been sold  
at that rate. The title offered is a Sheriff's deed.

Coun. HENSLEY examines Mr. John White.—How long have you been on Lot 2? Four years; I first settled in Cummec on Lot 4. I came from Annapolis, N. S. In purchasing a farm, I thought the rent would be 1s., but I found I had to pay 1s. 6d., or 1s sterling. I asked the agent the reason, for my neighbours only paid 1s. He said the farm was cursed. (Laughter.) The former agent, Mr. Peters, became offended with Mr. John Gordon, the man from whom I purchased the farm, and the consequence was, he laid a curse upon the farm. I asked him if the Annapolis man was related to Mr. Gordon. He replied that he did not care whether he was or not, the anathema would follow the farm and could not be removed. You thought then, you would get clear of the cursed farm? Yes; I sold that farm to Mr. Cunningham, and turned the curse over to him. I next bought a farm from Mr. Petrie, and to my mortification found when I went to settle with the agent, that the rent was 2s. an acre. I then resolved to get clear of it as soon as possible. Several other remarks were made by Mr. White. He thought the people could never purchase their farms at the prices Mr. Warburton mentioned.

Mr. F. McARTHUR examined.—Who is your proprietor? Cunard. I own a freehold on Lots 3 and 2; and 5 years ago I took a lease of 67 acres from Mr. DeBlois on Lot 2.

Com. GRAY.—Now, why did you do that, if taking a lease is such a hard bargain?

Mr. McA.—I had a large family, and could not help it.

Coun. HENSLEY.—Did you think it would repay you?

Mr. McA.—No.

Com. GRAY.—Well, as a practical man, why did you purchase that which you thought would be a dead loss to you?

Mr. McA.—I was always under the impression that there was no title for Lot 2; and that some day it would become the property of the Crown.

Com. GRAY.—How many acres of freehold have you?

Mr. McA.—260.

Com. GRAY.—Suppose you were to rent 67 acres of that at 1s. an acre, and you received your rent; and suppose your tenant came to you and said, I think you ought to let me have the fee simple of my farm at 5s. an acre, what would you say?

Mr. McA.—I would be glad to comply if my title was not good.

Com. GRAY.—But supposing your title was good?

Com. HOWE.—You think what they all think, I suppose, that the titles are bad, that every person has been scrambling for land and you might as well have a handful as the others. (Laughter.)

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Com. RITCHIE.—Suppose it turns out that you have been  
wrong in your calculations about the titles,—that the  
titles are quite good, do you think that the proprietors'  
lands ought to be taken from them for 5s. an acre?

Mr. McCa.—I do not know, your honors; I was obliged  
to take land at the rent I did, though I believed it was not  
worth it; and I thought the titles would be modified.

Com. RITCHIE.—That is an argument, not an answer.

Com. GRAY.—The value of land depends upon the neces-  
sities of one man and the title of another.

Com. HOWE.—Assuming all the titles good to-morrow,  
do you think the proprietors could collect their rents?

Mr. McCa.—I think not, your honor, without special  
constables.

Com. HOWE.—You mean that the people are willing to  
obey the law, but are not able to pay their rents?

Mr. McCa.—Yes.

Com. RITCHIE.—Could the people in your district pay  
back rents as well as the 5s. an acre.

Mr. McCa.—I think not.

Mr. JOHN MCKAY examined by Coun. HENSLEY.—How  
long have you been a resident on Lot 3? Five years. Have  
you a lease? I have not. There have been disputes about  
the titles? Yes; I have been called upon to attend by Mr.  
Edward Palmer. Is the land generally good? It is.  
Many leaseholders on the Township? Not many. What  
do you think is the value of wilderness land? Viewing it  
in its natural state, I think a person going to locate him-  
self upon it should receive a premium for so doing, rather  
than be required to pay rent or give a sum for the fee sim-  
ple. Land there, however, has been selling from £12 to  
£15 per hundred acres. If I were compelled to make my  
living out of a piece of unimproved land, I think I would  
pay a high price if I gave £25 per hundred acres.

Com. GRAY.—What use do you make of the knees and  
timber which you get on your lands?

Mr. MCK.—The forest on our lands has been culled already.  
Gentlemen get permits of the whole tract of country, and if a  
man need timber he must go to these parties for permission  
to obtain it. I endeavored to get a permit to obtain 20 tons of  
white logs, but I was unsuccessful. In fact we have almost to  
haul what timber is necessary to erect our buildings.

Com. GRAY.—Is that possible?

Mr. HOCKIN examined by Counsel HENSLEY.—You live on  
Lot 3; Mr. Hockin? Yes. You are well acquainted with the Lot,  
and have heard about the titles; has anything concerning them  
come to your knowledge? Yes, by sad experience. How did  
it occur? Five or six years ago, I made application to Hon.  
James Yeo for land. He told me he had a farm on Lot 3, he  
could sell for £200, of which 100 acres were free, and 150  
subject to rent, that could be obtained in fee simple for £25

Newfoundland currency. Some years after I had taken the farm I called upon his honor to ask him to whom I would pay my rent. If any person troubles you, said he, pay him the £25. Five years ago, Mr Yeo inquired if I had received any word about the 150 acres he had sold me. I said, no. He then remarked that there was some understanding between the former occupant and Mr Branscomb, but I was to take no heed to any one. After a time one Dr Winter came, and advertised the land which he claimed to be sold in Charlottetown. Parties from the Lot proceeded to town to forbid the sale. This passed on till about a year ago, when I received a letter from Edward Palmer, stating there was an old agreement between the former occupant and Mr Branscomb, and he claimed 6s. 8d. an acre, Newfoundland currency for the land according to this agreement, with interest from the year 1840. I again consulted Mr Yeo. His advice was to take no notice of him. At that time the principal and interest amounted to £75. The following year I received another letter from Mr Palmer, in which he expressed his surprise at not hearing from me; and said had it not been for Mr Yeo he would have issued a writ against me. Still I took no notice of him. Last year the Sheriff came. Said he, I have a writ for you, Mr Hockin. From whom? From Mr Palmer. All right said I, you have done your duty. I then travelled 100 miles through the mud to see his honor there (Mr Hensley.) The trial was to have come on last June, but has not come on yet. If it is Mr Palmer's, said I, he shall have the head with the tail. Fourteen cases similar to my own are now pending. The retaining of a lawyer costs 30s. I purchased my farm for £200. If it was worth £200 then, it is worth £700 now. The trouble I was put to on account of that land was the cause of one of my sons leaving me.

Com. HOWE.—From what you know of the country, have the proprietors expended anything towards improving it?

Mr. H.—Not one farthing to my knowledge. Every shilling of the value put upon the face of the country has been put on it by the settlers.

Coun HENSLEY.—Considering the few roads there are through the Lot, &c, what value would you set upon lands?

Mr. H.—Taking all the disadvantages into consideration, they are worth very little. To give you an instance, two men bought some potatoes from me. Before these potatoes were conveyed to their dwellings, three modes of transportation were adopted. On the first part of the way they were taken on a cart; on the second they were conveyed on a sled; and for the remainder of the distance, the men were compelled to carry them on their backs. The best of the timber is culled off; and taking all into consideration, I think the lands are not worth more than 2s 6d an acre. Mr Yeo, ever since I have been in Kildare, has had a permit of the Lot.

Com. HOWE.—Mr Yeo gets a general permit, and if you want timber you must get liberty from him to obtain it. He owns the forest, and you rent the land. That is the way.

Com. GRAY.—Can Mr Yeo authorize any man to cut timber on the land for which you are paying rent?



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Mr H.—He can, anywhere outside our fences.

Mr. D. MONTGOMERY.—Your Excellencies, such is the  
We have frequently had these leases before the Legis-

Mr DE BLOIS.—In giving permits, it is only for vacant lands.  
man goes upon land for which another pays rent, he should  
do so, for it is expressly mentioned in the permits, "on vacant  
s." I believe there is a clause of that kind in the leases of  
Edward Cunard; but in other cases if a person cuts timber  
rented land, he is a trespasser.

Mr. GRAY.—When you mention vacant lands, you mean  
is not leased?

Mr DE B.—Yes; when a man takes a lease for a farm, he  
a set off of his land; but he must carry out the lines himself.  
neglects to do that, the fault is his own.

Mr. THOMSON.—I understand you to say that the reason  
his reservation is, that as there are large quantities of vacant  
owned by the proprietor, if a person went to cut timber  
where upon it, the landlord, to save himself the trouble of  
ring out the lines, reserves in the leases the timber on all  
vacant lands, so that if he needs bring an action against a  
asser, as the boundaries are not defined, if he has tres-  
ed anywhere on the leased lands he can catch him?

Mr. GRAY.—It is a very ingenious contrivance, certainly.

Mr DE B.—But that is not a correct account. Persons were in  
habit of taking farms, and during the first few years, in  
h they paid little or no rent, used to cut the timber off and  
leave them. At that time too, the principal value of the  
was on account of the timber which grew on them. That  
e was then inserted in the leases to prevent the destruction  
nber upon the land. When we give these leases, however,  
y man is bound to carry out his lines.

Mr. GRAY.—The permits give liberty to cut timber off  
nt lands.

Mr DE B.—Yes.

Mr. GRAY.—Are the lines between each farm run out?

Mr DE B.—The people themselves are to do that. If the  
etor was compelled to run these lines, it would put him to  
derable expense.

Mr. THOMSON.—Did you not state, Mr De Blois, that one  
for giving leases with this clause was, that as Mr Edward  
rd held large quantities of vacant land, he reserved a right  
e trees so that he could catch a trespasser anywhere on  
land if the tenant failed to prove, on account of the bound-  
being undefined, that it was upon his own farm?

Mr. HALLIBURTON here objected to such questions being  
sed.

Mr. THOMSON.—If Mr De Blois does not wish to submit  
cross-examination, what has he come here for? Do you,  
e Blois, not charge the same rent for land which has been  
ed of its timber, as for land the timber of which has not  
removed? Yes. Where you bring an action against a  
for trespassing, do you define the lines? No. Did you

not insert that clause to save yourselves the trouble of proving the trespass was on leased land? Do your licenses define the boundaries? Sometimes. Occasionally we give a person a permit for a Township.

Com. HOWE.—Are the boundaries of these Lots so defined that a person can tell when he comes to a man's farm?

Mr DE B.—When a man takes a farm, as I said before, we give him a set off, but he is bound to carry out his own lines.

Com. HOWE.—You throw the expense of surveying on the Tenants?

Mr DE B.—Yes.

Coun. HALLIBURTON.—Have you known instances where persons have cut off the timber, and then left the land?

Mr DE B.—Several.

Coun. HALLIBURTON.—Were the lines carried out by the tenants?

Mr DE B.—Not by all. In some cases we have taken the timber clause out of the leases.

Coun. THOMSON cross-examines Mr DE B.—When there is no timber on the land, then you strike out these clauses? Yes, to prevent a tenant from going on to another man's farm. Is not a fact that that clause is to prevent the tenant from stripping his land? No, not land leased to him, but our vacant land. Did you ever compel a trespasser to refund the value of timber which he had taken from a tenant to the injured man? We would, had we known of such instances. If they cut timber on their own farms and sell it, you do not wish to interfere; but from the time they do so, they are liable for an action to be brought against them? Yes.

A few mere questions of a similar nature were proposed to Mr De Blois, and answered by him.

Coun. HENSLEY examines Mr Foly.—How long have you been a resident on Lot 3? Twenty-three years. To whom do you pay rent? To Miss Travers. Have you a lease? No, only a written agreement. What rent do you pay? £5 annually. I bought the improvements of my farm for £155. Forty-four acres were cleared. The buildings upon it were worth more than the land. Do you think you are paying rent to persons who have no right to the land? We have doubts about the title. What do you think was the value of the buildings on your farm when you purchased it? They were worth about £100. What do you think the average value of wilderness land would be? About £25 a hundred acres. There are large black spruce swamps in the rear of my farm.

Mr HUNT to Mr Foly.—Upon what section of Lot 3 do you live? Upon the 4th, I think. Do you say there are large swamps extending to the western road? I said they were in the rear of my farm.

Coun. PALMER cross-examines Mr Foly.—I think you were once a leaseholder on Lot 29, were you not? Yes. You own it? Yes. How much land did you own? 132 acres. The rent was 1s an acre. How much did you get for your property? I do not recollect. You cannot help remembering how much

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all us? I think it was about £100. Do you know that that  
farm has since been sold for £600? It may be so. You went  
Kildare and became a tenant again? Yes; your brother  
told me that the title of the claimant was not worth 2d.

Com. RITCHIE.—Then, why did you take a lease?

Mr FOLY.—I would not purchase; I thought I would be safe  
paying rent.

Coun. HENSLEY.—Your Excellencies, we have now disposed  
all the delegates.

Coun. PALMER.—I wish to ask Mr White a few questions.  
You purchased the cursed farm, you say? Yes. What did  
you pay for it? £100. How long did you keep it? I took two  
years off it. What did you sell it for? £200. You came from  
Nova Scotia? Yes, from the land where I heard Sam Slick  
lived. [Laughter.]

Coun. PALMER to Mr John McKay.—Do you complain of  
the landlord system? Yes. You complain about it, and still  
are not under it; you claim as a freeholder? I bought a pos-  
session which I have held for 5 years. Are you not aware that  
it was sold by the Sheriff? I heard so but I believe it was  
adulterant.

Coun. THOMSON.—If this case is now pending in law, I do  
not know how far right it is for Mr Palmer to be eliciting evi-  
dence which will assist his brother.

Coun. PALMER.—This case was mentioned by Mr Warbur-  
ton and I want to know if these parties do not claim their land  
quarters.

Coun. HENSLEY to Mr Robert Gordon.—You are a dele-  
gate from Lots 4 and 5; you will just state your position to the  
Court, if you please, and furnish any information you think im-  
portant.

Mr R. GORDON.—Your Excellencies; I was appointed as a  
delegate from the Lots just mentioned, to appear before this hon-  
orable Court. Though I live on Lot 3, Lot 4 is my native place, and  
that Township I now own one acre of land. In the first  
place, I may remark that we do not appear before your hon-  
orable Court, seeking a remission of back rents, for the people whom  
we represent are men who pay their rents.

Com. GRAY.—Are there any freeholders on the Lots?

Mr G.—I think there is not one. All, I believe, are lease-  
holders, and hard working industrious men.

Com. HOWE.—What are the terms of their leases?

Mr G.—They are generally for 999 years, and at 1s per acre  
1-9 added.

Com. GRAY.—What is the value of lands in that locality?

Mr G.—The value depends entirely upon circumstances.  
Sometimes locate themselves at the heads of rivers, with  
the expectation that a settlement will be formed in the course of  
20 years. When this occurs, the value of the land in such  
localities becomes enhanced. Where a man is compelled to go  
into the woods I think he earns his land if he pays for it  
one hundred acres.

Com. GRAY.—You do not think the proprietor should have  
a value put upon these places by the settlers?

Mr G.—By no means.

Com. HOWE.—Has the proprietor there opened up any road for the benefit of the tenantry?

Mr G.—When Mr Peters was agent he opened up a road under the Compensation Act from the Dock Settlement to Hill's River; but it was so narrow that two carriages could not pass each other on it.

Com. HOWE.—Is that all you know they did towards improving that part of the country?

Mr G.—I would not do the proprietors an injustice; I am not aware of any more.

Com. HOWE.—Respecting the value of wild front lands, what price would you set upon them?

Mr G.—About £25 per hundred acres.—If your Excellencies desire I may now afford you some information concerning agricultural difficulties which have arisen through the mode of disposing of the Fishery Reserves.

Com. GRAY.—We shall be glad to hear them.

Mr G.—We came from a valuable Lot—from a Township which if your Excellencies saw, I think you would say it beautiful as it came from the hands of its Creator, though through the influence of the proprietor, it has been kept in an unimproved state. After the elaborate statements made by Messrs. Warburton, Conroy and Davies, it will be unnecessary for me to go over any of the ground upon which they entered. By one of these gentlemen the name of John Hill, Esq., was mentioned. That gentleman came to Cascumpec from England about the time Governor Smith was appointed to this Colony. Upon his arrival, he claimed all the coast adjacent to and around the harbor of Cascumpec, including Lots 4, 5 and 6 as his property. He was on the Island when Townships 15 and 55 were escheated, and with others busied himself in obtaining signatures to a petition addressed to the King praying for the Governor's removal. From 1817 to 1840 he only granted leases and one minute of an agreement for a lease. There were few settlers on the Lot at that time. After being in the country some years, Mr Hill returned to England, and while there published a pamphlet in which he held out flattering inducements to persuade persons to emigrate to Cascumpec. By this and other means some were induced to come from Scotland, whom a few remained, and others left in disgust at the non-fulfilment of the promises which he made to them, and because he refused to give them titles to their lands. From all the information I can glean, I understand there was only one man settled on the west end of Lot 4 in 1838; and at the same period there were only 11 householders on the eastern portion of the Township.

Com. GRAY.—Upon what grounds did Mr Hill claim the lands?

Mr G.—Lot 5 formerly belonged to Lord Lewis, and he came out to this Island, about 80 years ago, Mr Hill, to see what of a country it was. On his return, he gave such an account of it as induced Lord L. to enter into a contract with the

overnment for spars and other lumber for the navy. When Hill came, he erected an expensive saw mill, and made other preparations for carrying out the agreement. This contract proved a failure. Then, I have been given to understand, the same Government came down on Lord Lewis for the penalty, when, to his surprise, he found Mr Hill was a partner in the profits but not in the damages. The thought of being so grossly deceived by Mr Hill, preyed so heavily upon the mind of Lord Lewis that it was reported he committed suicide. After his death, Mr Hill put in large claims against the estate, and succeeded in getting Lot 5 sold, he himself becoming the purchaser. This is the account which has been given of the transaction, and I believe it is true.—This portion of the country would not have remained in so backward a condition had the early settlers obtained leases for their land. I hold in my hand a lease given Sarah Maddox, and executed by John Hill, her attorney. It is dated October 7, 1817, and contains the following clause:—That he, the said William Hardy shall not and will not use, exercise, or carry on upon the said hereby demised premises, any part thereof, or permit or suffer the same or any of them to be kept by any person or persons who shall use, exercise, or carry on the business of a store-keeper; and shall not or will not carry on the continuance of the said term of years carry on in Cumpec Bay a trade in lumber, by selling timber, plank, boards, staves, or any kind of timber.”

Now, how was it possible for the district to prosper under such circumstances? And thus it was held under the domineering influence of one man for 30 or 40 years. When this property fell into the hands of Mr Cunard, he gave leases, I believe, to all who applied for them. There is one question, however, which agitates the public mind in that community, which is this: Is Sir Samuel Cunard the rightful owner of this Township? If the property is his, they wish him to enjoy it. From one circumstance in particular this doubt has arisen. Three or four years previous to his obtaining the property, there was no person who would receive rents. The inference the people drew from this circumstance was, that if there were no persons who had a right to receive the rents, there were none who had a right to the land.

The people we represent do not wish your Excellencies to understand that we make these statements as partisans, but simply with the view of affording to you that information which we consider to be our duty to communicate. The present agent, De Blois, is generally personally respected by the tenantry, and a very good feeling exists between the two parties. But the people hope if the lands fall into the hands of the Government or of individuals, such an arrangement will be made as to enable them by paying an annual instalment to become holders, and thus secure for themselves and their children a right in the soil.

Mr. Howe.—Have persons never taken the trouble to ascertain the nature of titles?

Mr G.—Not to my knowledge. But your Excellencies must remember there are obstacles in the way of doing so.

Mr C. HOWATT.—Your Honors, it is beyond the tenants' power to examine into the landlords' titles.

Com. RITCHIE.—I do not understand why conveyances are not recorded. Have parties never searched to satisfy themselves upon this point?

Mr G.—Persons labor under the impression that they cannot question a proprietor's title after they have taken a lease; therefore they think it would be useless to institute an inquiry. Even if they had gone to Charlottetown to ascertain, and had obtained access to documents, they would not be competent judges.

Com. RITCHIE.—Could not 4 or 5 have combined and employed a gentleman of the Bar for the purpose? He could give them an abstract of the titles.

Mr G.—The tenantry do not repose confidence in the members of the Bar—Mr Hensley excepted. I do not say but the impression may be unjust.

Coun. HENSLEY.—I acknowledge the compliment, and at the same time would desire to disabuse the minds of the tenantry of that impression respecting my brethren of the Bar.

Mr G.—We think there are two or three kinds of titles to Township lands which ought to be considered. Some, for example may be good by being lawfully transferred from the original grantees downwards; and there are others which may be good in equity though not lawfully transferred from the original grantees downwards, by being honestly paid for. Again; there may be Townships which may have been seized upon unjustly without any claim; such we think should revert to the Government. But if property has rights which ought to be respected, property has also duties, the performance of which should also be exacted. We have already shown the unwillingness manifested by Mr Hill to grant leases; however, he did grant a few; but the privilege of fishing he withheld from all his tenants. About 24 years ago, Mr Thomas Ruggles, of Digby, Nova Scotia, applied to Mr Samuel Hill, son of John Hill, Esq', who was then agent for his father, as Mr Craswell had been some years previously, for permission to erect a fishing establishment upon a sandbank at the harbor of Cascumpec, but he received a positive refusal. Being unwilling to abandon the enterprize, Mr Ruggles went to a more inland situation, but the place was so inconvenient, that his fishery proved a failure.

Com. HOWE.—Mr Cunard has not denied this privilege.

Mr G.—I think he has. Parties taking leases from him at Cascumpec Harbor, were asked to bind themselves to such strange conditions as these. That if the Government should take the land for the Fishery Reserves, they should still be bound to pay Cunard the rent agreed upon in the lease for the full term—20 years. These conditions were written on the back of Mr Rogers' lease, but were not signed by him. Your Excellencies, this is too ridiculous to be treated seriously. It reminds me of a poor love-sick swain, who says to his love, "My dear, I hear you are about to be taken from me, that your rightful owner is coming; you know how many happy days we have spent together, and how undisturbed our years have been."



know you are not mine, but I cannot give you up; I will pursue you still." [Laughter.]

Com. GRAY.—It would be well to see Mr De Blois go through that operation. [Laughter.]

Mr G.—I believe to the mind of Mr De Blois himself that cause is obnoxious.

Mr De B.—I informed him that this question would come up again, but that I believed the proprietor had the right to it; and he expressed his willingness to take the lease upon these terms.

Com. GRAY.—How much was leased?

Mr De B.— $1\frac{1}{2}$  acres, 4 chains fronting on the shore.

Mr G.—I wish to draw the attention of your Excellencies to the Map to show you the situation of this place. From that wharf (Mr G. pointing to its position on the Map) to Cascumbe Point, a distance of over  $1\frac{1}{2}$  miles, there are only 4 families. Now a high Authority has said the earth was made to be inhabited; but Sir Samuel Cunard, going in opposition to this authority, says it shall not all be inhabited if I can prevent it. He would not allow us the sweet privilege of raising a platform, and placing 1000 children upon it to sing the National Anthem, which can be done elsewhere. The proprietors are too well pleased with the music of the owls, toads and frogs to allow us to witness such comely scenes.

Mr De B.—This piece of ground is reserved by Cunard. He has a house upon it, and tenants pay their rent there to his subtenant who occupies this portion of land.

Mr G.—If it had been let even in small leaseholds, where we should have difficulty now count half a dozen of dwellings, there would be in all probability a town.

Com. GRAY.—If Cunard had been offered its value, would he not have sold it?

Mr De B.—We would sell the whole block.

Mr G.—Why not let it like the other lands?

Mr De B.—Captain Rider has 6 acres, and his lease is to be renewed.

Mr G.—Your Excellencies must see that this dog-in-the-manger policy of the proprietor is retarding the progress, and hindering the development of the resources of our country.

Com. Howe.—As soon as this question is settled, you will make a town there?

Mr G.—Yes.

Com. GRAY.—We will settle it for you shortly.

Mr G.—It may do very well for old bachelors who never expect to be any benefit to their country to endeavor to keep a nation of this kind in its present condition, and the country generally in a backward state; but there is another view to be taken of the subject. The proprietary system has sown the seeds of discontent in many families. Young men have seen and felt the difficulties under which their fathers have toiled; and these things combined have impressed their minds unnaturally respecting their country. What made Sparta great? What has made the United States great? Attachment to country. In many instances our daughters may cleave to their father's house, but

our sons have become wanderers from home, tossed hither and thither over the surface of the earth like the thistle down in autumn.

Com. RITCHIE.—Respecting this place called Cascumpec Point, are there not other places in that neighborhood where fishing can be carried on as well as there?

Mr G.—It is nearest the harbor, and most convenient on that account.

Com. HOWE.—Why do the Americans come in such large numbers, and from so great a distance to catch fish around the Island, and the people themselves on the spot do not catch them?

Mr G.—It is owing to the unnatural impression made upon the minds of our young men, which I have already mentioned, and to the prohibitions to open trade. The leases given for Cascumpec Point, I have been informed, are only for 10 years, and few men would think of complying with such terms.

Com. HOWE.—The people of Lunenburg, N. S., had no fishing grounds, no capital, yet they have done well.

Mr G.—Gentlemen in Charlottetown who have the capital lack an enterprising spirit.

Com. GRAY.—Venice was built by people who first went fishing in boats, and Lunenburg in Nova Scotia has arisen in a similar manner. Is there anything in the condition of society here which prevents you from doing as others have done?

Mr G.—I think so. This place has too few settlers. I once asked a gentleman a similar question, and he replied by saying, "You have not men enough; and you cannot benefit a country without men." To give you another instance, a Mr Foster from Rhode Island sought to obtain fishing privileges in the harbor of Cascumpec, and was refused. He applied to Mr Samuel Hill for the island in the harbor, called Savage Island. During his stay Mr Hill extended to him the rites of hospitality. Before retiring to rest, Mr Foster inquired how he could most conveniently get to Port Hill. My farmer, replied Mr Hill, will leave for that place to-morrow morning at daylight. If you rise early that will be a good opportunity for you; but if you neglect to embrace it, you may be detained until Christmas, as the frost is about to set in. This was the only answer he received to his application for a fishing privilege. That gentleman was prepared to invest all his capital in that enterprise. He settled afterwards at New Castle, N. B. The tenants of Sir Samuel Cunard find great fault with him for sealing up the fishery reserves.

Mr DE B.—Within half a mile of the harbor we sell land at a place called the Cross Roads, for 999 years, at 20s an acre.

Mr G.—May I ask Mr De Blois, why a little town is rising at the Cross Roads, and none at the harbor?

Mr DE B.—Because we can give land there on better terms.

Mr G.—Mr De Blois has given the true reason.

Coun. HENSLEY to Mr KEIFF.—You have heard what Mr Gordon has advanced, Mr Keiff; do you agree with his statements? Quite so. Do you wish to state anything in addition? I have nothing further to communicate.

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COUN. HENSLEY to Mr MATTHEWS.—Do you wish to make any observations? I think Mr Gordon's statements have embraced all the points necessary for us to mention. I may make a few remarks about the practical evils of the permit system. I think there is a special clause in the leases which gives a license to go and cut timber and haul it through my crop, for instance, by paying damages. I believe it is never acted upon, still there is the power. I own a piece of land off which I lost the timber through a permit given by Mr Yeo. This occurred about three years ago.

COM. RITCHIE.—Did you examine his permit to see whether the timber was to be cut on vacant or leased land?

MR M.—I think not; I was under the impression that the man who got the permit could cut on my land.

COM. RITCHIE.—How much was removed?

MR M.—I had no means of ascertaining the exact amount; it was about 30 tons of birch timber. I was not aware of its being cut until it was on the landing.

MR. JOHN CLARK, from Lot 5, makes a few statements.—I am a tenant on Township No. 5. The tenants on that Lot complain of the rent paying system, and think they are bound as no British subjects ought to be bound. Generally speaking the people are not in arrears. They desire to become freeholders, if they can obtain their properties at reasonable rates and get time to pay. I purchased a leasehold property on that Lot last winter. There was a reserve in the lease, however, and I kept back £60 of the purchase money until it was taken off. Even the cutting of cordwood was reserved.

COM. HOWE.—Assuming the titles to be good, and you do not appear to dispute them, what would be a fair rate to give for the land?

MR. C.—Wilderness land, I think, should not exceed 5s. an acre.

COUN. PALMER cross-examined Mr. C.—You once resided on Lot 48; had you a leasehold or a freehold? A freehold. And you sold out and became a tenant under this terrible system? Was the farm improved which you purchased? Yes: it had 100 acres of clear land. What price did you pay for it? About £300 for 150 acres.

COM. GRAY.—You feel as independent now as you did before?

MR. C.—I can scarcely say that. I am in a position, however, where I think I can do as well.

COM. GRAY.—What did you get for the farm you sold?

MR. C.—£600.

COM. HOWE.—What became of the man who lived on the farm you purchased?

MR. C.—To answer that question would detain you some time. The man who cleared it was a Frenchman who got into arrears of rent. The farm was taken off his hands by another man who came good for the rent.

Coun. HENSLEY.—Had you arrears to pay?

Mr. C.—About £30.

Com. RITCHIE.—Suppose the titles good, between man and man, what would you think a fair price to pay for the fee simple of your farm?

Mr. C.—About 10s. an acre.

Com. RITCHIE.—You see the proprietor would loose by that; when he receives 1s per acre rent.

Several other questions were proposed to Mr. Clark and answered by him.

Mr. DeBlois wished to correct a statement made by Mr. Clark, respecting the man who cleared his farm. The truth was that when the Frenchman got behind with his rent, the agent said to him, if it be for your advantage to give up a part of your farm, do so; the man consented, and a part of it was taken off his hands. Still he could not pay any rent for some years. Afterwards an offer was made to him for his farm, and he disposed of it.

Coun. THOMPSON.—That is what you did, not what you might have done.

Com. GRAY.—And you maintain, Mr. Thompson, that the existence of such a right constitutes a wrong. If the Frenchman had fallen into the hands of an agent less honorable than Mr. DeBlois he might have fared differently.

Coun. HENSLEY to Mr. STRANG HART.—You live on Lot 7, Mr. Hart? Yes. Have you a lease? Only an agreement. I live on one of the boundaries of the Lot, and have been put in possession with the promise of a lease. In your memorial you stated that you are bound down so strictly that the privileges which would render you prosperous and happy are withheld; what are some of these reservations? Such as you heard in the lease which was read yesterday. A case occurred on the Lot of a man who got possession, and held it for a long time. The proprietor brought him to Court several times; and finally the case was withdrawn. The claimant could not evidently dispossess him, therefore it was inferred that Mr. Stewart had no legal claim to the property. Mr. Hart further stated that as there were no harbours on that coast, the land was of less value on that account. Land had been selling along the sea-board for £15 per hundred acres. The people desired an investigation of the titles. Upon being asked what titles, Mr. Hart replied, the original grants. If these are proved valid, the people will make an effort to become freeholders. The front lands were pretty much taken up.

Com. GRAY.—Mr. Stewart is recognised as the proprietor there according to your statement.

Mr. HART.—Upon that Township 5000 acres are marked on the map as having no proprietor. At the prices fixed upon for back lands by Mr. Stewart—£40 or £50 per hundred

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acres—the people are unable to purchase. We would be willing, however, to give 5s. 6d. an acre, having time to pay. The timber has been culled off the land, and the saw-mills are now nearly idle.

Mr. RAMSAY.—I am not a tenant of Mr. Stewart's, but his tenants, my neighbours, have assured me they cannot cut a stick off their farms without first obtaining a permit and paying for it.

Com. RITCHIE.—Your impression is that they cannot cut wood off their farms without a permit?

Mr. R.—Yes.

Com RITCHIE.—What kind of wood?

Mr. R.—I heard of a man who cut some saw-logs on his farm, took them to the mill, and when there Mr. Kinley the agent for Mr Stewart, came and seized them; and the man was compelled to purchase his logs or lose them altogether.

Coun. HALLIBURTON.—Hear-say and evidence are sometimes very uncertain. If the man knew from his own observation, we would have no objection to his testimony.

Com. RITCHIE.—If there was not a reserve in the leases of this kind, we could not hear it at all, but there is.

Coun. HALLIBURTON.—We wish to know if practically this right has been exercised. We wish to discover the practical working of the system; we know such a power exists.

Com. RITCHIE.—This man says what he relates occurred in his own neighbourhood. It is quite true this is not legal evidence, and you have liberty to explain the whole case; but if Mr. Stewart does not come to contradict or answer these statements, I conceive you have nothing to do with them.

Hon. Col. GRAY.—I maintain that Mr. Robert Bruce Stewart, being a proprietor of large tracts of land, ought to be here.

Coun. HALLIBURTON.—We have every desire to see the investigation proceed.

Coun. HENSLEY.—Has Mr. Stewart laid out much money on the Lot?

Mr. RAMSAY.—None, I think.

Cornelius HOWAT, M. P. P., before the Court—Your Excellencies, as a delegate I represent Lots 19, 26, 27, 28 and 29. The other delegates who were appointed with myself are Messrs. Thomas Sims, James Howat, William Moore, Charles McQuarrie, James R. Watt and Malcolm McFarlane. The delegates from Lots 27 and 28 are Messrs. William Gillespie, David McFarlane and John Crocket. [It was here suggested by Com. Howe, that if there was nothing new in the memorials presented by them, that they be filed without being read just then.] Mr. Howat proceeds: To commence with Lot 19, I may remark, that I do not live on that Township; but I urged the people there to call a meeting and ap-

point delegates to lay their grievances before this Court. On this Lot the people are largely in arrears of rent; and from what I can learn, many have been dispossessed on this account, and others threatened.

COUN. PALMER.—Give the names.

MR. SIMS then mentioned these names—William Bowlin, Michael McDonald, John Dunn, Archibald Taylor, &c., and stated that some were in arrears to the amount of £100, and that £40 and £50 of arrears of rent were common. If something was not done soon, he thought many would be dispossessed. The proprietor was Andrew Todd, and the agent William Forgan. The people had nothing particular to say against either of them.

MR. HOWAT continues—The soil is inferior, and from this cause has arisen their inability to pay rent. They are anxious to become freeholders, and would make any sacrifice to secure the fee simple of their farms. It was remarked yesterday that the tenants of the Crown were relieved from the conditions of settlement contained in the original grants; and in reference to the back rents I think there should be some mitigation to the under tenants. If the favor was granted in the one case, why refuse it in the other. For pursuing such a course, I think a precedent has been established in Canada. In reference to the titles for Lot 19, there is some dissatisfaction among the people. The present heir of the Township is Mr. Todd, who, I understand, holds it from his uncle. As a member of the Legislature I have a right to urge upon your honors the fact that this is not a question between the people and the proprietors, but between the Government and the proprietors. If those proprietors who have no just claim receive a compensation for lands which they claim, and for which they have received rent, the Government will be deprived of a large amount of revenue; therefore, on this ground I plead for an investigation of the titles. I would also press upon your Excellencies' attention the fact that resident and absentee proprietors are pretty much alike as far as the people are concerned. The system is objectionable in its best features. Concerning the southern moiety of Lot 27, I remark that Mr. Robert B. Stewart is the proprietor. The early settlers have been located upon it for about 37 years. It can be proved they were settled upon this portion of the Lot as squatters for 30 years.

COM. HOWE.—And never disturbed?

MR. H.—Not to my knowledge. Mr. Stewart came among them one day with a keg of rum, and some of the people, after indulging somewhat freely, were induced to take leases. There was one man, however, who did not go to the spree, and he has been a freeholder ever since.

COM. GRAY.—That shows the advantage of temperance.

MR. H.—This circumstance occurred 29 years ago.

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Com. HOWE.—I have read of a man who sold his birth-right for a mess of pottage, but never before heard of a whole community bartering away their privileges for a glass of rum.

Com. GRAY.—This is no laughing matter. Is there any person present who can testify to these statements?

Mr. DONALD McINNIS is called and speaks to this effect: I am a delegate from Township 14, but was born on Lot 27. My father was a squatter on Lot 27, but he heard that Captain John Stewart was the owner. My father went to Captain Stewart, taking with him Mr. Binns, to see if he could get a title to his farm. Captain Stewart said he once had a claim there, but had made it over to another man. Between that time and 1815, no person claimed the Lot. After my father went to Captain Stewart, I called upon Mr. Montague Clark to run out 200 acres of wilderness land for me and my brother, in the rear of my father's farm. For this we paid quit rents to Mr. Carmichael.

Coun. HALLIBURTON.—What is your age?

Mr. McI.—About 56 years.

Coun. HALLIBURTON.—How old were you when you went for Mr. Clark?

Mr. McI.—I do not remember.

Coun. HALLIBURTON.—How long after 1815 was it before any person came to disturb you?

Mr. McI.—I think Mr. Stewart came in 1839. I was then married.

Coun. HALLIBURTON.—Then you would be about 4 or 5 years old when that circumstance occurred which you are relating.

Mr. McI.—Another man, Michael Comfort, afterwards went to Captain Stewart to get a minute of the 200 acres which we claimed. My brother, who was older than I, and I feed Mr. Binns and Mr. Palmer. The case was pending when Theophilus Stewart and Mr. Lawson came to Lot 27, accompanied by Mr. David Stewart from London. They came to hold a meeting. I told Mr. Stewart how my father had settled, and wished him to allow us to hold the land. Then Comfort steps forward and produces a minute from Captain Stewart for this piece of land. David Stewart asked him to allow him to look at it. He did so; and as soon as David Stewart had read it he threw it in the fire, saying, how could John Stewart give that man such a document for my property. Then he said he would give us leases, and would not be hard with us; and we all attorned. This was the day the keg of rum was produced.

Com. HOWE.—Was the rum produced before or after the leases were signed?

Mr. McI.—Please your Excellency it was very flush both before and after. Subsequently, a third party claimed this 200 acres, and sued me for trespass. Neil McDonald

was the man. Because it abutted upon his land he thought he had the best right to it. I lost, and appealed. Mr. Morpeth's advice to me was to appeal every time I was fined, if I lost the case. The case was coming on, and Mr. Morpeth advised me to see Mr. Peters and Mr. Hodgson. I did so, and gained the suit. Mr. E. Palmer was the attorney on the opposite side.

Com. Howz.—Do you think it was rum induced the people to attorn?

Mr. McL.—I think it was in some cases.

Com. Howz.—We are reluctant to believe there could have been found half a dozen men, much more a number, who were so devoid of common sense as to barter away such a privilege for a bottle of rum.

Com. RITCHIE.—Did you sign then?

Mr. McL.—Yes.

Com. RITCHIE.—What induced you to do so?

Mr. McL.—I thought Mr. Stewart had a title.

Com. RITCHIE.—Did your lawyers tell you he had one?

Mr. McL.—Mr. Binns said he had one, but it wanted a link.

Com. GRAY.—And the place of that link was supplied by a bottle of rum.

Mr. Howatt continues.—Your Excellencies, I would make one observation upon a remark which fell from Mr. Howz. His Excellency wondered men could have been found so unintelligent as to be influenced by rum; but you cannot judge of those men, by the class now before your Excellencies. And there is another consideration: These men who came to them as proprietors had at least the appearance of gentlemen, and the people could scarcely doubt their veracity—especially as it was common in those days to take almost everything for granted. The occurrences of later years have caused people to doubt. Suspicions arose from their allowing men to remain upon the Lot without making them pay rent. The people reasoned thus—If the proprietor can enforce the payment of rent from one, why not from all? I reside upon Lot 28. I have been given to understand that it formerly belonged to a branch of the Holland family, and that one-half of the Township has since fallen into the hands of Mr. Calbeck. His half was obtained by paying the quit rents of the whole Township. The Western moiety of the Lot was transferred to a third party. Now, why should one-half of the Township be got for 2s. 6d. per hundred acres, if worth a larger sum?

Mr. E. H. HOLLAND.—I think they paid in addition £200 sterling.

Mr. LORD (from Tryon).—When Governor Smith demanded quit rents, and the sheriff came and pounced upon me and others, the proprietor gave one half of the Township to defray the expenses of the other half. My 100 acres cost me £2 or £3; and several of us were sued for it. Because the half Lot was sold,

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we were promised ours free; but the proprietors have always acted unjustly.

Mr HOWATT.—I have mentioned that circumstance to show our Excellencies the value of land at that period.

Com. GRAY.—At that period there must have been large sums due for quit rents.

Mr HOWATT.—To show the evil working of the system, I may mention a circumstance which happened in Lot 28. A man purchased 100 acres from Dunscomb, who became proprietor of a part of the Township; and, after his doing so, Dunscomb made him pay 1s. 4d. an acre rent.

Com. GRAY.—Will you state what you think to be the actual value of wilderness land on that Township?

Mr HOWATT.—I could not say.

Com. HOWE.—As an upright man, looking at the rights of all parties, and considering that the property has fallen into the hands of persons who depend upon the returns from it for a livelihood,—and assuming it to be for the good of this country that that property be taken from them in some way, what ought the occupants of the lands to pay for their holdings?—What would be fair terms of compromise?

Mr HOWATT.—I think it is a delicate question; I cannot say just now; I may answer your question again.

Com. HOWE.—What rent do you pay for your land?

Mr HOWATT.—I pay 6d an acre Halifax currency. The lease was issued at an early date.

Com. RITCHIE.—Then your lease is more valuable than your neighbor's, which is at 1s,—that is, supposing the two farms to be equally good. I take it for granted, then, that your neighbor ought not to pay as much for the fee simple of his farm as you would for yours; for the interest of the proprietor in the one farm is double what it is in the other. If, therefore, the landlord be compelled to sell, we must fix the price at one-half less for the man who pays 1s. an acre than for the man who pays only 6d. an acre. Are there many leases at a lower rate than 1s. on the Township?

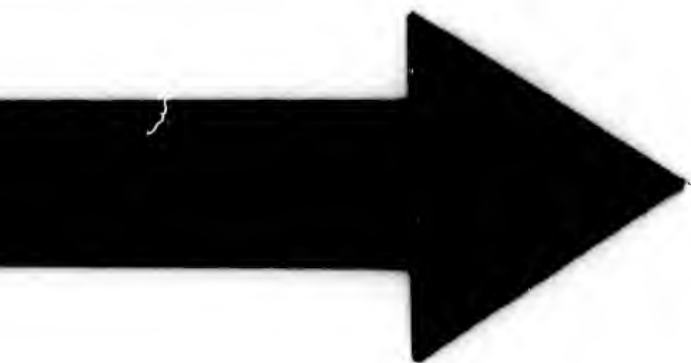
Mr HOWATT.—I am not aware.

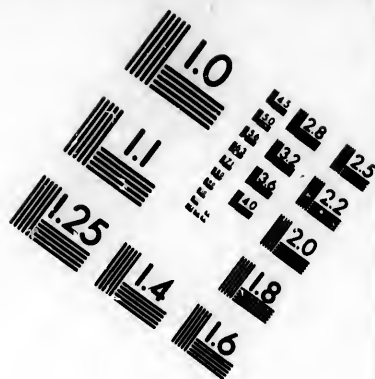
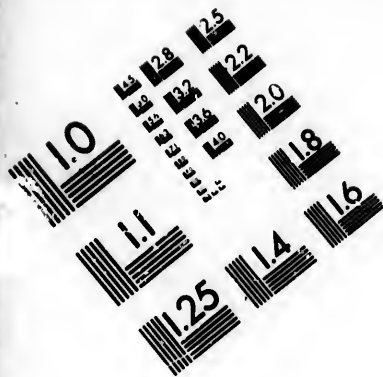
Mr E. H. HOLLAND.—Would you object to paying 10s. an acre for the fee simple of your farm, Mr Howatt?

Mr H.—I would, certainly. That is just what it is at present and I do not desire a change, unless it is for the better. Were I paying 1s. an acre rent, I would not object to pay 10s. for the fee simple.

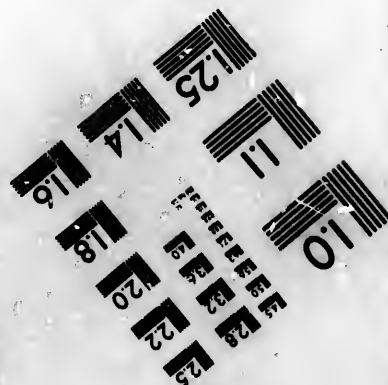
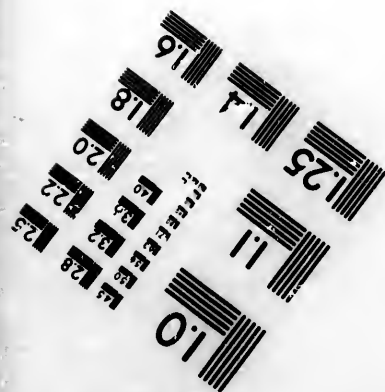
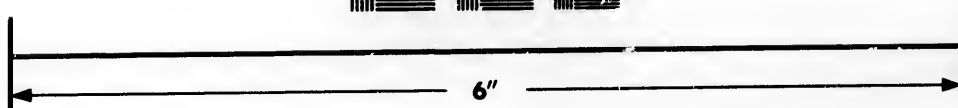
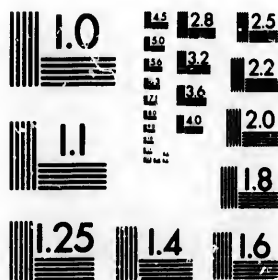
Com. GRAY.—In reference to the Selkirk estate, it has been purchased out and out. The landlord has got clear of it all, the bad land as well as the good. If you had the privilege now of purchasing from the landlords, do you think it would be right to leave on their hands all the lands which are unproductive, for which they must pay quit rents, and keep an agent to collect small sums to be paid in a period extending from 10 to 20 years? Do you not think there would be a great difference with the proprietor in selling out the whole of a Township at once, and selling it out piece-meal?







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Mr H.—I admit there is a difference.

Mr SIMS proposed a question to the Court respecting the action agents might take between the present time and the time the award of the Commissioners would be given.

Coun. PALMER thought tenants ought to make some exertion in the mean time to pay up their rents.

The Commissioners said the arrears ought to stand until their decision was given.

Mr W. H. POPE stated that as 8 or 10 individuals on Lot 29 had not attended, he would insist upon them making an arrangement upon the same terms as others had done; and that he would have no objections against taking bonds from the tenants to be paid subsequently, however, to the award of the Commission.

Com. GRAY remarked that supposing the Commission did come to a conclusion that arrears were to be given up, they could easily make void the instrument by which arrears are to be paid.

Coun. HALIBURTON thought, considering the forbearance proprietors had exercised, that the tenants had nothing to fear.

Mr DE BLOIS said that it was not his intention to distrain for arrears of rent in the meantime, provided the current rent was paid. Several other remarks were made upon this topic by different parties.

Mr JAMES HOWATT addresses the Court.—Your Excellencies: The general desire of the tenantry is to become freeholders. For my own part I feel quite young at the thought of yet becoming a freeholder. Concerning the value of lands owned by the proprietors, I would give it the same as what they were worth when covered with woods. That I think is the fair view to take of the question. There is something endearing to the man in the estate upon which he has spent his strength; he must naturally take an interest in it, and become attached to the improvements which from time to time he has put upon it. If this hon. Commission does not settle this vexed question, I expect that we old men, becoming more and more disheartened, will be dropping into the grave with nobody to care for us. My sons have left me, because they had no inducement to remain here. When we go to Canada and elsewhere, we see men enjoying the liberty of freemen—that liberty which we have long been denied here. A case was mentioned here respecting a man who holds a property and pays at the rate of 6d an acre for it. If he purchased, it was thought, he should receive it for a smaller sum than the man who pays 1s. an acre for his land, should be allowed to purchase his; but I would reverse that, and give the preference to the man who pays the higher rent. (Laughter.) I would, as a principle of sound logic, I would take a part of the burden off the man who pay 1s. and put it upon the man who only pays 6d an acre for his land. (Laughter.) I conceive that our long standing as tenants should entitle us to some indulgence. I have paid £400 in rent for 100 acres of land, and having paid so much rent, I should have it now without paying anything more.

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Coun. PALMER.—It has valuable water privileges.

Mr J. H.—Ah! but I have to pay £4 a year for the use of that stream; so my rent comes to about £10 a year. I wish to press upon your Excellencies' attention the necessity of liberating such fine men as we are. We want to be free, and we would fight for our freedom, but we cannot do that you know without making a disturbance. (Laughter.) There is another argument to which I would advert. Whatever you do, make us free men, for we never will sit down and consent to pay rent any more. The popular feeling flows in that direction. We will be free, and any man who would preach any other gospel than this, would from the North Cape to East Point receive a very cool reception. (Laughter.) And there is another thing, if the price of lands be overrated, the boon sought to be conferred may prove a clog rather than a benefit. On account of the fine situations here and there, the value of lands may be generally overrated. Mr Anderson of Bedeque had a property given to him for going to settle upon it, to induce others to do the same. By doing so he opened a door for others. The value of Township lands now results from the toil of the poor man. I would say then, in all justice, that proprietors should receive for their lands, what they were worth in their wilderness state. Now they are worth something indeed; but then when these men took them, they were only a good habitation for foxes. (Laughter.) What would these lands be without our hard labor? And the landlords should have assisted in making this country what it is, though it is still in a very backward state on account of the impediments they have thrown in the way of the development of its resources. If they would not spend money in the opening up of roads and the making of bridges; they should have founded schools in which instruction might have been received; and they might have assisted much in spreading the Gospel amongst us, for we need ministers badly enough. But their only cry has been "Pay your rent! pay your rent!" (Loud laughter.) And if a man receives a check for money, how they eye him,—yes, they watch him as closely as a cat watches a mouse till they get it out of him. One of this class sometime ago gathered up all he possibly could for land, into his pocket it went, and did not stop till it reached New Zealand. This was Mr Morpeth, the agent for Lot 29. Your Honors, I have admired your patience in hearing the grievances of so many hard-faced men as we are. I am sure if your memories are equal to your patience, you will have a dreary time of it in making anything else than a good job for the tenants. (Laughter.) You are the men. We now feel interested in your commission. If we offend any of the proprietors or their agents, we are sorry, but cannot help it, for self-preservation is the first law of nature. (Applause.)

Mr WATT and Mr M'FARLANE, the deputation from Lot 29 next appeared before the Court. They stated that in the year 1784, the Lot was granted to John Stewart, of Hampstead, Middlesex, England, and Peter Gordon, of Saint Vincent, in the West Indies; and was subsequently divided by the Governor and Council

cil of this Island, who awarded to the said John Stewart the southern moiety of the Lot. This J. Stewart appointed the late John Stewart, of Mount Stewart, Prince Edward Island his agent, in April, 1793, who was at that time in England; and on his returning to the Island received from the said John Stewart, a Power of Attorney to lease the said land. This agent granted three leases in the name of John Stewart, of Hampstead, Middlesex, in the year 1801; and in 1802: Henry Stewart, nephew of the former John Stewart, became possessor of the said half Lot, by being Heir-at-law. This Henry Stewart then re-appointed the said Captain John Stewart, of Mount Stewart, his agent, by power of attorney, to act for him as he had acted for his uncle, John Stewart. The said Henry Stewart was the last recorded possessor of the land. Nothing appears to have been done with this southern half of the Lot until 1828, when the said agent, Captain John Stewart, began to deed the land in his own name; and in the year 1833, the said Captain John Stewart willed to Mary Rain all his land in Lot 26, with description, limit or boundary. On this account the tenants on this half of the Lot are of the opinion that the present Claimant has no power to give a *bona fide* title or deed, should they wish to purchase their farms. They therefore pray that the said land be ceded to the local Government. They further stated, that many persons during the time of the American Revolution, who proved true to their country and king, forfeited their lands; and that several of these were encouraged by Governor Patterson to settle in Bedeque. In 1783 some of them came, and when they saw the place they were pleased with its appearance. Governor Patterson advised them to bring their families from Shelburne, and settle down in Bedeque. They did so; and at that period there was not an individual within many miles of them. Shortly after they had settled, Peter Gordon came and caused them to attorn to him as their landlord, and these people have been tenants to the present day, never having an opportunity to become freeholders. Some of them have paid as much as £500 in rent.

Com. HOWE.—Were there loyalists' lands in Peter Gordon's estate?

DELEGATES.—Yes.

Com. HOWE.—What became of them, when the loyalists were deprived of their possession?

D.—They obtained grants of the rear lands; but their homesteads and old farms were all upon leased land. For the last 50 years no leases have been given upon the Lot, with the exception of a few granted to persons who held minutes. Since this Commission has arrived the acting agent, Mr Burke, has obtained considerable amounts of rent. The people have become uneasy, for he has demanded of them to take minutes of agreements at 1s 6d. an acre. He induced persons to settle on the Lot two years ago. Then he said he had no authority to grant leases, but he promised that when he obtained the power he would give them leases at 1s. an acre. Now he threatens to eject them unless they take minutes of agreement at the terms he dictates. The people cannot ascertain whether he is authorized to receive rents or not.

Com. HOWE.—Suppose a man comes from England, and says to the people, I am your landlord or agent, as the case may be, does he not produce some document to show that he is such?

DELEGATES.—Burke has assumed the power without producing any authority. The tenants are all apprehensive that the present claimants are not the rightful owners.

Com. HOWE.—What do they wish to pay for the purchase of their lands?

D.—The same as is paid for lands in New Brunswick. Mr HOLLAND asks the deputation if they know what Mr Anderson paid for his land.

Mr ANDERSON.—£100.

Mr HOLLAND.—At the meeting to which these gentlemen referred, there were not more than 24 persons present, of whom only three were tenants. Another meeting was called, which I also attended. At it there were a few more—say 30 or 35 individuals; still only 5 of these were tenants from the eastern moiety of Lot 26, and very few of Gordon's tenants were present. Those who took the principal part in the proceedings endeavored to urge the people to lay their grievances before this Court, but no person seemed to have any. This is the way, your Excellencies, these deputations have been appointed; and I have no doubt that throughout the Island many meetings of the same kind have been held.

Coun. THOMSON cross-examines Mr Holland.—Are you a tenant Mr Holland? No. Was it to represent your grievances you attended these meetings? No. Are you interested as a proprietor? I am. How much land do you own? I cannot say just now. It would be a grievance to press you on that point just now I suppose? I own about 7000 acres. Well, I do not know what people call you here, but in New Brunswick, we would call you a proprietor. You attended these meetings with strong proprietary feelings, did you not? Are you in favor of leasehold tenures? No. I would rather if it were practicable, see every man a freeholder, if it would stop the croaking of political demagogues. Do you think making the tenantry of this Island freeholders is practicable? I do not know. Have you not frequently stated that it was utter folly for the people to expect anything from this Royal Commission? I have not. That meeting did you not ridicule the powers of this Commission? I only said that I believed the proprietors who did not consent to this Commission, would not be bound by its decision? I warned the people against entertaining too great hopes. My reasons for so doing are those: I support the present Government; I told Mr Cornelius Howat that if they excited hopes not to be realized it would injure the Government. You went there as a proprietor to express your views to the tenantry? I went there as a citizen. You considered yourself of no more importance there as a citizen with 7000 acres of land, than one of those 4 tenants at that meeting?

Com. HOWE.—Do you suppose the small number of tenants at these meetings was an indication of no interest being taken

in this Commission? [Answer not heard by Reporter.] If you had not been there, might not more tenants have been present? (Laughter.)

Mr HOLLAND.—My tenants are independent gentlemen. I believe I have no more influence over them than I have over the most independent man in this building.

Coun THOMSON.—You say there were only 4 tenants present; it appears you took down the names of the black sheep right off the reel.

Mr WATT.—Mr Holland's account of that meeting is very distorted. It must be remembered that these meetings were called in the very depth of harvest, and at a very short notice. The second meeting was generally attended, and those who opposed were I believe all leaseholders. In reference to the half of the Lot, the people are very much dissatisfied with both proprietor and agent, for many have persisted in not paying rent since this hon Commission has arrived. The agents of this Lot have threatened the people to whom they promised farms at 1s. an acre. Many of the farmers on that section of the Lot are American refugees, and I have been informed that some of them have paid in rent £300 to £400, and that one man has paid £1000 of rent for 350 acres. In addition, they have been debarred every privilege of converting their leaseholds into freeholds. A lease has been granted to no one for the last 40 years, and no person is in a position to give one.

The Court adjourned at 6½, p.m.

#### FRIDAY, Sept. 14.

This morning Coun. HENSLEY introduced to the Court Donald Montgomery, Esq., M. P. P., Messrs. William Cousins, John McKie, and Sutherland, a deputation from Lots 20 and 21, and read their memorial. In the memorial after expressing their confidence in the Commission, they stated that they thought the practice of leasing wilderness lands at the rates of 1s. and 2s. an acre, caused serious inconvenience. They showed the difficulties with which a man entering upon a piece of wilderness land for the purpose of eking out a livelihood, had to contend. At length their families grow up, who, seeing nothing but hardship before them, become discouraged and leave their parents frequently with impaired constitutions, to seek a home in foreign lands. The payment of rent is becoming more and more odious, and the inability of the people to meet the demands of the proprietors increasing. The system is regarded as one of slavery. The proprietors have seized upon and rented the fishery reserves just as other lands; though these reserves were intended to be a lasting benefit to the country. Many claimants were considered as having no titles; and some heads of families have been dragged from their homes for simply inquiring by what authority claim



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ants demanded rent. For these and other reasons they hoped the proprietary system would soon be abolished.

COUN. HENSLEY to MR. MONTGOMERY.—You are well acquainted with the Lots you represent, Mr. Montgomery? Yes. You refer to the fishery reserves in your memorial; according to your own views, and the views of the people you represent, what would be the most suitable way to dispose of these reserves? would it be to confirm persons holding farms on them, in their possessions, or to keep them open for fishing purposes? We think they should remain in occupation as they are now.

COM. HOWE.—To fence them off would be a great nuisance would it not?

MR. MONTGOMERY.—Most decidedly so.

COM. HOWE.—At the same time you think you should not pay rent for them?

MR. M.—Not to the proprietors at all events, for they receive rent enough in other respects.

COM. HOWE.—It is your opinion that the actual occupants of the Reserves should be confirmed in the possession of them?

MR. M.—Yes.

COM. GRAY.—Do you think what has been paid for them in rent to the proprietor should be deducted from the purchase money of his farm, if the tenant gets the opportunity of converting his leasehold into a freehold, and allowed to the tenant?

MR. M.—I think so. I consider the tenant's rent should cease, for he has the land now by possession.

COM. GRAY.—Suppose the proprietor can prove his title good, do you think it should be taken, though the original grant confirms it to the proprietor?

MR. M.—I do.

COM. HOWE.—You think the tenant ought to have the rent he has paid for them refunded; but that would be a difficult process.

MR. M.—I am aware your honors will meet with difficulties in the equitable settlement of this question.

COM. RITCHIE.—But this land did not belong to the tenants, but to the Government, and if anything should be refunded, the Government must receive it.

MR. M.—The people of this Colony are not inclined to act upon mere theory; no doubt they have been paying rent wrongfully.

COM. RITCHIE.—You think then it should not be paid either to the proprietor the owner, or to the Government the owner; but if we are called upon to refund anything, you cannot ask us to refund it to the tenants. Perhaps it will be better to let by-gones be by-gones, and merge these reserves into general property.

Mr. M.—The people are satisfied to leave the question in the hands of this Commission, to be decided as they may consider most consistent with the principles of equity. I still entertain the opinion that the rent should be refunded to the tenants.

Com. RITCHIE.—But every man is entitled to his rights!

Mr. M.—True, and I believe the tenants have as good a right to these reserves as the proprietors have to the township lands.

Com. GRAY.—To refund money to individuals who have paid wrongfully would involve great difficulties.

Coun. HENSLEY.—What is the condition of the people whom you represent?

Mr. M.—Some on Lot 21, are largely in arrears. Last March Mr. Cunard's agent distrained upon a number of them, and their obligations were taken to be paid in a few months.

Coun. HENSLEY.—Were the arrears of long standing?

Mr. M.—In some cases the arrears had accumulated under the former occupants.

Com. GRAY.—How many were distrained upon?

Mr. M.—Twenty-five. The part of the Lot these people occupy is very stony, and upon the whole, a rugged part of the country; and the people are generally poor.

Com. GRAY.—Do you think the back rents were wilfully incurred?

Mr. M.—I think the people are strictly honest.

Com. GRAY.—You think the rents are too high?

Mr. M.—I think they are much too high.

Com. GRAY.—Have the people been settled there long?

Mr. M.—I think a part of the Lot has been settled about 40 years, but Mr. H. Cundall's half of the Lot within the last 15 years.

Com. HOWE.—What becomes of these people who are distrained upon?

Mr. DeBLOIS.—I issued that number of distrains on Lot 21. There are about 200 tenants, of whom two-thirds owe back rents. I distrained because they paid nothing during the past year.

Com. HOWE.—What proportion was paid?

Mr. DeB.—Some have paid one-half, others one-third. My object in distraining was to keep up the current rent. Some of the parties paid £10, others £12, &c.

Com. RITCHIE.—What do you think is the value of wilderness land there, Mr. Montgomery?

Mr. M.—I think these men have paid an equivalent already for all they have received from their farms.

Com. RITCHIE.—We wish simply to know the value of the land.

Coun. HENSLEY.—The land there receives a fictitious value from the lands around.

Com. RITCHIE.—We will take these things into consideration; but we must have data to guide us. The tenantry are not going to settle this question, and the leases must represent the present value.

Com. GRAY.—Mentioning the price of lands there now does not determine the price we may place upon them.

Mr. M.—I think the lands there are not worth more than 3s 6d an acre. If the Government obtain the township, the land ought to be sold at the price for which the Selkirk estate was purchased.

Com. GRAY.—I suppose the moment this question is settled a new era of prosperity will begin in this Colony—that persons will come in, and thus the value of lands will increase. Allowing this to be the result, what would be the value of land per acre in that district?

Mr. M.—Were I selling it to them, I could not expect more than what I have already mentioned.

Coun. PALMER.—Respecting the fishery reserves; you have stated how you would desire it to be with leaseholders, but will you state how you would act with freeholders like yourself?

Mr. M.—I expect to enjoy the privilege in common with the leaseholders.

Coun. PALMER.—Yes, as a privilege, but are you prepared to pay rent for any of the reserves?

Mr. M.—No.

Coun. HENSLEY.—You would not be prepared to surrender any right?

Mr. M.—No; I am never prepared to do that to any man or body of men.

Coun. HENSLEY.—Have the proprietors in making modern leases imposed any additional rent—have they put an additional value upon their lands?

Mr. M.—I think so, with other strange impositions such as you heard yesterday in the leases which were read.

Hon. D. MONTGOMERY.—They do it in this way: some settlers who have spent a large portion of their lives upon a piece of land, may fall into arrears, and be compelled to leave their farms. Other men come along who are willing to pay a higher rent than the former tenants on account of the improvements put upon the land by the persons who left it. In this way the proprietor sometimes gets his back rent indirectly paid up.

Mr. WILLIAM COUSINS before the Court.—I wish to correct a statement which I made in Charlottetown respecting the rents paid to Mr. Cundall. I stated that I thought they were well paid; but upon inquiry I find such is not

the case. I have been given to understand that the rents on the Cundall property have not been well paid, and that there have been some cases of hardship in their collection. Some have been distrained upon, and others ejected. Last year I think great harshness was used in these respects. I refer now to Lot 20. These people had to get security for the payment of the sums they owed. There have been cases of imprisonment too upon the Township. About 30 years ago there was great agitation, as the title to the Cundall property was considered doubtful. Five or six individuals went to Mr. Cundall to ask by what authority he was demanding rent. A court was sitting in Charlotte-town at the time, and in the course of a few days an armed force was sent up, and the men taken and imprisoned. I said I understood the only ground upon which Mr Cundall held his property was by a grant of 200 acres of land made to a Mr. Beairisto, of Halifax. A person proceeded to Halifax to search the records there, and found that it was there recorded. I understand that it is in the Journals of the House of Assembly for either '32 or '33 that Mr. Cundall got this document registered contrary to law. I refer to the hon. the Speaker of the House of Assembly for information on this subject.

Com. GRAY.—What do you consider to be the value of wilderness land in your neighborhood?

Mr. COUSINS.—I would with regard to my own property pay 5s or even 10s per acre?

Mr. DEBLOIS wished a person upon whom he distrained last spring to be called up to state his case of hardship. George Stewart was called, and merely stated that he had been distrained upon last spring.

Mr. H. CUNDALL said, one man upon whom I distrained was written to by me repeatedly; still I received no answer. Finally I issued a distress warrant. His farm is worth from £300 to £400. He paid up one-third of his back rent.

Com. RITCHIE.—Distress warrants are not issued here in half the number they are in Nova Scotia, and other places. We see that men have to go back 30 years for instances of imprisonment, and this shows that it has been a rare occurrence.

Mr. DEB.—A merchant may distrain as much as he pleases, and they think nothing of it.

Com. GRAY.—That shews how much the system is disliked. (Laughter.)

Coun. THOMPSON wished to know if the month of March was a distraining season with the proprietors. (Laughter.)

Com. HOWE.—As a general rule, I think the spring is a bad time to distrain

Mr M'KIE, another member of this delegation, said—I am not sent to complain personally of the landlord or agent, but the system. The system I consider to be harsh and cruel. I knew of persons being shipped to this Island from Scotland who could not pay their passage. They arrived in New London destitute. When the inhabitants of Corbett Woods were settled, the agent came saying the land was his, and compelled them to submit to the terms which he dictated. The landlord in the old country paid their passage to this country to get them off his estate. Respecting the value of land, I agree with the other delegates.

CONN. PALMER.—You spoke about these people going to the Corbett Woods; now were not wilderness farms more advantageous to these people considering their circumstances than cleared farms, for if they were cleared the people would require stock &c? [Answer not heard.]

MR ALLAN FRASER before the Court.—Mr Fraser commenced by telling about a Frenchman from Canada, who, by stress of weather, was thrown on the north side of this Island. This man was taken by the Sheriff, William Bearisto, in a mistake for an escheator, and without any commitment was imprisoned. Proprietary influence in this Colony, he would wish their Excellencies to understand had affected every thing, judicial, political, and social. Mr. Fraser next showed how proprietors avoid paying anything for the opening up of roads, after which—

Com. HOWE remarked.—If I understand Mr Fraser's argument it is this: under a general law of the Island which compels every one to contribute towards public roads, £3000 have been paid by the small proprietors; but by the action of the Courts of law, the large proprietors have shaken themselves clear of the tax altogether. Can this be shown?

Hon. MR WARBURTON.—I was commissioner of roads at the time to which Mr Fraser refers. The road to which Mr Fraser alludes was open from ——— River to Tignish, a distance of 16 miles. The opening of it cost £1300. Cunard's share of the expense amounted to £700 or £800, which he avoided paying by having a suit quashed in Court. The Palmer Road, which passes through Mr Palmer's property, was purchased by himself. There is another road leading from the Western Road to Lot 8, of which the length is eight miles, towards which the proprietor paid nothing.

MR H. CUNDALL contradicted this statement.

Com. HOWE.—How did he get clear of paying?

MR WARBURTON.—Through some alleged invalidity in the proceedings on the part of those who conducted the suit.

CONN. PALMER.—Respecting the Road compensation Act, I may remark that there are many preliminaries to be attended to before the machinery can be set in motion.

MR WARBURTON.—There was not an impartial inquiry.

Com. GRAY.—What amount were they relieved from by that inquiry?

MR W.—I cannot say; perhaps £1400. Opening the Western Road was a very material benefit to the proprietor's estate.

Com. GRAY.—It was an immense amount to seek to take from these *poor people* when it went to improve their estates.

Coun. HALIBURTON.—A certain sum was offered to them, and they refused to accept of it. Then proceedings were taken against the proprietor, the course was proved to be unfair, and the result was as you have heard.

Mr DE BLOIS.—Many private roads have been opened by the proprietor, which afterwards became public roads.

Com. GRAY.—A person would think that wealthy people would set a good example in this respect.

Hon. Col. GRAY.—Will Mr. De Blois mention for the information of your Excellencies how much Mr Sullivan has contributed towards roads, bridges, school-houses, churches, &c.?

Mr DE B.—Nothing at all since I have been agent.

Hon. Col. GRAY.—I presume when Mr De Blois took the agency he knew pretty well the state of matters; can he state at this moment that Mr Sullivan ever paid £1 to these objects?

Mr DE B.—I cannot.

Com. GRAY.—Has Mr Sullivan been long absent?

Hon. Col. GRAY.—He has never been present, your Excellency. [Laughter.]

Mr FRASER.—In this respect I hold that Cunard is not more guilty than the other proprietors. The House of Assembly took up this question warmly on one occasion, and were about to send for the Chief Justice; but it was overruled, as it was thought it would interfere with the courts of justice. It was supposed though that his Lordship would get such a hearing as he would not soon forget. Every evidence was brought before the Committee. The Prothonotary stated that the writ, which had to go 100 miles, was detained till the third day before it was to be served, and the Sheriff arrived with it a few hours after the time.

Coun. PALMER.—I have heard it stated that his Lordship had no difficulty in setting it aside.

Com. HOWE.—Is there any evidence to show that proprietors were ever brought to book for anything? [Laughter.]

Mr FRASER.—No.

Com. HOWE.—I ask the question seriously; is that the prevailing opinion on this Island?

Mr F.—It is.—Again, I may refer to the Land Tax Act, which imposed a tax of 5s. on each hundred acres. It was passed here, and sent home; but the proprietors petitioned against it, and having been opposed in England, a despatch came allowing it to go into operation at 4s. instead of 5s. Thus you see these men have had power to control the whole machinery of the country. The Rent Roll Bill was passed here also; but through proprietary influence was disallowed at home. I may next allude to the intimidation practised by proprietors at elections, and will mention the case of Charles M'Kinlay, who, speaking against the "powers that be" at a public meeting, was so persecuted that he was forced to leave the island. Respecting the price of land, I may say that under the old system, land on Lot 15—a Crown Lot—sold, or was offered many years for sale, at 20s. Stg. an acre. In 1850 it was



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on other day, that as long as the Government recognises the  
title of the proprietors as good, it would be wrong to take their  
lands from them; but what I ask is the Government when not  
administered according to the wishes of the people?

Coun. HALIBURTON.—How long have you remained on  
our place?

Mr FRASER.—Since I took it.

Coun. HALIBURTON.—Why have you remained so long?

Mr F.—Because I could not sell my property.

Coun. THOMSON.—Do the landlords include the roads in the  
lease they lease!

Mr F.—My lease includes one half of a road.

Mr ANDERSON, surveyor.—I have always allowed for the  
road. If I commenced at a road I measured from its centre, but  
allowed for it in the rear. When commencing at the shore, and  
the land crossed a road, this could not be done.

Coun. THOMSON.—Did Lewellyn dismiss you for allowing  
the road?

Mr A.—Yes: I thought to follow his directions would be un-

Mr ALEX. STEWART, of Lot 18, before the Court.—I am a  
son of the man who was instrumental in bringing the  
British settlers to this country. Before they came, they  
were deceived by the descriptions which were given of this Is-  
land. They settled on the Crown lands in Princetown Royalty.  
A few years after, a bill was brought into the Legislature to deprive  
them of their lands, and the result was, they left them. A man  
by the name of Robinson was accustomed to go home annually  
to receive the people; and when he brought emigrants out, used  
to leave them on the shore. Thus they were compelled to settle  
on the lands at the terms which the proprietors might dictate.

Wm. GRAY.—Are you related to the proprietors of your  
place?

Mr STEWART.—I am connected with all the proprietors of  
the name. In 1820, immigrants arrived in Malpeque; but when  
they came there, they insisted upon the captain's bringing them  
to Charlottetown. One of these persons afterwards returned to  
the land, met Robinson there, took legal proceedings against  
him, and as Robinson could get no one to take up his case, he  
lost it. That prevented further emigration then. Mr Hill of  
St. John's also sent his son home to look for emigrants. This  
young man seeing how the people were deceived, said it was  
making him mad; and ultimately he became mentally deranged.  
I now mention particular cases to show the evil working of  
the proprietary system. A man on Lot 26 with his family  
had 300 acres of land, and paid rent as long as he could.  
His family leaving him, he was unable to pay. At his death,  
his family sold the property. I bought it for £150 with all the  
things—a great bargain. In money, I handed them a solitary  
note which was all they received for the labor of 40 years.  
The rest went into the pocket of the proprietor. Respecting

the roads on Lot 18, none have been left by the proprietor. The people are paying rent for roads and all. On that Lot people are continually changing. I would impress upon your honour this fact, that the people who were brought to this country were basely deceived. I could state facts which would astonish you. Among other things, the siege of Malpeque was remarkable.

Com. HOWE.—I have heard about the siege of Derry, &c. Will you tell us something about the siege of Malpeque?

Mr STEWART.—Governor Fanning issued orders for a muster of Militia about the year 1802, which order was disregarded by the inhabitants of Malpeque. The Governor being indignant at their disobedience forthwith ordered a detachment of soldiers and others to accompany him to Malpeque. On his arrival there not a man was to be found; all had fled to the woods. After remaining some days, and threatening what he would do, if he could but take them, the people not making their appearance he had at last to pledge himself to do them no injury providing they would muster. They having been made acquainted with these promises, immediately came and mustered. The Governor, on being asked if they might dismiss, replied that they might go to h—. When he returned to Charlottetown, he drew up a despatch, representing the whole Island as in a state of rebellion, and that he had besieged Malpeque, the principal stronghold of the rebels, and completely subdued them. He at the same time gave a list of the killed and wounded, accompanying it with a draft for no inconsiderable amount to defray the expenses of the siege. One of the officers, who was represented as being wounded, but who merely got his trousers torn on his way thither, applied for, and received a pension. The despatch was followed by another, equally false, representing the Townships on the Island as having the full complement of settlers required by the original grants, when between Summerside and the North Cape there was not a single settler; from the North Cape returning on the north side of the Island to St. Eleanor's there were not over 25 settlers, with the exception of the Acadian French; and from St. Eleanor's to Charlottetown there was an unbroken forest, with the exception of the clearance of one settler.

Com. RITCHIE.—These despatches are not to be found.

Mr STEWART.—This much I know, that one time Governor Fanning's Secretary came to my father's house, as he entered he struck my father on the shoulder and said, "Well Charles what do you think, our population is thirty-two thousand." "It is impossible," replied my father, "for I know every man on the Island, and there is not one fourth of that number." These despatches I have often heard spoken of by those conversant with the whole circumstance, but never heard the fact of their being written disputed. These despatches I always understood were got up for the express purpose of preventing the Escheat Bill of 1803 from going into operation.

Hon. DONALD MONTGOMRY, Speaker of the House of Assembly, addresses the Court.—Your Excellencies: it is not my intention to make any elaborate statements, or to go into details

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wish to refer to the question generally, mentioning some of the  
ills which arises from the land tenures of this Island. That  
ills exist, every person knows; even the proprietors them-  
selves do not deny it. The prosperity of the country has been  
starded very much by the working of the system which your  
excellencies are at present investigating. For one thing it has  
deprived us from having a superior class of immigrants. Per-  
sons with money prefer locating themselves where they can re-  
sive land on more favorable terms than in this Province; so  
this Island has been inundated with men without means, some  
of whom have had their passages to this place paid by parties  
interested in their removal from the Mother Country. Now a  
mass of tenants of this description will never enhance the value  
of any country. Our population increases slowly, and one cause  
of this is the manner in which lands are held.

Com. HOWE.—Do you double in 20 years?

Mr. MONTGOMERY.—We do not. A short time ago I saw  
an account of an examination which took place before a com-  
mittee of the House of Commons, respecting the lands in New  
Brunswick. Opinions were asked concerning the system of  
holding lands in these Colonies, and it was thought that the peo-  
ple in America were decidedly opposed to the name of rent.  
Colonel ——— stated that if the proprietors would sell their  
lands at reasonable rates, and have interest paid on the purchase  
money, it would take well, for the name of proprietor sounded  
harsh. People in coming to this Colony think £5 for the rent  
of a farm appears small, if they have been accustomed to pay  
£2 or £3 per acre in the old country; but they are then not  
ware of the hardships which are before them. The forest is  
to be felled, and instead of having one acre with which to com-  
mence they have not a single foot. They toil on, living in  
poverty, and hope that they will one day better their condition, but find  
their rent increasing upon them until they are probably £10,  
£12, or £20 in arrears. Then they see their prospects are  
diminished,—that they cannot free themselves, and that the im-  
provements which they have been putting upon their farms  
have not been for their own benefit. These reflections to a  
certain extent induce them to be indolent. Men do not make  
that exertion which they would, had they the fee simple of  
their farms. Hence your Excellencies must see that the pro-  
prietary system retards the improvement of this country. We  
have had blights in this Island of various kinds, but the worst  
of all is the system we deprecate. It has been said here  
that the impression has gone abroad that tenants cannot obtain  
justice in the courts of law, when brought there by proprietors.  
I would be sorry to say they could not obtain justice, still I be-  
lieve such an opinion is general. As the sons of the tenantry  
grow up, they do not see the use of settling upon land which  
they are so liable to lose, and consequently many are induced  
to leave their country. A few years ago when in conversation  
with a land agent, I discovered that his tenants were largely in  
arrears. Why keep these people in bondage, I inquired? if you  
cannot obtain these arrears, strike them off; by so doing you

would create a sense of freedom in them which would be beneficial to both parties. Said he, these tenants improve the property a little after the time they build the second house, and though arrears are accumulating, still their improvements are worth the back rents.

Coun. HALIBURTON.—Who was the agent?

Mr MONTGOMERY.—I do not care about mentioning names, but the agent is Mr Forgan. This shows that after a man has put many years of hard labor upon a farm, they make no scruple to turn him off on account of a few pounds of back rent; and I think your Excellencies will agree with me when I say that such a state of affairs should not exist in any country, and especially in new countries. I spent three years of my life in New Brunswick. When I was there lands were selling at 2s 6d an acre; and a few years previous to that time, they were much lower, being only £10 for the block of 200 acres. It was afterwards put up by the Government to £25 for the block. Now I cannot see that lands should be sold at higher rates in this Colony than in the neighboring Provinces. There they are not as well locked up 7 months in the year; besides their lumbering privileges are very considerable. In fact in this Island we have now in many instances to import our lumber. Speculating men of means obtaining general permits have stripped the lands, and in several instances have left them worthless.

Com. HOWE.—Do you mean to say you import your boards and shingles?

Mr M.—It is so.

Coun. HALIBURTON.—Do you refer to the whole Island?

Mr M.—I believe it is nearly general.

Com. GRAY.—What do you pay for cord wood?

Mr M.—In Charlottetown it is sometimes as high as 20s per cord; in the country it is about 10s. Much of the forest has been destroyed by fire. Between the settlement in which I reside, and the Messrs Bagnall, in the course of 20 years I think there will not be a green stick left. Persons coming to settle in this country who possess some means generally succeed, and in a few years become comfortable settlers. In other cases, though people bring no money, if they settle near the sea shore, or enjoy other privileges they occasionally prosper. In many instances, however, when the virgin soil becomes exhausted, poverty ensues. The soil in this island is poor, and requires to be frequently improved with manure to ensure anything approaching to an abundant return. As there are no mines or minerals in this country, nothing is obtained but what comes from the labors of the industrious settler. When we look at the effects of the proprietary system, we see it so cramps the energies of the people, and retards the progress of the country generally, that after farms have progressed so far, they then, as it were, become stationary. In some cases I believe the system induces idleness. Tenants fall into arrears, and not seeing how they are to extricate themselves, become disheartened. I have frequently said to such people, you must stir up and endeavor to liberate yourselves. They generally appeared to think they

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could not. If we make improvements, said they, we do not know how long we may have the privilege of enjoying them. A gentleman referred you to me to-day for information in reference to a document of Mr Cundall's. At the period to which he alluded, there was much disturbance in a settlement in that part of the country called Iriestown. It was thought the proprietor had no legal title to the land he was then claiming. I was in the Legislature at that time, and one day Mr Cundall came to the House and called out Mr William Clark and myself. Taking us into an ante room, Mr Cundall remarked that he was not obliged to show his title to every person, but he would present it to us, and if we chose, we could inform the people that he had a title. I think the date of the paper was 1767, but it did not appear to me to be a document issued at that time. He informed us too that he was going to put it on record. This document is recorded, and will speak for itself.

Com. GRAY.—Mr Montgomery, you heard Mr Fraser mention about people frequently changing their places of residence; such a common occurrence?

Mr M.—It is.

Com. GRAY.—Does this changing arise from a failure to pay rent?

Mr M.—Not necessarily. Sometimes persons find they cannot meet their demands and sell off.

Com. GRAY.—They do this rather than give all to the proprietor?

Mr M.—Yes.

Com. GRAY.—Families have been settled here for 40 years; have they not improved their condition considerably?

Mr M.—They have. These persons continue to improve their circumstances until a certain period, and after that they remain stationary.

Com. GRAY.—What do you think is the value of first class lands on the Island?

Mr M.—This depends almost entirely upon circumstances; in old settlements there are no lands for sale.

Com. GRAY.—How many farms would sell for £2000?

Mr M.—I do not know one. Were I to offer my farm for sale, I believe I would not get £1000 for it. I consider the value of an article to be what it will bring in the market. Ten years ago property was more valuable than it is at the present time. This I consider to be owing to the class of emigrants who come here.

Com. HOWE.—Are the people generally sober?

Mr M.—In the settlement where I live they are? Not one drop of spirituous liquor was entered in the port last year.

Com. HOWE.—I asked that question because there used to be men with us, of whom it was said the third child was born in the rum which was drunk at the wedding was paid for; I thought you might possibly have some of the same class.

[Laughter.]  
Com. HALIBURTON.—Are not £11,000 of your revenue derived from the liquor traffic, whereas the whole revenue of the Island amounts to only £43,000?



Com. HOWE—I think that is about the proportion in other countries.

Mr MONTGOMERY—In the district where I reside, the people are generally sober and industrious. Perhaps Mr Haliburton has read the report of that, I may say infamous liar, the correspondent of the *New York Tribune*.

Coun. HALIBURTON—I merely inquired to ascertain the wealth of the people by their luxuries. Is there not a great deal of tobacco used here also?

Mr M.—There is too much.

Hon. Col. GRAY.—You have been in this country upwards of 46 years, and you have been in the Legislature 22 years; therefore you have had many opportunities of judging, and are consequently able practically to answer this question: Do you consider an undue proportion of the young men of this Island quit their homes, and leave the Colony on account of the rental system?

Mr M.—I do. Of ourselves there was a large family. Some of my brothers emigrated to the neighboring Provinces; and one of these has the honor of holding a seat in the Legislature of New Brunswick.

Col. GRAY.—Do they not frequently leave on account of the yoke fixed upon their shoulders by their fathers?

Mr M.—I think so. I visited a settlement on Lot 22 some time ago. The settlers were from Scotland. Such poverty of thought did not anywhere exist on this Island as I witnessed there. Not very long afterwards there was considerable agitation about the School Act. Some were of opinion that there should be a clause in it making it compulsory upon parents to send their children to school. After my visit to that settlement when in conversation with our clergyman upon education, he gave it as his opinion that parents should be compelled to send their children to school, I replied that if a clause to that effect were introduced into the Act, in many cases the Government would be under the necessity of providing clothing to the children before they could enter a school-room. The huts in which these people lived were most uncomfortable hovels, being either wind-tight nor water-tight.

Com. HOWE—What length of time have they been settled there?

Mr M.—About ten or twelve years.

Com. GRAY.—Are they tenants now?

Mr M.—Yes—of Mr Sullivan.

Com. GRAY.—Are they in arrears of rent?

Mr M.—No doubt they are.

Com. HOWE.—There must be something defective about these people?

Mr M.—I thought so at the time.

Coun. HALIBURTON.—Suppose they were made freeholders do you think they would be more prosperous?

Mr M.—It would appear not, if they pay no rent now; but if they been settled on freeholds at first, they might have been more energetic. In travelling through Dalhousie, some years



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er I had been first in that part of New Brunswick, I was as-  
 nished at the improvements which had been made during my  
 nce; and my brother informed me that most of the Island  
 on who had settled there, could command £200 or £300 cash.  
 Com. GRAY.—Is there any difficulty in getting laborers in  
 the Island?

Mr M.—There is in the time of harvest.

Com. GRAY.—Any difficulty in obtaining permanent laborers?

Mr M.—Not any, if you can afford to pay them the wages  
 which they ask. But were I to hire a servant to work my farm,  
 I would soon have the property, and I would become the ser-  
 vant. Farmers here cannot afford to pay the wages of perman-  
 ent laborers.

Com. GRAY.—Young men leave here then to better their cir-  
 cumstances, not altogether because they dislike the proprietary  
 system?

Mr M.—I believe few of them would go away, could they  
 obtain farms here in fee simple.

Coun. THOMSON—I think there can be no comparison be-  
 tween the advantages of men who go to New Brunswick and  
 buy land, and those who rent land here at 1s. an acre. The  
 advantage would be on the side of the man who settles in New  
 Brunswick, since he can purchase land at a lower rate. The rent  
 payer is never out of debt. Do you know whether the proprietors  
 directly or indirectly have used their means to open up this  
 country over which they have exercised such vast control?

Mr M.—As a general rule I believe they have not. In refer-  
 ence to paying rents for main roads, I myself have seen the  
 surveyor plant his staff upon the centre of a road and mea-  
 sure from the spot. I then inquired if he made any allowance  
 for the rear, and he said, not any.

Coun. THOMSON—Do you know if the proprietors have con-  
 tributed anything towards school-houses, churches, and such like?

Mr M.—I believe not, except by compulsory means. Mr. now  
 Samuel Cunard, when examined before a committee of the  
 House of Commons, of which there is an account in the Jour-  
 nal of the House of Assembly, for, I think, 1839, stated that he  
 paid so much to different churches in this Colony. After-  
 wards a Committee of the Assembly were appointed to inquire  
 into the correctness of his statements, and Dr Jenkins was ex-  
 amined upon the point. The Doctor said that Cunard's state-  
 ments were certainly incorrect.

Mr DEBLOIS—I can prove they are facts.

Mr. M.—If Mr Cunard was right, Dr Jenkins was wrong. We  
 leave it to the world to decide whether the Legislature of  
 the Colony was right, or Mr Cunard's statements before the  
 House of Commons.

Coun. HALIBURTON—The very spirit evinced by the ten-  
 der shows that these reports of the Assembly are not to be relied  
 upon, and I will have to draw the attention of your Excellencies  
 to this subject again.

Coun. THOMSON—Mr Haliburton need not jump before he  
 comes to the stile. If Mr Cunard did make these statements, he

is not such a great man that we are to be excluded on that account from proving whether they are correct or otherwise. Dr Jenkins' evidence was not designed to show that Cunard's testimony was untrue, but to place facts before the committee. It is quite possible that Cunard may have made these statements on the representation of an agent. Whether they were false wilfully or not, it appears they were not facts. It is certainly an extraordinary position for the learned Counsel to assume, that the statements of Mr Cunard in this particular, are to be relied upon more than the evidence of Dr Jenkins and all the people of this Colony.

Mr MONTGOMERY.—I have no desire to injure any one who is really a proprietor, but I wish to show your Excellencies that the system has ever worked against the interests of this Colony. The country have full confidence in this hon. Commission, and the people believe that an equitable settlement of the question which you are investigating will be a decided benefit to this country.

Mr Montgomery having received the thanks of the Commissioners for his address, retired.

Hon. Mr PERRY before the Court.—Your Honors; I am a delegate from Lots 14, 15, 16 and 17. The desire of the people in these Townships is to be freeholders. On Lot 14, a number of the people are already freeholders, and the remainder are exceedingly anxious to hold their land in the same manner.

Com. HOWE.—You say some are freeholders, others leaseholders,—could a stranger driving through the Township see a difference in the farms of these two classes?

Mr P.—I think so. I could distinguish them; the freeholders have better and larger improvements.

Com. HOWE.—From this you argue that what goes into the pockets of the proprietors in the one case goes towards improving the settlers' property in the other?

Mr P.—Just so. The arrears of rent are, I believe, principally due by poor people. A portion of Lot 14 through which the main Western Road runs is a barren. There is another barren on the line between Townships 13 and 14, which extends to Egmont Bay; and in these places the lands cannot be highly valued.

Com. HOWE.—Taking the whole Lot, what would be a fair price?

Mr P.—About 3s per acre for wilderness land. The good land is now nearly all taken up.

Com. RITCHIE.—What would be a fair average for lands both cultivated and uncultivated, supposing the proprietors could give good titles?

Mr PERRY.—I think 5s would be an average value.

Coun. PALMER.—Where lands are leased at 1s, your proposition would be that the proprietor should lose the difference in the value which that rent represents?

Mr PERRY.—Yes; for nearly all the timber is gone, and lands rented at 1s are very high.

Coun. PALMER.—Is there any clause in the leases reserving timber?

Mr P.—I am not aware. The timber has been taken off by permits. Mr Yeo, I understand, has a general license. On Lot 17, there are only a few tenants. Lot 15 is free land. Lannox Island, which was set apart for the Indians, is not left to them. They are deprived of the hay which grows upon it.

Com. RITCHIE.—Who interferes with them?

Mr P.—Mr Yeo and Mr Stewart claim the island. [Mr Yeo was here called for, but happened to be absent.]

Coun. PALMER.—You are acquainted at Tignish; you know parties there who hold freeholds, and parties who hold leases; which of them is the better off?

Mr PERRY.—Some of the inhabitants in Tignish are in comfortable circumstances; but from the Palmer road Settlement you have not received £10 in rent.

Coun. PALMER.—Oh! well, if I choose to let them off—that is another subject.

Mr P.—The people are not able to pay. They are so poor that I believe it will require another class of people to come and buy them out, and give them an opportunity of moving farther back into the country.

Coun. PALMER.—You referred to Lot 15 as being free land; which has the best chapel, that Township or Tignish?

Mr P.—That is not a criterion; in the one place there are 400 families, and in the other only 150. Lot 1 was settled 60 years ago, Lot 15 at a later date.

Com. HOWE.—I have heard about the chapel in Tignish, that it cost £20,000; now assuming this sum to be raised by 400 families, that would be £50 for each family.

Mr P.—The chapel at Tignish is built of brick. The clay was dug by the people themselves, and by them made into bricks. The boards and lumber and part of the lime were procured by the people themselves; they also performed all the labor, with the exception of that done by the tradesmen, which former was valued at 5s a-day; in this manner the calculation was made.

Com. HOWE.—Have the people there peculiar advantages for fishing?

Mr P.—Yes.

Com. HOWE.—Have the people in Lot 15 these advantages?

Mr P.—Not to such an extent.

Coun. HALIBURTON.—Who gave the land for the old chapel?

Mr P.—The proprietor—50 acres. I may state further that about 100 French families are going to emigrate to Restigouche in New Brunswick, from Rustico, in a short time; and unless something be done soon to settle the minds of the people, many more will leave this Colony.

Coun. PALMER.—In Rustico the people are crowded too closely together. Their farms are all small, and no more can be made there.

Mr DE BLOIS.—I have had applications from several of these persons for land in Tignish; but I discovered that they were discontented and idle, and I thought if I granted their request they would prove an injury to those already settled there. I

told them to get Government land, if they wished to leave Rustico.

Mr PERRY.—Respecting the value of lands, I think it should be set at what it was worth in its unimproved state. 40 years ago gentlemen being called upon to value Lot three did so, and the price they decided it to be worth was 1s. per acre for the fee simple.

Com. GRAY.—When was Lot One settled?

Mr P.—In 1800, but no rent was demanded until 1835.

Com. PALMER.—Rent was paid there before you were born.

Hon. Col. GRAY.—I would like to ask Mr Perry as a gentleman of sound experience whether he thinks the people in his district, or generally throughout the Island, would prefer purchasing their lands under the Land Purchase Bill, or directly from the proprietors themselves?

Mr P.—I believe they would prefer having the lands fall into the hands of the Government. If this course is not pursued, I think the name of proprietor will never cease to exist, that the landlords will become proprietors *de novo*.

Hon. Col. GRAY.—Then the people would be content to pay a higher sum to the Government than to the landlords?

Mr P.—I cannot say.

Com. HOWE.—Look at the whole revenue of this Colony what state would it be in to purchase all these lands?

Mr P.—I am uncertain.

Com. HOWE.—Assume one million of acres to be purchased at \$1 per acre, you see it would amount to £250,000 Halifax currency; but I do not say that a good financier could not compass that sum.

Hon. Col. GRAY.—Are you not aware, Mr Perry, that even supposing the Government could purchase land so low as 2s per acre, they could not sell to the tenants under 5s?

Mr PERRY.—Yes.

Com. RITCHIE.—Suppose the proprietors were paid in five instalments, how would that answer?

Mr P.—They would then be at liberty to sell all the wilderness land to one person, and that individual might become a new proprietor. If it fell into the hands of the Government, I presume it would only sell in small quantities.

Mr EPHRAIM REID was then introduced to the Court. Hon. Col. Gray for the purpose of giving comparative information respecting this Colony, and the neighboring Provinces.

Mr REID.—I shall endeavour to direct your Honors' attention to such subjects as you wish to be enlightened upon. I had opportunities of seeing the provinces of New Brunswick and Nova Scotia as well as this Island. I lived in New Brunswick 32 years, and was brought up to farming till I was 21 years of age. After this I travelled with surveyors through much of the forest of New Brunswick for some years. We travelled for the head of the Restigouche across to the waters of the St. John so you may judge that I am well acquainted with the appearance of the country. I came to this Island 20 years ago. For the last 15 years I have carried on manufactures, in tanning, currying

harness making, and boot and shoe making. In this latter branch I have sent out work to the distance of 50 miles in every direction. I have also turned my attention to farming. Having extended my business so far, in collecting my payments, I have been brought into contact with a great number of people, with whom I have become personally acquainted. From the manner of conducting this investigation it appears that one special inquiry, is concerning the feelings of the people with respect to the rent-paying system. I would also state, besides knowing the country so well, I have publicly lectured on the political affairs of this Island in different parts of the Colony. In this way, the minds of the people who have not access to papers have been drawn out. During my lecturing career I have frequently battled with the land question. Another object in my lecturing was to enlighten the people upon what constituted a liberal or free government, for the way our Government was constructed at that time, appeared to me, in its working to do more harm than the proprietors themselves. My arguments against the Land Purchase Bill were, that the Government was mortgaging the revenue of the Colony to buy up these lands, and that the people would be liable for the results. Thus I discovered that it would be a great injury to this country.

Com. HowE—Was not an effect of your lecturing to induce the Government to purchase another estate?

Mr REID—No: I showed them what the working of the estates would cost, that the interest of the money, calculating compound interest, would place the Government in an inextricable difficulty. I illustrated thus: Take 100 acres at £15. For this a man pays a tax of 9s 2d; now by calculating compound interest on his money besides the tax, when he balances his account at the end of 32 years, he finds the land has cost him £200. Now supposing 150,000 acres to lie vacant for a length of time, on the purchase money of this we would have to pay interest, at the same time losing our land-tax. If the freeholder was to be taxed to pay the interest of money raised by a loan to purchase the land from the proprietors, we see what the result would be.

Com. HowE—You would be opposed to any large purchase on the part of the Government, even if they obtained a loan and could purchase the lands at a low rate?

Mr R.—Yes I would.

Com. GRAY—If you could get £100,000 at 3 per cent, and invest that sum in lands, do you think the speculation would be injurious?

Mr R.—That would depend upon the price. But I am opposed to the Government purchasing a large quantity. I believe there will be no difficulty with a man who is a real proprietor: you will have heard about the quit rents both parties are in arrears of rent; still it will be here the real difficulty will occur,—a price may be fixed upon settled lands, say from 4s to 6s for the fee simple, but the question arises, what will become of the bad



lands? It will be easy to take care of the gold, but what will become of the quartz? Now I think it would be better for all concerned, that after the price has been set upon leased lands, on certain conditions, that the secondary or wilderness lands, be sold at public auction at certain special times in the year, and that no more than 300 acres be allowed to one individual and that an actual settler.

Com. Hows—Would you sell these in one day?

Mr. R.—No, I would sell them as the people wanted them. I would offer them too through the other provinces and elsewhere. This would induce emigrants to come from the old country.

Com. GRAY—You made a sensible remark that it was easy to take care of the gold, but what would be done with the quartz? Now you recommend that the quartz, or uncultivated land, be sold at auction, but how are you first going to get hold of them? We must either take them from the proprietors, or give the tenants themselves a right to purchase them from the landlords.

Mr. REID—I would suggest that the present agents acting for the proprietors offer their lands for sale, and see what they would bring, say within 12 months.

Com. Hows—Supposing the proprietors would not do that? [No answer.]

Com. GRAY—You have a hard nut to crack, Mr. Reid.

Mr. R.—If they would not do so, I would place the lands in the hands of the Government.

Com. GRAY—Then you would make the Government pay for the agency of their estates, and what would it receive in return? You would take the lands out of the proprietors' hands and make the Government manage them for them; but would that not lead to the difficulties you mentioned?

Mr. R.—Here is Mr. Stewart, for example, with 80,000 acres, who has a family, is well known, and has managed his estate with much advantage to himself; but who has, notwithstanding, acted upon the dog-in-the-manger policy in reference to his lands. I would let the Government take the land out of the proprietors' hands, and manage them at a low rate.

Com. Hows—If the proprietor with all his income cannot keep above want, much less make money, I wish to know how the Government is going to take the land out of his hands, to work it for him, and not be a loser? You are opposed to the Government purchasing the land, now who is to get it? [No Answer]

Com. GRAY—A man cannot get a crop unless he lay out money to buy seed, and would not a man lay out some money to become settled in life?

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Mr REID—Proprietors have asked 7 times as much for lands as they are worth.

Com. GRAY—Supposing that a sum is fixed now, according to your principle the land must lie in the proprietors' hands until it is sold by them. It is clear the Government must purchase these lands out and out, or the tenants must buy them themselves.

Com. HOWE—Assume the price of lands to be fixed, and the proprietors compelled to sell, what should the tenants pay?

Mr R.—Taking the lands upon a whole, they are not equal to those in New Brunswick.

Com. RITCHIE—What is the difference in the expense of clearing land in this Island and in New Brunswick? Can lands be cleared as cheaply in New Brunswick as here?

Mr. R.—Timber lands, are I think, about as easily cleared in the one province as in the other, with this exception, there is a larger growth in New Brunswick.

Com. RITCHIE—What is the cost of clearing land here?

Mr R.—I think £4 an acre would be an average for the whole Island.

Com. GRAY—I have paid £10 an acre for clearing my land. What should each tenant pay for the fee simple of his land?

Mr. REID—About 5s an acre. For my own part I have never purchased wilderness land, for it is like self-righteousness, the more of it a man has, the worse off he is.

Com. HOWE—If a person can get a freehold for less than he pays for a leasehold, why do men take leaseholds?

Mr R.—Sometimes persons do not like to remove far from their friends; besides, we cannot account for the tastes and idiosyncrasies of all men.

Com. GRAY—How much land do you own?

Mr R.—1000 acres.

Com GRAY—What would you take for it?

Mr R.—£10,000.

Coun. PALMER—£10 an acre.

Coun. HENSLEY—I suppose the proprietors did not make it worth that much, Mr Reid.

Mr R.—No: the value is owing to the improvements and to the situation. I pay £18 of rent also.

Mr DeBlors—Cunard has farms as valuable as Mr Reid's.

Com. HOWE—Suppose both in the market, freehold and leasehold, what would be the difference in the value?

Mr R.—Business men, I suppose, would consider the difference to be the sum which the rent represents.

The delegation from Princetown, and Lot 18 was then introduced to the Court by Coun. Hensley. The members

of this delegation were Mr John Ramsay, Mr G. Dempsey and, Mr —. One evil complained of by this deputation was that several individuals, assuming to be proprietors, claimed rent. It was stated that a man in the district had leased land from a proprietor in Charlottetown, and paid rent to him. Afterwards another man came along and threatened to serve an execution upon him, if he would not attorn to him. He carried his threat into execution, by coming in the spring, and seizing his horses which were yoked in the cart. The tenant took out a replevy, and in the mean time saw the man to whom he first paid rent, who informed him that he would defend him, and pay his expenses at Court. The tenant attended Court at St. Eleanor's for three or four days, and after all, the case was never called. It was further stated that unless there was a line of demarcation marked between honest and dishonest proprietors that the agitation which now exists among the people would never cease.

Com. Howz—What you relate sometimes occurs in Nova Scotia, viz. two persons claiming the same property.

Another grievance was, the tenants do not possess their complement of land. Some farms lack 3, others 4 acres; one wanted 8, and another was 10 acres short. This, however, did not come within the jurisdiction of the Commissioners. Another thing complained of was the influence exerted by proprietors at elections. Liberty of conscience in that respect was in some cases denied the tenants. An instance was mentioned of a man who proposed a candidate on the day of nomination; before the election came off, however, he received a letter from a gentleman in Charlottetown, and the consequence was that he voted directly against the man whom he had proposed. It was stated that another man was ejected for voting in favor of Messrs Muirhead and Lord.

Coun. HENSLEY here proposed a few questions to Mr John McLean of Lot 9, of which no notes were taken by the Reporter, owing to the darkness in the Court House.

The Court adjourned at 7 o'clock, to open at Charlottetown on the following Monday.

MONDAY, Sept, 17.

The Court met at Charlottetown, according to adjournment.

Com. GRAY to the Counsel for the Proprietors.—We will be glad, if any proprietors are present to-day, to hear any statement they may have to make. We have listened to many statements put forth by the tenantry, and we shall be happy to afford the proprietors an opportunity of answering them, or of giving any explanation

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they may think proper. We leave it to themselves to decide whether it is desirable to do so or not; they will not, however, be able to say that an opportunity was not afforded them. I would say further, that we are desirous of having abstracts of the titles to the different Lots laid before us. Parties base a great many of their calculations upon the absence or invalidity of titles; and if we could obtain an abstract of them, it might assist in quieting the public mind. In asking this, however, we allow the proprietors to exercise their own discretion with respect to furnishing them. If they do not aid us, they, and not we, will be to blame.

Coun. HALIBURTON.—As this request comes at a late hour, I may state as one of the Counsel for the proprietors that I must first consult them. I was under the impression that your Excellencies would not go into the subject of titles.

Com. GRAY—It is the original titles to the Lots to which we refer; it is desirable that abstracts of these should be given for the purpose of quieting the public mind.

Coun. HALIBURTON—I am prepared on the part of the proprietors to submit all the information requisite. With due regard to the interests of the tenantry, I think it is unnecessary to go beyond the requirements of the Act of the local Legislature with respect to this Commission, by presenting titles, as I think it will not be attended with a good result.

Com. RITCHIE—I think you are not altogether warranted in coming to the conclusion that the adoption of this course will be attended with no good result.

Coun. PALMER—As far as we know the general opinion of the proprietors, they desire that every opportunity be afforded to facilitate the inquiries of the Commissioners.

Com. GRAY—Another thing we desire, is a valuation of the different Lots, either verbally given in Court, or in memorandum.

Coun. HENSLEY—We have been aiming at this all along.

Mr W. H. POPE—In cases where abstracts of titles are produced, will the Commissioners give an opinion on them?

Com. GRAY—There may be many facts connected with these abstracts, such as heirships, &c., into which we need not inquire.

Mr W. H. POPE—I cannot see what benefit will result to the public unless some opinion is expressed upon them. If you state your views respecting them, it may be satisfactory that you go into the inquiry. Many a proprietor would be glad and desirous to show his title, provided he could get an expression of your opinion.

COUN. HALIBURTON—The only thing to unsettle the titles is the doubt that the original grants have been, *ab initio*, fulfilled by the grantees. I am prepared to go into that and show that it is utterly groundless.

COM. GRAY—We have thrown out these suggestions; you can act as you think advisable.

COM. HOWE—Assuming that all the titles are good, if we did no more than satisfy the people, it would be an advantage. Assume that this Commission report a compromise which involves payment by the Government, it is certain money could be paid to those parties only who have proved their titles to the satisfaction of the Government.

COM. GRAY—It will facilitate the settlement of this question to accede to our request.

COUN. HALIBURTON—We shall be most happy to furnish them.

MR W. H. POPE—So far as I am concerned, I am willing to submit abstracts of titles, provided this Court gives an opinion upon them; otherwise I am not.

COM. HOWE—Assuming that money is to be paid to the proprietors, it can only be paid to those who have good titles. Supposing 50 or 60 titles were produced, the bringing of that number out of the region of doubt would be very serviceable.

COM. GRAY—As it is at present, a doubt may be thrown upon every man's title.

COUN. HALIBURTON—You must consider that these titles may be imperfect; would that be a hindrance in the way of proving their validity?

COM. GRAY—No, your abstract would contain your chain of evidence; its very production would be a challenge to the world.

COUN. THOMSON—If these abstracts are furnished to the Commission, we expect a copy will be shown to us, because many links in the chain may be imaginary.

COM. RITCHIE—That shows we cannot decide whether the titles are good or bad.

COUN. THOMSON—A proprietor may set to work and make a most beautiful chain of evidence respecting his title in 15 minutes.

COM. RITCHIE—That may be investigated afterwards; we do not presume, however, they will give us fictitious titles.

COUN. PALMER—An impression has gone abroad that because landlords do not come into Court frequently to prove their titles, they have none. But look for a moment at the difficulty and trouble this would put them to. On one occasion I had to send to Newfoundland, Bermuda and Canada for evidence. Thus to prove a

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tle, you may sometimes be compelled to go to the ex-  
ense of £150, and not get £d in return. We, however,  
eed not ask the Court to pronounce an opinion, as their  
ward will show it.

Com. GRAY—Respecting the valuation of the Town-  
ships, we wish the Counsel on both sides to give their  
valuation on each Lot as far as possible, commencing at  
ot One, and going regularly through them. If peculiar  
circumstances should make one Lot only half as valuable  
another, we wish you to state them, &c.

Coun. THOMSON now reads a memorial from Lot 30 in  
half of the tenants of that Township. It stated that  
r Robert Bruce Stewart, claimed to be the proprietor of  
e Lot, and set forth the disadvantages to which the ten-  
ts are subjected on account of the land tenures. They  
are unable to pay their rents, are in arrears, and labor  
nder greater disadvantages than the tenants who are  
ttled on the front of the Lot. Frosts frequently destroy  
eir crops. They think the front lands of the Lot are  
eaper at 2s. an acre than theirs are at 6d. 50 or 60  
uarters are settled upon the Township, a portion of  
om refuse to submit to the proprietor on the plea that  
ey are settled upon loyalist land. The tenants are not  
posed to be refractory or rebellious, but are inclined to  
mply with the conditions of their leases as far as they  
e able. They are willing to pay for the fee simple of  
eir farms, in easy instalments, the price paid for the  
kirk estate. They thought the decision of the Com-  
missioners would not be satisfactory unless the titles up-  
which the proprietors base their claims be investigated.  
d all lands for which good and valid titles cannot be  
own, be forfeited to the Crown. To show the validity  
the Proprietors' claim to Lot 30, they set forth the re-  
ort of a committee of the House of Assembly which is  
orded in the Journals of that body for 1836 p. 130.  
reference to the registers, it is seen that in 1835,  
hiteen thousand acres of land on Lot 30 were sold, by  
late Captain John Stewart for £1000 *et seq.*—about  
ld per acre, and he well knew the value of land. He  
d it at this low rate because the proprietors then ap-  
hended that their lands were about to be forfeited  
the non-fulfilment of the conditions of the original  
nts.

From this Lot two committees were present. On the  
were Angus M'Phee, James Dollar and Patrick Dogh-  
y; on the other, Colin Holm, M.P.P., John M'Leod  
Alexander Robertson.

Coun. THOMSON to Mr Dogherty—You reside on Lot 30!  
How long? Ten or twelve years. Whom did you  
under before? Mr Douse. You left him and went



to Lot 30? Yes. Did you sell your farm? No, I did not get a shilling for it. How long did you work on the place? 8 years. Did you pay your rent? No, I was not able. Did you take a lease again? Yes. From whom? Mr Robert Bruce Stewart. What rent? 1s. an acre. Have you paid any? Yes, by work. What work did you do? I opened 1½ miles of road. Was that road any convenience to yourself? No. Was there any reservation of timber in your lease? Yes, but I got it struck out. [Mr Dogherty here showed Mr Thomson another lease which he held for 50 acres.] There is a reservation in this one, why did you not get it also struck out? I cannot read, and I never knew there was one in it before. There it is, he can make tram rails on your farm, and all sorts of things. Would you have taken the lease if you had known this clause was in it? No: I would have had it wholly to myself or not at all.

Com. GRAY—Did Mr Stewart try to deceive you? Did he tell you the wood was not yours?

Mr DOGHERTY—I understood the wood was included; he did not tell what was in the lease.

Com. GRAY—What do you think your land is worth?

Mr D.—From 3s to 3s 6d an acre.

Coun. THOMSON reads a release for 74 acres of land which was given by Mr Stewart. He thinks there should have been a deed given instead of a lease.

Mr R. B. STEWART—The reason I did not give a deed is this: It is customary for agents and resident proprietors to charge 30s lease money. We were good friends, and I said to him, if you get a deed I must charge you 30s for it. If I give you an instrument which prevents me from coming on you for rent again, it will cost you nothing, and you will have that to show. He said he would leave every thing to myself.

Coun. HALIBURTON—Have practical difficulties arisen from this release? That is the question.

Com. GRAY—This fact is plain, it is a bad course to pursue, for if that man dies his children will derive no benefit from his freehold title.

Coun. HALIBURTON—We came to receive real not imaginary evidence. What you say is an occurrence which might happen, but never has happened. Let them show that any tenant has been turned out on account of such documents—that these evils have been felt by the people.

Mr M'PHEE gives his evidence—After being on Lot 30 for a few years, Mr Morpeth and Mr Emery, the agents came with a lease from Mr Stewart. They asked how long I had been there, and proposed to give me a lease I refused. When they returned I was absent, but they left a lease in the presence of my wife. I being a poor



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ing on Lot 37 ery, the agents hey asked how give me a lease bsent, but the I being a poor

man, and ignorant, thought it was better to take it. I paid for the lease 30s, and for the plan 5s. The number of acres was 56. I paid rent to Mr Morpeth before Mr Stewart came. After some time had passed, Mr Stewart took a spite at me, and nothing would do, but I must leave the land. I consulted an authority, but he told me as I had put my hand into a lion's mouth to take it out as easily as possible. Mr Stewart came with a bailiff to dispossess me without intending to allow me anything for my improvements. Through the influence of one of my neighbors he agreed to leave the case to arbitration, but afterwards refused. Finally it was agreed that a should remain two months in the place, and receive £12 from Mr Stewart to keep it for him. In short I was turned out without receiving a copper for my improvements; and I was not the only one who was thus treated. An old gray-headed man was also turned out, and another person had his house torn down. I had been offered £20 for my improvements. There is the gentleman, he can say I or no to what I have said.

MR STEWART—What you have stated are gross falsehoods. A full explanation would give your Excellencies entire satisfaction. The £2 he speaks of were allowed to another tenant for arrears of rent to support his wife.

COM. HOWE—Why was this man distressed?

MR STEWART—He was in arrears of rent.

COM. HOWE—How much?

MR S—I do not know. I was going to proceed in the usual way, but he preferred going out without any trouble or expense.

COM. HOWE—Were the arrears over £20.

MR S—I cannot tell without referring to my books.

After some altercation between Mr M-Phee and Mr Stewart, in the course of which the former made use of unbecoming language—

COM. GRAY remarked to the Counsel for the tenantry, if you allow this man to use improper language, we will not hear him at all.

COUN. THOMSON—Mr Stewart himself first used disgraceful language.

MR STEWART—I apologise to the Court.

COUN. HALIBURTON—That man has his remedy in the Supreme Court.

COM. HOWE—It is a poor remedy. If it can be shown that the system leads to this—turning people out penniless, tearing down houses, &c., it exhibits its features not very favorably, certainly. It appears, however, that there are not many cases of this kind, and when one does occur, we would like to have it explained away.

COUN. PALMER—You have not heard all about this Lot

yet. It seems this man was willing to go out. No power existed to put him out except through the Supreme Court.

Com. Howr—I would say on behalf of the man, it is foolish to maintain that he was not obliged to go out. They came with the bailiff; the man not knowing better preferred to go out peaceably.

Hon. Mr Coles.—In reference to the Tracadie estate, I may say that I attended a public meeting of the tenants, and heard their complaints: one of the proprietors, Mr M'Donald being present said they were in general correct. The term of their leases is from 30 to 40 years, and many of them are about to expire. The rent is 1s 6d to 2s per acre on Lots 35 and 36.

In their memorial which was read by Mr Coles, they stated their grievances; short leases, cannot sell the improvements of their farms, nor a stick of timber; are unable to meet the demands of the proprietor; some were sued, and had judgment given against them; others gave promissary notes which they found they could not pay; some were imprisoned and had to give up their farms. They hoped that the rental system would be abolished, and that they might be enabled to purchase their farms at a reasonable rate.

Mr M'DONALD being present, said he was willing but, another party was unwilling to renew their leases.

Mr MICHAEL LACEY—I first settled on 100 acres of land on this estate. I remained 3 years and fulfilled the conditions of my agreement with the proprietor. On leaving it I next took a lease of 50 acres. Sterling money was mentioned in this lease, but he promised never to exact it. When I took the lease I could neither read nor write. When I refused to sign it, he said, well Michael, I can not give you an agreement that will stand without mentioning sterling; but you can go for any man you please, and I will state before him, that I shall not exact sterling of you while you live. I did so, and signed the lease on these conditions. He took the ordinary currency for some time. Several years after, I went with the rent as usual; but he refused to take anything except British sterling. I offered my rent to him at intervals for two or three years, he refusing to take it. When he thought he had a bill against me, he sent the Sheriff who seized some of my property. On the day appointed for the sale many people assembled. They waited till sun-down, then went home. Between sun-down and dark the Sheriff came. 300 stooks of oats were taken, and 200 of wheat. I asked him how he would put them up; he answered all in a lump. He did so; one person gave a bid; the Sheriff gave another; and it was just going to be knocked down

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at £3, when I gave a bid to the amount of what I owed, and saved my property. At that time he was taking from me 1s 6d. for the shilling.

Com. RITCHIE—What do you pay now?

Mr L.—2s 4d an acre—£6 for 50 acres. He took 1s 6d for the shilling for 5 years. 6 months after paying the amount I have already mentioned, I was distrained upon again, and had to part with my last cow to pay it. This time I was going with the rent to the landlord, and about 10 miles from Charlottetown, met the Sheriff coming towards my place. Why, said he, did you not come before? It is only now become due said I. It was due last night at 12 o'clock said he.

Com. GRAY—Did you ever dispute with him.

Mr L.—Not any; only I voted contrary to the way he wished.

Mr M'DONALD—Were you an escheator? I understood you subscribed a certain amount towards sending Cooper home to examine the titles.

Com. HOWE—You had a perfect right Mr Lacey to vote as you pleased, and to subscribe money for that object, if you chose to do so.

Mr LACEY—The interview between the Sheriff and me was opposite a tavern, and I said to him, come in and I will pay you the money, pay your mileage, and treat you to the bargain. I will not go into that house, said he. Well said I, here is another on the other side of the road. No, that would not do either. Well wait a moment, said I, till I run in for the change. As soon as my back was turned, he whipped his horse and drove immediately to my place, unyoked my two horses which were harrowing, charged me 36s expenses, besides taking the 1s 6d instead of 1s for the rent. The Sheriff's name was Nantes.

Com. HOWE—Have you any other personal hardships to relate?

Mr LACEY then read the conditions in the memorandum of an agreement entered into between himself and Mr M'Donald, and complained that they were very hard. He also referred to the one ninth Bill stating its object.

Com. HOWE—What is your barn worth?

Mr LACEY—About £10.

Com. HOWE—And your house?

Mr L.—It is a log but which never had so much as a shingle on it. I have not so much as a boy to assist me.

Com. HOWE—You are a hard working man evidently, and in 20 years have you not been able to build yourself a better house and barn?

Mr L.—I have not. I once got scantling for a house, and was going to put it up, but the proprietor said to me you need never do it.

Com. HOWE.—Why did he say that to you?

Mr L.—He was ordering me off his property.

Com. HOWE.—Have you saved much money?

Mr L.—Your Honor, it would not hurt your arm to lift it.

Com. HOWE.—How did you pay your rent?

Mr L.—When my family grew up, they used to earn a little wages, and by giving it to me, I often paid my rent in that way.

Com. GRAY.—What would you give for the freehold of your farm?

Mr L.—From 3s to 4s an acre, considering all that I have paid already. I can only cut half a ton of hay to the acre. This year I cut 5 acres for one ton.

Coun. HENSLEY.—Does your land run to the Bay?

Mr L.—Yes.

Coun. HENSLEY.—You pay rent for it all?

Mr L.—I do.

Hon. Mr COLES.—I would ask Mr M'Donald if he is prepared to give a lease now to Mr. Lacey?

Mr M'DONALD.—There was an objection made by my brother. When I receive his consent, I will do so.

Mr COLES.—I wished to show that Mr M'Donald is not in a position to grant a lease.

Com. HOWE.—Did you take any steps to get your brother's consent?

Mr M'DONALD.—No.

Several other questions were proposed to Mr Lacey which he answered, but we deem the foregoing the most important.

Mr ALEXANDER HAYDEN.—I wish to give a brief description of my case. In the year 1835 I took a lease of land on the Tracadie estate at 1s 6d British stg. per acre. I paid the rent in currency for 3 or 4 years. I was on the land before I took the lease, and have paid in all for rent about £400. I have a 40 year lease, and in 15 years it will expire.

Com. HOWE.—You say that you have paid £400, what value do you now set upon your place?

Mr H.—My buildings are worth £300, and the other improvements which have been put on the place about £360.

Com. HOWE.—You will have paid for this land, then, what will come to about £1060, and you will have to give it up at the end of 15 years.

Coun. GRAY.—When did you go on the land?

Mr H.—I was born on it.

Coun. GRAY.—You took it with your eyes open?

Mr H.—I took it with the expectation that it would be a good one.

Coun. GRAY.—Is your land good?

Mr H.—No, it is not.

Com. GRAY.—Is your farm an average of the quality of the land around there?

Mr H.—I think it is.

Com. GRAY.—Then if the people there are all settled on poor land, how do they live?

Mr H.—They do not live, they starve.

Com. HOWE.—How many oats do you get off an acre?

Mr H.—About 16 bushels.

Com. HOWE.—How much wheat?

Mr H.—20 of wheat, we consider a very good crop.

Com. HOWE.—What does your grass land yield?

Mr H.—Almost nothing.

Com. HOWE.—There are large quantities of oats exported from the Island, where are they raised?

Mr H.—On the good land; there is such land in some parts of the Island.

Com. GRAY.—As a man acquainted with the country, what is your opinion in regard to the 500 feet of fishery reserve on the coast—would it be better to let it be occupied like other land?

Mr H.—Of course it would.

Com. GRAY.—What is the fair value of the land in your neighborhood?

Mr H.—From 3s to 4s an acre.

Com. HOWE.—Do the people there go a fishing?

Mr H.—Not much; but supposing they did, it would lessen the value of the land, for if the young men were to employ themselves in fishing, who would cultivate the farms?

Coun. PALMER.—There is a good deal of the land on the coast at Tracadie, washed away every year, is there not?

Mr H.—There is.

Coun. PALMER.—How much?

Mr H.—About 36 feet, by the action of the frost and water.

Coun. PALMER.—I wish your Excellencies to note that fact.

Com. GRAY.—Is this along the sea-shore, or on the Bay?

Mr H.—On the Bay.

Com. GRAY.—And how much then on the sea-shore?

Mr H.—It is a sand bank along there, and wears away very little.

Mr John Haggarty was called upon by Hon. Mr Coles to give evidence respecting the deception practised by Rev J. M'Donald, proprietor of part of Tracadie, upon certain parties who paid him money in Scotland before they emigrated to the Colony.

Coun. HENSLEY.—When did you leave Scotland?

Mr HAGGARTY.—In 1830. Mr M'Donald came there about 1827, and promised a number of us, if we would pay him the money then, that he would give us land out here at 1s an acre for 999 years.

Com. GRAY.—Where was the land?

Mr H.—On Lot 36. Some gave him £20, some 30; I advanced £25 myself, and others gave him as low as £10.

Com. GRAY.—What was the money for?

Mr H.—It was to go towards supplying us with horses, cattle,



provisions for the first year, and farms with so much clear land on each, and a house.

Com. GRAY—How much clear land?

Mr H.—They were to get land in proportion to the land which they paid; and a quantity of marsh without any rent at all. We set sail on the 4th of March, 1830, and on the 19th May landed in Charlottetown.

Com. GRAY—How many?

Mr H.—250. And when we came here there were no places for us—nothing but land covered with woods and inhabited by foxes. In town we met settlers from that part of the country, and they gave us such an account of the land that we wanted our money back, but in vain.

Com. GRAY—Do you live on the land now?

Mr H.—Yes, and for 30 years. He had no money to buy provisions, but bought them on credit and was charged high for them, consequently our money was soon taken up.

Com. GRAY—Did they all remain here?

Mr H.—Some of them went to the United States; and those who did not leave, settled, some on Lot 35 and others on Lot 67.

Com. GRAY—What improvements have you put on your place?

Mr H.—I have made a considerable clearance, but my light, and I have had to put my children out to service. The land in that part has now passed to John R. Bourke, the great tyrant and oppressor perhaps in the Colony. M'Donald promised that we would never be distressed upon, but this time (pointing to Mr Bourke) sent the Sheriff after me. We went to your Excellencies to relieve us from proprietary servitude.

Com. HOWE—You say some of them went to the United States, have you heard whether they did well there?

Mr H.—Yes; some of them did very well, and acquired properties. When we arrived here, there was land for sale on Lot 67 at £25 per 100 acres, and if we could have got our money back from M'Donald, we might have had free land on that Lot.

Com. GRAY—Could the people at Tracadie support themselves on their land?

Mr H.—No not without working at ship-building and other occupations.

Peter O'Hara makes some statements respecting the manner in which he had been treated about his land.

Coun. HENSLEY—You say your rent is paid, did you make the money out of the farm?

Mr O'HARA—No, I borrowed it.

Coun. HENSLEY—How much is your land worth, suppose you had an opportunity of purchasing the fee simple?

Mr O'HARA—Not more than 2s an acre,—it is very small land. But I have been so troubled with it one way and another that I would almost give a person something to take it off my hands.

Com. GRAY—Perhaps Mr Bourke would like to make some statements.



Mr. J. R. BOVAKK.—Mr Haggarty owed, I think, £29 for rent; and about £14 was all that I ever received for this. I have no doubt but Mr Haggarty will bear me out in this statement.

Mr H.—He called upon me once; I was making up money for him at the time; but as I was not quite prepared to meet his demand, he went and took immediate proceedings against me. At that time was giving new leases, and I had told some of the tenants that there were objectionable clauses in them. This enraged Mr Bourke, and he was determined to persecute me, as he spares no man in his anger.

Mr BOVAKK called upon Mr Hensley to corroborate his statement in reference to Mr Haggarty's case, as it had been entered to him.

Mr HENSLEY remarked that he was unable to state exactly how the matter stood.

Mr JOHN MOYNAGH examined by Coun. Hensley.—On what do you live? On Lot 35. What quantity of land do you possess? 50 acres. What rent do you pay? 1s Halifax currency. I paid my rent up until 1854. In 1856, a writ was put out against me, and the sum which I had to pay was £250 costs. What sort of land did you live on? Not good. Did you pay your rent off it? No. What other way do you get to pay your rent? The boys hire out. What do you think is a fair value for the land in your part? Between 3s and 4s an acre, for the wood is all gone. Would you be willing to pay that amount for it? Yes, rather than pay rent.

Mr HENRY HALIBURTON.—When did you get possession of your land? About 20 years ago.

Mr HENRY HALIBURTON.—You bought it from one Hughes; how much did you pay him for it?

Mr HENRY HALIBURTON.—Nearly £30.

Mr HENRY PALMER.—Mr Robert Bruce Stewart is present by our solicitation to give evidence if called upon, but by so doing he does not wish to be considered as in any way submitting to the Commission, not having signed the agreement for its appointment.

Mr HENRY THOMSON.—Mr Stewart comes here to make as much as he can, and still does not recognise the authority of this Commission. I protest against his being heard unless he submits himself to be examined by us.

Mr HENRY GRAY.—Mr Stewart has a perfect right to be here.

Mr M'ISAAC, another tenant of the Tracadie estate examined by Counsel Thomson.—What rent do you pay? 1s 6d an acre now. From whom did you get the land? From my father. My father had an agreement; but it was given up to a lease, and never received back, nor was a lease obtained. My father paid rent for a number of years, and then the agreement was taken away? Yes, and they tried to turn me out. They kept me in law for 10 years; and at last they come to an agreement to give me a lease at 1s 6d an acre. They had taken actions against me. I offered to take a lease on fair terms.

Mr HENRY GRAY.—Why did they wish you out of the farm?

Mr M. Isaac.—They wanted the land for a farm for themselves.

Com. GRAY.—Are you in arrears of rent?

Mr M.I.—Yes, one year.

Com. GRAY.—What is the value of the land?

Mr M.I.—60 years ago it was worth nothing; now it is valued at from 3s to 5s an acre.

Com. GRAY.—Are the people generally in arrears in that?

Mr M.I.—A number of them are. To give you an idea of quality of our land, I may say that I had 5 acres under hay year, and had not a ton and a half. If I had not a little with which I go out fishing, I would starve.

Com. GRAY.—Who raises all the oats which are shipped from the Island?

Mr M.I.—The country is pretty generally settled, and one soils 50 bushels, and another 100, and soon, it soon makes up a number of cargoes. Another thing I may mention, is there is a failure in the crops every 7th year, taking one another.

GEORGE BEER, M.P.P. before the Court.—Your Excellencies, I received your note soliciting information on this Question and not to occupy too much of your time, have embodied remarks in a short memorial, which I will now read—

To the Honorable J. H. GRAY, Hon. JOSEPH HOWE, and J. W. RITCHIE, Esquire, Commissioners for the Land Question, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCIES;

I attended a considerable portion of the first week's sittings of your Honorable Court, in Charlottetown, and heard a great part of the evidence adduced before you.

I expressed a wish to the Hon. Joseph Hensley, that I should have an opportunity afforded me, as one of the Representatives of the People, of making a few remarks bearing on the subject-matter of the Land Commission. I did not obtain a hearing at your first sitting; and, thinking that a good opportunity may not again occur, I embodied the substance of what I intended to say in this Memorial, to which I now beg leave to call your Excellencies' attention.

You have already received a large amount of information on the subject of the non-fulfilment of the conditions of the original Grants of the Township Lands of the Island, and the consequent liability to forfeiture of several of the said Townships. The large amount of Quit rents alleged to be due, the fishery Reserves, the harsh treatment of the Loyalists, short Leases, arrears of Rent, &c., &c., have also been brought under your notice. A great deal more may yet be said, and I doubt not will be said on these subjects,—sufficient, probably, to satisfy your Excellencies that the Prince Edward Islanders are not without reason—dissatisfied with their condition.

there are, however, other grounds for dissatisfaction, which have, I believe, been but slightly touched upon by those who have come before you,—equally as forcibly as the above alluded to, and which afford the strongest reasons why the present Land Tenures should be abolished in Prince Edward Island, when compared with the neighboring Provinces, must appear to your Excellencies to be springing under many and great natural disadvantages. We have no coal, a source of great wealth to some of us, but a great drain upon us. Already we have to re-lease thousands of pounds annually to pay for that necessary article. Hundreds of our oldest settlers find it exceedingly difficult to obtain firewood, and many have already begun to purchase coal for fuel. We have no limestone, which we are, consequently, under the necessity of importing from Nova Scotia and New Brunswick, both for mechanical and agricultural purposes. It is almost impossible to preserve land in this Island in a state of fertility, for any great length of time, without the application of lime, or some other good substitute, such as mussel mud, which but few can procure. Large quantities of limestone have, therefore, to be imported and burnt for manure, to prevent our soil becoming entirely exhausted, and in a few years tens of thousands of pounds annually will be required to pay for the coal and limestone thus consumed. Whilst the neighboring Provinces abound with valuable minerals, we are totally destitute of these. The building in which your Excellencies are now assembled was erected with stone imported from Nova Scotia. We have little or no interval or marsh land, whilst Nova Scotia and New Brunswick abound with intervals and marshes of immense extent and of incalculable value. We have no regular troops to assist our markets,—no head quarters for Her Majesty's Navy, in which to spend their money,—no fortification costing their hundreds of thousands of pounds, and thereby, increasing the wealth of the surrounding country. Nova Scotia enjoys all these advantages, in a very high degree. We have no back country, with its interminable forests to foster a large and lucrative lumber trade—(instance the immense tract of country through which the St. John River and its tributaries flow.) Ours is an isolated country at all seasons, but doubly so in winter, when we are precluded from all access to foreign markets with our surplus produce. But the evil we have mostly to complain of is this:—our agriculturists, instead of being freeholders, have to pay absentee proprietors an annual rental for their farms. I need not remind your Excellencies of the evils absenteeism has inflicted upon Ireland or

this Island, and that the inhabitants of the neighboring Provinces, whilst enjoying so many other advantages, possess this in addition,—*they own the soil they cultivate.*

Who, I would respectfully ask your Excellencies, has in equity *one-tenth part of the right* of the man who has spent the best years of his life in clearing a farm, bringing it into a state of cultivation, and thereby causing it to have a real value,—which before it scarcely had,—to claim and own that farm? A large proportion of our settlers are very poor, with a large accumulation of arrears of rent hanging over their heads. A fair sample of this class, I would remark you have not had before you in Charlottetown; for I have observed that the delegations from several of the townships have been composed almost exclusively of the most wealthy and independent of their settlers.

One fact in particular that has come within my own knowledge I feel bound to remark upon, namely, a considerable number of those largely in arrears for rent have been adduced,—I may say compelled,—within the last six months, to give their notes of hand for the same, thereby anticipating, and evading the action of the present Royal Commission.

From all these circumstances, I think it will be quite evident to your Excellencies that the sooner the settlers in Prince Edward Island become freeholders the better will it be for them and their posterity: and were that to take place to-morrow, even then they would labor under many serious disadvantages, when compared with the agricultural populations of the neighboring Provinces.

In addition to the above, it may be remarked, that we have to pay our own Civil List, and have little or no Government Lands over and above those recently purchased from the proprietors. Ten years since, we were differently circumstanced in both these respects. Our young men, too, are continually leaving the Colony, chiefly on account of the pernicious leasehold land tenure which prevails here.

Your Honorable Court is, I presume, a Court of Equity. The British Government will be as much bound by its award as either the proprietors or the tenantry; and as the British Government have inflicted upon the Island so grievous a wrong, and made so fatal a mistake, by granting away its township lands to persons having claims on the Imperial Government; ought they not, in all fairness, to pay at least one moiety of the compensation which may be awarded to the proprietors by your Excellencies? It would not cost them one-fiftieth part of the sum paid by them to emancipate the sable sons of Africa

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who were held in bondage in the West India Islands;  
and I would respectfully submit, for your Excellencies'  
most serious consideration, whether or not it would be  
right, under all the circumstances, to saddle this poor  
Colony with the full price of its own redemption.

In full confidence of the rectitude of your decision.

I remain,

Your Excellencies'

Most obedient Servant,

GEORGE BEER, M.P.P.

Com. RITCHIE—What district do you represent?

Mr BEER—I represent Charlottetown at present, but I for-  
merly represented Lots 24, 24, 23, &c.

Com. RITCHIE—What is the value of the land which be-  
longs to the Government on the Worrell Estate?

Mr B.—It is not worth so much as some other lands in the  
Colony: The land on Lots 23 and 24, for example, is more  
valuable, because of a better quality, and situate nearer the  
market of Charlottetown.

Com. HOWE—Is the Worrell Estate better or worse land than  
Treadie.

Mr B.—I think it is fully as good

Com. RITCHIE—What is the state of agriculture on the  
Island?

Mr B.—In general it is in a backward state, though it is im-  
proving.

Com. GRAY—Is there not some advantage derived from the  
fisheries?

Mr B.—I do not think they will ever benefit the Colony.  
The people would do better by attending to their farms.

Com. GRAY—What is your opinion about the fishery re-  
serves?

Mr B.—I think to leave them unoccupied would be a great  
curse to the country. They should remain in private prop-  
erties, and people's land on the coast be left to run down to the  
shore.

Com. HOWE—Is the land here more difficult to keep in heart  
than in Nova Scotia?

Mr B.—I think it is.

Com. HOWE—Will land here raise 2 tons of hay to the acre?

Mr B.—It will, with very high cultivation.

Coun. HALIBURTON—Is the Island not better adapted for  
sheep than Nova Scotia?

Mr B.—Probably it is, owing to the natural grass.

Coun. HALIBURTON—Also for roots too, as turnips?

Mr B.—Yes, it may, with very high cultivation.

PATRICK WYNNE, one of the delegates from Lot 31, ex-  
amined by Coun. Hensley—Who is the present owner of the  
part of the Township on which you reside? Mr Douse. Are  
you a tenant or freeholder? I can scarcely state what I am; I  
have a lease, but it will run out within three years. Have you  
he lease in your own name? Yes: I took it in 1843, and it is



for a term of 21 years. What rent do you pay? £3 12s. currency for 40 acres. When you took the land was it in a wilderness state? It was. Was there any right of purchase in the lease? Yes, during the term, at 30s an acre; but Mr Douso is charging now in some cases £2 13s an acre. Donald M'Kinnon paid £150 for 50 acres.

Com. HOWE—Those who are paying this amount, did they make the money out of the land?

Mr W.—No: this man whom I mentioned got the money in New Brunswick.

Com. HOWE—Will he be able to take this money out of his farm?

Mr W.—Never, though he live as old as Methuselah.

Com. HOWE—Does the fact of Lot 31 being near Charlottetown give it any additional value?

Mr W.—No, I think not, as it is too far to draw wood to sell.

Com. HOWE—Do you think it would pay you to give £150 for the fee simple of your farm?

Mr W.—It would be better to live on the interest of the money, only a person must have a home.

Com. HOWE—State what you think would be a fair price for the land over the Lot?

Mr W.—I think, rather than leave their farms the people would be willing to pay the price at which the Government are selling their lands. The above are only a few of the questions proposed to Mr Wynne, but we deem them the most important.

Counsel HENSLEY introduced a delegation from Lot 48 and read their memorial. It required among other things that the titles should be inquired into, and some rate fixed upon for the land.

Mr PETER ROBERTSON, one of the delegates makes a few statements.—I suppose there is scarcely a Township on the Island which has so many owners as Lot 48; now they came by the and I cannot tell. There was a meeting held on the Lot a few days ago which was very well attended. The desire of some of those present appeared to be to get the back rents taken off, and the rent reduced, and of others to have an opportunity of purchasing their land at a reasonable price, say that which was given for the Selkirk estate. I told them that it was in the Commissioners' power to give them time to pay if they would purchase; but some of them said they would rather have the back rents taken off, and a reduction of rent.

Com. HOWE—Is the quality of the land on that Lot good?

Mr R.—Pretty good in general.

Com. GRAY—You say that the Selkirk estate rate of sale would be a fair sum to pay for it?

Mr R.—They thought so.

Com. HOWE—That is not the rate they would be able to obtain it for?

Mr R.—They are willing to pay fair charges for working expenses. There is a grievance which I, as well as others, have to complain of, that is, the rise of rent. When I took my land I understood the rent was not to rise.



Com GRAY—It is a very difficult matter, when a man has made an agreement, to relieve him from it; but perhaps we might do away with the rental system altogether.

Mr P.—As a general rule, the tenants on our lot would rather purchase than pay rent.

Adjourned till 10 o'clock to-morrow.

TUESDAY, Sept. 18.

Hon. Mr Coles—I would direct your Excellencies' attention to the fact, that a considerable part of the land claimed by the proprietors of this Colony was secured to the Loyalists. There was an order in Council to have a certain quantity of land given up to them on certain Townships.

Com. Ritchie—If the land was not actually given to the loyalists, it would fall back to the proprietors.

Coun. Halliburton—I presume this Court is not going to consider every individual case with respect to the loyalists. It would be merely courtesy on the part of the proprietors to consent that this matter be taken up at all.

Com Gray—We will lay down a general rule, we will not go into individual cases.

Hon. Mr Coles—On Lot 30, there are some 20 or 30 persons settled on loyalist land, whose case has never been fully brought before you.

It was agreed that the Counsel should investigate the matter, and come to some arrangement as to when the loyalists' claims should be heard.

Coun. Hensley then informed the Court that there were two or three depositions waiting to be heard.

It was agreed that as the Commissioners had but an hour or two to sit before leaving for Georgetown that one delegate only from each township should be examined.

Delegation from Lot 32—Coun. Hensley read their memorial, and examined John Hodgson. —How long have you lived on the Lot? 17 years. Who is your landlord? Sir Samuel Canard. What is the term of your lease? 999 years. What rent do you pay? Is an acre. What did you pay for the improvements of your farm? £200. How many acres clear land? About 30. Is your rent paid? There are about 2 years' rent due on the land. You are acquainted with that part of the township in which you reside, from your knowledge, can you say whether many of the tenants there are in arrears? Not many. Do you think you can pay your rent easily? Never off my farm; I have other means besides it. Could you live by farming solely? Scarcely. I suppose the people there would like to buy out their land? It is their wish. What do you think your land is worth? About 10s an acre; there may be other parts of the Lot not worth so much.

Com. Howe—Could you sell your improvements to-morrow?

Mr Hodgson—I have advertised to sell two or three times, but could not.

Coun. Hensley—Are the young men leaving that Lot?

Mr H.—Yes, nearly all the farmers' sons are going away.

Coun. Hensley—From what cause?

Mr H.—From the expenses of rent, &c. I offered my son the homestead, and he would not take it.

Mr Hooper states that he pays rent for the land on which Milton Church is built. He asked Mr Peters, when he was agent, to give the land free; but he would not consent.

Donald M'Fadyen, from the South end of the Lot, briefly examined by Counsel Hensley.—How long have you lived there? About 40 years. Have you had any trouble with your land? Some 25 years ago I was distrained upon. I could get no person to plead my case in court; I tried old Mr Palmer, and he would not. Did you ever take a lease? No, I never put my hand to a lease. Do you pay rent. Yes, I have to pay rent. To whom do you pay? To Mr De Blois.

Com. Gray—How long have you paid rent?

Mr M'F.—About 24 years.

Com. Howe—Have you any desire to buy out your land?

Mr M'F.—Yes.

Com. Howe—What is the value of land there?

Mr M'F.—2s an acre.

Delegation from Lot 37. Coun. Hensley read their memorial, and examined Mr Benjamin A. Coffin.—How much land do you hold? 100 acres. How much rent do you pay? 1s an acre, currency. My lease is from Captain J. Stewart; I now pay rent to Mrs Stewart. My land fronts about a mile and a half on the shore.

Com. Gray—How much fishery reserve have you on your land?

Mr C.—65 acres out of the hundred.

Com. Howe—You would not like to have that taken from you?

Mr C.—No, I would not, for then I would only have 35 acres left. Some say that the rent for the reserves should be paid to the Government. A few years ago, I saw a proclamation that the people were not to trespass upon the reserves. I came to town and informed the Government that I was going to pay the rent to the proprietor. They told me that I ought not to pay it, and that would test the matter. I said to them if they would pay the expenses, I would do so; but they would not engage to do this, so I paid my rent.

Hon. Mr Coles—I have no recollection of what Mr Coffin has stated. If I said anything to him, it must have been that he should get a license from the Government, and then resist.

Com. Gray—How do you think it would be best to dispose of the fishery reserves—to let them go into private occupancy or to leave them for fishing purposes.

Mr C.—I think they should remain occupied as at present.

Elisha Coffin has also asked a few questions—From whom do you hold your land? Mr Bourke. I held it about 35 years before I took a lease from him. I hold 153 acres for which I pay £20 rent. When did you take the lease? 4 years ago.

Mr Bourke—He has a marsh connected with it off which he cuts 60 stacks of hay.

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Mr C.—They are very small stacks.

Conn. Hensley—Suppose you wished to buy your farm, what would you be willing to give for it?

Mr C.—6s or 6s an acre.

Com. Ritchie—What, pay only 6s an acre for land which you pay £20 a year rent for!

Mr C.—I do not see that I should pay any more than others.

Delegation from Lot 49. Alexander M'Neill examined—Who is your proprietor? Mr Haythorne. How much land have you? About 52 acres, for 999 years, at 1s an acre. How long have you had the place? Nearly 4 years.

Coun. Palmer—What did you pay for it?

Mr M'Neill—£150.

Com. Gray—Is there any peculiarity in the situation?

Mr M'Neill—No; I bought it because it was near to my school—I am a teacher.

Com. Gray—Do the tenants there pay up their rent?

Mr Haythorne—They have paid up their rents very well; very few of them are in arrears. I wish to ask the delegates if the tenants have any complaints against their landlord? Have they ever heard of any cases of oppression?

Mr M'Neill—The tenants have never given opportunity for oppression, as they have paid up their rent.

Coun. Thomson—What do you think the people there would be willing to pay for their land?

Mr M'Neill—The land is not all of the same quality, but I think few would object to pay 10s an acre.

Delegations from Lots 29 and 65 were also called up, but their examination being somewhat hurried the reporter could not take satisfactory notes.

Court adjourned about 12 o'clock, noon, to meet at Georgetown on the following morning.

GEORGETOWN, Wednesday, Sept. 19, 1860.

The Court met at Georgetown this day according to adjournment.

Conn. HENSLEY—When your Excellencies opened your Court at St. Eleanor's, you stated the objects of your investigation; perhaps it may be also necessary to do so here.

Com. GRAY then made a statement similar to that given by him at St. Eleanor's.

Coun. HENSLEY here called two delegations to appear before the Court, one from Lot 46, viz.: Messrs. John Stewart and James Robertson; and the other from Lot 47, consisting of Messrs. Alexander Scott, John Stewart, and James Robertson; and then read the memorial from Lot 47. In this memorial reference was made to the many wrongs which the tenants on that Township had suffered at the hands of the proprietor. It stated that they were emigrants who came from Perthshire, Scotland, in the year 1808 under the leadership of James Robertson, and their

descendants. On account of Robertson not fulfilling his engagements, the property reverted to the original owner, with the exception of a tract confirmed to Mr. McGregor, which his family still retain. It is understood that the deed and papers relating to this estate were sent to New Brunswick. In 1820, Mr. John Stewart appeared, professing to be sent out by Mr. David Stewart, of Great George Street, London. Three settlers agreed to attorn to him. In 1828, writs of ejectment were issued by the agent of David Stewart, against some of the tenants. J. Kennedy, one of these, defended his case, and nonsuited the agent. Another action was commenced, and Kennedy, losing had to pay the expenses incurred. In 1831, Mr. Stewart again returned and pressed the tenants to attorn anew, which they agreed to do. By doing so they were put in for £37 arrears of rent; and since that period there has been nothing but loss and scenes of distress. The memorialists next stated the difficulties to which they were subjected for want of roads, &c., and said that the fruits of their labor went to satisfy the unjust demands of the claimants. Many of the tenants aggrieved at the thought of having to pay arrears of rent, left the country and went to Canada. These arrears amounted to £1000 between 20 individuals. Others by standing out boldly, hold their claims by adverse possession. With all confidence the memorialists submitted their cause to the Commissioners.

Mr. Scott examined by Coun. Henshaw.—You live on Lot 47, Mr. Scott? Yes. Are you a leaseholder? I only hold an agreement. How long since you took it? About 16 years. How much land have you? 80 acres; and agreed to pay £5 British sterling rent. My father lived on the land 21 years before I got it. He has been dead 5 years. From what you heard your father say, was the farm in a wilderness state when he took it? Yes. How many acres have you now clear? Forty. Why did you take an agreement? The agent threatened to bring an action against me, and I was not aware there was any law to protect me. You settled without taking an advice? Yes. How much are you in arrears? £20. Is the land generally good on that Lot? It is pretty fair land. Do the people desire to become freeholders? They would use great exertions to obtain free land. Do you think a man could make a living off a farm there, and pay 1s an acre rent? I think he could not; there is no harbor, no facilities for shipping. It costs 2d. a bushel to ship our oats. Is Mr. Bruce Stewart harsh with you? I cannot say he is. Has he done anything to improve the Lot? I am not aware that he has. He made some promises that he would build a chapel and so forth. That was when he was getting the agreements.

signed, I suppose? Yes. How often do you settle with the proprietor? Once a year.

Coun. PALMER cross-examines Mr. SCOTT—How much rent does Mr. Stewart receive there? Over £100 I think. How much land has he? About 2000 acres. When he promised to build a chapel, &c., was he to do these things without the people paying their rent? I do not know. He promised to retain 1000 acres, and make a farm of it for his son, and take the labor of the tenants upon it for their rent. Were these the terms of your agreement? No.

Com. GRAY—He means to say that these were the inducements held out to them to sign the agreements.

Coun. PALMER—Do you say you were foolishly induced to sign the agreement?

Mr. SCOTT—I think so.

Coun. PALMER—Is that an idea of your own, or did you think it would save you trouble and expense—in short that you could claim it by possession?

Mr. S.—Yes.

Coun. PALMER—Are you aware that you could not do that, his father being absent?

Com. GRAY—That is a peculiar grievance. If an absentee gets a 1000 acres under false pretences, and does not improve the land, but allows British subjects to drift in upon it, though the law does not give them legal titles to what they occupy, yet it is a strong case.

Mr. JOHN STEWART examined by Coun. PALMER—Is it true, Mr. Stewart, that it has been difficult to get a process served in your part of the country? I think not. Has violence been offered to the Sheriff? Not in our district, I think; but I know the people hide from him. Do you know of any one stabbing the Sheriff? No. Give the Court general information now—it was on the Lot? That is nothing to the parties whom I represent. But state, was not something done to the Sheriff's horse? Yes; his tail was taken off. Was the man stabbed? I believe so. You have no doubt about it? I have heard of it. Do you know of any rescues of men who were taken by the Sheriff? I heard one man got clear some way. I ask you, is it an easy matter to get a man out of that Township? There are instances of men being taken. Were they taken to trial on the rent question? They have been taken on that score.

Coun. HENSLEY—Do you know who cut the tail off the Sheriff's horse?

Mr. S.—No.

Coun. HENSLEY—I suppose it might have been the proprietor for aught you can tell.

Mr. S.—Yes, it might.



Mr. COOPER, M. P. P., here wished to address the Court, but the Commissioners were unwilling to hear any gentleman until they had heard directly from the tenants themselves.

Mr. J. STEWART questioned by Com. HOWE—Would you have settled upon that land, Mr. Stewart, if you thought the proprietor was going to violate all his promises to you? I would not. We would not have consented to pay rent without receiving some of the advantages which were promised us. We expected in taking our agreements that, by his fulfilling his promises, it would be easy for us to pay our rent. How came you to go to the place? The old settlers who had left home, brought me there. I left the old country, intending to go to Canada; but when I arrived this far, I had nothing to carry me farther. Did you understand at that time who owned the land? No: we thought Mr. Robertson might be the owner. Still you believed it belonged to somebody? Certainly.

Coun. THOMPSON—It appears old Mr. Stewart did not keep his word with you, nor has his sons: can you distinguish between the sin of shaving a horse's tail and violating a promise? (Laughter.) How much could you pay for the fee simple of your farms?

Mr. STEWART—I do not know; we are in arrears, perhaps £25 or £30.

Com. HOWE—Have you tried to pay your rent?

Mr. S.—Yes.

Com. HOWE—Did Mr. Stewart make you pay the arrears when you took the agreement?

Mr. S.—A period elapsed after the agreement was signed before payment was demanded.

Com. GRAY—Mr. Stewart appears to have been content at first with obtaining an acknowledgment of title.

Coun. THOMPSON—Have you been able to pay your rent and live.

Mr. S.—No, Sir.

Coun. THOMPSON—Have you any fisheries?

Mr. S.—Very little. An extensive sand-bank at the mouth of our harbour is the great obstacle. We live in a very poor part of the country.

Com. HOWE—What is wilderness land worth?

Mr. S.—I think it would be high at 2s. 6d. an acre.

Com. HOWE—Supposing your arrears swept away, and that you were allowed time to pay, with interest, what ought you to give for the fee simple of your farms?

Mr. S.—I think about £30 for the 100 acres.

Coun. PALMER—Are you aware that the people there have objections to pay honest debts besides the rents? I do not mean persons living in your own neighborhood—but

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are there not individuals in that part of the country who boast the sheriff cannot take them?

Mr S.—I do not know.

Coun. Palmer—Do you not know that there are several persons in that part whom the sheriff cannot take, and that they openly declare it?

Mr S.—You may question the sheriff himself.

Coun. Hensley then read a memorial from Lot 46. As this memorial was similar to a great many others laid before the Commission, it will be unnecessary to mention the different points which it embraced. Mr Charles M'Eachron, Edward Campbell, and Neil M'Phee, the deputation from that part of Lot 46, claimed by Sir Samuel Cunard, &c., being called by Coun. Hensley, appeared before the Court.

Coun. Hensley to a Mr M'Neill, who desired to make some statements—You came from the north side of the Island? Yes. Mr De Blois is your agent? Yes. Do you hold a lease? No. Do you pay rent? No.

Mr De Blois—I beg Mr M'Neill's pardon, here is his account.

Mr M'Neill—I was served with a writ and had to pay £27, costs and all. The sheriff came and distrained upon me.

Coun. Hensley—You submitted to the distress warrant.

Mr M'Neill—Yes, but have paid nothing since.

Com. Howe—These distrains and distresses appear to go out with great facility here. Are sheriffs sent out to distrain without legal proceedings having first been taken?

Coun. Hensley—To distrain upon an individual who had not acknowledged the title of the proprietor, would be illegal.

Com. Howe—Suppose I am a proprietor, or assume that I claim a piece of land, if I find a man upon it who has not attorned, nor acknowledged my title, can I put a process into the hands of the sheriff which will give him power to seize that man's property without the decision of a Court of law?

Com. Palmer—Not legally; but merchants do things of this kind as well as proprietors.

Com. Howe—Such power is an engine of terror.

Com. Ritchie—There is no foundation for it in law; every man who does so, does it at his peril?

Coun. Palmer—Certainly.

Com. Gray—The law may be abused in other places as well as here.

Mr M'Neill further questioned by Coun. Hensley—How long were you on the land before this occurred? 5 years. You went on it of your own accord? Mr Gaul gave me leave. What did you pay for your lease? 40s N. S. currency; I was in Nova Scotia at the time, and sent the money to pay for it, but Mr Gaul died before I got the lease; I, however, did not receive my money back. Did you ask Mr De Blois for one? I did; but he refused to give me one, unless I paid him £20 of back rent. I told him I could not pay it.

Coun. Palmer—I think the statements of these people are calculated to leave a wrong impression on your Excellencies' minds.

Com. Howe—It may be that this gentleman is not acting rightly, but he has not explained that Cunard has acted wrongly. His testimony is astounding. That a man of his apparent intelligence, living so near Charlottetown should have no title for his property for so long a time, is surprising. Why there is hardly a man on the main land who would have slept 3 hours without having a legal document which would have secured his land to him.

Com. Ritchie—How many years have you been there?

Mr. McNeill—7.

Com. Hensley—How much rent do you pay?

Mr. McNeill—I cannot tell.

Com. Howe—Is it possible you cannot tell what your liabilities are?

Com. Gray—This is something we cannot understand.

Com. Palmer—I rather think the man came from Nova Scotia.

Com. Howe—If he has come from that province, he has let much of his countrymen's shrewdness behind him.

Com. Palmer—From what Colony did you come?

Mr. McNeill—From Nova Scotia. (Laughter.)

Com. Gray—I expect his countrymen were too shrewd for him to live there. (Laughter.)

Com. Howe—My fellow-countryman, from what part of Nova Scotia did you come?

Mr. McNeill—From Cape George.

Com. Gray—This is certainly a curious case—to see a man coming from a colony where no rent is paid and voluntarily placing a yoke upon his neck.

Com. Palmer—He did it to better his circumstances.

Com. Thomson—Only because he thought he would.

Com. Hensley—The individual being ignorant of the nature of legal proceedings, has made a misstatement. The proceeding against him was not by distraint, but by a writ of *Fieri Facias* an action for debt.

Mr. Edward Campbell examined by Com. Hensley—Have you paid your rent? I was writted, refused to pay, was sued, lost the case, and paid expenses, but the debt is due yet. Did you defend the action? No, I was not able. What rent are you under now? £2 16s, I suppose, but I never made any engagement.

Mr. DeBlois—This man was a trespasser, and I brought an action against him, which he could have defended if he chose, but it was an action of ejectment, and he came and attorned. He has not a lease, because he said he was not able to pay for it, that is the reason he is now without one.

Mr. Edward Campbell further questioned by Com. Hensley—What is the value of land on your lot? 2s 6d an acre would be sufficient for it. How did you happen to go there? When I was a boy of 16 years of age, I had my mother and the rest of my family to support, and nothing to take me out of the place. I went on the land in the month of April when the snow was feet deep, and I had to set to work and shovel it off to get

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place to build a hut. The firm might now support me, if I had the money to work it.

Gen. Gray.—Can your brother assist you any?

Mr. G.—Oh dear, but with all our exertions we are unable to pay rent.

Mr. McEwen examined by Gen. Hennessey.—You live on another portion of the Lot? Yes. What back rent do you owe? £30 on 100 acres. Are the people there generally bentward with their carts? They cannot meet them with all their exertions.

Gen. Hennessey.—When distastings come, I suppose property is generally sacrificed?

Mr. McE.—It is. The failure of the crops has thrown us all behind.

Gen. Hennessey.—What could the tenants there pay for their stock? Mr. McE.—Oh, an acre with time to pay it.

Gen. Hennessey.—Do you pay rent for the fishery reserved?

Mr. McE.—Yes.

The delegation all were of opinion that it would be better to break up the fishery reserve, and let them be occupied as other lands.

Mr. McE.—My brother took 100 acres of land on the Lot, and when he came to measure it, there was only 72. He then applied to Mr. Forgan, the agent, for a reduction of rent accordingly, but he would not listen to him. Mr. Forgan afterwards sent the sheriff and made him pay the whole amount.

Gen. Gray.—If you would put your lease into a lawyer's hands he would arrange that business for you.

Gen. Hennessey.—According to the wording of the lease, it would be a delicate point of law to decide.

Mr. McE.—When a man in such a case goes to the agent, he is laughed at, and when he goes to a lawyer he finds there is no redress.

Gen. Hennessey.—It is certainly unjust, to make a man pay rent for land, which he does not hold.

Mr. McE.—My brother was deprived of his land by the crossing of the boundary line which divides the Lot.

Gen. Palmer.—Then the Boundary line Act comes in to provide a remedy in such cases.

Mr. Dalrymple.—It frequently occurs that the tenant, instead of carrying out his lines as he should, only does so to the extent of his clearance, and a person sometimes goes in upon the rear of his land, and holds it against him; and if this continues for 20 years, the tenant loses his land. In all cases where a tenant permits a man to do so, the agent makes him pay the full amount of rent.

Gen. Gray.—No man of sense can complain of that.

Gen. Hennessey.—The proprietors, it appears, never run their land, but leave the tenants to find them out as best they can.

Mr. WILLIAM MCGOWAN appeared before the Court as a delegate from Lots 44 and 45. He presented no memorial, but made some general statements, of which we give the following:—Your Excellencies, I have no private complaints to lay before you. I come to afford some information concerning the relations which exist between landlord and tenant. Many years ago I settled in the green woods, and there in common with others experienced those difficulties and hardships incident to such a mode of life. I intended first to refer to the granting away of the lands of this island so inadvertently, and in the next place to direct attention to the grievances of the tenantry, and the value of land, showing that the price set upon it by the settlers exceeds its actual value; but as the impolicy of the mode in which the land was granted is generally admitted, I will confine myself more particularly to existing evils. With regard to the price of land, I will refer to a purchase made by my brother and myself some years ago. We purchased at public competition, and I think this is the only fair way of determining the value of land. At a land assessment sale in Charlotte-town, we purchased, 34 years ago, 100 acres, having a valuable mill site, for £25. There was no limitation to the conditions of the sale, and the proprietor thought he would redeem the land, but we incurred heavy liabilities to prevent him.

Com. HOWE—In what manner was this done?

Mr. MCGOWAN—By expending money upon the place. Every succeeding year we bought tracts of land adjoining this 100 acres first purchased. The next 100 acres was obtained for £19. This may show your Excellencies that the possession of a mill site, does not, after all, make so much difference. Each succeeding sale of land showed that it was deteriorating in value. The third 100 acres, we purchased for £15, and by the time we had 1000 acres, its value was only £11 per hundred. This property is on Lot 44. Land on the adjoining Township, which is only separated from ours by a surveyor's line, is valued at 20s. an acre, by the proprietor, Sir Samuel Cunard.

Com. GRAY—Your labor increased the value of your property?

Mr. MCG.—Certainly; and the resident colonists generally are the men who have increased the value of property everywhere on this island. They have pushed their improvements far into the country, and these have rendered valuable the estates of the proprietors, which otherwise would have been useless to them. Yes, the tenants have made the lands valuable, and that without any expense on the part of the proprietors. For so doing, however, the tenants have received from them, but little thanks. My brother and I

going and settling on that place, and improving it, led to a large population in that part of the Township. Of course the proprietor was benefited by our enterprise, for in addition to the rent, he received 40s. for every lease which he granted. We erected mills, not in charity of course, but the proprietor rendered us no assistance. We have found that the exportation of grain without being ground has injured this country for many years.

Com. HOWE—Is the exportation of unground corn injurious to this island?

Mr. MCG.—I think it certainly is, for the freight absorbs half the profit. The freight of a bushel of oats is nearly equal to the freight of a bushel of wheat.

Com. GRAY—You think it would be better to grind up the oats and take the meal to market?

Mr. MCG.—I do.

Com. GRAY—Could you have settled upon this land and made a living out of it without any other means?

Mr. MCG.—No.

Com. GRAY—You had other means?

Mr. MCG.—Certainly, or I would have starved long ago. I believe no man on earth could make a living solely out of the land here.

Com. GRAY—Would the tenants not do better if they had smaller farms?

Mr. MCG.—No; a man must procure a horse and far rails off his farm. Had he only a few acres these necessities would soon become exhausted. The trade in timber is now done on this island, so we must look upon the country solely in an agricultural point of view. I believe much of the land which is held in fee simple here, was purchased during the years pine timber was made, and when shipbuilding was carried on somewhat extensively. Formerly, considerable money has been made by exporting juniper sleepers and knees. While these opportunities of making something were available, tenants paid their rents, and some purchased freeholds; but since the people have been left to depend on the agricultural resources of the country, back rents have accumulated.

Com. GRAY—Between man and man, what would you think a fair price for the lands of this island?

Mr. MCG.—£20 per hundred acres, with time to pay, say 5 or 10 years. I am acquainted with the means of the people in the country, and am not at all an interested party, so my statements may be relied on. I acted a long time in opposition to the tenantry, and have on that account incurred so much odium that perhaps I will never retrieve my former position.

Com. GRAY—No country can prosper where rights of pro-



erty are not respected. Now would what you mentioned be a fair price for wilderness land?

Mr. McG.—I certainly think so, and then it would be more than what is required from a settler in New Brunswick or Nova Scotia. I was pleased to hear your Excellencies speak of the forbearance of the people; it has no doubt been remarkable.

Com. GRAY—Suppose a man has property let at a rent of say £5 the 100 acres, which is regularly paid, what would be a fair sum to allow him for the land, providing his title be good?

Mr. McG.—I have already stated—£20 per hundred acres.

Com. KIRCHIE—Suppose you leased 100 acres of wilderness land 20 years ago, and have been receiving rent for it ever since, if it became necessary to convert that leasehold into a freehold, what, under these circumstances, ought you to receive for it?

Mr. McG.—Perhaps £50 or £60.

Com. GRAY—Considering the trouble of collecting rent, &c., you think it would be better to take £50 or £60 for it than to let it remain under lease?

Mr. McG.—Yes. From my knowledge of the tenantry in the district where I live, I believe that for the last 9 years, not a single individual has paid 9d of his rent which did not come from some other source than his farm.

Com. PALMER—Do you think that statement applicable to the whole of the island?

Mr. McG.—To a great extent, as a vast amount of the rents have been paid by young men who have earned money elsewhere.

Com. HOWE—Do you think the rental system has driven young men away from this island?

Mr. McG.—I do indeed.

Com. GRAY—Are you interested in the fisheries?

Mr. McG.—No. I hold, however, that the individuals occupying the reserves should retain them; but when the land is required for fishing purposes, if not engaged in the business themselves, they should let it to others.

Com. HOWE—How long would it take a young man, paying at the rate of 20 years' purchase, to make his own out of a farm?

Mr. McG.—He would never do it.

Com. RITCHIE—Do you know of any purchases at that rate?

Mr. McG.—I am not aware of any.

Com. RITCHIE—What stock does one of your farmers generally keep?

Mr. McG.—6 cows, 2 horses, a few head of young cattle, and some sheep?

Com. HOWE—In coming to this place, I passed a cattle-

most called New Perth, where I saw fine farms, neat buildings, good stock yards, and thought it contrasted favorably with many other portions of this Island; what is the cause of the prosperity there?

Mr THOMAS OWEN, the representative of that District answers—The persons who went there to settle had money when they came to the country, and with the assistance of that, and by selling timber, have purchased their farms, and are all freeholders without an exception.

Mr M'GOWAN—I was a collector of land assessment for several years, and thus had an opportunity of prying into the circumstances of the people. I frequently ascertained how they procured the money necessary to pay this assessment; and though the amount was trifling, many, I discovered, found it difficult to make up a sum sufficient to pay it. So much so was this the case, that numbers had "an eye to it," as they said, for months before it became due. Lately, since the Reciprocity Treaty with the United States has been in operation, we have been visited by American traders, who purchase produce; and the most of the money paid for land assessment, comes from that source. This shows the difficulty of making a cash payment here, no matter how trifling the amount.

COUN. PALMER—How often have you been to the North part of this Island?

Mr M'G.—Not very often.

COUN. PALMER—How far North of Charlottetown have you been?

Mr M'G.—30 or 40 miles.

COUN. PALMER—And do you give information respecting countries you have never seen?

Mr M'G.—I confine my remarks to a country which I have seen.

COUN. PALMER—How long is it since you were 40 miles North of Charlottetown?

Mr M'G.—7 or 8 years have elapsed.

COUN. PALMER—Were you ever at the North Cape?

Mr M'G.—No.

COM. HOWE—You are acquainted with about  $\frac{1}{2}$  of the Island, I suppose?

Mr M'G.—I am, and I think that is sufficient to judge by, as this Island is not so very extensive. When I was a young man, I could have run from one end of it to the other in a day and a half. (Laughter.)

DELEGATION from Lot 53—Thomas Owen M.P.P., Messrs. Donald Stewart, John Stewart, George Moar, and James Dewar appear before the Commission.

Mr OWEN addresses the Court—As the chairman of a meeting which was called in the district from which we come, I with the gentlemen who accompany me, were appointed to appear before this hon. Court, and give evidence respecting the disputes which have arisen between landlord and tenant. Township 53, your Excellence, is within 8 miles of Georgetown, and it has

one of the best harbors on our southern coast. There have been 8 claimants for the Township during the last 60 years. The oldest settler on the Lot has been there 60 years. The western portion of it is claimed by the Countess of Westmorland, the eastern by Viscount Melville, and the remainder by the Earl of Selkirk. There have been only 8 or 10 rent payers on the Lot for the last 25 years. The number of freeholders upon it, is, I think, 17 or 18, and these purchased from the Earl of Selkirk about 80 or 90 years ago.

Com. GRAY—The persons settled on the Townships, then, do not generally recognise its claimants?

Mr OWEN—A few more than the number which I have stated have attended, but have not paid their rent. There are now about 167 farms occupied upon the whole Township, and these average perhaps 75 acres each.

Com. GRAY—How much on each is under cultivation?

Com. HOWE—About 20 acres on an average. On the portion claimed by the Countess of Westmorland there are about 60 settlers, who, I think, have never paid anything. Between the years 1831 and 1842 only 12 leases were granted, and so rent, to my knowledge, has been demanded for the last 7 years. Nor has rent been paid on the Selkirk portion of the Lot. Those who located upon it purchased their holdings, some of them as long ago as 1803. £5 paid by one McNeill, several pounds by one Campbell, and something by one or two others, is all the rent which has been obtained from the property. £8 or £10 have been paid by some settlers on the Melville estate, and others have been threatened for the last 30 years, but always got off with soft words to Mr Murpeth the agent, Mr Bourke, issued processes against 5 or 6 persons to attend the Court at Georgetown, in October last. Some of these attended, but others would not, and retained Mr Henaley as their attorney. These expected their case would have come on at the March Court, but it did not; nor was it called at the following term of the Court held in July. They, therefore, infer from this that the claimants possess no legal titles to the land. Even those who have attended, and paid rent, believe, as Mr Cooper says, that the "proprietary are usurers." 17 pay rent, 117 go scot free. Some years ago, a Mr Weir claimed a part of the neighboring Township, Lot 52, and writted several of the settlers. They were brought to Court five or six times, but nothing was done.

Com. GRAY—What did he represent himself to be?

Mr OWEN—A proprietor. Something of the same kind has lately occurred on the adjoining Lot; but the people are of opinion that the suite in this case also, will die a natural death. On the Selkirk property, the settlers are desirous of purchasing, as they dread the thought of being left at the mercy of the proprietor. The very name of a process alarms them, and the sight of a sheriff is almost enough to frighten them to death.

Com. GRAY—The Commissioners are of opinion that the people of this Island are not partial to law.

Mr OWEN—The Township has never been any improved by

the proprietors who claim it. The roads opened were first used by timber makers, and subsequently carried through to different places under the Road Compensation Act.

Com HOWE—How did the proprietors get off without paying their share of the expenses?

Mr OWEN—I do not know. Nothing at least was paid by Lord Melville, for the road running through his part of the Lot was made by the statute labor of the men employed in my father's shipyard. This year 4,900 acres on the Township have been proclaimed for arrears of land assessment.

Com. HOWE—Then the proprietors did not assist in making any of these roads, which they were required to do by law?

Mr OWEN—No: the people made them themselves. The Grand River Road, and St Peter's Road, were opened under the Road Compensation Act. There are 9 or 10 cases of ejectment, commenced by the agent of Lord Melville, now pending.

Com GRAY—This, then, will be a favorable time to try his title.

Com. HENSLY—I have applied to his agent for an abstract of the title, and have been given to understand that he has written for it, but it has not yet arrived.

Mr OWEN—The faith of the tenants in Lord Melville's title is shaken. When an agent sues, the people expect he is prepared to go right through with the case.

Mr BOWMAN—They will find that we are prepared to prove our title.

Com. RITCHIE—The people may be under a wrong impression on the point of proving titles. Frequently the expense of doing so, may be more than the value of the rent.

Mr OWEN—We have seen so many instances of suing, where no action has been taken on the cases, that we are disposed to think the titles are all alike.

Com. RITCHIE—The proprietor by going to law, indicates his willingness to prove his title. The tenants say to him "prove it," and if he does not, they have some reason to conclude that it is not good.

Com. THOMSON—Furnishing an abstract of titles could not involve expense.

Com. RITCHIE—A considerable time might be required to prepare it.

Mr OWEN—The land on Lot 58 is not worth the rent demanded for it. I think it is as favorably situated too, with the exception of Lot 59, as any Township in the County. The people have notwithstanding been unable to pay their rents on their farms. The soil is light and sandy. The absence of manure, too, causes a necessity for having more land cleared than they need to cultivate. I knew farmers who have not, owing to a failure of the crop, threshed 10 bushels of wheat in the year. This year, I think, the oat crop in the county will not average more than 20 bushels to the acre.

Mr. HOWE—Then it would take the oat crop to pay the rent!

**Mr. Owen**—Yes, after a little is taken out of it for the horses. Three shipping places have been commenced by the tenantry in our part of the country, and completed by the assistance of grants from the Legislature. The money received in the port of Georgetown for grain, in the year, would not meet the accruing rents of the landlords for the 8 or 10 surrounding townships; and I suppose on an average 100,000 bushels of oats, and 50,000 bushels of barley are shipped from the port annually.

**Com. RICHARDS**—I think that statement does not prove much; it might so happen that nothing was due in money; the value of the grain exported might be received in goods.

**Mr. O.**—Generally speaking, money is obtained for the grain which is purchased. I wish to show that there is not sufficient circulating medium in the Colony to meet the demands of the landlords.

**Com. RICHARDS**—Do not proprietors take their rents in produce?

**Mr. O.**—No.

**Corn Hows**—In Nova Scotia, we import as much as we export; in point of fact when our imports are paid for, there would seem to be no money in the country at all.

**Mr. O.**—People who pay rent here do not pay it off their farms. Young men go fishing, and from this source much of it is derived, as also from shipbuilding, and labouring abroad in the United States and other places. The people around here are as economical as those in other parts of the Island, and when they state that they cannot pay their rent I infer that others are in a similar position. Farms in this part do not change hands frequently. A farm of 120 acres, on Is. on a sore rent, on the Georgetown Road, 5 miles distant from the town, and only one mile from one of the best shipping places in the Island, and about 4 miles from the celebrated Montague Bridge, with 50 acres clear, having a barn worth £50, and a pretty good dwelling house, sold for £130, 3 months ago. The sale was a voluntary one. The absence of firewood on the place, was the man's reason for selling it. On the main post road within 4 miles of Georgetown, the agent of Lord Melville sold a tract of land for 12s. 6d. an acre. The situation, I believe, is good; and as far as I can judge, its actual value, with the timber, is about 10s. an acre.

**Com. GRAY**—Suppose the people get an opportunity to purchase, it appears their agricultural resources will not enable them to buy; whence then will they gain money to purchase their freeholds?

**Mr. O.**—On some farms there are young men grown up, who would assist in purchasing them; and all would make sacrifices of every description to secure the fee simple of their properties.

Com. GRAY—If the people borrow money, and mortgage their properties, would there not be a danger of them coming under landlords again?

Mr. O.—I think not.

Com. GRAY—What is the value of labor?

Mr. O.—A good smart lad can be hired for £24 a year. The average for a day's work, when found, is 3s. Wages are higher in shipyards; and also for a few days in the time of harvest.

M<sup>r</sup>. COOPER suggested the idea that there would be many selling stock, if persons were endeavoring to raise money to purchase their freeholds, that no one would be found to buy one tithe of what would be in the market. He also expressed the opinion that the people could not purchase their farms at the rate per acre named by Mr. Owen.

Mr. OWEN—The value of lands will depend upon their situation. For example, I would value Lots 51, 52, 54 and 55 pretty much alike. In 1851, oats almost sold for 6d. a bushel; since then, they have risen to 1s 6d., 2s., and even as high as 3s.

Com. HOWE referring again to the settlement of New Perth, Mr. Owen remarked that the class of settlers there were equal to perhaps any in British North America. Mr. Owen also stated that he thought the Government should take possession of the fishery reserves, and let them to the settlers at reasonable rates.

Com. HOWE—Would you have the Government step in, and take men's farms from them?

Mr. O.—No; but I would let them have the reserve on their farms at a nominal price. I would place the reserves in the hands of the Government that it might give them to the actual occupants.

Com. GRAY—We are much obliged to you, Mr. Owen. You have explained your views clearly and fully.

Mr. JOHN CRAWFORD next showed the Court the difficulties in which he was involved on account of the rental system.

Coun. PALMER cross-examines Mr. OWEN—You have said much, Mr. Owen, about the title of Lot 53. Your father was Postmaster General, and a very intelligent man was he not? He was Postmaster General, but there might be a difference of opinion concerning his intelligence. He settled upon the Lot? Yes. Did he take a lease from Melville? I never saw it. Do you believe he took one? I dare say he did. Have you any doubt about it? Are you upon that farm? Yes. Has rent been paid for it? My father, I believe, paid rent. Up to what time has rent been paid for that farm? No answer. Was your father's farm one of the 5 or 10 you mentioned? No answer.

Com. GRAY—That's where the case appears to pinch, Mr. Palmer?



Mr. OWEN—These questions of Mr. Palmer, I consider to be of a private nature. I came here in defence of public, not private rights.

Com GRAY—We wish people to feel that what they own here cannot be used against them at a future time.

Coun PALMER—Mr. Owen, has any offer been made for your farm?

Mr. OWEN—I never offered it for sale.

Coun PALMER—Has any offer been made for your farm by the proprietors?

Mr. Bourke said such had been the case.

Coun PALMER—What did Mr. Bourke say?

Mr. OWEN—Such questions, I do not feel called upon to answer. I wish you to understand that I came here with no private grievances; and I have stated what I consider to be the value of lands generally.

Coun PALMER—Do you know at what rate the farm on which you reside was proposed to be purchased?

Mr. OWEN—I will not answer.

Coun THOMSON rises.

Coun PALMER—Now, now, that is very good in Mr. Thomson, is it not?

Coun THOMSON—I am quite right. You are a gentleman, Mr. Owen, who has disputed the titles of the proprietors of that Township, are you not?

Mr. OWEN—Yes.

Coun THOMSON—And that is the reason why you do not wish to have evidence extracted from you about your farm?

Com RITCHIE—It is really an important question which Mr. Palmer asks; but it rests with Mr. Owen to answer it as he pleases, of course. You have given evidence, Mr. Owen, respecting what property is sold for in that Township; and Mr. Palmer asks you if any person has really offered you a sum for your own. The answer would have a direct bearing upon this subject, for then we would have one case against another.

Coun PALMER—I ask, Mr. Owen, if he is not aware —

Mr. OWEN—I did not come here to bring up family matters.

Com GRAY—He is not bound to say anything which would affect his private interests.

Coun PALMER—How is a man going to undertake to pay for the freehold of his farm, who cannot pay his rent? will you explain that?

Mr. OWEN—They could only do it by making great sacrifices.

Com HOWE—In Lunenburg, near Halifax, a number of Dutchmen are settled; they have a very rugged part of the country, and much worse land, than you possess, for I sup-

pass they have eight stence on their land to your one here; still they build vessels, cultivate their farms, come round along your shores, remain a short time, and then return laden with wealth. Why do not the people here do likewise?

**Mr. OWEN**—Our rivers are frozen up for nearly 8 months in the year; their port is open all the year round. In Lunenburg, the season is 8 weeks longer, for here the spring commences 3 weeks later, and the winter sets in 3 weeks earlier than there. Our potatoes are sometimes killed with the frost in July; this year some of them were killed in August. At Lunenburg, they enjoy the influence of the Gulf stream, which prevents early frosts, and moderates their winters. They have a good grazing soil, and make wealth by their butter and cheese. These are some of the reasons that the people of Lunenburg are in advance of us.

**Com HOWE**—That is an answer, certainly.

**Coun HENSLEY** now reads a memorial from Lot 53, which was presented by Patrick Sanfree, who complained of the action of Joseph Wier, who had sued him in the Supreme Court, in reference to his land. He was notified to attend with his witnesses twelve times, and the case was deferred in every instance. Such a course of procedure was sufficient to ruin him.

**Coun PALMER**—This is certainly a case of great hardship. I was counsel for him, and know that he was notified many times to attend the Court.

**Com GRAY**—Such a case might happen in any country, though certainly it is a very hard one. I hope you will be relieved from future trials of this nature, Mr. Sanfree.

**Mr. SANFREE**—Thank you, many happy days to you.

**Coun. HENSLEY** then read a memorial from Lots 59, 61, 63 and 64. Delegates from said Townships—Hon. Joseph Wightman, M. P. P., Finlay McNeill, Esq., M. P. P., Messrs. Roderick Steele, Thomas Fisher, Philip McDonald, John Clark, Philip Hume, Robert Dewar, John McNeill and Vere Heck.

**Mr. WIGHTMAN** addresses the Court—Your Excellencies: I have been a representative in the Legislature for the southern portion of King's County, for several years; and my colleague and I have been appointed to represent the grievances of our constituents before this hon. Commission. A few of the more intelligent gentlemen in the community were named in conjunction with us. The people whom we represent have a bitter antipathy towards the rent-paying system. They would dispossess of almost the last article they possess to become freeholders. I might mention several instances of oppression as the part of the landlord, which have occurred in our district. The proprietor of Lots 63 and 64, is Sir S.

Cunard. I cannot say that his agent, Mr. DeBlois, has been harsh. The people are an industrious class of men. Respecting the value of land, I may state that I think 10s an acre is entirely too high. If the people had consented to pay that much, I question whether this hon. Commission should have been here to-day, for many of the proprietors would have parted with their lands at that rate. The people whom we represent consider the price paid for the Selkirk estate a fair reflection of the value of Township lands. They will certainly be disappointed if they do not obtain the fee simple of their farms on the same terms as those who reside upon the Selkirk estate.

Com. GRAY—Will the tenants on that estate receive their lands at the same rate at which they were purchased—2s 4d sterling an acre? It is not reasonable to suppose that the Government will dispose of these lands at this rate precisely?

Mr. WIGHTMAN—In disposing of the land, the quality and situation must necessarily come into consideration. It would not be reasonable to suppose that men who have farms on the sea-shore, should not pay more than those in the interior of the country. The means of procuring manure, and other facilities must be taken into account.

Com. HOWE—If the proprietors' estates were purchased by the Government, then you think the price of the Selkirk estate would be sufficient, but if it is not possible to do that, and the proprietors be compelled to take their payment in small sums, and at long intervals, the price should be higher, ought it not?

Mr. WIGHTMAN—Even then I consider it should not average higher than five shillings an acre.

Com. RITCHIE—Does not the Government expect to get 10s an acre for the Selkirk estate?

Mr. WIGHTMAN—Yes, for some of it.

Dep. RITCHIE—If a certain price was fixed at which the proprietor was to sell his land, the good land would be taken and the inferior land left on his hands. In fixing a price, then must we not set it at the highest price paid by the Government for estates which they have purchased?

Mr. WIGHTMAN—The Government lands on the Warrell estate were divided I think into three classes. Those fronting on bays and rivers were sold at 12s 6d an acre; those on the sea-board and interior from 6s to 7s 6d; and those on the rear at 1s 6d. Shortly after the Government purchased the estate, disappointed persons were chosen to travel over it, and set a value upon the lands according to their quality and situation.

Hon. Mr. COLLE—With respect to Mr. Wightman's statement that some of the land was valued and sold at 12s 6d an acre, I may say that but very few farms were sold so high, and those in very particular situations. On the main post roads, and rivers it was generally sold at from 6s to 10s an acre. The Government were bound to make the scheme self-sustaining,

which could not have been done had the lands been valued at lower rates.

Mr WIGHTMAN—In reference to Lot 64 I may remark that the proprietor, Mr Samuel Canard receives a large amount of rent from the Township. The agent waits upon them once or twice every year to demand the rent, which is generally paid, though with considerable difficulty. They can keep their rents paid up, when there is no failure of the crops. The tenants on the Township desire to be relieved from paying rent, by becoming freeholders. They are well pleased that the Earl of Selkirk disposed of his estate upon terms so reasonable, as they are and in hopes that other proprietors' lands may be obtained for the same. On Lot 61 the people have had several changes of agents. When I came to this country, Mr Johnson was agent; after him was Llewellyn then Mr Ball, next Mr Yeo. This gentleman, who is himself a proprietor, is the agent for Mr Lawrence Sullivan.

Com GRAY—You have named several agents who have had the management of that Township; are you aware whether the proprietor ever received much rent for it?

Mr WIGHTMAN—I have heard it frequently repeated that he received nothing. But worse than that they wronged the proprietor by allowing the timber to be cut away for the sake of the stampage; and after doing that they made no allowance to the tenant, but rented it at the same rate as though it had been in its primitive state. It is a matter of public notoriety that the Earl of Selkirk said £18,000 were due him on his estate for arrears of rent.

Com HOWE—Was much of that collected?

Mr WIGHTMAN—Doubtless it was.

Com. HOWE—and you think he never received it?

Mr WIGHTMAN—I think so, and believe that is just the reason, he is so anxious to sell. Some poor people on the Township have suffered great hardship. They were compelled to go back into the interior of the country 8 or 9 miles, and take lands with nothing to show for them, but a document which subjects them to an annual rent, yet does not guarantee them their property a single day beyond the pleasure of the next agent. I have here a copy of an agreement which was given to me by Mr Yeo on behalf of Lawrence Sullivan. [This memorandum was to the same effect as one granted by this Agent which we have already published in our report.]

Com. RITCHIE—Did you ever apply for a lease? A memorandum of this kind might be given before improvements were made upon the place, and so might be a document given with a very honest intention, or it might be the reverse. For example, a man wishes to obtain a piece of land upon the Township, he applies to the agent, who says I will now give you a memorandum, and after 6 months you can have a lease. I think the hardship arises from the length of time the agent refuses to grant a lease. It is written on the face of that document that Mr Yeo has not authority to grant a lease, therefore it is different from what it would have been had he granted a lease without authority.

The agent said take this or nothing, and, the person was at liberty to take it or refuse doing so. If the tenant went to the agent at the expiration of the time, and was told that he was still unprepared to grant a lease, then that would be a grievance; but there would be no grievance until the tenant did so. Mr Sullivan's agent now, whoever he is, I think, is in honor bound to furnish you with a lease. If he still refuses, you will then, certainly have good grounds for complaint. We are not to assume that the people of this Colony are to be treated as children. When you took that agreement you knew exactly what it was worth.

Mr WIGHTMAN—I could get no other, or I would not have taken it.

Com HOWE—I take it for granted that if you were now to go to Mr Yee, he would give you a proper document. But you argue that, here is a kind of document this agent puts into the hands of poor people, which binds the person who takes it, but not the proprietor; therefore you stigmatize it as a dishonest document, though you took one of them yourself. Still Mr Ritchie is right, till you have applied to the agent, you should not assume that it will not be carried out in good faith. I have one question to ask, and that is this: Why is it that we frequently find large amounts of arrears accruing on these estates? and frequently we have reason to lament the hard fate not only of the tenant but also of the proprietor? Why do we find agents with nothing, becoming in the course of time proprietors?

Mr WIGHTMAN—The reason is that the agent keeps all he gets off the estate. Thus it happened to the Earl of Selkirk. The present agent has made himself wealthy. I can safely say that some agents for Lot 61, kept stampage, rent and all; and after doing that applied to the proprietor for more. (Laughter.)

Com HOWE—Under these circumstances, then I think the proprietors may be glad to sell?

Mr WIGHTMAN—They ought to be, and to take a low price for their lands too. If they did so, I believe they would be gainers.

Com GRAY—Do you not think it would be better if such an arrangement could be made that the proprietors might sell their lands all at once, and then they would be able to sell at a much lower rate than they could otherwise?

Mr WIGHTMAN—I think so.

Com GRAY—Do you not think the proprietors would be glad to sell at a low figure?

Mr WIGHTMAN—I do.

Com GRAY—What value would you set upon their estates, if sold all at once?

Mr WIGHTMAN—An acre would be ample to give for them, that is to take them all in a lump.

Com HOWE—Let me now direct your attention to another branch of the subject. Suppose the Government, owing to the state of its finances, unable to purchase the estates of the proprietors; and suppose that all this Commission, or all that the Government could do, would be to fix a price upon the land, at

which the tenant coming forward could purchase his own farm, can you fix a rate at which the proprietors ought to compound with the tenant?

Mr WRIGHTMAN—I am not prepared to do so just now.

Com RITCHIE—Were tenants paying £5 per 100 acres regularly every year to the proprietor, his investment then would be as good as bank stock; now were you going to take away that, what would you give him as an equivalent?

Com THOMPSON—If your Excellencies base your calculations upon the amounts due on the rent roll, you will not arrive at a proper solution of this question. You think, Mr Wightman, that in consideration of the original titles being defective, quit rents unpaid, considering too that there have ensued 60 years of distraction and suspense, you as a public man are prepared to call upon Cunard or any other proprietor to come in and make a sacrifice in order to gain a settlement of this dispute between landlord and tenant?

Mr WRIGHTMAN—Yes: Considering the way this Island has been managed, I think it would be contrary to reason that the proprietors should receive full value for their estates.

Com THOMPSON—Another reason why they should not receive full value is that the rents have been too high.

Hon. Mr COLLE suggested that as the country now pays a Land Commissioner, by a little additional expense, the Government could manage the whole of the lands in the Colony through the Land Office, and as payments were received from the tenants, they might be handed over to the proprietors perhaps once in six months. He thought it would be necessary to adopt some method of this kind, for the tenants would not be able to purchase the freeholds of their farms, unless they were afforded the opportunity of paying for them by easy instalments, in which case proprietors would require to retain their agents to collect the monies as they became due, and would have to pay land tax, consequently it would be unjust to allow them to set a price for their lands as might be thought sufficient were they not subjected to such an outlay.

Com HOWE pointed out two difficulties in the way of carrying out this suggestion; first, the tenants, if a majority of the constituents, might decide upon not paying purchase money at all; and, secondly, it would not do to change a man's agent without his consent. He showed that a case analogous to the one mentioned in his first objection once occurred in Nova Scotia in reference to several Counties borrowing money from the Government. After they received the money, they formed a combination and never paid it.

Hon. Mr COLLE thought if the Commissioners left the land in the hands of the proprietors to be sold by them, they would accomplish little good by coming to the Colony.

Com PALMER—I would not trust any Government with the management of the estates of the proprietors.

Com HOWE—If no other solution of the question be possible, would any injury arise from this plan, namely: Suppose a price fixed upon the land on every estate, and the tenant to



continue paying rent, but to be privileged to turn his earnings into a kind of savings bank, by paying £5 of the purchase money of his farm, now and again, and receiving interest upon it, or a reduction of rent proportionate to the amount paid. If the tenant could pay none of the purchase money he might go on paying rent, and would be no worse off than before.

Mr WIGHTMAN—I think that plan would answer better than a loan.

Com. GILBY.—In arguing these points, we wish you to understand that our minds are not made up on any particular scheme; we only wish to hear your views. We start objections to draw out reasons, and to make you consider your statements more fully.

SIR LAY McNEILL, Esq., M.P.P., was prepared to endorse nearly all that was advanced by Mr Wightman, but would add that the rents on Lots 63 and 64 were generally at 1s 8d currency per acre. A few days ago 200 acres of what had been Government lands were sold for non-fulfilment of purchase, the result of which was that the purchasers lost their instalment on the land. The Government gave them 10 years to pay the purchase money; they paid the first instalment, but could not meet the second. When the other demands on the tenants are made good, they find it difficult to pay rents or purchase-money for their farms.

Com. PALMER.—You say, when other demands are paid they find it difficult to pay their rents. Now I have no doubt of that, for those other demands include the merchant's accounts. You and Mr Wightman are large merchants, and of course when the rental system is dispensed with, it will be a material benefit to you.

Mr WIGHTMAN.—The people take a pride in paying the merchant, but none in paying the proprietor.

Com. Hensley proposes a few questions to Mr BECK.—You live on Lot 64, Mr Beck? Yes. How many years have you resided upon that Township? 47. What rent do the people pay? 1s 6d viz. is the usual rent;—some are in arrears to the amount of £30 or £40. Are the people generally industrious? They are, and sober. What is your opinion respecting their inability to pay rent? There are many settlers on the Township with small families, whose improvements are not sufficient to enable them to make the rent out of their farms. What is the average value of the land? I think about from 2s 6d to 2s sterling an acre.

Mr PHILIP BECK, from Lot 59, examined by Com. Hensley.—How much land have you, Mr Beck? 270 acres; and for this I pay £30 annually; there is a mill stream upon the property. In 100 years, the rent rises to £50. Are the tenants able to pay their rents? I am not able to pay mine, and others are like me. There is not a man upon the Lot who can pay his rent off his farm. What value do you set upon the land? For the fee simple, with time to pay, from 7s to 8s; the average I would say ought not to be more than from 6s to 7s.

Mr STANLEY corroborated the statement of Mr Beck.

Mr McLuan appeared as a delegate from Lot 63, and Mr Batholomew Lelachour from Lot 64. The tenants on these Lots, the delegates represented to be oppressed with high rents—about £8 for 100 acres. Not more than  $\frac{1}{2}$  of the land is fit for cultivation. Some tenants are £20, others £30 in arrears. Mr Lelachour stated that he was on Lot 64 fifty five years. His father was deluded from Guernsey by a proprietor, the late Mr Cambridge. The land which his father thought he was going to possess was bordering upon the East River, not far from Charlottetown; but when he came to it, he found it was 5 miles in the interior. The family afterwards moved to Murray Harbor, and bought land there at the rate of £50 per hundred acres. His father previous to leaving Guernsey paid £300 for the freehold of 1600 acres, which he retained for a number of years, and then sold to Mr Worrell at 4s 9d an acre. The tenantry on Lot 64, besides the poorness of the land, had other difficulties to contend with. On account of the destruction of the forest years ago, fence poles and firewood could not be easily obtained.

COMM. HENSLER called a delegation from Lots 50 and 51, and after reading the memorial from Lot 51, questioned Mr James Rice, one of the delegates—You have a lease, Mr Rice? Yes. On what terms? The lease is at 1s an acre, and for 999 years. How long have you been on the place? 12 years. Are the tenants all in arrears? Yes. If they were afforded an opportunity of purchasing, you think the rate would require to be very low? Yes. At what rate do you think? 6s an acre, with 10 years to pay. Who is your agent? Mr Haviland, and he never distrained upon any of us, nor did we ever shave a horse's tail on his account.

HON HENRY HAVILAND—Your Excellencies, this Lot belongs to two branches of the Montgomery family. For one of these parties, Mr Douse is agent. Mr Douse, I believe, gave his tenants a clear receipt for one year's rent; but they are now in arrears of 2 years. In 1856, the proprietor of the part of Lot 50 for which I am acting as agent, gave up £1000 of arrears of rent, to the tenants, and gave them new leases. For the first few years the rent, as stipulated in the new leases, was only to be 4d an acre, and afterwards was not to rise higher than 9d.

The tenants from this portion of the Township spoke highly of their agent.

Court adjourned at 5 $\frac{1}{2}$  o'clock p m.

THURSDAY, Sept. 20, 1860.

Mr LAWRENCE PETERS, from Lot 44, comes forward for examination.

Mr COOPER, before the examination was proceeded with, wished to show how the French settlers on one Township were driven out of their property, and how they obtained land on another. He commenced his remarks by saying that one of these Acadian French had informed him that he had settled on a point of land on the south west corner of Kello Bay. Mr Cambridge obtained possession of this part of land, he (Mr

Cooper) had no doubt, by tearing some leaves out of the Register, as there was no title of it on record.

Com. KITCHEN.—Mr Cooper, you mentioned this at Charlottetown, and ought not to repeat it, as it is a very serious charge.

Com. HENLEY.—I may state the Registrar of Deeds searched the Register in my presence, and it did not appear that any leaves had been torn out.

Mr COOPER.—It might not have been the original register which you examined.

Com. GRAY.—Such an act would bring disgrace upon the whole country.

Com. KITCHEN.—I will go further, and say that no public man should make such a statement until he had examined the records for himself.

Mr COOPER.—It was not easy for me to do it. I may remark in reference to the case of Archibald Campbell, who settled at the place which I mentioned, that his land was on the east boundary, and was to run west to the line of the Township; but at that time it appears, the Township line was not run. Afterwards, when it was run to the road, Mr Ambrose Bourke received a block of land there, which contained 300 acres. Bourke made some improvements upon this property, and when he died, left it to his widow. After his death, the son of Mr Cambridge went to the widow, and desired her to show him the deed her husband had received. She gave it to him, and when he had examined it, he told her it was so good, and threw it into the fire. The widow afterwards made an affidavit to that effect. It was subsequently discovered that Bourke had received too much land. Archibald Campbell purchased the property from the widow. Some years after, Mr Peters became agent for the Lot, and sent for Campbell. When he went, he found Mr Peters sitting behind a table well furnished with papers and pistols. He informed Campbell that he must take a lease for part of the land, and he complied. The man is present to-day ready to give his evidence.

Com. HENLEY proceeds with the examination of Mr Lawrence Peters.—Have you a farm on Lot 44, Mr Peters? Yes; I was born there. Is it a freehold or a leasehold? It is a freehold. The people there are nearly all freeholders; they live on properties purchased by the old French settlers.

Com. HOWE.—Can you inform us about the French being driven off their lands?

Mr PETERS.—I have heard of it merely; but I will tell you what I have heard. The old French people were first settled at Bay Fortune.

Com. HOWE.—Well, who drove them from that place?

Mr PETERS.—They were there in 1764 under the Kings of France.

Com. GRAY.—Why did they leave there?

Mr PETERS.—I was told that at the time this Island came into the possession of the British, they took the oath of allegiance; and that the naval Commander then on the Station told them or

signed a certificate to the effect, that if they would be good subjects they should not be disturbed in their possessions.

Com. GRAY.—That is similar to what was expressed in the Treaty of Quebec.

Com. HOWE.—Well, they took the oath it appears; now who disturbed them?

Mr. PETERS.—They remained there after that 25 or 30 years, after which time Mr Townsend came and declared himself to be the owner of the property. The people resisted his claim.

Com. HOWE.—He claimed the lot did he?

Mr. PETERS.—Yes. When they resisted he served them with writs of ejection. The people stand him a trial. They were fortunate enough to secure the services of an attorney who was on his way from Halifax to Canada; his name, I think, was Beow.

Com. HOWE.—What was the result?

Mr. PETERS.—On motion for trial, the certificate of the Commander was produced and examined; and the Court expressed their astonishment at Mr Townsend. Thus it ended that time;—nothing was done. Again, however, when the navigation was closed, and no attorney was to be had by the people, for Mr Townsend had them all employed, he brought on the case a second time, and unfortunately for the poor people, they lost it. They had no attorney, and the validity of the certificate was disputed. It was stated that the Commander was insane when he gave such a document. Still the people were not satisfied, and they applied to Mr Cambridge.

Com. GRAY.—What did they apply to him for—to give security?

Mr. PETERS.—I do not know. At any rate Mr Cambridge induced them to purchase land from him on lot 44.

Coun. HENSLY.—How much did they pay for it?

Mr. PETERS.—To the best of my knowledge, it was 20s an acre. I hold in my hand some of the conveyances. Now the people there are all freeholders.

Coun. HENSLY.—How many families are there?

Mr. PETERS.—30 or 40, the descendants of those who were driven from Fortene Bay. After the old French people lost the suit, Mr Townsend came on them for rent, from the time he made the claim, until the time they left; so the people were only able to buy 50 acres each from Mr Cambridge. So many live now on the property bought by the old French settlers, that they are in distress, not having sufficient land for cultivation. The old people were very much straitened, and this trouble about their land subjected them to so much expense and inconvenience, that it is felt there to the present day. Now with but few exceptions, these people have only 25 acres a-piece; and they hope this hon. Court will take their case into consideration.

Com. HOWE.—Do you live near the sea?

Mr. PETERS.—Yes.

Com. GRAY.—Who was this Mr Townsend?

Hon. H. HAVILAND.—He was a member of the Council, in

old times, and a collector of customs. Lord Townsend was a different person.

Mr. Archibald Campbell, referred to by Mr. Cooper, examined by Coun. Hensley.—Do you hold under a lease? Partly. Who is your landlord? Mr. De Blois is agent. Do you know who the proprietor is? They say it is Canada. How long have you been there? 34 years. Do you pay rent? I have to. How long since you acknowledged the proprietor? About 15 years. Do you pay up? Yes. Have you had any lawsuits about it? They put me through the mill pretty well. Who, Mr. De Blois?

Mr. DE BLOIS.—You were settled on the Lot before you took a lease.

Mr. CAMPBELL.—I bought from widow Ambrose, who purchased from Mr. Cambridge.

Coun. HENSLEY.—Had her husband a deed?

Mr. CAMPBELL.—I was told it was burned. She said Mr. Lemuel Cambridge burned it.

Coun. GRAY.—How did she know what kind of a document it was—it might have been an agreement?

Mr. CAMPBELL.—It might. A man called Marrow, got 200 acres on the Township, which was sold for land tax. When he came to get his land, there was not a spot without writings from the agent for it, but that where the widow had been; and when Judge Peters found I had an equity of redemption on it, he sent me a writ of ejectment.

Com. RITCHIE.—Did you defend the suit?

Mr. CAMPBELL.—Yes.

Com. RITCHIE.—And what was the result?

Mr. CAMPBELL.—They kept me three years in doubt: the case was never tried. I afterwards found that I had more against me than Judge Peters. I did not know what to do. Mr. Edward Palmer began to advise me to settle with Peters. I did so, and he gave me a release of my neighbor's land; and then ran a line between my door and wood-pile.

Coun. HENSLEY.—You had to give way in that law suit?

Mr. CAMPBELL.—Yes.

Coun. PALMER.—Did you not say your counsel persuaded you to settle it? Do you say anything against his advice?

Com. RITCHIE.—Do you think he advised you for the best?

Mr. CAMPBELL.—I expected a sheriff's deed.

Com. GRAY.—But Mr. Palmer is a lawyer of standing, and if he told you that you would be defeated in the case, he did right to advise you as he did.

Coun. PALMER.—What do you attribute to your attorney? Do you think he intentionally misled you?

Mr. CAMPBELL.—At any rate I am out of the sheriff's deed.

Coun. PALMER.—Do you impute ignorance to him?

Mr. CAMPBELL.—No; they took advantage of my ignorance.

Coun. PALMER.—Do you state that he misled you purposely, or through ignorance of his profession? I want a direct answer.

Mr. CAMPBELL.—I think I was misled.

[Mr. Cooper interfering at this juncture, the Commissioners sustained Coun. Palmer, saying it was a natural feeling to pre-

test the reputation of an absent relative, who Mr Palmer thought, acted justly.]

Cons. THOMAS.—I think Mr Palmer is quite right; his brother, Mr Edward Palmer is a professional gentleman of great respectability. As counsel for the Tenantry I beg to state that I utterly repudiate such imputations.

Com. HOWE.—This poor man has lost his land, which is a case of great hardship. He has been puzzled with lawyers, and has paid heavily; and he feels that he has lost his property. These things very likely have caused him to doubt.

Com. RETTIG.—People here appear to think that a sheriff's deed is the best title they can obtain, when in fact it is the very worst.

Com. GUY.—A sheriff's deed only transfers to you the title which the man had, against whom the execution was issued. If his title is a bad one, of course you get a bad title. The value of a sheriff's deed depends entirely upon the character of the previous title.

Mr COOPER.—There are parties on the Township who will not attend, and the proprietor cannot eject them.

Com. HOWE.—It is natural under such circumstances that those who have been ejected should feel sore; but I think it would be wrong to say that they could not get justice in the Courts of law in this Colony. I cannot think attorneys would lend their influence to the proprietors against the people, as regards their rights, especially when they are bound by their oaths.

Cons. HENSELEY.—Do you impute anything wrong to Mr Palmer, Mr Campbell?

Mr CAMPBELL.—No, no!

Cons. HENSELEY presents a memorial to the Court from Mr Martin L.—Mr L. is settled on 50 acres of land at Montague Bridge. Another individual in the same place holds 50 acres which is so situated as to exclude him from the road, &c. The Counsel next read a petition from the inhabitants of Lot 51. The petitioners emigrated from the Islands of Scotland, in July, 1855. When they landed on this Island, they were harshly dealt with, being deprived of some of their clothing by the captains, and had other effects seized. They were brought to terms by the proprietor, and compelled to sign agreements. They were not aware at this time that the lands were stripped of their timber, and thought it hard to be compelled to pay at the same rate as others on this account. They desire to share the sympathies of this hon. Court.

Mr. Clements and Mr Brooks from Lot 64 examined by Cons. HENSELEY.—You live on Lot 64, Mr Brooks? Yes. How many years have you resided upon the Township? 36 or 40. I am both a lease and freeholder; the lease is at 1s 6d etc. From whom did you get your land? Mr Cambridge. Is common with others I can bear testimony to the oppressive nature of the rent paying system. It is like perpetual motion. [Laughter.] I, with others on the Lot would sacrifice almost everything to become a freeholder. At present, I can meet the accruing rent; but I fear it will be different with my family. I came to this



country through the persuasion of Mr Cambridge. He held out to me every inducement, promising to do all in his power to assist me. I was a clerk in his employ for 5 years. I then desired to invest part of my salary in land, and so purchased 100 acres, from Mr Robert Hodgson, at a guinea sterling an acre. When I settled with Mr Cambridge, I had paid for 50 acres. This was about the year 1837. After some years I found the interest accumulating, and was compelled to sell 50 acres for the sum I gave for it, though I had paid £30 or £40 interest. Had not Mr Smith befriended me by taking work for the interest, I would have lost all that I paid. He, however, gave me a deed of what remained. This Mr Smith was a son of the Governor.

Mr Clements next examined.—Are you a leaseholder? I am. On what terms? I have a long lease at 1s 6d. Are the people industrious in your district? They are, and sober; there is not a grog shop in the district; still they are in arrears. Why? On account of the failure of the crops. What do you think is the value of land? I would give 10s an acre for my own property, though 2½ acres of it are swampy. Value depends upon situation. I commenced by building vessels, and at that time I had not the scratch of a pen for my place. Shortly after the Escheat question came up, and the people entered into a bond, not to go and see Mr Peters, the agent. It appears every one wished to make the best of his bargain, and off they started to him. I kept clear, but paid dearly for so doing. Peters sent and seized my vessel which was on the stocks, and compelled me to take a lease.

Com. GRAY.—Was the vessel seized for rent?

Mr CLEMENTS.—No.

Com. HENSLEY.—Had you agreed to pay rent?

Mr CLEMENTS.—No: I bought the place from another person.

Com. RITCHIE.—Did that man ever pay rent?

Mr CLEMENTS.—No.

Com. PALMER.—How long after you had purchased your farm before you were distrained upon?

Mr C.—About 8 years.

Com. PALMER.—Did you conceive it was right to ascertain whether the man from whom you purchased had taken his land from the proprietor?

Mr C.—There was such a talk about escheat that I gave myself no trouble about the matter; I thought it was hard to be the only mark at which Peters pointed.

Com. HENSLEY.—Had the man signed the bond?

Mr C.—Yes, but every one backed out—myself excepted. I gave 50 acres free, and 50 rented.

Com. HENSLEY.—You have not bought out yet?

Mr C.—No. I think I can do better with my money. I expect to get a better bargain from these hon. gentlemen. [Laughter.] My hopes are good, and my faith is strong. Had I no other way of making a living than by farming and paying rent, I could not do it. Many in my neighborhood are in a much worse position than I am. There are men around me who do not know the taste of molasses and tea.

Com. HOWE.—Is that a fact, or are you only bantering?

Mr C.—It is true.

Com. HOWE.—Well, they are the poorest people in America.

Mr CLEMENTS.—If you but saw their hovels—their poverty is heart-rending.

Mr DE BLOIS.—There is much poverty in the place referred to by Mr Clements. These people live on a part of the coast where there is a high bank. But their poverty does not arise from paying rent, for they do not pay any. The community is mixed—some are Scotch, others English and Irish, and some are from Germany.

Com. GRAY.—Are they industrious?

Mr CLEMENTS.—Yes.

Com. PALMER.—How are they going to purchase their farms?

Mr C.—I cannot tell you.

Com. HOWE.—It is rare to find a mixed community so generally poor.

Mr C.—I do not say they are all that poor. Some of them like to live well, and I am one of these. [Laughter.]

Com. HOWE.—How high is the bank on the shore where they live?

Mr C.—About 50 feet, and it extends along the coast about 4 miles.

Com. GRAY.—I see a post office marked on the map at that place, what is it there for?—for Mr De Blois's rent-dunning letters? [Laughter.]

Mr C.—The post office is at Little Sands.

Mr DE BLOIS.—Many of these people are from the Isle of Skye. Their farms are in a wretched state, covered with thistles and other weeds.

Mr C.—We have nothing to say against Mr De Blois as agent.

Com. GRAY.—I think we cannot entertain an unfavorable opinion of Mr De Blois. Considering that he is agent for so extensive an estate, it is a good sign that we have not heard any person speak disrespectfully of him.

Respecting the fishery reserves, Mr Clements said that he would not like to have the front of his farm taken from him.

Hon. Mr COLZE.—I saw a fisherman on the wharf to-day, who said he had been turned out of his place.

Mr DE BLOIS.—I turned him out, and the people were glad to get clear of him.

Mr COLZE.—I think he was from Nova Scotia too. [Laughter.] Johnson is his name,—he had his family with him.

Com. HOWE.—I am afraid you do not get the best class from Nova Scotia. [Laughter.]

Mr M'Leod from Lot 64 examined by Com. Hensley.—You live on Township 64, Mr M'Leod? Yes. I have lately been deprived of my lease. I was distrained upon for rent. I bought a piece of land, and the man from whom I purchased it soon after left the Island. He gave me to understand there was but little due upon it, and Mr De Blois came on me since for £100. I paid £25 down, when I got the place, and money debts since,

which the man owed. I have paid altogether £125. 25 acres of the land are cleared.

Coun. Hensley.—When did you make your bargain?

Mr M'L. son.—This year.

Com. Hows.—As a sensible man why did you not go to Mr De Blois, and see about it before you purchased?

Mr M'L.—The man wished to get away privately.

Com. Hows.—Had the man you bought from a lease?

Mr M'L.—Yes.

Com. Hows.—And you had to give up your farm?

Mr M'L.—Yes. And I had to give up the bond.

Mr De Blois.—A lease was taken out for the property by Mr Samuel Roberts. There is a good mill site on the land. The man who sold the place, owed a large amount on it; and one morning he took it into his head to leave the country. He left a hired man in possession.

Com. Gray.—Did he leave his wife?

Mr De Blois.—Yes; and £100 to pay. I had given him ever indulgence.

Com. Hows.—What became of his wife?

Mr Clements.—She went about from house to house, and is now dead.

Mr De Blois.—She was not turned out by the proprietor.

Messrs Birnie, Gates, Morrison, Allan &c., from Lot 43, presented to the Court by Coun. Hensley. Mr Allan, from Boughton Island, answers questions.

Com. Gray.—How did the proprietor get that island?

Mr Allan.—Several islands were granted independently of the Townships. Boughton Island was granted to Montgomery.

Coun. Hensley.—How many leaseholders are there on it?

Mr A.—Nine families live there, all of whom are leaseholders.

Coun. Hensley.—You have a lease then?

Mr A.—Yes.

Coun. Hensley.—What do the tenants there complain of?

Mr A.—Of the rents being too high.

Coun. Hensley.—What is the rent?

Mr A.—Is an acre, and the soil is only middling. Some are considerably behind with their rents. A part of the arrears were forgiven them; still they cannot keep the rents paid up. When the leases were given, the island was connected with the mainland; since then, however, it has become detached by a channel. This circumstance makes the land, at the present time, much less valuable. There are about 640 acres on the island. We pay rent for fishery reserves.

Coun. Hensley.—What would you value the land at?

Mr A.—8s. an acre. We have no schools, nor any churches.

Com. Howe—You appear to be as intelligent as many on the mainland, notwithstanding.

Mr A.—My father was hardly dealt with by the agent who preceded Mr Haviland.

Mr Allan then withdrew.

Hon. Mr. Thornton M. P. P. before the Court.

Coun. Hensley—You are a colleague of Mr Owen's, Mr Thornton, and from the same district?

Mr Thornton—Yes, I can corroborate the statements advanced by Mr Owen. I believe land at Murray Harbor is not worth one half what it was many years ago. I think Mr Cambridge set a high value upon the land there on account of its shipbuilding capabilities. Since that time, shipbuilding has gone down and land has depreciated in value. I think the land on Lot 64 is not now worth 9-10ths of what it formerly was. Fires have run over the land, and thereby the quality of the soil has been reduced. The facilities for paying rent are now greatly circumscribed.

Coun. Hensley—You will please go on and state your views, Mr Thornton.

Mr Thornton—Your Excellencies; I became an agent in 1833 for one half of Lot 33, a part of the Tracadie property, therefore I have some knowledge of the difficulty of collecting rents. The inability to pay rent arises from several causes. In the neighborhood of Charlottetown some can pay, but others in different parts of the Island cannot meet their rent with all their endeavors. Of the latter, some are, as the saying is, "head over ears" in arrears. The failure of the crops is one of the causes of the inability to pay rent. Another is family affliction; and another individual losses.

Com. Howe—By individual losses, you mean such as are incidental to all countries?

Mr Thornton—Yes. When these occur parties become embarrassed. On that property £1000 are now due. This property was claimed by Mr McDonald of the 34th Regiment. In consequence of the accumulation of arrears large amounts had to be given up. Mr Hensley knows I have asked £10 instead of £50 for the purpose of putting them on a better footing, and to induce them to go on and endeavor to make a living. Since then, they have done better.

Com. Gray—The burden being taken off, they worked with more spirit?

Mr T.—Yes. Those who had their arrears remitted have since paid up. Mr McDonald left two children, under age, dependent for their support upon the property, with the exception of a small legacy left by the mother for her daughter. The eldest is a boy.

Coun. Hensley—What is the nominal amount of the rent for one year.

Mr T.—£400.

Coun. Hensley—and the actual?

Mr T.—About one half when the crops are good; and when they fail, about one-fourth. I recommended the proprietor to sell

when he could have obtained 10s an acre; but he refused. I thought the interest of the money would be much better. There are about 10,000 acres in the half lot.

Comm. Gray.—What could be obtained for it now, were it in the vicinity of Charlotetown?

Mr P.—I cannot say; I would sell it were it mine for 10s an acre, and be glad to get that. I have no power to sell any of the land. Respecting the fishery reserves, perhaps I entertain peculiar opinions. As respects these reserves the Crown has been dominant upon her rights. I would be willing to allow the actual occupants to possess them undisturbed; but they should not pay anything to the proprietors, for they have no right to them.

Comm. Gray.—You would allow every man who holds any of these reserves to retain what he occupies?

Mr Thornton.—Certainly. If the Crown parts with them, it will be for a nominal sum. I am a tenant on lot 61, and as the agent of that lot I suppose, present, I would ask him, as I hold an agreement signed by the Government, presented by Mr Wightman, what he would give me for it to give a lease?

Mr P.—I have power to grant leases, but I intend to use it with discretion.

Hon. Mr. Jones.—Were you, Mr Thornton, appointed to value lands?

Mr Thornton.—Yes, with the Commissioners in 1851, when they valued the large portion of the Worrell Estate. We valued the lands at 1s per acre all around; and recommended the Government not to exceed 12s for the best farms upon the sea-board. The report of the Commissioners will be found in the Journals of the House for 1851 or 1853. Last year Commissioners in conjunction with Mr Davis were appointed. In their returns they valued the lands at from 5s to 6s where roads were not opened; and at 10s and 12s where they had their valuation after they had inspected the roads on the estate.

Comm. Gray.—We are much obliged to you Mr Thornton, for the information which you have afforded.

Comm. Palmer cross-examines Mr Thornton.—As an agent, you made no reduction in the rents for the fishery reserves, did you? No; I was bound to give leases under the power of attorney which I had, not knowing where the reserves were. I have not made up my mind how far these reserves extend. When they are defined, if I am an executor for the property of the late Mr McDonald, I shall be prepared to make a reduction.

Hon. Mr Dingwell before the Court.—I can, your Excellencies, corroborate the statements of Mr Thornton respecting the value of lands on the Worrell estate. When we went to examine that estate, we found the people in a very backward condition, and far behind hand with their rents. The land was rented at a high rate. I recommended the purchase of the estate even at the price the proprietor set upon it rather than lose the bargain. The people whom I represent before this Hon. Commission desired me to state how the lands were leased. Your Excellencies

have heard about the French settlers who were driven from Fortane Bay. Mr Townsend was anxious to make as many farms there as he possibly could, for he only gave ten chains front. Rent was exacted from them for many years, a series of law suits ensued, and they leased the land to which they were honestly entitled. In all cases the fishery reserves were lot with the other lands.

Com. KITCHIE.—Do you deem it necessary that the reserves be kept for the fisheries?

Mr. DINGWELL.—I think persons who hold them should retain them as long as they are not required by fishermen. But I think it would be interfering with the rights of the fishermen to give them up altogether to the occupants, for the time may come, when the country is more thickly settled, that those reserves will be much more valuable for fishing purposes than at present. A great number of persons may then direct their attention to fishing.

Com. KITCHIE.—Supposing what you anticipate may occur, do you think it would be better to let the fishermen make their own bargain with the owners of the soil for the piece of ground they wish to use for fishing purposes, just as is done in the other Provinces?

Mr. DINGWELL.—I think not.

Com. GRAY.—Suppose a person has toiled on his place for thirty years, and has got buildings, etc., on these reserves, could a man calling himself a fisherman come along and turn him out?

Mr. DINGWELL.—He might get enough to cure his fish upon without doing that.

Com. HOWE.—The time which you anticipate will not arrive till long after the present generation has passed away. If the Government acted upon your recommendation, you would cut the inhabitants off from having access to the shore,—would you recommend that that be done?

Mr. DINGWELL.—No.

Com. GRAY.—Suppose three fishermen come along and fancy your garden, which of them ought to have it?

Mr. DINGWELL.—That would be an unusual case, I think; but an arrangement could be made which would prevent one fisherman from interfering with another.

Court adjourned to meet at Charlottetown on the following Saturday.

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CHARLOTTETOWN, Sept. 22, 1860.

The Court met this day according to adjournment. The first part of the sitting was occupied by Coun. Haldiberton in giving the first part of his defence in behalf of the proprietors, which is as follows:—

#### COUNSEL HALDIBERTON'S EXORDIUM.

In opening up some grounds of defence in the case of the proprietors, before your Excellencies, I cannot help adverting to the position which we now occupy as to the length of time over



which this dispute has extended, and to the interests which are involved in it. Also, I must direct attention to the position which your Excellencies occupy in being called upon to adjudicate on this case. Almost from the earliest settlement of this Colony the question which is now being investigated had its rise. The difficulties did not always arise either through the action of the tenants, but may be attributed to local causes and accidental circumstances. In other colonies similarly situated the same course of procedure as regards settlement was not pursued. The Crown in conquered countries possessed the right of disposing of the lands and of proposing terms of settlement, and in some cases this right was indulged to an almost unreasonable extent. It was customary for the Crown, e.g., to grant lands to visionary noblemen or to speculating chartered companies. It may be well to look back and see how other nations were wont to act in this respect. When, for example, Columbus discovered the New World, the Pope of that time made the King of Spain a present of all lands which lay towards the setting sun. Other nations, entering on this field of enterprise, and asserting their claims, were profuse in their grants. Unlucky grantees readily accepted of these, sometimes from love of adventure, and at others to have an opportunity of propagating their religion. The British, in this respect, were not less generous than their neighbors, for they granted New Hampshire to a private man, Maryland to Lord Baltimore, and New England to the Massachusetts Company. The conditions on which these tracts of land were granted was the payment of Quit rents by the grantees. The conditions, however, were never fulfilled, for the Quit rents were never paid. Again, at the termination of the French War, the whole of Nova Scotia, New Brunswick, Prince Edward Island, Cape Breton, and Canada, then almost unbroken forests over which the savage roamed, were thrown open to emigrants. These lands were of little value to the Crown or to the grantees either, though they ignorantly or imprudently accepted of them on the terms proposed. Sometimes tracts of land were granted away for the purpose of paying old soldiers for their services, or quarters for their idleness, and thus a series of such grants were made in Prince Edward Island, and on a scale which now we consider very unwise, though the terms on which they were given were more moderate than those given in some other countries. In this manner nation after nation entered upon this field of enterprise, and rights were conceded which are now considered inconsistent with the progress of the age. It may be thought by some that there are peculiar circumstances which place proprietors in this Colony under obligations not imposed on grantees in other places. The impression, I believe, exists that they are placed under conditions peculiar to this country, and that these should now be enforced after the lapse of a century, and after estates have changed hands. If so, those entertaining such an idea labor under a wrong impression, for the Crown pursued the same course in all her colonies, in which grants of land were made. It was so in Nova Scotia. The quit rents and terms of

settlement were onerous, but in no instance did the Crown step in and assert these claims; the hard terms of settlement were never enforced. In this Colony alone has the Crown enforced them, and even here it was found impossible to carry them out. I shall show that similar grants were given in Nova Scotia, which were never fulfilled; and I shall also show why they were not. The grants were given by parties in England who were ignorant of the difficulties of settlement, and I will venture to affirm that not one single grant or charter which contained these terms was ever fulfilled; and, further, I believe not one instance can be shown in which the Crown stepped in and demanded a forfeiture on account of the non-fulfilment of the original grants. I shall show that the Court of Exchequer, established in Nova Scotia, was called into existence under peculiar circumstances. In that Province parties had removed from the country, or had died, so that no person could enter upon their lands, and then the proper owner stepped in and took possession; but this was limited to the peninsula. In its earlier history Lord Falkland only exercised the power of recheat over land which had been abandoned.

COM. HOWE.—I think a Court of Exchequer was established in Nova Scotia before Lord Falkland's time.

COM. RITCHIE.—I think Annapolis was recheated upon different grounds.

COUN. HALLIBURTON.—I think otherwise.

COM. RITCHIE.—I am strongly under the impression that where large tracts of land were granted away, and they were allowed to remain uncultivated, that that was made a ground of recheat.

COUN. HALLIBURTON.—That would be good ground to act upon in some instances, but grants of large tracts of land were given in Nova Scotia where a forfeiture for non-fulfilment of the conditions of settlement did not occur. I am not aware of any instance in which the Crown did so. I think it was not the practice; I think the Crown allowed the lands to remain in the possession of the grantees. The next subject to which I shall direct the attention of your Excellencies will be the Quit rents. I shall be prepared to show that here they were exacted according to the terms of the grants of Nova Scotia and New Brunswick, but in these colonies they were never collected, at least not for any length of time. This Colony is the only one in which claims for quit rents were made, therefore proprietors of Prince Edward Island have laboured under greater hardships than owners of lands in any other portion of British North America.

COM. GILBY.—Can you point out any British Colony of which the whole was granted away, like this one, but where the grantees, notwithstanding, did not pay any of the quit rents?

COUN. HALLIBURTON.—I will show an instance of a whole colony having been granted away; where, after the lapse of forty years, it was doubted by the Crown officers whether the Crown then possessed the right of recheat, and which was held by the grantees when no settlement at all was made.

COSS. THOMSON.—Can you show that the Crown has waived its rights?

COSS. HALIBURTON.—I do not question the strict legal right of the Crown to have done so, had it then stepped in and exercised that right.

COSS. THOMSON.—Can you show that the Crown has waived its right?—and I direct attention to this point, because in New Brunswick it was discovered that the Crown could not waive its rights.

COSS. HALIBURTON.—I shall be prepared to show the grounds on which I take my position on this question. Having shown your Excellencies that the Crown has insisted upon the collection of Quit rents here, and with a severity unparalleled in the history of the other colonies, it will then be my duty to show that the arrears of these rents were remitted up to a certain period; and I shall also show that the Crown had a right to do so. Having pointed out the position of the proprietors in relation to the Crown, I shall next show their position as regards the local Legislature, which has always been under the influence of the tenantry; and I shall show that its proceedings were conducted in a spirit very unfriendly to proprietors. Further, it shall be my duty to show that the Legislature has even endeavored to compel the British Government to impose conditions upon the proprietors which were impracticable to fulfill; and that, when they refused to yield to that pressure, it then, by a series of acts, drew around them a series of laws by which even their very indulgence was used against themselves. I shall show that proprietors were obliged to enforce their rents by a most obnoxious mode—distraint,—or allow arrears to accumulate. In this manner, by going over the grounds of defence step by step, I shall show that, as regards the collection of their rents, the Legislature has refused the landlord rights, to which he would have been entitled in other countries, by obliging him to adopt an expensive mode of collection, so that sometimes the sums collected were smaller than the expenses incurred in collecting them. Thus the Legislature has interrupted them. No matter how sacred their rights were, they were disregarded. Among any other people, excepting those of a British Colony, this conduct of the Legislature would have produced a civil commotion. I will say that this Island would not exhibit its present aspect, nor have been subjected to the present agitation, had the Legislature pursued a course similar to that followed by other Legislatures. Yet, in spite of all these things, the proprietors conducted themselves towards their tenants with a spirit of justice upon which we can now rely, and in which I ask them to come forward and assert their rights. Over and over again has the Legislature hampered them and maligned their motives; but before the tribunal which I now address—a tribunal not affected by local prejudices, and which came here under the authority of the British Government, which has recognized the rights of proprietors,—I feel that these rights will not be destroyed to gratify unprincipled agitators. Applications of various kinds have been made to the Home Government by the Legislature here, but in

which acquiescence was refused. During the last few weeks we have had a repetition of all the vexed questions which have agitated this Colony for the last half century. Under such a mass I sometimes felt that it would take us a year to meet all the charges which were preferred against the proprietors. And applications were made to this Court which were discussed in the local Legislature, and afterwards refused the sanction of the Home Government. Your Excellencies were asked to do what the British Government has repeatedly declared it would not do, and which the Crown, through its officers and ministers, declared would be illegal and unjust.

Com. GRAY. — Do you say that this Commission has been asked to do what the British Government has refused to perform?

Com. HALIBURTON. — Yes; your Excellencies have been asked to investigate the titles of proprietors, and to entertain the claims of the loyalists, which originated in the last century, and which the Crown has pronounced would be unlawful to sanction. But your Excellencies are now called upon to go into a subject which the British Government dismissed thirty years ago, because adverse to the interests of proprietors. It would unsettle the rights of some to their properties. Not a few of these parties are dead, and time has effaced the merits of the question. Your Excellencies have also been asked for escheat. Further, it shall be my duty before going into the loyalist question — before any evidence is heard on it — to enter my formal protest against your Excellencies taking any action on it. We have offered no factions opposition, and I now deny the right of this Commission to investigate the claims of the loyalists, and enter my formal protest against it, that your Excellencies may be aware of the ground which I take.

Com. HOWE. — This Commission, Mr. Haliburton, will not think it disrespectful in you to take that ground.

Com. RITCHIE. — We invite you, Mr. Haliburton, to consider ~~this point~~ for though we desire to give full scope to the Commission, still we do not wish to exceed our powers; inuivue we shall be glad to hear you discuss the point.

Com. HALIBURTON. — It is not because we have any dread on behalf of the proprietors, for their rights are as valid and good as are those of any men in the British dominions. We stand here with rights which cannot be invalidated by any Commission. To infringe upon them would be the same as to infringe upon those rights which legislators and judges must respect. But I do not object to your Excellencies going beyond what I consider to be the limits of your Commission. I speak thus that the people may know we hold our lands by an indefeasible title. Let them not imagine we have no rights, or that we stand here merely through the forbearance of the British Government. I say we stand here with rights recognized by law, and which cannot be violated on equitable principles. Many propositions have been made here repeatedly, which were refused before, but have been brought up in a somewhat new

form. It is the old story about old squabbles, presented in a new dress to make your Excellencies believe they are quite new.

Com. HOWE. — I presume the tenantry of Prince Edward Island are sincere.

Coun. HALIBURTON. — The tenantry are worthy of praise. It is the men who, while they held Her Majesty's Commission, and were bound to respect the laws, held out inducements to the tenantry to resist the proprietors and violate their contracts; these are the men who have thrown firebrands through this country; these I blame. In many instances during the progress of this investigation, when an opportunity was afforded tenants to state their grievances, these amounted merely to an expression of *unwillingness to pay rent*, and that they fancied they were serfs. But I hold that no industrious man, who is willing and who endeavors to fulfill his honest obligations, is a serf. So long as tenants with leases of 999 years do this, they may defy their landlords, or any other class of men, to injure them. These men, so long as they fulfill their engagements, hold a position as honorable as that of any other class of men in this country.

Coun. THOMSON. — What right has a proprietor to make "train rails, wagon roads, drains, water courses, ponds, dams, weirs," and all sorts of things, on a tenant's farm?

Coun. HALIBURTON. — We have been called here to investigate real complaints or grievances, not those which *might* have been occasioned but were not. When searched into many of these stirred away. We say that it was a right which *might* have been, rather than one which *had been*, abused. So—after a long agitation, and after many proposals were made for escheat, till these at the Colonial office were wearied out, and even the proprietors ready to give up their lands for nothing, and till the tenants themselves became weary of remaining in the country because the Home Government would not sanction the proposals of the Legislature—resolutions were at length adopted by the House of Assembly providing an investigation into the disputes existing between "landlord and tenant." This done, proprietors came forward and generously said to them: "We are willing to meet you before a Commission and to acquiesce in equitable terms of settlement, or to relieve tenants from any difficulties under which they may be laboring on account of the land and system." I shall now read the Resolutions of the House of Assembly. —

"Whereas certain questions arising out of the original grants of the lands in this Island, severally called the Escheat question, the Fishery Reserves question, and the Quit Rent question, have for many years caused much discussion and difference of opinion amongst the people of this Island, and many delusive projects and impracticable measures have been, and are from time to time, enunciated respecting such questions, whereby the tenantry have been, and are greatly imposed upon, and induced to support the propounders of such measures, under the delusive hope that by doing so they will be relieved from the payment

of rent; and the attention both of the people and Legislature being occupied with such deceptive schemes, measures tending to develop the resources of the Colony are not only neglected, but a state of society, equally opposed to the moral, social, and political welfare of the people and their true interests, is produced; and whereas various Despatches have for a great number of years declared that Her Majesty's Government will not consent to any compulsory interference with the lands and rights of the Proprietors, and which has been strongly reiterated in the Despatches of Sir Edward Bulwer Lytton—now Her Majesty's principal Secretary of State for the Colonies—dated the 20th October, 1868, and 3d December, 1870, from which it is clear that any measures for the benefit of the Tenantry must result from amicable arrangement with the Proprietors; and whereas the agitation of hostile measures, such as Escheat, Fishery Reserves, and Quit Rents, must not only result, as they always have done, in leading the tenantry into costs and trouble, without, in any way, ameliorating their condition, but will also engender a feeling in the Proprietors, rendering them disinclined to listen to proposals which, if such agitation were at an end, they would be likely to entertain; and whereas Sir Edward Bulwer Lytton in his Despatches above referred to, while refusing to sanction measures which in England are considered inconsistent with the rights of property, has expressed the readiness of Her Majesty's Government to co-operate with the Legislature in furthering measures for the settlement of the land tenures, in 'conceived in a spirit of fairness and conciliation to all parties':—

"*Therefore. Resolved*, 1st, That a humble address be presented to Her Majesty, praying that Her Majesty will be pleased to direct a commission to some discreet and impartial person, not connected with this Island, or its affairs, to enquire into the existing relations between Landlord and Tenant, and to negotiate with the Proprietors for such abatement of present liabilities, and for such terms for enabling the Tenants to convert their leaseholds into freeholds, as—without infringing on the rights of the landlords—may be fairly and reasonably asked for to ameliorate the condition of the Tenantry.

"2d. *Resolved*, That in the opinion of this House, the basis of any such arrangement should be a large remission of arrears of rents now due; and secondly, the giving every tenant holding under a long lease an option of purchasing his land at a certain rate, at any time he might find it convenient to do so.

"3d. *Resolved*, That a remission of arrears of rent may be reasonably asked, inasmuch as the existence of these arrears, although it is due partly to an unwillingness of the tenants to pay rent, under the idea that Escheat, or some other delusive scheme, would enable them to evade; yet it is also due in part to the aches and remissness of the landlords and their agents in not enforcing it, and because, in many cases, the arrears, however incurred, amount to so large a sum, that the exacting them



would prove ruinous to a large number of loyal and industrious people; and would further entirely put it out of their power to avail themselves of the plan suggested in subsequent resolutions, for purchasing their farms.

"4th. *Resolved*, That as the circumstances of the tenantry would not in general enable them to pay down any large portion of the purchase money, the best and only means for converting the tenures into freeholds lies in the adoption of a plan which would practically constitute every farm a saving's bank for its owner, in which he could, from time to time, invest his savings at interest towards the purchase of his farm, an arrangement which could be effected by the following means, viz:— that the Landlords should agree to permit the Tenants to purchase their farms for such sum per acre as should be fixed upon; and providing further, that when any tenant (whose rent was paid up) should be desirous of paying any sum, not being less than ten pounds, towards the purchase of his land, he should have the option of doing so, and that the interest on the ten pounds, or other amount so paid, should thenceforth go in reduction of his yearly rent, and so on for every payment on account of purchase, until the whole was paid, when he should receive his deed; and that similar covenants should be inserted in all future leases of farms over forty years. Such an arrangement would not only give the tenant the advantage of paying an instalment of his purchase money, and at the same time reducing his rent whenever he chose, without subjecting him to the vexation and costs incident to cases of inability to meet instalments agreed to be paid at a particular day, but would, in the opinion of this House, gradually, but certainly, change the tenures into freeholds without the aid of loans, and the expensive subsistence of Public Officers, by which heavy liabilities have already been, and would, if persevered in, to a much greater extent, be imposed on the public finances."

From these resolutions it appears that anything which may be effected must be done through the proprietor on the one hand, and the tenant on the other; and I think many questions have come up during this investigation, which these resolutions do not embrace. An humble address was first presented by the House of Assembly to Her Majesty, praying that Her Majesty will be pleased to direct a commission to some discreet and impartial person, not connected with this Island, or its affairs, to enquire into the existing relations between Landlord and Tenant."

Com. GRAY. — Will you explain to us what is meant by "existing relations"?

Com. HALIBURTON. — I shall show what has been recognized as such by the Secretary of State; viz., what was requested by the Assembly: an amelioration of the condition of the tenantry.

Com. GRAY. — Now read the answer of the Duke of Newcastle.

"No. 11.

(Copy.)

"Downing Street, 6th Sept., 1859.

"Sir,—I have to acknowledge Sir D. Daly's despatch, No. 29, of the 13th May last, addressed to Sir E. H. Lytton, transmitting an Address to Her Majesty from the House of Assembly, in pursuance of certain Resolutions of the House, praying that Her Majesty would direct a Commission to inquire into the existing relations of Landlord and Tenant in the Island, with a view to the passing of remedial measures. The House of Assembly also propose that this Commission should direct its attention to the Fishery Reserve question.

"The resignation of Her Majesty's late Government has prevented an earlier answer to your despatch.

"The Assembly, in their Address, not only pray for the appointment of a Commission, but they likewise indicate, in detail, the measures which, in their opinion, should form the basis of that arrangement between Landlords and Tenants, which the Commission should endeavor to bring about. Now, without expressing any opinion adverse to the appointment of such a Commission, I am convinced that any prospect of a beneficial result from its labors would be nullified, if its action were fettered by such conditions as the Assembly would thus impose.

"I cannot advise Her Majesty to entertain the question, unless it is fully understood that the Commission are at liberty to propose any measure, which may themselves deem desirable.

"I have communicated this correspondence to Sir S. Cunard, as representing the land-owners in this country, with a letter, of which I enclose a copy.

"I have the honor to be, &c.,

(Signed)

"NEWCASTLE.

"A true copy,

"HENRY BULWER, Private Secretary."

(Copy.)

"Downing Street, 6th Sept., 1859.

"Sir,—I am directed by the Duke of Newcastle to transmit to you a copy of a correspondence between the Government of Prince Edward Island and this department, upon the subject of the appointment of a Commission to propose measures of arrangement between landlords and tenants in Prince Edward Island.

"With reference to this communication, I am to suggest that you would call a private meeting of such landowners as may be in this country, and ascertain whether there are any concessions which they are ready to make, with a view of bringing these questions to an amicable issue.

"I am, &c.,

(Signed)

"H. MERIVALE.

"Sir S. Cunard,

"A true copy,

"HENRY BULWER, Private Secretary."

COUN. THOMSON.—It is the "rights," you see.

COUN. HALIBURTON.—No; it is the "existing relations." He says he would not advise them, if hampered by the terms laid down by the Legislature respecting purchase. The labors of the Commission "would be nullified, if its action were fettered by such conditions as the Assembly would thus impose." I shall now read the letter of Sir S. Canard :—

(Copy.)

"Bath Hill House, Edmonton, 13th Feb., 1860.

"My Lord Duke, — We have been furnished with a copy of a Memorial, addressed to Her Majesty by the House of Assembly of Prince Edward Island, on the subject of the questions which have arisen in connection with the original Grants of Land in that Island, and the rights of proprietors in respect thereof.

"We observe that the House of Assembly have suggested that Her Majesty should appoint one or more Commissioners to enquire into the relations of Landlord and Tenant in the Island, and to negotiate with the Proprietors of the Township Lands for fixing a certain rate of price at which every Tenant might have the option of purchasing his Land; and also to negotiate with the Proprietors for a remission of the arrears of rent, in such cases as the Commissioners might deem reasonable, and proposing that the Commissioners should report the result to Her Majesty.

"As large Proprietors of Land in this Island, we beg to state that we shall readily acquiesce in any arrangement that may be practicable, for the purpose of settling the various questions alluded to in the Memorial from the House of Assembly; but we do not think that the appointment of Commissioners, in the manner proposed by them, would be the most desirable mode of procedure, as the labors of such Commission would only terminate in a Report, which would not be binding on any of the parties interested.

"We beg, therefore, to suggest, that instead of the mode proposed by the House of Assembly, three Commissioners or Referees should be appointed—one to be named by Her Majesty, one by the House of Assembly, and one by the Proprietors of Land; and that these Commissioners should have power to enter into all the enquiries that may be necessary, and to decide upon the different questions which may be brought before them, giving of course to the parties interested, the opportunity of being heard.

"We should propose that the expence of the Commission should be borne by the three parties to the reference, that is to say, in equal thirds, and we feel assured that there would be no difficulty in securing the adhesion of all the landed proprietors to a settlement on this footing.

"The precise mode of carrying it into execution, if adopted, would require consideration; and upon that subject we trust that your Grace would lend your valuable assistance.

"We have, etc.,

(Signed)

"S. CUNARD,  
E. CUNARD, per S. CUNARD,  
GRAHAM MONTGOMERY.  
SELDINE,  
JAMES MONTGOMERY,  
LAWRENCE SULLIVAN.

"To His Grace the Duke of Newcastle, &c., &c., &c.

"A true copy,

"HENRY BULWER, Private Secretary."

Com. HOWE.—Does not that cover all the ground which we have occupied? It evidently means such questions as have reference to the subject matter of our investigation. But there was one delicate insinuation thrown out the other day by some one, to the effect that this Commission might find it necessary to extend its powers.

Com. HALIBURTON.—The question arose whether one or three Commissioners should be appointed. Now I shall direct the attention of your Excellencies to the following:—

"Whereas we have been moved by the Assembly of our Island of Prince Edward to appoint Commissioners to enquire into the differences now prevailing in our said Island, relative to the rights of Land owners and Tenants in our said Island, with a view to the settlement of the same on just and equitable principles. And whereas the said Assembly has further, by a Resolution dated the fourteenth day of April last, set forth its agreement to abide by the decision of any such Commissioners, or the majority of them, and to concur in whatever measures may be requisite for giving validity to their decision. And whereas it is highly desirable that the said differences should be adjusted.

"Now, know ye that we, taking the premises into our Royal consideration, are graciously pleased to nominate and appoint, and do by these presents nominate and appoint our trusty and well-beloved John Hamilton Gray, Esquire, our trusty and well-beloved Joseph Howe, Esquire, and our trusty and well-beloved John William Ritchie, Esquire, to be our Commissioners for enquiring into the said differences, and for adjusting the same on fair and equitable principles.

"Given at our Court at Buckingham Palace, this Twenty-fifth day of June, 1860, in the Twenty-fourth year of our Reign.

"By Her Majesty's Command,

"NEWCASTLE."

Connected with the Resolutions of the House of Assembly is this your Excellencies' Commission?

Com. HOWE.—You see it is stated "upon just and equitable principles;" not merely on principles of law.

Com. GRAY.—You have informed us, Mr. Haliburton, what we can not go into; will you now tell us what we can take up?

Coun. HALIBURTON.—We have no desire to restrict the powers of your Excellencies. We are willing to allow you to go into what is legal and right.

Com. GRAY.—But we would really like you to define our powers. After what Mr. Howe and Mr. Ritchie have said, you see we may possibly exceed our powers, and so, in your view, we would really like to know what these are. It would be satisfactory to all parties to know.

Coun. HALIBURTON.—I do not wish to restrict you.

Coun. THOMPSON.—Does Mr. Haliburton admit your Excellencies have power, when he makes a formal objection to it? He appears to say you have the power, but adds, "Remember my protest is against it;" that is to say, if your award be favorable to the proprietors, well and good; but if otherwise, "there is my protest."

Com. RITCHIE.—Should we go beyond the extent of our commission it would have the effect of making invalid the whole of our proceedings; therefore it is better for all parties that the point be fully investigated. It is quite reasonable to ask Mr. Haliburton what class of questions he thinks we may take up.

Coun. THOMPSON.—We, too, are anxious to know, for we would not be doing our duty to our clients were we to urge your Excellencies to go into questions which you have no right to investigate nor power to decide. If your Excellencies have no power to go into the question of escheat, let Mr. Haliburton say so, that we may know his views on that point.

Com. HOWE.—Mr. Haliburton has a perfect right to question the jurisdiction of this Court. He has a perfect right to save yourselves and your clients trouble by objecting to the powers of this Court to go into certain questions; but I presume the safest course for the Counsel to pursue would be to say, "Assuming that this Commission has full and ample powers to investigate and decide upon all these questions, then my case is settled."

Coun. HALIBURTON.—Any question coming before your Excellencies must be one between "Landlord and Tenant."

Com. GRAY.—Have we, or have we not, power to remit arrears of rent?

Coun. HALIBURTON.—You have, undoubtedly. I believe that you have recommended that they be given up.

Com. GRAY.—I wish you to go on now and mention in detail the things which we have power to do. You admit we have power to remit arrears of rent. Have we power to say that tenants shall receive their farms on fair terms?

Coun. HALIBURTON.—Yes.

Com. GRAY.—Now, go on, and complete the enumeration.

Coun. HALIBURTON.—Your Excellencies have already declared that you had power to go into any question coming before you, so it would be quite unnecessary.

**Com. RITCHIE.**—We will receive all the evidence which we can obtain on different questions, and by and by we shall see whether or not we have power to do this or that. The mere fact that we receive all the evidence we can on various questions, does not prove that we will decide upon them all.

**Com. HOWE.**—As regards the Despatch of the Duke of Newcastle, I think we may say, as was once said of the majority in Parliament, "That they had power to do anything excepting to make a man-of-war." (Laughter.) Our power does not exceed that. But have we not power to deal with this question now under investigation, in all its broad relations? If this Commission should decide upon something monstrous, probably this Colony and the British Government might rise up against its decision; but without anticipating such a result, I advise you to take this position: to suppose that the decision will be broad, just, and equitable, and argue the question on its broadest verities, and not be saying "I believe your powers are restricted to the consideration of this, that, and the other subject." Assume that this Commission possesses ample power to deal with all questions, and argue on that ground.

**Com. RITCHIE.**—That is what the Counsel on the opposite side have done; yet, at the same time, you may protest against our taking such and such views on any question.

**Com. HALIBURTON.**—I intend to do so.

**Com. GRAY.**—We will not limit you in any particular. You may doubt our power to go into the Loyalist or any other question, which we wish to investigate; but we would like to know what your views are touching the powers of this Commission.

**Com. THOMSON.**—We admit that this Commission has only power to deal with general questions, but Mr. Hensley is of the opinion that the powers of your Excellencies rest upon the Act.

**Com. PALMER.**—Your position is very different from ours, as you have every thing to gain and nothing to lose.

**Com. GRAY.**—Go on, Mr. Haliburton, we are sorry you have been interrupted in the course of your remarks.

**Com. HALIBURTON.**—This question of the Loyalists stands out quite separate from all others. Your Excellencies might as well inquire into a question of descent or inheritance, as to investigate the claims of the Loyalists. At one time a quantity of land was conveyed to them by proprietors, but at the present day it is merely a question concerning adverse possession. Suppose, e.g., that the heir of a landlord had been put in possession of a tract of Loyalist land, would you have a right to investigate that question, which would simply be one of adverse possession?

**Com. GRAY.**—Under the Despatch, Resolutions, and Act, you admit that we can remit arrears of rent, and that we have power to declare tenants shall have a right to purchase their properties, in fee simple, at a fair and equitable rate; well, then, can we make arrangements respecting the transfer of property? It matters not whether it was the son of a proprietor or



any other person who may have been put in possession of land, as you have supposed.

Cons. HALIBURTON.—No admissions of mine will bind the proprietors. The question is involved in many difficulties. I believe you have a right to adjudicate in such cases.

Com. HOWE. — Perhaps it is not fair to be asking Mr. Haliburton to admit our powers.

Com. GRAY.—We ask him as a lawyer

Com. HOWE. — I will explain one point. Suppose a tenant had now no right to purchase his land, and that you wished to carry out the resolutions of the Assembly and instructions of the Crown, you would be justified in seeing that the landlord should not be despoiled of his rights, and that the tenant, having an opportunity afforded him for ending his tenancy, should end it on fair terms.

A brief remark was made at this juncture, which the Reporter did not catch, after which

Com. HOWE said—The Act contemplates that the decision of this Commission be binding.

Cons. HALIBURTON.—No law passed by the local Legislature can enlarge your powers.

Com. GRAY. — That Act is referred to in the Duke's Despatch

C. HALIBURTON.—It is not referred to in your Excellencies' Commission.

Com. GRAY. — It is referred to in the Despatch which we have received, where it is stated an Act has been passed to confirm our decision: and if the Colonial Minister held out that as an inducement to us to proceed, have you any right to expect its disallowance afterwards?

Com. RITCHIE reads the Despatch, which is as follows:—

#### PRINCE EDWARD ISLAND.

No. 23.

" Downing Street, 16th June, 1860.

" SIR,—I have had under my consideration your Despatches, No. 15, of the 16th of April, and No. 22, of the 30th of April. In the former Despatch you enclose a Resolution in which the Assembly agrees to the proposed appointment of Commissioners on the subject of the tenures of Lands, binds itself to abide by the decision of those Commissioners, or the majority of them, and pledges itself to concur in whatever measures may be required to give validity to that decision. In the second Despatch you inform me that a short Act has since passed through both Houses, giving effect to the foregoing Resolution.

" I can not do otherwise than express my sense of the promptitude and completeness with which the House of Assembly has thus given its support to the plan devised, in the hope of putting an end to the differences which have prevailed in Prince Edward Island.

" In Mr. Howe, the Assembly, acting on behalf of the tenantry, have selected a Commissioner, whose known ability and

prominent public position must well qualify him for the proposed enquiry.

"From Sir Samuel Cunard I have received a letter of which a copy is enclosed, naming as the Commissioner selected by the Proprietors, Mr. John William Ritchie, of Halifax, who, I doubt not, will honorably discharge his functions.

"I have written, in exercise of the choice belonging to Her Majesty's Government, to request Mr. John Hamilton Gray, of New Brunswick, to undertake the remaining office of Commissioner. Mr. Gray has recently conducted another public enquiry with a degree of ability, carefulness, and justice which fully entitles him to the confidence of all concerned in the intended investigation.

"Although the privilege of selecting each Commissioner has been conferred on a separate authority, so as the better to ensure satisfaction with the composition of the Commission, yet it is my view, and I doubt not will be that of the Commissioners themselves, that none of them ought to be regarded as the special advocate of one interest, but rather that the whole should devote their efforts to framing such recommendations as shall be demanded by the equity of the case, and be conducive to the general good of all classes of the community. Their conclusions, whatever they may be, will possess double weight if happily they should be unanimous.

"The time of meeting in Prince Edward Island will be best determined by the Commissioners themselves, who will be able to communicate with you on any points which they wish to ascertain as bearing on the question of the most convenient period for the purpose.

It will be desirable that previous arrangements should be made, as far as practicable, for having at hand all witnesses, and all documentary evidence which the Commission is likely to require, so that the time needed for their actual sitting in the Island may be reduced within the most moderate compass consistent with the due and complete accomplishment of the enquiry.

"I shall take an early opportunity of forwarding to you a Commission under the Royal Sign Manual, containing the appointment of the several gentlemen named to serve on the Commission.

" I have the honor to be, Sir,

" Your obedient servant,

(Signed)

**"NEWCASTLE"**

**"Lieut. Governor Dundas."**

**COMM. HALIBURTON.**—I am not prepared to say what course the British Government may pursue. I believe, however, that the decision of your Excellencies will be satisfactory to the Proprietors, who, I believe, are as willing to be rid of their tenants as the tenants are anxious to get clear of their landlords. (Hear, hear.) There has been more correspondence about wild lands, and more trouble caused to correspondents, and time lost, than

would have enabled them, had they been professional men, to have earned the lands. Proprietors, I believe, will be heartily glad to concur in any reasonable adjustment. I believe your Excellencies can not decide otherwise than will be satisfactory to the proprietors. I now come to the mode adopted by the tenants' representatives, and the Government, since this Court has been opened. As we could not procure a written statement of the grounds of their claims, we must take the opening enunciation of the Counsel for the tenantry, in order to ascertain the basis upon which they are made. I shall afterwards ask them to produce evidence to show that their statements were fulfilled. I shall ask them to produce evidence to show that the condition of the tenantry is worse than that of serfs, and then leave the result to your Excellencies to decide. I shall show, too, that the proposition about arrears of rent, accumulating through the fault of the proprietors, has failed, so that hereafter we may say it was a libel on them. Whatever arrears there are, have been caused by obstacles thrown in the way of their collection, and by political agitation. I shall show that in no instance has a proprietor allowed these to accumulate, and then pounced down upon a tenant to avail himself of the benefit of his fraud. To have done so, would, indeed, have been a hardship and a grievance. Though we have opened up the flood-gates of complaint to the tenants, and allowed them to state things which they had seen, heard, and been told—and some stated what they had seen before they were born—though we have allowed every man to make what statements he liked, still in not one case has it been shown that a landlord ever availed himself of the misfortune of his tenant. Then what ground of complaint have they? Is it that they are tenants? If so, it is not admissible. They must not indulge a fancy at the proprietor's expense. Let them come forward and purchase their farms at a fair rate, if they wish to be freeholders. Do they complain that the Island is not advancing; that the landlord system is injurious? If so, we shall show that it has advanced in wealth and population faster, and in a greater degree, than the surrounding Colonies; and that so far are the people from being impoverished, that more than the amount of the rents is consumed on articles of luxury. Now if these people are so poor that they can just keep their bodies and souls together, how can they indulge to so great an extent in luxuries? They could not. They would be obliged to spend all they had to spare on the mere necessities of life. I shall show that all these tales of poverty are not correct. Is the land poor or worthless? I shall show that it is superior in quality to that of the neighboring Colonies, and that the agricultural productions of this Island are greater than in the other Colonies. If we show these things be so, the question will arise: If these men come here without means, are poor, not brought up to farming, and oppressed with rents which they are unable to pay, why do their exports exceed their imports? I shall show that it is monstrous, and the result of agitation. Again, if the land is productive, and farmers can

raise good crops and undersell farmers in Hunt's County, Nova Scotia, I shall enquire whether or not their hardships arise from their leases, whether there are any peculiarities about those as to restrictions about wood or the right of entry by the proprietor for certain purposes, which I believe are made grounds of complaint. But I shall show that a landlord has never declined allowing a respectable tenant to resign his leasehold interest, and that no injury has arisen from his right of entry.

Com. HOWE.—Can you show that no proprietor has ever prevented a tenant from resigning his lease?

Coun. PALMER.—I believe no evidence has been given to show that such has been done.

Coun. HALIBURTON.—I am speaking of what has really taken place, and not troubling your Excellencies with an enumeration of imaginary evils.

Com. HOWE.—If a proprietor put a clause in his lease to prohibit a tenant from using his pocket-handkerchief, would that be a grievance?

Coun. HALIBURTON.—Every man has a right to his own. If a proprietor prevents a tenant from selling his farm to a Tom, Dick, or Harry, because he wants a guaranty for his rent, the law recognizes his right to do so; but proprietors here, though they possessed that right, did not exercise it. No instance has been shown in which a tenant was ever prevented by his landlord from cutting wood off his farm. The clause in leases making that restriction is common in England. It is also necessary here in order to prevent persons from injuring the land, and then leaving it to the proprietor. We have, indeed, had cock-and-bull stories, unfit to be told, related here; but we are prepared to meet those on the opposite side, on every point. In having advanced a multitude of such instances, these parties appear to have acted upon the principle, that when a great deal of dirt is thrown some of it will stick. They have thrown a great deal, but it we know where it sticks we can soon brush it off. Again, should your Excellencies decide that there have been hardships experienced which have caused many inconveniences to this Colony, and raised the agitation which we have heard about, then you might recommend that certain restrictions be removed. If difficulties have arisen from clauses of restriction in leases, by pointing these out to proprietors, they would be quite willing to have them removed. And further, if necessary, you might recommend that arrears of rent be wiped out.

Coun. THOMSON.—The landlords are becoming more reasonable every day!

Coun. HALIBURTON.—When we called upon the tenantry to show the tyranny of landlords, what did they do? They related old women's tales, unfit to be told before this tribunal, and even of these some originated a century ago. No substantial ground of grievance has been advanced, and even where there was a shadow of it we are prepared to meet it. I shall next call the attention of your Excellencies to the terms of pur-

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others. I shall be prepared to show that the evidences heretofore given on this point were perfectly monstrous. I think they must have thus struck your Excellencies. Have the tenantry shown that their landlords have power to ruin them at any moment, and that they have exercised it? I shall then draw attention to the proposed rates of valuation. In those we saw how natural it is for every man to try to make the best bargain he can. When asked respecting the value of their properties, your Excellencies heard their answers. The men, too, who answered before you to give evidence were as respectable looking a body of yeomanry as I have met in any country. Though I have no objection to them, personally, still I say it is not for them to value their own properties; and I maintain that the value of lands which they have given is not to be depended on. The basis of the calculations of some was the validity of landlords' titles. That has been debated so long among them, and having been told over and over again that the proprietors had not titles, they believe—as a member of the House of Assembly expressed it—that landlords will lose their properties, and they will come in for a share of the spoil and the good times. This fancy has affected the calculations of all the tenants. It is a disgrace to any country, and if such a principle be recognized in your Excellencies' decision it will be subversive of the rights of property; for it corresponds with the obnoxious views of the Socialists. As to the terms of purchase agreed upon by the Assembly, I shall call upon proprietors to give evidence on that subject. If your Excellencies decide upon terms of purchase fair for the landlord, and which will enable the tenant to purchase at a reasonable price, you must give the proprietor such a sum as will not make him a poorer, and, at the same time, devise such means as will facilitate the paying of the purchase money by the tenant, so that no burden be thrown on the landlord. I consider it would be unfair to take the valuation by Townships, so as to make a good Township pay for an inferior one; but I shall draw your attention to this point again. If you adopt any mode of valuation I think it should be twenty years' purchase.

Com. RICHIE.—In the course of our investigation we found that some leases at the highest rates were given on the worst townships.

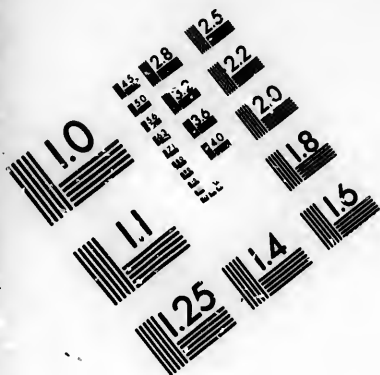
Com. HALIBURTON.—A poor township, if not worked, will necessarily fall into arrears. If a proprietor has good land leased at, say one shilling an acre, it is as good as bank stock to him. If the land be good, and let at a moderate rent, it is even more secure than bank stock; but if rent is too high, arrears will be likely to accumulate.

Com. RICHIE.—I do not throw out this to deter you, but suppose there is an inferior township, with rent at double the rate of a good one, say the one at two shillings and the other at one shilling an acre, would we then not leave the inferior township for ever in its present position?

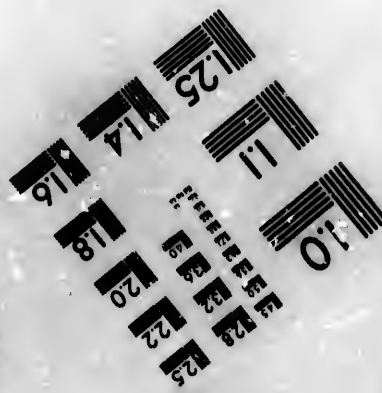
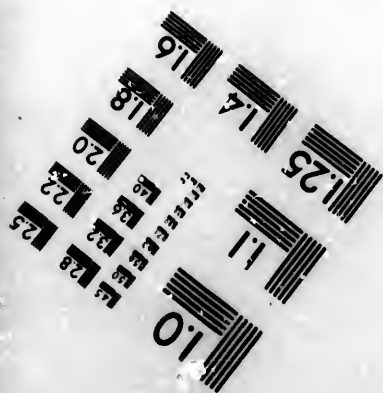
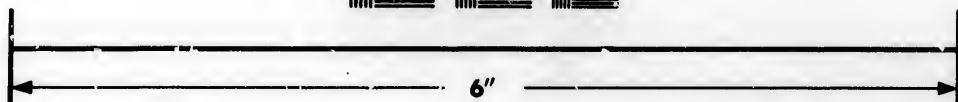
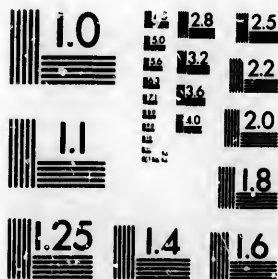
Com. HALIBURTON.—I may state that there should be an equalization of rents.







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Com. GRAY.—Then there should be an equalization of payments also. In many cases the amount of the arrears of rents is enormous.

Com. HALIBURTON.—Because a proprietor has been indulgent, would it be right to punish him for ever for that, and not allow him the amount for which his property was let? Such an idea would be monstrous.

Com. KITCHIE.—Why do you fix upon twenty years' rent as a fair valuation?

Com. HALIBURTON.—Because it allows the proprietor two per cent.

Com. KITCHIE.—Suppose a man took a farm, off which he could not pay the rent, would you estimate its value at twenty years' purchase?

Com. HALIBURTON.—I would. A man may take an estate, looking forward to the time when lands would rise in value, and, as security for his money, he might allow arrears of rent to accumulate, believing that he would get his money in future. Suppose widows and orphans to be solely dependent upon the rents of their respective estates, to reduce these from 1s. to six pence an acre may appear trifling, but if applied to many shillings it might bring ruin on families. I think serious difficulties would ensue were your Excellencies to interfere with the rental; therefore I hold that twenty years' purchase is the only proper estimate. If your Excellencies are going to adopt the actual value, you cannot do so without spending six months in visiting each township; and it might be worth while for the people of this Island to have a fresh commission appointed in order that it might spend time in visiting the several townships, and ascertaining their respective values. To put a value on them, being guided by the limited amount of evidence you have at present received, would be utterly monstrous. So your Excellencies have no means of adopting any other mode, and any other would be unjust. As to the subject concerning waste lands, that does not come within the terms of your Excellencies' Commission, as it is not a question between landlord and tenant. Your Excellencies may require to go into the subject in order to assist you in making your calculations, but I contend that it does not come within the scope of your investigations. I have thus gone over the grounds which we purpose occupying, and the evidence which we shall produce will be satisfactory to your Excellencies. That the proprietors have acted uprightly and liberally, appears from the fact of their submitting their case to your decision, as has been shown by the evidence already produced, and will appear still farther from that yet to be adduced. I shall now introduce some of their agents, who will produce valuable accounts and statistics.

Com. Haliburton introduces G. W. DeBlois, Esq., agent for Sir Samuel Canard, to the Royal Commissioners.

Mr. DeBlois addresses the Court.—Your Excellencies: I have accompanied you to the different parts of the Island, where

you have opened your Court. I have not had sufficient time at my disposal to enable me to be fully prepared to appear before your Excellencies; but I have jotted down a few remarks, which I purpose to make. You have now gone through a large portion of the Island, and the grievances of the tenantry have been laid before your Excellencies. The only real grievance, of which they appear to complain, is paying rent; and I must say I am at a loss to see how that can be called a grievance. They complain about the rents being too high, yet they go of their own free will and take those burdens upon themselves. Why do they not purchase Government land in preference to taking leases? That boon has been offered to them for more than eleven years. Since 1843, when I became agent for the Board, I have had applications made to me, almost daily, for land. Many of the applicants I refused, and told them to go and purchase Government land. Since the date I have mentioned, I have given over four hundred and fifty leases. These people, your Excellencies will perceive, take leases in preference to buying land on the Government estates. Even when last at St. Eleanor's I had four or five applications for land. Then, I would ask, why is this? The Provinces of Nova Scotia and New Brunswick are near, and in them, it is said, lands of a vastly superior quality can be obtained almost for the asking of them. Do you think the people of this Island are such idiots that they do not know what is for their advantage? Have none of them been in the other Provinces? Do inhabitants of those Provinces never come and take land in this Island? I leave these questions for your Excellencies to answer, feeling satisfied that, as unprejudiced men, you will answer them as they alone can be answered; and, considering the advantages of locomotion possessed in these days, your Excellencies must, I think, look with contempt on men who shall prefer taking leases, which they consider the "bonds of slavery," in preference to going to places where they think they would be free. But what have these men asked your Excellencies to do? They have asked you to set aside the rights of private individuals, in order that they themselves, also private individuals, may have an opportunity of depriving them of their rights, and of getting a share of the spoil. They wish that not only to deprive the tenant of their rights, but also the widow and orphan. Were they actuated by a proper spirit, after entering into voluntary agreements, they would not come forward to ask the fee simple of their farms as from three to nine years' purchase, with a remission of back rents honestly due. Such a monstrous proposition I can scarcely believe comes from sane men. And even this small amount they have the assurance to propose to pay in instalments, extending over a period of at least ten years — landlords, whether widows, orphans, or millionaires to be paid in this way. I would now ask your Excellencies whether their requests are either honest or fair, when they ask men, who have not been guilty of any breach of promise, covenant, or agreement, into which they entered, to make such a sacrifice of their property? Proprietors,

under the circumstances, and all things considered, have done far more towards forwarding the interests of their tenants than could reasonably have been expected of them. We can show by our books that landlords have done more for the Island, generally, and that they have shown the tenants more indulgence than they received from Merchants, or any other body of men. Your Excellencies were told that landlords have paid nothing towards the support or improvement of the country; and to show how much truth there was in that statement, I can show that from 1853 to 1859, inclusive, Mr S. Cunard paid £2107 14s. 10d. for land tax. Mr. E. Cunard, during the same period, £1454 2s. 10d; making £3561 16s. 8d.

Com. GRAY.—Tenants pay taxes on cultivated farms?

Mr. DUBLOIS.—Yes! In fifteen years Sir S. Cunard paid for the opening of roads and the building of bridges 1950 18s. 6d.; and Mr. E. Cunard, for the same objects, 2452 3s. 4d., in the same period.

Com. GRAY.—What extent of roads was opened up?

Mr. DUBLOIS.—I could not say. The cost would be about £50 per mile. From 1845 to 1851 Sir S. Cunard paid £215 to the Agricultural Society, and Mr. E. Cunard, from 1849 to 1859, £102 in cash. Mr. E. Cunard then gave up paying anything on account of the Legislature imposing an unfair tax on land for roads, which he supposed would have passed into law; and, if so, he would have been compelled to pay a large sum in consequence. The Act of the Legislature was disallowed by the British Government, because it was unjust. On five or six occasions he had imported, at his own expense, animals to improve the breed of stock in this Colony; and he did so at the request of tenants themselves. Both the Cunard's, too, also contributed largely towards the support of churches of all denominations. For the Church at Cascumpee, and the R. C. Chapel at Tignish, they gave all the timber. Towards the erection of a Church at Murray Harbor, Sir S. Cunard gave £160 in cash; in fact, he almost built it. Also, to another Church at Cascumpee, he gave seventy or eighty acres of land, the greater part of which was cleared. He also gave the land for the sites of the old Chapels at Tignish and Cascumpee, and the timber to build them, besides many other things which we do not mention, such as timber for three of the largest bridges on the Island. What land-holders in the adjoining Province, I would ask, have done so much for their tenants, or for the country in general? Farther, your Excellencies should take into consideration the prices of lands in Nova Scotia, New Brunswick, Canada, and New Zealand, which ought to have some weight with your Excellencies when you come to set a value on the lands of this Island.

Com. GRAY.—Will you state to us what you would value lands at?

Mr DUBLOIS.—In Nova Scotia the Government asks from £12 to £50 per hundred acres. In New Brunswick, about £15;

in New Zealand and Australia the prices vary from £50 stig. to £200 stig., cash down. In Canada, lands sell from \$3 to \$50 per acre, and the average price is 30s. A land agent from Canada told me that we sold our lands too cheaply; that the terms were so low encouragement was given to a class of persons to settle upon whom who were of no benefit to the country,—men who had to learn their trade, had no capital, and, in reality, were an expense to the Colony.

Com. HOWE. — The large prices paid for land in Australia go into a fund to encourage immigration.

Com. GRAY. — Respecting the value of land, is there much difference between the different Townships, and between different parts of the same Townships?

Mr DeBLAIR. — There is, undoubtedly.

Com. GRAY. — As far as your knowledge extends give instances.

Mr. DeBLAIR. — In the extreme east end of the Island, when the lands were leased, the tenants were bound, if they bought out, to pay twenty years' purchase; which they did.

Com. GRAY. — Is it worth that in cases where the land is rented for two shillings an acre, and where the tenants are largely in arrears of rent?

Mr DeBLAIR. — In cases where a man cannot pay his rent regularly, a proprietor might be prepared to give up the back rent, but I think it would be unfair to compel him to dispose of his property at a lower rate. In general, I think landlords have not been hard on their tenants.

Com. GRAY. — I understand you to say you would lay that down as the value of the freehold, where the rent comes on regularly; but what would you say if it should be in cases in which the rent was only nominal?

Mr DeBLAIR. — Your Excellencies must remember that proprietors purchased these Estates in consideration of the issue being rented at the rates mentioned. Sir J. Canard, for example, purchased land at Murray Harbor from Mr. Cambridge, calculating at the time that the lands were rented at one shilling and six pence an acre. He purchased the property, basing his calculations upon the rate at which it rented per acre.

Com. GRAY. — As a general rule, whether would you take the nominal or actual rent as the value?

Mr DeBLAIR. — Where leases are for a period of nine hundred and ninety-nine years, I would make my calculations considering what it produces at the present time, and what it would probably produce hereafter.

Com. HOWE. — I ran by a synopsis which you handed us, that there are 64,000 acres leased, and 89,000 unleased; in this case the largest half of the proprietor's Estate yields him nothing, and still he must pay taxes for it. If an equitable arrangement could be made, would you think it right to take twenty years' purchase for the whole of this Estate?

Mr DeBLAIR. — No; not if it were all sold. But if the proprietor was obliged to take his payment in instalments I think it should be no loss.



Com. GRAY.—Mr Haviland mentioned that the lands, for which he was agent, were at first leased at one shilling and six pence, and the tenants having fallen in arrears, the proprietor forgave them the back rents, and gave them new leases at nine pence an acre. In this case you see the landlord took the actual not the nominal productiveness, as the value; and since the change was made the rents have been paid up. Now what would be the value of that property?

Mr DeBLOIS.—It would be twenty years' purchase at nine pence an acre.

Com. GRAY.—Does not the value depend upon the investment which a man makes?

Mr DeBLOIS.—Yes.

Com. HALIBURTON.—Do you think, Mr DeBlois, these arrears were caused by the poverty of the land, or that they arose from other causes? I think rather from the poverty of the people who settled on the lands. Will the causes, which gave rise to arrears, continue, in your opinion? I think not. I think persons with more capital will come in and settle on the lands. Were the proprietors to use the utmost rigor, do you think they could collect their rents? I do; that is, the annual rent. Do you think these arrears were caused by political agitation? I believe that has been at the foundation of all the difficulties which have been experienced.

Com. HOWE.—Suppose there is no chance of this agitation ceasing, what then?

Mr DeBLOIS.—I believe your Excellencies have come to make an equitable arrangement.

Com. HOWE.—Suppose we do not succeed?

Mr DeBLOIS.—I suppose the agitation will continue.

Com. HALIBURTON.—If the Legislature had not thrown obstacles in the way of proprietors collecting their rents, do you not think the arrears would be much less than they are at present?

Mr DeBLOIS.—I think so.

Com. GRAY.—Is it a merciful provision of the law that a proprietor cannot sue in the Small Debt Court, but must distrain in order to collect his rents?

Mr DeBLOIS.—I do not know. The intention was to make the collection of rents as difficult as possible.

Com. HAWLEY.—I do not contend that the Act is beneficial.

[The Act was then read, and several remarks were made upon it by the Commissioners and Counsel.]

Com. PALMER.—Are you aware of any leaseholds changing hands lately?

Mr DeBLOIS.—Not lately. One or two leasehold interests were sold, some time ago, on Lot 82, for £400 or £500.

Com. HOWE.—Can you state what amount actually goes out of the Island annually in rents?

\* **SENATE.**—The reader will observe that the preceding 12 pages are numbered inaccurately—commencing 186 for 185.

Mr DeBLOIS. — I think about from £8,000 to £10,000. Only £2,000 are remitted to Sir S. Cunard.

Com. THOMSON. — I would like to know whether, according to your Excellencies' suggestion, abstracts of titles have been handed in by landlords.

Com. HALIMUNTON. — It would take several weeks to prepare them.

Com. RITCHIE. — We did not mean expensive documents, such as pass under this name in England. We just desire a short history of the different Estates, and not abstracts of Deeds or Wills, the production of which might cost £200 or £300.

Com. HALIMUNTON. — I do not admit your Excellencies right in reference to this particular, and I believe it is beyond your power to go into this question; notwithstanding we are quite confident of the goodness of our claims.

Com. HOWE. — Under any circumstance that abstract would be very valuable. Suppose, e.g., that we decide upon buying up the claims of the proprietors, if, *prima facie*, we saw the titles were good, the people would immediately acquiesce, otherwise, they would not; so under any circumstance it would be very important to have abstracts of the titles.

Com. TATAM. — Your Excellencies will remember that a vast number of the proprietors have not assented to this Commission; but we are willing to submit to any examination which you may desire. If the proprietors who have assented furnish us with abstracts of their titles, we will present them to your Excellencies.

Com. GINAY. — You may protest as much as you like; only give us necessary information. Taking the whole, Mr De Blois, what do you think would be a fair price for the lands in the Estates of Sir S. Cunard?

Mr DeBLOIS. — About five shillings sterling an acre, taking the whole property. But I do not say the proprietor would take that sum.

Com. HENSTLEY. — How many acres are there in the Estates of Sir S. Cunard?

Mr DeBLOIS. — 124,000. You do not know how much he gave for the Estates? No. Did you ever hear? I would not like to say, not knowing. You say he has paid so much for land tax, is that for all the lands, or for the wilderness parts only? For wilderness lands. Every man with one hundred acres pays as much, in proportion, as Cunard, does he not? Not if it be occupied. Does he pay the taxes on the lands leased to the tenants? No; not if the places have a tenant. Does Cunard pay any tax for Lot 32? No. I understood you to say twenty years' purchase would be a fair price to pay for the fee simple—that is basing your calculations on the nominal rent? Yes. When sold, do you not think there should be a considerable deduction made for the expense of working the Estates? I do not know; he pays about fifteen per cent. on monies which are remitted to him. What is the per centage paid for collecting his rents? About £8. And would you

make no allowance on that account, when you say twenty years' purchase? I made my calculations looking at the coming value; if the cash were paid down a deduction might be made. Do you think the greater portion of £13,000 or £14,000 of arrears could be collected, and also the accruing rent? I think so. You said a merchant of King's Co. issued forty summonses since last November. How many have you sued since that time? This spring I issued twenty five distress warrants, upon which I could have collected the whole, but I only took a small amount.

Com. HOWE.—What cost attends one of these warrants?

Mr DeBLOIS.—That depends upon circumstances. In ordinary cases about £1 5s.

Com. HOWE.—Does it cost more or less than a process in the Small Debt Court?

Mr DeBLOIS.—More, I think.

Coun. HENCKLEY.—Did you settle with those upon whom you distrained.

Mr DeBLOIS.—Yes.

Coun. HENCKLEY.—Do you know how the merchant settled his cases?

Mr DeBLOIS.—No.

Coun. HENCKLEY.—You mentioned that a farm on Lot 32 sold for £800. The improvements on it were the cause, were they not?

Mr DeBLOIS.—Yes.

Coun. THOMSON.—In your evidence, Mr DeBlois, you stated that persons were applying to you for farms up to the present time, and some of these you advised to go and get Government land. Now, was that because you did not wish to settle Cunard's Estate?

Mr DeBLOIS.—No; but because they were not worth having. (Laughter.)

Coun. THOMSON.—You know Cunard would not like to have them; therefore you would hand over to the Government a set of fellows not worth having. Whatever you do is endorsed by the proprietor; and so it is a doctrine of the landlord then that when people apply to you for farms, who are not fit to be tenants, you force them upon the Government. Now, in your opinion, is not that one very strong reason why proprietary influence in this Island should cease? (Laughter.)

Court adjourned.

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MONDAY, Sept. 24, 1860.

CHARLES WATSON, Esq., presented a document to the Court, which was read, protesting against the right of the Commissioners to interfere with his property, as he had not signed the paper agreeing to their appointment.

G. W. DeBLOIS, Esq., presented a written statement of his opinion respecting the value of lands, which was read, and is as follows:—

For fear of misconception as my reply to the questions asked me by your Excellencies on Saturday last, the 22d instant, in regard to the value of lands in this Island,—a matter requiring a careful reply, and, lest I should mislead your Excellencies, I beg to make the following statement:—

1st. I have to state distinctly that in my view the value of lands held under lease on the property of Sir Samuel Cunard, as well as on that of Mr Edward Cunard, is twenty years' purchase, or in other words, twenty yearly rents.

2d. I believe every acre of wild lands in Prince Edward Island of medium quality to be worth, for farming purposes, from 12s. to 35s. currency per acre—cash down—according to situation.

3d. In reply to the question of His Excellency, Mr. Gray, as "to what price I would take per acre for the whole of the Township lands belonging to Sir Samuel Cunard (were they mine) cash down, and basing my reply simply on the annual amount of rent at present received," I answered, five shillings sterling,—meaning, of course, British Sterling,—per acre. By this answer, I must explain that I did not mean to say that the intrinsic value of the lands was that sum, but that, under the system which has for some years prevailed, by which the rights of property have been seriously interfered with and infringed upon by legislative enactments, rendering the collection of rents in many cases almost nugatory, I would, if I owned the lands (taking the average of rents received) be willing to get rid of them on such terms.

If the same legal facilities were given to Landlords as to other persons for the recovery of debts due to them, and the minds of the tenants not influenced by political agitators against the fulfilment of their agreements, the land would quickly assume the medium price—really their value—of not less than 22s 2d of this currency per acre, wheresoever they are fit for cultivation.

[STATEMENT.]

From the year 1853 to 1859 inclusive—

Sir Samuel Cunard paid Taxes,	£2157 14 10
Mr Edward Cunard do	1454 3 10

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£3611 18 0

In last 15 years Sir Samuel Cunard has opened roads and made bridges, costing exclusive of Surveys,

£950 18 6

Mr Edward Cunard has opened roads and made bridges costing exclusive of Surveys £272 3 4

Cash paid assessment for Roads,	180 0 0	452 3 4
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£1402 1 10

Towards the Agricultural Society Sir Samuel

Cunard paid in cash from 1848 to 1854,	215 0 0
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Mr Edward Cunard from 1849 to 1859 paid in cash	102 0 0
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£317 0 0

Towards Churches and Parsonages several hundred acres of excellent land have been given in all parts of the Island by Sir Samuel and Mr Edward Cunard, also money and other subscriptions to the amount of at least £400.

Mr DeBella handed in a statement to show the prices for lands in the sample obtained by Sir Samuel Cunard in all parts of the Island from 1851 to 1859, which varied from £1, £2, £3, to even £4 an acre. The most of the lands sold were in a wilderness state.

Com. GRAY. — How is it, Mr DeBella, that it has been stated to us that land on the Island is only worth 3s. an acre, and here we have a statement that it has been sold in some cases between £1 and £4 an acre?

Mr DeBella. — That shows the case has been misrepresented to you.

Com. GRAY — Mr Thomson, will you turn your attention to reconcile these different statements.

Coun. HALIBURTON. — I see by this statement that Mr. Hacker bought his land — 100 acres — for £130; was he a tenant?

Mr DeBella. — Yes.

Coun. HALIBURTON. — What was it purchased for?

Mr DeBella. — Agricultural purposes.

Coun. HALIBURTON. — I observe that a number more gave something over £1 an acre, were they farmers also?

Mr DeBella. — Yes.

Com. GRAY. — How many altogether are mentioned in the document?

Coun. HALIBURTON. — twenty-nine.

Com. GRAY. — All tenants who purchased their lands?

Mr DeBella. — Fifteen were actual tenants on the property.

Coun. HALIBURTON. — Are these the only sales that took place within the time mentioned?

Mr DeBella. — There were others also.

Coun. HALIBURTON. — At what price does Sir Samuel Cunard sell his land?

Mr DeBella. — £1 2s. 2d. per acre.

Com. GRAY. — Is that what he receives in every part of the Island where he owns land?

Mr DeBella. — At one place—Murray Harbor—it has been sold for £1 10s.

Com. HOWE. — How much have you sold at 3s?

Mr DeBella. — None, of course.

Com. GRAY. — Have you sold any at 5s?

Mr DeBella. — None.

Coun. HALIBURTON. — Any at 10s?

Mr DeBella. — Yes, some on Lot 54,—the Winchester property.

Com. GRAY. — Why so there?

Mr DeBella. — That was in consequence of it having become a bankrupt estate, and they wished to turn it into money.

Hon. Mr. COLLE. — Perhaps it would not be improper to ask what the remainder of the estate was sold for to the Government.

Mr. DeB.—That is not the case in point.

Com. GRAY.—Did selling off the good parts lower the value of the rest?

Mr DeB.—No; it was nearly all alike good. I sold some of the estate at 15s. an acre with three years' credit.

Coun. HALIBURTON.—I see by one of these documents that a Mr McKie bought 70 acres from Cunard for £350; was this land for farming purposes?

Mr. DeB.—It was bought subject to a lease of 64 acres—the remainder was suitable for a business stand.

Coun. HALIBURTON.—Could he have obtained the 6 acres suitable for business purposes without purchasing the whole 70 acres?

Mr DeB.—He could.

Coun. HALIBURTON.—Then he purchased the whole for £350, though 6 acres would have been sufficient for business purposes?

Mr DeB.—Yes.

Com. RITCHIE.—And what about the Winchester estate? Was it sold to the Government?

Mr DeB.—The owners of the estate were anxious to turn it into money, and the Government wished to purchase it, so they sold it to them.

Com. RITCHIE.—For how much?

Mr DeB.—£2000 sterling.

Com. RITCHIE.—How many acres?

Mr DeB.—13,000.

Com. Howe.—Does not that purchase go to show at what the price of land should be fixed, better than individual cases?

Mr DeB.—I cannot say that it does.

Com. Howe.—I presume the pieces of good land are sold first and bring the highest prices; and therefore to arrive at a right estimate of the value of the land, it would be more fair to look at the rate of that sold to the Government than to individual sales.

Mr DeB.—I do not think it would. I am of opinion that lands here, generally speaking, are worth about 35s. an acre for farming purposes.

[Some questions were then asked Mr DeBlois in regard to what he would be willing to take for Cunard's land if it were his own, but as the substance of his answers is given in one of the foregoing documents, we pass over them here.]

Coun. Haliburton.—Throughout the Island, is the land tax not often paid for land which is unproductive?

Mr De B.—Yes: and the proprietors have to pay land tax for land in many cases a long time before it becomes productive.

Coun. Haliburton.—Your Excellencies will see that that increases the cost of the land.

Com. Gray.—Yes, but the value of the property is rising.

Mr De B.—True, but the proprietors do not charge for that.

Coun. Haliburton.—which way do you act, when the tenants have no firewood on their land?



Mr De B.—We allow them to take it off our unoccupied lands, and also to cut fence-poles and scantling for their own use.

Coun. Haliburton.—Have you ever kept a wood-ranger on the property?

Mr De B.—Yes.

Coun. Haliburton.—Have Cunard's tenants ever been restricted in regard to their right to sell wood off their farms?

Mr De B.—Not in any instance.

Coun. Haliburton.—Have you ever heard of a tenant complaining of the practical working of the restrictive clauses in his lease in regard to wood.

Mr De B.—No.

Coun. Gray.—Have you ever heard of any case of a tenant after he has acquired an interest in the property, being prevented to sell out by the proprietor?

Mr De B.—I have never heard of any case; besides, though it was desired, it could not be prevented.

Coun. Haliburton further questions Mr De Blois—Do you know if the tenants ever make anything off the wood on their lands? Yes, fishing vessels sometimes come in in autumn for firewood, and they sell to them. How much do they get for it? About 10s a cord. Is there any opportunity to sell wood in Charlottetown? Yes, and it brings from 12s to 18s a cord. You spoke of the value of land, do you look forward to its becoming more valuable? It is becoming more valuable every day. Are the rents more regularly paid now than formerly? They are, because the country is improving. Could you if you had used forcible means have collected more rent—have had it better paid up? Yes, if I had had recourse to law. Have you employed such coercion as merchants do in collecting their debts? I do not know very well how the merchants act. Have you heard of any cases of hardship among tenants? Less inconvenience is experienced by them than by debtors in the other Provinces. You believe that the tenants here are in a better position than mortgagees are in the neighbouring Provinces? Is it not better. Are tenants who get into difficulties often turned off their properties? Very few who are in actual possession; perhaps you could not get more than 20 cases altogether. Do tenants ever lease land for the mere purpose of making use of the wood? They have done so in several instances on Cunard's property.

Com. Howe.—Did I understand Mr De Blois to say that not more than 20 tenants have been turned off their lands?

Mr De B.—We will give you evidence by and by.

Com. Gray.—Have the small proprietors, who hold about 8,000 acres, been as harsh with their tenants as the large proprietors?

Mr De B.—I cannot easily tell.

Coun. Haliburton continues the examination—Have all the tenants paid only the 1-9 with the exception of a Mr Gordon who was made to pay full British Sterling? Yes, with the exception of one or two others, they have not been required to pay more. Have you ever heard of that to which Mr Conroy al-

cluded at St. Eleanor's of persons being compelled to attorn ?  
 Yes, you will find the evidence taken before the House of Assembly in the Journal for 1843, Appendix (P.) page 122. Could you produce Mr Hill's books to show that the persons were tenants that Mr Conroy said were not tenants ? I could. Can you state anything with respect to proprietors objecting to pay compensation for opening new roads ?—You will find information on the subject also in the Journal of the House of Assembly for 1843, Appendix (D.) page 110. What does it cost to open new roads in this island ? From £100 to £250 per mile. Has the land on that part of the Western Road towards the opening of which the Messrs. Cunard objected to the sum assessed, ever been settled ? Not all.

Coun. Palmer.—Do you take produce in payment for rent ?

Mr De B.—We take produce for rent when we can obtain it. In Cassinpec we get it nearly all in produce.

Coun. Haliburton.—Do the tenants on Cunard's property pay their rent off their farms, or do they obtain it by other employments ?

Mr De B.—A few of them, I believe, fish sometimes.

Coun. Haliburton.—Whether are these, or those who work their land and attend to nothing else, the best off ?

Mr De B.—Those who attend solely to their farms.

Coun. Howe.—I propose a few questions to Mr De B.—How long have you been agent ? Since 1853. You say rent on Cunard's property has been more regularly paid since than before ? I think so. I see you have remarked in your statement that the action of the Legislature has rendered the collection of rent almost impossible, how is that ? The people having been led to believe that they would be relieved from rent, have not paid it : and so we have had to distrain, which of course renders the property of less value.

Com. Howe.—Mr De Blais, you state that political agitation has rendered the collection of rent difficult : and did you not say a little ago that rents are better paid now than they ever were ?

Mr De B.—That is owing to the improvement of the country and in spite of political agitation.

Coun. Hensley.—You stated that as a general thing you give liberty to cut firewood and fence-poles off vacant land to those tenants who have none on their own property ; why is it that one Mr McLean, on Lot 49, has not obtained this privilege ?

Mr De B.—The privilege is not given to every one; it is a matter of favor, and when there is a good reason for so doing, it is withheld.

[A question then arose as to whether there is a reservation of wood in Sir Samuel Cunard's leases.]

Coun. Thomson read from the Journal of 1843 Appendix, page 122, an extract of a lease from Hon. S. Cunard to Hugh Macintosh, which showed that all the timber on that tenant's land was reserved.

Mr H. J. Candall.—Such leases were formerly granted by Sir Samuel Cunard's agent, but not for the last 12 years.

**R. C. Haythorne Esq.** before the Court.—I hold the half of Lot 49—10,000 acres I bought it along with my brothers, and paid for it £1099 sterling. I have sold 1000 acres at from 20s. to 30s. currency per acre. One of the sales was a lot of 400 acres, and the other a lot of 600; one was a cash transaction, and the other a trade. I have, I may say, lost about 2500 acres by persons who have become freeholders through the former proprietor. They had purchased and promised to pay by instalments: and some part of the instalments being paid, I could not disturb the persons. It was bought from a banking establishment in England, to which it was engaged. The claim of the bank, I have heard interest and all, was £25,000 sterling. The whole of the remainder of the lands with the exception of some swamp, is lot.

**Com. Howe.**—Could these so-called freeholders not be made to pay the remainder of their instalments?

**Mr Haythorne.**—I suppose they could, but we have never disturbed them. The gross rent which I obtain from my land is £372. I received last year from the estate exactly £200. The arrears of rent on my estate are only about £70. This shows that I have a good class of tenants. Mr J. R. Bourke is my agent, and he receives the rent in produce, timber, &c. When he became agent there were £300 or £400 of arrears.

**Com. Gray.**—There are very few complainants on your property?

**Mr H.**—Very few I should say.

**Coun. Haliburton.** As you are a practical farmer, what is your opinion of the fertility of the soil?

**Mr H.**—It will produce well, but it is light, and requires manure to make it hold out.

**Com. Howe.**—Would you sell your property?

**Mr H.**—I would, but do not care to sell a farm here and there, as it destroys the compactness of the estate.

**Com. Gray.**—Have your tenants any difficulty in making up their rents?

**Mr H.**—None at all. One of my tenants died lately, who owned 4 or 5 farms.

**Coun. Haliburton.**—Had he any other means besides farming?

**Mr H.**—None whatever.

**Com. Gray.**—From your knowledge of the Island, have you known any difficulty in the way of the people becoming freeholders?

**Mr H.**—Not to any extent as a general rule, but in my own case I would not readily consent to sell less in one block than 500 acres. I think, however, that perhaps most of the tenants would prefer remaining so, to purchasing their land.

**Coun. Haliburton.**—What are your reasons for so thinking?

**Mr H.**—I reserved 500 acres which I thought of settling on myself, but there being several applications for the land, I let it by tender at 1s. 6d. an acre rent, and received a considerable premium for it besides.

Com. Howe.—Is there anything particular in the situation of these 500 acres?

Mr H.—It is on the Georgetown Road.

Coun. Haliburton.—Was it obtained for agricultural purposes?

Mr H.—It was, solely. It was land very easy to clear, but not more valuable than the surrounding lands.

Com. Gray.—What do you think would be a fair price for your land?

Mr H.—I would be satisfied if I was paid £4000 currency for it, which would be about 10s. an acre. Some of my tenants valued it at 10s. an acre.

Com. Gray.—That is less than at the rate it yields you.

Mr H.—Yes, but there are always drawbacks, as some tenants will be unfortunate, &c.

Coun. Haliburton.—You are willing to take that sum selling your estate as a whole?

Mr H.—Yes; but I could not sell it to my tenants at that rate to be paid by instalments. In that case I think less than 20 years' purchase would not be enough.

Com. Howe.—Do I understand that if your tenants were prepared to buy a considerable block of land, that you would give it for 15s. an acre?

Mr H.—Well that depends upon circumstances; but what I mean by being willing to take 15s. an acre, is, if the Government here, or the Home Government were to purchase it without any further trouble.

Com. Gray.—Would you make any difference in selling to tenants between those who pay 1s. an acre rent, and those who pay 1s. 6d?

Mr H.—No, I would not, as those who pay 1s. were first settled, and had greater hardships to endure.

Com. Gray.—Do I understand you to say that if the instalment principle were adopted, you would require 20 years' purchase?

Mr H.—I would. When I state I would take 15s. an acre for my land, I do not say that that is its value.

Com. Gray.—But you would be willing to take 15s. an acre for it from the Government—why is that?

Mr H.—On account of the agitation which has taken place on the Island in reference to land. For that reason I think the sooner the rent paying system is put an end to the better.

Coun. Palmer.—Do you consider that it would be fair to take the present receipts of the proprietors as a criterion of the rate at which the lands should be purchased?

Mr H.—Decidedly not, because the tendency of legislation in this Colony has been to depreciate the value of land, and render the collection of rent difficult.

Coun. Palmer.—In regard to the fishery reserves, are you aware that quit rent has been paid for them?

Mr H.—I cannot say; I know that great portions of the reserves have been washed away.

Com. Howe.—You are a farmer, what is your opinion of the land here?

Mr H.—As I said before it produces well, but requires manure. I think it is susceptible of as high cultivation as the land in England. It produces good root crops, and also good crops of oats and barley. I have raised 53 bushels of barley to the acre.

Coun. Haliburton.—What does barley bring?

Mr H.—I have sold it at 5s and even at 7s. the bushel. I have raised 300 bushels of potatoes per acre before the blight came, and since about 150. Oats yield from 40 to 90 bushels an acre. The average price of potatoes is perhaps about 1s 6d, of oats about 2s.

Coun. Palmer.—From what you know of the country, what is the relative condition of leaseholders and freeholders?

Mr H.—I know leaseholders who are very well off. Every industrious man is, generally speaking, in comfortable circumstances.

Coun. Haliburton.—What kind of crop is the soil best calculated for?

Mr H.—Root crops. I think the records of the Royal Agricultural Society will show that this island can raise as good crops of turnips as any place.

Coun. Thomson cross-examines Mr Haythorne.—Have you facilities in your part of the country for obtaining manure? Not so great as near Charlottetown. Can the tenants pay for manure, and pay their rents? Procuring manure will enable them to pay their rents. Can they get lime? There is no lime on the island. What does it cost since it has to be imported? From 3s to 4s per barrel. What would you put on an acre? From 10 to 25 barrels. You say that you only received £200 from your estate last year—that is not the whole amount? No. Why did you not get all? On account of the unpleasantness of asking people. That is your reason for employing Mr Bourke; now did you not give him the arrears for his trouble? Yes he had to collect them.

Mr H.—I wish to make one remark. I agree with Mr Beer, the Member for Charlottetown, that the Home Government have a right to pay part of the purchase price of the land, as they have allowed this state of affairs to exist so long in the Colony.

Com. Gray.—What is your reason for so thinking?

Mr H.—I have paid for example a considerable amount for my estate, and the parties who held it before me paid highly for it; now if this Commission decide that the Tenantry should not give full value for the land, on account of the present unsettled state of the land tenure, then I think the proprietors should get something from the Home Government. There is another subject which I think as proprietors we ought to be at liberty to bring before you, and that is that the present system of collecting rents should continue until your award is given.

Com. Ritchie.—If the accruing rent is not paid, you have a perfect right to collect it as you did before.

Conn. Haliburton.—Some arrears became due last May; you do not mean to say they should not be collected?

Com. Howe.—We did not come here to interfere with the business of the Island. If we had the power to do so it would be dangerous to exercise it. My view is that every tenant ought to pay his accruing rent as though we had not been sitting on this Commission.

John A. McDonald, Esq., one of the heirs of the Tracadie estate, was called upon by James Palmer, who stated that he had not agreed to the Commission, but as he was one conversant with some cases referred to before the Court, they desired to obtain his evidence. Mr McDonald presented a written statement of what he receives in rent, &c., which was read by the Clerk. He was then questioned by Conn. Haliburton—Are you aware whether the Rev. Mr McDonald paid back the sums of money which he received in Scotland from the persons who came from Glasgow? I have always understood that they were paid. Have the persons ever complained to you that they were not paid? No complaint to that effect was ever made to me. Was there not some grievance by a tenant on your father's estate in reference to his being prevented to cut timber off the land which he occupied? I am not acquainted with the circumstances of the case, but if it was so, it was owing to an engagement in the lease, and my father had a right to do it, if he thought proper. Are the tenants on your property who are industrious, generally prosperous? They are.

Com. Howe—Are the tenants on the 4 miles of your property which we passed through on the St. Peter's Road, a sample of what you call prosperous? because to my view it appeared to be a miserable part of the country, and the people worse off than any I have ever seen in the neighboring Provinces?

Mr McDonald—No, the land around there, with the exception of the marshes, is lighter than on any other part of the estate.

Com. Gray—What would that land sell for if set up at auction?

Mr McDonald—I cannot say.

Conn. Haliburton—Are the tenants on your estate allowed to sell timber off their property?

Mr McDonald—They are. My father gave short leases because he thought the country would improve, and he wished to dispose of the land.

Conn. Haliburton—How long is it since your people came to this country?

Mr McDonald—About 70 years.

Conn. Haliburton—Did your grandfather spend much money here?

Mr McDonald—Yes, a great deal. In fact he sacrificed his estates to buy provisions for, and otherwise favor his tenants here.

Mr Ryan, a tenant from Mr McDonald's estate here makes a remark.

Mr McDonald—That is a prosperous tenant.

Mr Ryan—I earned a considerable sum of money in Charlottetown, and went to buy a farm. I purchased from one



Campbell on the Tracadie estate, who was in arrears of rent to Mr M'Donald. I had to pay the arrears, have one way and another spent my money on the place, which I cannot now get clear of, and my lease will soon be out.

Coun. Thomson.—Your lease is short, and will soon be out, is there a clause in it specifying that you shall be paid for your improvements?

Mr R.—No.

Coun. Thomson.—Have you restrictions about wood in your lease?

Mr R.—Yes, and so have my neighbors.

[The Counsel for the proprietors have objected to the examination being proceeded with, as it was taking up time.]

Coun. Thomson.—I can easily account for the impatience of the Counsel for the proprietors, when Mr M'Donald points out this man as a sample of a prosperous tenant, and you have heard the pitiful tale which he has told. One question more, Mr Ryan, are you a fair sample of the tenantry on the estate?

Mr R.—There are others poorer than I am.

Mr M'Donald cross-examined by Coun. Thomson.—Will you give Mr Ryan a new lease, when the one which he holds at present expires? That depends upon my brother, who is not on the Island. Would you renew it at the same rate of rent? I would if I could obtain my brother's consent. Have you any difficulty in letting land at 2s a acre for 60 years? None. Are the poor houses in that part of your estate through which the St. Peters Road passes, the effect of short leases? I do not know; the people there were originally poor men, and had to cut their coat according to their cloth. Have you ever issued distrainments? I have distrained in two instances. One of the persons, I understood was going away off the Island; the other was a man who took a mill from me, and did not pay the rent. I advanced him money likewise, but could receive nothing from him, and at last he ran away, and I pursued him with a bailiff. Did you not state before this Court that there is only one lease of land on your estate in which the wood is reserved? I am not aware of any more. You heard Mr Ryan's statement; and here is another lease with a similar reservation? There may be many for aught I know. Has the thought struck you that as you stated there was only one lease with this reservation, and nearly every one brought here contains it, that you told a falsehood? But I was not aware of the fact. Then you have come here without the requisite information to give evidence in the case?

Com. Gray.—You have a copy of these leases, and might have known about this reservation, if you had examined them?

Mr M'Donald.—I might, of course.

John A. M'Donell, Esq., before the Court.

Coun Haliburton.—Mr M'Donell does not wish to be in any way compromised by giving evidence, as he has not agreed to the Commission.

Com Gray.—If the law does not include him, we will not.

Coun Palmer.—How much land have you an interest in?

Mr M'Donnell—I and my immediate relatives have an interest on Lot 33, of about 4000 acres. [Mr M'Donnell then gave a statement of several sales of leaseholds on his property. One person had sold 70 acres at 1s 8d an acre rent for £100; another had sold 25 acres at 2s 6d an acre rent, for £25, &c. The term of the leases is generally 999 years.]

Coun Palmer—Mr D. M'Leane, I believe, is the only one from your property who gave evidence before the Court?

Mr M'Donnell—He is the only one with whom I have had any difficulty. He is a tenant at will, and having taken some timber which he had no right to, and behaved badly, I gave him notice to quit the place, and afterwards served him with a writ of ejectment.

Coun Palmer—Are you aware what wilderness land has sold for?

Mr M'D.—One Cairns bought wilderness land at £8 an acre.

Com. Grey—That is not an average price—what would an average be?

Mr M'D.—I have known wilderness land about 25 miles from Charlottetown to be sold at £1 17s an acre.

Com Howe—What would your family be satisfied with for the property?

Mr M'D.—If the money was offered right down, I think we would take about 20 years' purchase. Some of the tenants speak of hard-laps, but several on our property have not paid any rent for the last 14 or 15 years. Within the last year they were served with an ejectment—that is, the most of them. The matter has been settled by forgiving them all arrears, and their consenting to pay rent now at 1s 2d currency per acre.

Com Grey—You reduced the rent?

Mr M'D.—Yes, formerly it was at 1s 8d.

Com Howe—Was the reason that they paid no rent for 15 years, because they thought there was no title in the land?

Mr M'D.—It could not be that, but my father was a very lenient man.

Com Howe—Do I understand that you negative the foregoing evidence that there has been oppression on the estate?

Mr M'D.—Most decidedly.

Coun Palmer—Will you state what you know about Rev. John M'Donald?

Mr M'D.—He owned a large tract of land here, and it was generally unproductive. He bargained with some people in Scotland that if they would pay him so much, he would let them have land here. The people came and settled, and as he was generally through among them, I believe he paid them for what they advanced,—at least I never heard any imputation against his character. He had other means besides his land. I have heard that he had £1000 from his parishioners, and I cannot believe that he is in debt.

Coun Thomann.—You have a farm, do you find that it pays?

Mr M'D.—Well I cannot say that it does; but I have to hire, and my case is not a fair criterion.

Comm. Thomson.—Is it not a fact that farming which does not pay has a demoralizing tendency—raising each enormous crops as 50, 60, and over so many bushels an acre? seeing it gives opportunity to overrate the capabilities of the country? (Laughter.)

Comm. Howe.—Do you believe that an industrious man can pay 1s 6d an acre rent, live, and buy out his land in course of time?

Mr M'D.—I believe he can.

Comm. Halibutson.—Have you ever heard of any difficulties in regard to the timber reservation clause in the leases?

Mr M'D.—I have never heard of any; besides I think it is never acted upon—tenants always sell the wood off their farms.

Comm. Thomson.—How was this clause introduced—by mistake or what?

Mr M'D.—It was introduced to prevent wood being cut off land on which no improvements were made.

Comm. Thomson.—Do you not think that these clauses are against the tenantry?

Mr M'D.—They are not against the honest tenant.

Comm. Thomson.—Then as an honest proprietor, do you not think it improper for a dishonest proprietor to have the power to enter in upon a tenant's farm and cut down his ornamental trees?

Mr M'D.—It would not be right for him to do it—that is a clear case.

After J R Hourke, Esq., had read a statement of the places he is agent for, &c., the Court adjourned.

#### TUESDAY, Sept. 25, 1860.

Mr R. C. Haythorne stated that he understood some of his tenants had given notes of hand, and though they had receipts for the payment of their rent, yet they had not entirely paid the amount, and thus were not in quite so flourishing a condition as he represented them to be yesterday.

Hon. Alex. Anderson before the Court, and is examined by Comm. Palmer.—You reside at Bedeque? Yes. You are a practical land surveyor? I am. And I believe you are well acquainted with the Western part of the Island? I have surveyed in nearly all the western Townships. I will refer you to the North of the Island—are you acquainted with Lot One? I have surveyed the most of it. What is the quality of the land? It is generally good. Would you state the average price of land in your own neighborhood—Lot 26? About 20s an acre for wilderness land? That is for agricultural purposes? Yes. Do you mean in blocks or for fancy pieces? As the land is on the Lot generally.—My father bought 100 acres for £70 etc. Is the land back from the sea? It is not far from the sea. Are freeholders in much better circumstances than leaseholders? You can scarcely tell the difference of the one from the other? Does the freeholder seem to improve his place more than the leaseholder? I do not know that he does. But there are vari-

one opinion on this point; I will give you the opinion of Dr. McGregor, which was, that rate-payers and leaseholders are always the best off, as they have something to stimulate them. I suppose persons in that part of the country sometimes change their places? Oh yes. Have you ever known a person to leave a freehold and take a leasehold? Frequently.

Com Gray—For what purpose?

Mr A—Perhaps to obtain a better situation.

Com Palmer continues—Are you well informed respecting the Government lands on Lots 11 and 15—are they all sold? There is a good deal yet to sell. Is there any good land unsold? Well, strange to say there is some very good land on Lot 11, still unsold. [He then mentioned the case of an individual who preferred to take a lease to purchasing a freehold, because it required less capital, and the rent was not more than the interest of the purchase money would be.]

Com Howe—How do you account for this fact, that lands sell for perhaps 20s an acre to individuals, and that the Government purchase it at so low a rate?

Mr A—It is like going to buy from a wholesale merchant—when a quantity is disposed of at once, it is always sold at a lower rate than in other cases.

Com Palmer—Is there dissatisfaction among the tenants in regard to the conditions of the leases,—are they leaving the country on that account?

Mr A—I have not heard much complaint; I do not think that many have left the island on that account.

Com Halburton—Have you known persons possessing freeholds sell them and go away to other countries, and afterwards return and purchase leaseholds?

Mr A—Yes.

Com Howe—It was represented to me this morning that it is a rare thing for a young man brought up in the country to take a wilderness farm,—that rather than do so, he leaves the island—is that the case?

Mr A—It may sometimes occur.

Com Palmer continues.—I believe a good deal of land has been sold in the western part of the island for non-payment of land tax? Yes, a good deal. Has any on the shore been so sold? Frequently. On which Township? On Lots 8, and 11. On Lot 8, does the globe land extend to the shore? It does. Is the globe land on what is called the fishery reserves? Yes. When the Government sold the globe lands did it make a reservation? Not any. Is it the case that the banks on the shore are wasting away? In some places they are wasting away very much; within my remembrance a high bank has wasted away to the extent of several rods.

Com Howe—Has the land made up at any place?

Mr A—Not any place that I am aware of, except at the West Cape, where it has extended about half a mile.

Com Howe—Suppose as a practical surveyor you were directed to lay off the reserves now; with the grant in your hand, how would you proceed?

Mr A.—I cannot tell.

Com Howe—Begin I suppose at high water mark, and measure back 500 feet?

Coun Palmer—That would be a manifest injustice to those who hold land in the rear of the reserve where the bank has been washed away.

Com Howe—Before the 999 year leases will have expired, according to this evidence, the whole Island will be washed away. (Laughter.) As a practical man do you think the people are generally dissatisfied with the leasehold tenure?

Mr A.—I think they are not generally dissatisfied. When I enquired of some of the people if they were going to the tenants' meetings they said "No, that they had nothing to complain of." One Mr John Hall of Cape Traverse, told me that he "paid 16d an acre rent for his farm, and that he would take more land at that rate if he could obtain it."

Coun Hensley—Has he any mill privilege on his land?

Mr A.—Not say.

Coun Hensley—But the land on that Township (26) is better than the general run of the Island?

Mr A.—Well, it is good.

Coun Hensley—What is the average price of land in that County?

Mr A.—About 20s an acre.

Coun Hensley—Do you know of any sold as low as 6s?

Mr A.—Not any.

Coun Hensley—Can you tell what land on Lot 11 has been sold for at Sheriff's sale?

Mr A.—Sometimes at 30s or 40s the 100 acres.

Com Gray—Was that owing to the nature of the title or not?

Mr A.—The people were scarcely aware of what they were buying.

Coun Hensley—Mr Hensley you know that a fair valuation of land cannot be made from these sales.

Coun Hensley—But it has been sold at that rate.

Com Howe—Mr Anderson, we do not wish you to give the price of particular pieces, but of wilderness land all through the Island?

Mr A.—From 10s to 20s an acre.

Coun Hensley—You say that Dr McGregg spoke in praise of the leasehold tenure?

Mr A.—Yes, he was the first I heard speaking in its favor.

Coun Hensley—He left the Island?

Mr A.—He did.

Coun Hensley—Was it owing to his getting into arrears of rent that he left the country?

Mr A.—I cannot tell.

Coun Hensley—I understand he went to California on account of being in arrears. About the fishery reserves, you say they are washing away?

Mr A.—They are.

COUN. HANLEY.—Do the proprietors make an allowance on this account, or do the people still pay rent for what is washed away?

MR A.—Where there are no settlers in the rear, as much land has been given in that direction as has been lost on the shore.

COUN. PALMER.—Is the country generally improving to the westward?

MR A.—Yes, very fast.

HON. HEATH HAVILAND, M.P.P., before the Court.—Your Recollections: as the agent for Sir Graham Montgomery, who has agreed to the appointment of this hon. Commission, and will be bound by its award, I consider it my duty to lay before you an abstract of the titles to his estates. The Townships partly owned by him are 34, 51 and 59, together with Boughton Island and Rustico Island. [He then read abstract of titles.] As regards the settlement of Lots 34 and 59, that question I consider was set at rest by a series of resolutions come to by the House of Assembly in Committee of the whole on the state of the Colony, July 22, 1797. It was then complained that in consequence of the non-fulfilment of the conditions of the grants, the improvement of the Colony was retarded; but one of the resolutions among other things states that Lots 16, 17, 18, 19, 21, 24, 26, 29, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 47, 48, 49, 51, 56, 59, were settled according to the conditions of the original grants. The next resolution is to the effect that though Townships 7, 51, &c., were not settled agreeably to the conditions of the grants, yet as the owner, Baron Montgomery, had been ever active in endeavoring to settle them, he should not, in the opinion of the House, be disturbed in their possession. Sir Graham Montgomery owns no other land in the Colony besides parts of the Townships which I first named. Mr Douse is agent for another of the Montgomery family. I represent 10,500 acres on Lot 34, including Rustico Island, the rent of all which is £590. The average annual receipts for several years has been £630,—the arrears are thus becoming less and less. On Lot 59, I represent 7000 acres, the rental of which is £800, and the average receipts £150. On Lot 51, I represent 5750 acres, the rental of which is £362 5s 4d, and the average receipts £160. On Boughton Island, which contains about 600 acres, 541 acres are leased, the rental of which is £30, and the average receipts £25.

COUN. HALIBURTON.—Over how many years does your average extend?

MR HAVILAND.—Six. A few years ago on Lots 59 and 51 but little rent was collected; but now a considerable amount is obtained, which shows that these estates are improving. The principal reason for this is the higher prices procured for agricultural produce?

COUN. GRAY.—What is the cause of the advance in the prices—is it the reciprocity treaty?

MR HAVILAND.—Yes; that treaty, I believe, has been in a manner the salvation of the Island. Montgomery has behaved



very leniently towards his tenants. He has remitted arrears of rent to a large amount, somewhere between £2000 and £3000. Where lands were inferior they have been let in some cases at 6d and 8d an acre. There are no such lands on Lot 24. According to the Census returns of 1854, there were on this Lot 14,642 acres of arable Land; and the crops also were very large, the quantity of wheat being 6,574; of barley 4,764; of oats 67,255; and of potatoes 69,950 bushels. Mr James Robertson, one of the Delegates from this Lot, in his evidence before your Excellencies, stated that if the proprietor had a good title he would be willing to pay 20 years purchase. This statement gave me encouragement to hand in an abstract of the title; and I hope it will be satisfactory. A lease was produced in Court the other day, for the purpose of showing that the tenants on the Lot were not at liberty to transfer their properties without the consent of the proprietor. It is true that some of the leases contain such a restrictive clause; but I defy any one to prove that it has been other than a dead letter. If any tenant objects to it I will give him a new lease. The Montgomerys have leased all their lands, including the fishery reserves, and receive rent for them.

Com. PALMER.—Have they paid all their quit rent?

Mr HAVILAND.—I believe so. They have leased all the fishery reserves on their estates. On Lot 24, the reserve is for a free fishery to all Her Majesty's subjects; and I have come to the conclusion that when the reserve is for "a free fishery," the right of the soil is in the proprietor. In the grant of Lot 51, there is a reserve mentioned; but strange to say that Township is neither bounded nor intersected by any arm of the sea, as your Excellencies will observe by looking at the map. Lot 59 has also a reserve of a free fishery to all Her Majesty's subjects, and the case is the same with both Boughton Island and Rustico Island. With respect to Lot 31, I believe the proprietor could readily obtain 20s for the fee simple of every acre upon it. I could repeatedly have sold farms at that price; but the Montgomerys have objections to selling their estates in patches.

Com. HOWE.—Do you think they would sell their estates if the whole was purchased at once?

Mr HAVILAND.—I should think they would, as the interest of the money would be better than the rent. On Lot 51, some 20 or 40 years ago, they sold a large tract of wilderness land, as I have been informed, for 10s an acre. This tract your Excellencies passed through on your way to Georgetown. When sold it was called the Big Woods, but is now named New Perth; it is one of the finest settlements in the Island. The Montgomerys have not sold any of their lands for the last 6 or 7 years; or for 20 years previously, except a few farms on Lot 24.

Com. HOWE.—You have travelled over this estate a good deal I suppose?

Mr HAVILAND.—I have.

Com. HOWE.—Well, what is the condition of the people—are they comfortable?

Mr H.—On Lot 24, almost every settler is independent.

Com. Hows.—To what do you attribute their prosperity?

Mr H.—Partly to their nearness to the markets, and partly to their industrious habits. Some of them came here without anything, and are now worth their hundreds of pounds. They have fine farms, and many of them have money vested on interest.

Com. Hows.—Is there any money to be found on that Township?

Mr H.—It is to be found by industry. I could have sold nearly the whole of the Lot at 20s an acre, if I had not been restricted.

Com. Hows.—Well, then, how are the settlers on the other Townships?

Mr H.—Many of them are in indifferent circumstances.

Com. GARR.—What is the cause of their poverty?

Mr H.—They came here many of them very poor, and had to struggle up. I see a great difficulty for them, if even to-morrow they had the privilege to purchase, because I can show you that some of them who had their arrears of rent forgiven, are now two or three years in arrears again. In some cases, this state of matters is owing to what is called weak families, that is, the children being young, and not able to render any assistance. A few too have been unfortunate in getting bad land.

Com. Hows.—What do you mean by bad land?

Mr H.—Land that is nearly all sand.

Com. Hows.—Some of the land is said to be nearly all covered with moss,—is that bad?

Mr H.—It is inferior.

Com. Hows.—And is there much of that?

Mr H.—There is considerable

Coun. THOMSON cross examines Mr HAVILAND.—In looking over this abstract of title, I observe the consideration is left out in one case of transfer; did the original state the consideration? It did not; but whether or no, it would not affect the title. With reference to Lot 59, I see there is no consideration mentioned either, except a nominal consideration? It might have been given for nothing to a friend without making any difference.

Coun. HALIBURTON.—I object to these questions; they are calculated to throw a doubt on the title.

Mr HAVILAND.—I answer these questions on my own responsibility, independent of the Council.

Coun. THOMSON proceeds.—You are a member of the House of Assembly? I am. You get about £963 rent now? I suppose about that. Then that goes out of the Island, does it not to an absentee proprietor? It does. Do you as a legislator, think that course an injury to the Island? Common sense would tell you so. But the Legislature does not always display common sense! Were you in the Legislature when the Rent Roll Tax Bill was passed? I was. Were you in favor of the Bill? I voted against it, because I considered it was an iniquitous measure, inasmuch as it proposed to impose a tax upon the Rent Roll, and not upon the amount of rent received by the

proprietors. You thought the measure was iniquitous; did you, then, move an amendment that the tax should be upon the amount of rent received? I was a member of the Opposition at the time, and as such, my policy was not to assist the Government of the day. You say that if through this Commission an opportunity were offered to the tenantry over whom you act as proprietary agent, to purchase the fee simple of their farms, it would be difficult, perhaps impossible for many of them to do so? You misunderstood me; I said so only with respect to a portion of the tenantry on Lots 31 and 39, a number of whom are in indifferent circumstances.

Com. GRAY.—You think it is an injury to the colony that rents have to be remitted to absentee proprietors?

Mr HAVILAND.—(Of course it is. The money paid for the *Steamer Westmerland* to carry the Mails is also a drawback to the Island,—it would be better if some enterprising person amongst ourselves would furnish a boat.

Com. THOMSON.—Did it ever occur to you that these proprietors who sold their lands for a nominal sum, were afraid of the land being escheated?

Mr H.—Never; escheat had not been spoken of at that time.

Com. THOMSON.—It never suggested itself to you, then, as the cause?

Mr H.—No, not even when you spoke of it.

Com. HALIBURTON.—Do you think the rents on the Montgomery estate can be collected?

Mr H.—On Lot 34 they can; but on some of the other Townships there will be a difficulty to obtain all.

Com. HALIBURTON.—You say from the general improvement of the country, it is becoming a comparatively easy matter to pay rent?

Mr H.—It is.

Com. THOMSON.—Did you ever issue any writs for arrears of rent?

Mr H.—I issued some four or five against tenants on Lot 34, because they had not the politeness to call on me at my office to make any settlement respecting their rents, though I had been four years in the agency, and had not dealt harshly with them.

Hon. Mr CULS.—I wish to make a remark respecting the tenantry on Lot 34. Though Mr Haviland may consider them able to buy their farms, yet the people themselves may not think so.

Mr H.—I know the most of them, and believe them to be able.

Benjamin Davies, Esq.—I desire to ask Mr Haviland a question in regard to quit rents. Does he hold the opinion that if they were exacted, the whole would have to be paid by the tenantry?

Mr H.—I do.

Mr Davies.—Do you consider they were paid up to 1828.

Mr H.—I do not know.

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Mr D.—As a member of the Legislature you must know. I say that it is my opinion the tenants paid the quit rents up to that time, and that Government officials destroyed the records; still I do not think the people can be compelled to pay them over again.

Mr H.—The tenants on the Montgomery estate are liable to pay all taxes, and if there be arrears of quit rent due, and payment of them be enforced, the people will have to pay them out of their own pockets.

Mr D.—Allow me to say that they cannot be compelled to pay them.

A. E. C. HOLLAND, Esquire, before the Court.—Questioned by Coun. Palmer. You reside in Bedouan? Yes. Can you give any information respecting the price of lands? I can; we hold a small interest on Lots 25, 26, 27 and 28.

Com. HOWE.—What quantity of land do you hold altogether?

Mr H.—I cannot exactly say.

Coun. PALMER.—What can you say, then, about the price of land?

Mr H.—In the first place, I do not acknowledge the power of the Commissioners to interfere with the rights of private property; but admit that they may enquire into and report on the working of the leasehold system in the Island generally, and offer such recommendations as they may think proper. With respect to myself and other owners of land on Lot 28, we are dependent upon the annual incomes thus derived in a great measure for our subsistence; and I consider it would be an act of great injustice were we, by the exercise of any power, to be compelled to part with our lands at a low price than 20s. an acre. The lands which I hold ought in some measure to be accounted Loyalist land, and my right to them should be respected accordingly. My grandfather, Major Holland, was a resident in what is now called the United States, at the commencement of the American Revolution, where he owned a large estate. When it was determined to take up arms against Great Britain, he was offered one of the first commands in the American army; but refusing, he was seized and imprisoned, and would have been shot, had he not effected his escape. After this, he raised a company and entered into active service in support of the authority of the British Crown. I feel a delicacy in entering more fully into an account of the services of my grandfather as a loyal subject of the British Crown; I would rather place in the hands of the Commissioners the records of these services, as they are a matter of Colonial history. . . . I believe the conditions of the grant of Township 28 were fulfilled. My father brought out a number of Germans to the Island, who settled upon it, and their descendants are now among the most respectable settlers on the Lot. I may state that the tenantry on Township 28 are generally very comfortably settled, and many of them have made considerable sums of money, which they let out on interest. On the Irving part of the Lot there are very

prosperous settlers, some of whom are tenants, such as John Bell, Esq., and Mr. Thomas Bell; while others, such as several of the Mullarts, are freeholders. Old Mr. Mattart's case, I may mention as one of great success. He commenced in the woods with no other means or implements than an axe and a hoe, and left behind him at his death some £1500, besides all his family comfortably settled. Old Mr. Clark some 70 years ago purchased 100 acres of land, for which he paid £70. Robert Meir, 40 years ago, entered upon a leasehold farm with no means, and in the course of some years was able to purchase the fee simple of it from the proprietor. About 20 years ago, a number of immigrants came from Ireland, and settled on Lot 26. When they arrived here, they possessed nothing, and had they been under the necessity of purchasing the fee simple of land before they could have procured the occupancy of any, they would have had to become servants and probably would have found themselves worse off than they were in Ireland. But under the leasehold system they were enabled to take farms, and to commence in the woods with the axe and hoe. They are now, as tenants, generally in comfortable circumstances; and remembering what they were a few years ago, it would surprise you, meeting them on their way to church on the Sabbath day, to see what a display they make. One of the tenants on Lot 26, Mr. Patrick McKay, offered me £150 for his farm of 200 acres.

Com. HOWE.—What facilities have the settlers of whom you speak to improve their land?

Mr. H.—They have not even so great advantages as others, as their farms are back from the river. There was a remark made to you the other day respecting the toil and expense of clearing land in this Colony; but while I admit that it costs considerable, I still believe that poor immigrants can get along better by settling on woodland, than on large clear farms without the means of procuring stock and farming implements. A certain person, John McCarron, another of the settlers on the back part of Lot 26, offered me last fall £1 an acre for his farm.

Com. HOWE.—Did you take it?

Mr. H.—No, for I thought his farm was a very good investment as it was. I have frequently been offered 20s an acre for land, if I would choose to sell; but I have generally declined such offers, because I think the rent which is regularly paid me, is good interest for the fee simple value of the land. I have made a calculation of the quantity of land sold on Lot 26, within the last 30 years; and find it to be about 4000 acres, the average price paid for which was from £60 to £108 per 100 acres. During the last 10 years, the land disposed of on the Lot was regularly sold at 20s an acre. I also purchased myself on Lot 26, some 300 acres, where there was no road nor advantages, for £65 the 100 acres.

Com. PALMER.—At what rate does wood sell there?

Mr. H.—I have known £2 10s to be paid for the privilege of cutting the wood on an acre. A Mr. Clark on that Lot sold a farm containing 65 acres of improved free land for £300, and

bought a leasehold for £350. [A brother of Mr Clark here explained that the latter farm had a marsh attached to it]. A person at De Sable sold the lease of 37 acres for £206.

Comm. HALIBURTON.—Was the person who purchased it a practical farmer?

Mr H.—He was; and wanted the land for farming purposes. There is an observation or two which I would like to make. It was stated at St. Eleanor's that the Island is in a deplorable state; that when settlers arrive at a certain stage of advancement, they proceed no further; and that the young men are leaving the Colony. The reason that some young men are leaving the Island is not on account of the leasehold system; but because, being brought up well, they become accustomed to the luxuries of life—of driving about in fine carriages, &c., so much so that in visiting in some of the settlements, as Malpeque, New London, Cavendish and Bedeque, you would almost think you were in the fashionable circles of London or Paris. These young men, finding they cannot afford to enjoy themselves the whole time, become dissatisfied and leave the Island; but many of them have returned to the Colony, and settled here at last. It was also stated before this Court, as one of the evils of the leasehold system, that the proprietors and their agents exert great influence over the tenantry at elections. There might be a few instances of such; but the statement, speaking of the proprietors as a body, was a gross exaggeration. On late 26, 27 and 28 there are tenants whom I would defy any proprietor to influence, because they are so independent. This was evidenced at the last election, by the majority of them voting against Hon. James Pope, who is himself a proprietor. Hon. Mr Montgomery while before this Court at St. Eleanor's, seemed desirous to show how much better off the farmers in New Brunswick are than those in this Island. I have travelled through a great part of New Brunswick, and took observation wherever I went; and I must say that I was astonished at Mr Montgomery's statement. Over about the Baie des Chaleurs, I have seen the people, at the time of an election, influenced both body and soul, being literally dragged away to vote. The merchants there appear to control the electors, who are chiefly fishermen, just as they please. So much was I affected by the state of things at the Baie, that though I am a Conservative here, I was a Liberal there. To prove what I have said in opposition to the statements made at St. Eleanor's in reference to the evils of the Leasehold system, I will read a short extract from "Monro on New Brunswick, Nova Scotia, and P. E. Island,"—a work of acknowledged truthfulness and merit. The paragraph is at page 255:—

"There has been much discussion as to the comparative advantages or disadvantages of the system thus pursued, with reference to the settlement of the country. Without entering into this question, we may observe that the emigrant of very small means may thus settle on a farm, without running into debt, and reserve his little capital for subsistence and the improvement of his lands where the rents are redeemable, he may



acquire the fee simple as soon as he has the ability. The progress of the Island, with regard to population and exportable produce, has been greater than that of either of the neighbouring continental provinces, and this tends to show that the objections to the plan are not so important as many of its opponents contend. Abolitionism is, however, no doubt, a great evil to any country, especially to one poor and newly settled."

Again, in reference to Education on the Island, Mr. Monro, at page 347 says:—

"By a comparative review of the school statistics of Nova Scotia, New Brunswick, and Prince Edward Island, it will be seen that the latter sends one third more children to school, in proportion to its population, than either of the two former. This fact tends to prove the superiority of the island system, over those of the other two colonies, and perhaps more strongly, the greater interest in education taken by the people."

COEN. HENSLER.—What is the rate of rent on Lot 26?

MR. H.—For a few farms on the shore, the rent is 1s 6d Halifax sterling an acre; but generally it is only 1s of the same currency.

COEN. HENSLER.—Are the tenants in the Irish settlement in arrears?

MR. H.—Not any. They generally pay up their rents, and I have heard of no discontent among them.

COEN. HALIMURTON.—You have property in Lower Canada; what do lands bring there?

MR. H.—In the townships they sell at £100 per 100 acres, £10 being paid down, and the remainder by instalments.

COEN. HALIMURTON.—You get £1 an acre for your land?

MR. H.—Yes; but land back in the country sells very cheaply.

Mr. John Clark rises to correct some statements made by Mr. H. The property left by old Mr. Muttart was not worth £1500. The value of several farms given by Mr. Holland, was not so great as he had stated.

Mr. Holland, after having asked Mr. Clark the value of two or three farms which he named, remarked that he thought his own calculations had been pretty correct.

HON. JAMES YEO, M.P.P., before the Court—Examined by COEN HENSLER.—You are a proprietor? Yes. What Township do you hold? Part of Lot 12. What did you pay for your land? I bought about 16,000 acres for £4000 currency. Is the land of good quality? Part of the lot is good land, but part of it is very indifferent—some of it no good. Do you sell any of your land? I have sold to a good many settlers within the last two years. What do you ask for a freehold right? 20s an acre, with one-ninth added. How many acres in all have you sold at this rate? 1700 acres. [Here reads a statement of purchasers.] He had let about 1000 acres at 1s 6d. an acre, to persons who had had inland freeholds on Lot 49. The terms were, the first year at 2d, then 6d, then 3d, then 1s an acre.

Com. GRAY.—As a general rule, how many acres does a person require?

Mr Yeo.—About 100; but a Frenchman will do with 50.

Com. GRAY.—As a general rule, what does the right of a leasehold farm sell for?

Mr Yeo.—If there are 20 or 30 acres of it clear, it will sell from about £1 to £1 10s an acre; and a freehold about twice as much, or from £2 to £3 an acre; but I have known one of 100 acres sell for £200.

Com. HOWE.—You have been a long time in this Island: from your knowledge and experience, do you think the people are worse off here than they are in the neighboring Provinces?

Mr Yeo.—I do not think they are.

Com. GRAY.—Do the people on your Lot change their locations much?

Mr Yeo.—It is a very rare thing.

Com. HOWE.—Do your people pay their rents well?

Mr Yeo.—Not very well. I am not fit for a proprietor, or an agent either—I am too easy. I never distrained upon any tenants except two, and never upon any honest man.

Com. THOMPSON.—Is your standard of honesty regulated by the payment of rent? [Laughter.]

Com. GRAY.—How many years have you been an agent?

Mr Yeo.—I agent, and 4 a proprietor.

Com. HOWE.—You have been extensively engaged in ship-building.

Mr Yeo.—Yes.

Com. HOWE.—You have I suppose, enabled your tenant frequently to pay their rents by giving them work in your ship-yard?

Mr Yeo.—I have given them every opportunity. I believe there were no delegates before you from Lot 13 to make any complaint.

Com. GRAY.—It is said that your tenants were too much afraid of you to send delegates,—is that true? [Laughter]

Com. HOWE.—You have been accustomed to take from proprietors permits to cut wood off their estates,—did you in such cases ever cut off of tenants' lands?

Mr Yeo.—I had liberty to do so, but would never allow my men to cut from any except unoccupied land.

Com. HALLAMTON.—Were you always instructed not to enter upon tenants' land?

Mr Yeo.—I do not remember particularly.

Com. HALLAMTON.—But it has been your practice not to do so.

Mr Yeo.—Yes.

Com. HOWE.—You are pretty well acquainted with the country; do you believe there is the poverty among the settlers which some of them have described before this Court?

Mr Yeo.—The destitution is not so great as has been described, but some of them are poor enough.

Com. HOWE.—What is the reason of that?

Mr Yzo.—Some of them might do better, but going upon wood farms, with large families of young children, they find it difficult enough to get on, and for some years are unable to pay rent.

Com. Howz.—Would you sell you land ?

Mr Yzo.—That depends upon whether I could sell the whole together or not.

Com. Howz.—What would you take for it ?

Mr Yzo.—Perhaps I may say as much as an acre, but I would only sell it at this rate, because some of it is no good. I have however sold some very inferior land for 2s an acre—land comparatively worthless.

Com. Howz.—Will you tell us why it is worthless ?

Mr Yzo.—It is barren—being chiefly composed of white sand.

Com. Howz.—Has it been thoroughly tested ?

Mr Yzo.—Yes ; it is worth nothing.

Com. Howz.—Is there any quantity of that kind of land on the Island ?

Mr Yzo.—Many thousands of acres. The Canards hold hundreds and thousands of acres that are not worth a farthing an acre.

Com. Howz.—Has any attempt ever been made to improve that kind of soil by mixing clay with it.

Mr Yzo.—I saw the attempt made once, but barley sown upon it afterwards only grew about two inches long.

Com. Howz.—What difference is there in the facilities which a farmer on the Main land and one in this Island possesses with respect to sending his produce to market ?

Mr Yzo.—There is no difficulty here in getting produce to market; no part of the Island is distant from a shipping place.

Com. Howz.—Why does the fishing trade not flourish here ?

Mr Yzo.—The people in some parts of the Island do catch a good many fish—those about Tignish for example. I have tried the business myself, but never succeeded well. Though fish are abundant on our shores, I think it is better for the people to attend to their farms than to go a fishing.

Com. Howz.—Has the Reciprocity Treaty affected this Island much ?

Mr Yzo.—Not a great deal I think. I generally ship to England, because I consider there are better prices at home.

Com. Howz.—What do you ship to England ?

Mr Yzo.—Pork, oats, potatoes, &c.

Com. Howz.—You own several ships ?

Mr Yzo.—I and my son keep about twenty ships trading in different parts.

Com. Howz.—You will then give employment to quite a number of young men ?

Mr Yzo.—Yes; we have several hundreds in our employ.—Shipbuilding, however, has not paid very well of late.

Com. Howz.—I must say that I have a somewhat different opinion of you now, since I have heard of your enterprises.

COUN. PALMER puts a few questions to Mr Yeo.—How do leaseholders and freeholders compare in general with respect to wealth and appearance of prosperity? Leaseholders live comfortably. Well, then, they compare favorably? They do. Suppose you were travelling through the country, is there anything by which you could tell the difference between leaseholders and freeholders? Nothing that I can see. You bought some land on Lot 18, did you not? Yes. What did it cost you? 13s 10d an acre. Do you think the leasehold system retards the country? I advise the people to become freeholders, and young men generally desire to become such; but one young man who bought the fee simple of a farm from me, came to me after a time, and wished to know whether I would give him back the amount in goods, which he had paid me for the land, and let him have it on lease. You were present, in the Court at St. Eleanor's when Mr Conroy stated that when he first settled in Tignish no proprietors were recognised on Lots 1 and 2,—can you say whether the claims of a proprietor were acknowledged on Lot 1 before the year 1835? About 26 years ago rent was paid, I think, by settlers on Lot 1, to old Mr Palmer. Some grievances were brought against you at Georgetown by Hon. Mr Wightman and Hon. Mr Thornton respecting agreements you by you to the effect that you do not bind yourself to grant a lease at present, as you have not the power, but as soon as you get power you will grant a long lease;—what explanation of the case can you give? I sent down about 100 agreements to Three Rivers for immigrants from the old country, as I thought. I did not bind myself to give leases, unless I obtained the power to do so. But I had no idea that either Mr Wightman or Mr Thornton wanted one of them. By taking them, however, they have not lost anything.

COUN. HOWE.—You have knocked about the Island a good deal,—do you think the people would be more prosperous if they had free land?

MR YEO.—I do not think it would make much difference, because if a person holds land for 999 years, there is nothing to prevent him from improving his circumstances.

COUN. HOWE.—As a general rule, are the people who do not pay their rents better off than those who do?

MR YEO.—Generally those who pay well are well off, and those who pay nothing have nothing.

COUN. HALIBURTON.—As a general rule are industrious persons able to pay their rent?

MR YEO.—They have in general no difficulty to do so.

COUN. HENSLEY cross-examines.—About these agreements,—did you promise to give leases when you obtained the power? I did. Did you ever obtain the power? Never. Did you ever receive rent from the tenants on the Sullivan estate on Lot 61? Not much;—Last year I received only some £7 or £8. Do you really think that the people on that Township are able to pay their rents? They ought to be. What is your opinion of the value of land on Lot 9, one of Sullivan's other Townships?

From 15s to 18s an acre. On Lot 13, you say you would sell land for 20s an acre? Yes. There are great facilities for ship-building on that Lot? Yes. Would these add to the value of the land? Considerable. Do you think the land on Lot 9 worth as much as that on Lot 13, considering the facilities for shipbuilding on the latter? I made it a little less; I said 15s an acre. Any fishing reserves on your Township? There are. Do you lease them? I do. Have you ever had anything to do with *tennoa isiaui*? I rent a part of it—the bay lands from Mr Stewart to whom it belongs. How long have you had it? About 30 years. Do the Indians live on the Island? They do. They lay claim to it? Yes. Did they ever attempt to prevent you from taking the hay? They did somewhere about 1826 or 1827. How did they do it? by writ or otherwise? They pushed off my canoe. Had you to swim for it? No. (Laughter)

COUN. THOMSON cross-examines.—You say you gave £4000 currency for some 16,000 acres of Lot 13; that is about 5s an acre. What is your rent for that land? Not quite £200. How much rent did you remit to Sir George Seymour for the same land when you were his agent? About £60. Did you send this much home? I did. Then you must have received more? I received some £180 or 190 from the tenants, out of which I had to pay the taxes and the expenses of managing the property, which were very heavy. Do you mean that you paid the greater part of the difference between £60 and £180 for taxes? You have not posted yourself up on the land tax before you came here? No; I did not think it would come up. Can you tell me the use of coming here before these Commissioners to give evidence without having proper information? I have shown all necessary information. Was all the balance then between £60 and £180 taken up in paying quit rent? Part of it was, and my salary as agent was £30 a year, and the remainder was expended upon roads. And were the quit rents paid before 1830? I had nothing to do with the Lot then. When you first became agent for Lot 13, was there not a good deal of timber on the land? Yes. Did you ever grant licenses for cutting that timber? [Reporter has no note of any answer.] Did you yourself ever take any timber off the estate? Not much, while I was agent for the estate. Were you building vessels at that time? I was. Where did you get your timber? Some of it from Sullivan's property; and I obtained considerable of it from my tenants. Had they liberty to do so? was the wood reserved in their leases? Not a stick. Did you make a good bargain with Sir George Seymour? Very bad, as the times have turned out. Would you sell the estate on the same terms as you bought it from him? I would. Do you hold yourself ready to take an offer of the same amount as you paid for it? Yes, if I am offered the money.

A statement was read by the Clerk of the Court, which was handed in by Henry J. Candall, Esq., setting forth that, as the Agent of John Winslow, Esq., who is not a party to this Commission, he would not lay before it such details as he might wish, but would make a few observations generally. In answer to

the complaints made by Delegates, it stated that the reason of so many tenants on Lot 24 being without leases, was owing to their own negligence, as he had never refused leases to persons applying, but had always urged upon them the necessity of their securing themselves in their possessions. That the system of disposing of mill sites by Mr Winsloe was more to the advantage of the tenant than that usually adopted. That his property on Lots 24 and 33 contained upwards of 22,000 acres of leasehold land, of equal if not greater value than any estate of the same extent in the Island. The amounts received in each of the last two years, exceeded the yearly rent. That though arrears had been in some instances allowed to accumulate to a large amount, yet from the value of the farms, no uneasiness was felt as to their ultimate security. That since the year 1840, the average price of sales of lands per acre on Lot 24 was about 32s, and on Lot 33, 41s.

HENRY J. CUNDALL, Esq., before the Court.

COUN. HALIBURTON.—You have been connected for a considerable time with land affairs in this Island: do you find any difficulty in leasing land?

MR C.—Not any.

COUN. HOWE.—How long have you been connected with land affairs?

MR C.—I have been 12 years in Messrs Cunard's office, and nearly 8 their surveyor; and I have been agent for Mr Winsloe upwards of 3 years.

COUN. HALIBURTON.—What do you think of the leasehold system?

MR C.—I think the tenants would prefer having land at 1s an acre rent, to becoming freeholders at 20s an acre.

COUN. HALIBURTON.—Are the tenants generally able to pay rent and purchase their farms?

MR C.—Those who are industrious, and who have been accustomed to farm, do well; but there are many who, though they had the opportunity to purchase their farms at 5s an acre, could not.

COUN. HOWE.—You must have heard within the last 12 days that the tenants have complaints, and that they would prefer becoming freeholders to remaining in their present position.

MR C.—I do not wonder at them desiring to become freeholders, particularly as they think they ought to obtain their farms at a low rate.

COUN. HALIBURTON.—Have some of them the means to become freeholders, and yet do not purchase the fee simple of their farms?

MR C.—Yes, a number.

COUN. RITCHIE.—Have they the opportunity to purchase their land at a reasonable rate?

MR C.—Yes; on Sir Samuel Cunard's estate the tenants can always obtain the fee simple of their farms at 20 years' purchase.

COUN. HOWE.—What wages does a laborer get here by hiring out?



Mr C.—From 4s to 5s a day at job work, or such employment as they might get now and again.

Com. HOWE.—Would not a man then make more by working at each employment as this, than by taking a farm? [Reporter has no note of any answer.] Suppose a man to go on a wilderness farm and live comfortably, how long would it be before he could purchase the land at 20s an acre?

Mr C.—That would depend upon circumstances and the man himself. Some would do it in half the time that others would. Perhaps I may say from 20 to 25 years.

Com. HOWE.—What would his property then be worth?

Mr C.—About £150 over and above the value of the fee simple of his 100 acres.

Coun. HALIBURTON.—And stock his farm besides?

Mr C.—Yes. I say this of a person bringing up a family, and not of a young man.

Com. HOWE.—Would not his family be an assistance to the new settler, instead of an encumbrance?

Mr C.—Boys, when they grow up to be of use, generally look out for themselves. Girls are often of more service on a farm than boys.

Coun. HALIBURTON.—There has been a great deal said before this Court in regard to restrictions in leases respecting the cutting of timber: Is this a real or imaginary grievance?

Mr C.—In regard to tenants on Mr Edward Cunard's estate, it is imaginary.

Coun. HALIBURTON.—Do you know of any tenants having complained?

Mr C.—The only complaint of which I have heard, was that mentioned by one of the delegates to this Court.

Coun. HALIBURTON.—You have never known an instance of a tenant being prevented from cutting timber off his own farm?

Mr C.—Never.

Coun. HALIBURTON.—A great deal has been said before this Court about property changing hands: What is your opinion in this matter?

Mr C.—I think it is an indication of prosperity, because when a person finds he has an overplus of money, he is inclined to speculate, and very often speculates in land.

Coun. HALIBURTON.—Have you a class here called pioneers, as there is in Canada and most other new countries?

Mr C.—Yes, in the case of those who do not properly understand the cultivation of land, as for example the French Acadians, who do better generally speaking when planting potatoes and sowing oats among the stumps than they do on old farms.

Coun. HALIBURTON.—What value do you set upon the lands of Mr Edward Cunard?

Mr C.—Some of them are worth but little, and some are very valuable. Upon the whole, I think they are as valuable as any in the country, excepting those which are near Charlottetown.

Coun. HALIBURTON.—Are the farmers on his estate generally freeholders or leaseholders?

Mr C.—They are all leaseholders. Mr Edward Cunard has sold no land.

Coun. HALIBURTON.—Is the rent paid regularly?

Mr C.—The rent is generally well paid up.

Coun. HALIBURTON.—Are they generally speaking improving their properties, while the rents are being better paid?

Mr C.—As a general rule it is the case. Cascampec has progressed as fast as any district in the Island, though the people there are leaseholders.

Coun. HALIBURTON.—Do you know of any freeholders purchasing leaseholds?

Mr C.—I have known of several. I believe if a person takes a fancy to a farm, or thinks it will suit him, he does not reject it on account of its being a leasehold.

Com. HOWE.—Do you not think the desire to become freeholders is almost universal?

Mr C.—No doubt the most would prefer to be freeholders.

Com. HOWE.—Are the farms here superior to what they are in Nova Scotia?

Mr C.—I have been through several parts of Nova Scotia, and from what I have seen I consider the farms there are generally speaking inferior to what they are on the Island, though the houses are better than they are here.

Com. HOWE.—Do you think that the difficulty about land in this Island has principally been caused by political agitation?

Mr C.—Principally on that account.

Coun. Thomson cross-examines Mr Candall.—Are there not certain conditions in the original grants about settling the Townships with a number of German Protestants? I have never examined about that. I did not come here to give evidence respecting foreign Protestants. Now do you as a proprietor and an agent think it is unnecessary to look into this matter? I never troubled myself about it. Do you think the proprietors' titles are good? I do not know; I am no lawyer; but this I believe that they are as good as the title to landed property in Town and other places, held by private individuals. All bad alike together? Then the titles in all the world may be bad; now that is a proposition that no lawyer would put forth. You said that a person would take 25 years to purchase his farm at £100; Do you adhere to the statement? I say a man could do it. Do you consider it could be done as an average thing? It might be about that. Then the man's family would grow up, and at the end of 25 years his farm would be worth only £250? The young men of a family seldom remain on a farm; they go away. Do they go off the Island? Well, some of them do, but not so many as has been stated before this Court. Those who leave the Island are generally those who have been brought up in the older settlements.

Com. HOWE.—Is it a common thing to remit arrears of rent?

Mr C.—On the Cunards' property I could name many cases in which tenants received personal acquittances, and several

where receipts have been given for a proportion of arrears, on account of misfortune or poverty.

Hon. Mr COLLE.—Do you know of any cases of ejectment on Lot 34?

Mr C.—Not any during my agency. On the Messrs Canard's property no individual, being a *bona fide* tenant, was ever turned off, or deprived of his improvements.

Court adjourned at 4 o'clock p.m.

WEDNESDAY, Sept. 26, 1860.

A Deputation of the descendants and representatives of the American Loyalists in the Island appeared before the Court, and their chairman, J. B. COOPER, Esq., read a memorial, which is as follows:—

To the Hon J. HAMILTON GRAY, the Hon JOSEPH HOWE, and JOHN W. RITCHIE, Esquire, Commissioners appointed by Her Majesty to adjust the differences relative to the Land Tenures in Prince Edward Island, &c.

May it please your Excellencies:

We, the undersigned descendants and representatives of the loyal American refugees and disbanded troops, having been appointed at a general meeting held in this City, on Monday last a deputation to prepare a Memorial embodying their views, and to present the same to your Excellencies, beg leave most respectfully to call your Excellencies' attention to the heartless deception practised upon the said refugees and disbanded troops by certain proprietors of township lands in this Island, aided and assisted by the Civil authorities of the same,—as set forth in the accompanying documents,—In consequence of which they were subjected to a series of wrongs of the grossest and most barbarous description,—perpetrated, too, under color of law,—the disastrous consequences of which continue to be severely felt by their descendants and representatives at the present day.

It will, doubtless, be matter of surprise to your Excellencies to learn that so deserving a class of His Majesty's subjects as the loyal American refugees and disbanded troops, many of whom,—after having served His Majesty faithfully during years of severe trial,—years of suffering and privation which emphatically "tried men's souls."—cheerfully abandoned their worldly possessions rather than give countenance to sedition and rebellion by becoming citizens of the American Republic,—should have met with such harsh and unjust treatment from any class of His Majesty's subjects, but more particularly from men who had themselves failed to perform their own solemn engagements to His Majesty, and who actually succeeded in obtaining certain valuable privileges on the ground of their vaunted concessions in favour of the said refugees, &c. It will, however, be seen, on reference to the documents above referred to, that His Majesty's gracious intentions with respect

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in the settlement of the said refugees in this Island were generally frustrated and rendered nugatory in consequence of the refusal of the proper authorities to locate them in suitable places for settlement, or to furnish them with the necessary grants, or where locations were provided and grants issued, clogging those with conditions of such a stringent character as to render a strict compliance therewith wholly impracticable,—alike repugnant to the spirit and intentions of the proprietors themselves, as embodied in their Memorial to Lord North, of 1783 (see Act, 30 Geo. 3 Cap. 5,) and the additional Royal Instructions sent to this Island in consequence thereof.

It will also be seen that many of those who succeeded in obtaining grants from the proprietors or their agents, after having settled upon the lands allotted to them and made valuable improvements thereon, were forcibly dispossessed, or compelled—in order to avoid various law expenses, at a time when, it may with truth be said, the legal tribunals of the country were wholly under the control of the proprietors—to relinquish all claim thereto.

In the year 1790, an Act was passed by the Legislature of this Island,—which Act received His Majesty's allowance on the 31st July, 1793,—authorizing the local Government to issue grants to such of the said refugees, &c., as were then in possession of their allotments, but who had not received deeds or grants of the same from the proprietors. This Act, it would appear, remained a dead letter, for sixteen years afterwards, viz: in 1809, an Act was passed "to confirm the titles and quiet the possessions and location in this Colony of the American loyal emigrants and disbanded troops." Through the influence and misrepresentation of the proprietors at the Colonial Office, it is presumed,—for it is difficult to assign any other reason,—the Royal assent was withheld from this Bill, and the loyalists were again disappointed in their expectations of redress.

In 1833, we find the loyalists' claims again engaging the attention of the Legislature, and from the evidence taken before a Committee of the House of Assembly in that year, it would appear that even then, many of the said refugees or their representatives were still without either the allotments or grants promised them by Governor Patterson so far back as the year 1783, although repeated and urgent applications had been made to successive Governors for the same. Several of these Governors were themselves extensive proprietors and land speculators; but whether land proprietors or otherwise, they all succeeded, under one pretext or another, in evading a compliance with these applications, and depriving the loyalists of their just rights.

In the year 1833, therefore, a Bill was passed by the House of Assembly "for the relief of the American loyal emigrants and disbanded troops in this Colony," which Bill, after two or three years' consideration, was eventually "Barked" by the Legislative Council.

In 1839, a somewhat similar Bill, after undergoing certain amendments in the Legislative Council, finally passed all the

Branches of the Legislature. This Act, though based upon fair and equitable principles and eminently calculated to afford some relief to the parties interested, without doing injustice to any one, was, notwithstanding, disallowed by Her present Majesty.

Thus disappointed and failed in all their attempts to obtain redress, both from the Imperial and local Governments, we now respectfully appeal to your Excellencies, trusting that you will give the subject-matter of this Memorial your serious and deliberate consideration, and that, in the exercise of the ample powers with which your Excellencies have been invested, you will afford them such relief as to your Excellencies, after due consideration of all the facts of the case, may seem meet.

(Signed on behalf of the meeting.)

J. BARRET COOPER,  
H. HASZARD,  
GEORGE BAGNALL,  
STEPHEN BOYVER,  
NICHOLAS JENKINS,

Charlottetown, P. E. I., 26th Sept. 1860.

The Deputation also presented to the Court other documents containing acts of the Local Legislature, proclamations, &c., in reference to the Loyalists.

Com. HOWE.—How many descendants of these people are there on the Island?

Mr COOPER.—I am not able to say exactly; some others present may be able to state.

Com. GRAY.—Do you say some of the people were dispossessed of the land after occupying it for some time?

Mr COOPER.—They were.

Mr H. HASZARD then made a statement respecting the shameful manner in which the Loyalists had been treated.

Coun. HALIBURTON.—I think it is unfair to hear evidence against the proprietors, which we are utterly unable to meet.

Com. GRAY.—You must remember we are called upon to settle the difficulties of this question upon "equitable terms," and that we have therefore a right to investigate all these matters.

Coun. HALIBURTON.—It is only the difficulties between landlord and tenant on which you are to adjudicate.

Com. GRAY.—The case of the Loyalists affects the settlement of the question, and it is but fair to give them a hearing.

Coun. HALIBURTON.—The parties against whom the charges are made, are dead, and cannot be heard on their own behalf.

Com. RITCHIE.—When were the proceedings taken to dispossess those refugees who had settled upon the lands allotted to them?

Mr HASZARD.—About 1804.

Com. GRAY.—Did I understand you to say that they could not obtain Counsel?

Mr HAZARD.—Yes.

Com. GRAY.—That is the first instance of which I have ever heard, that legal men could not be found independent enough to take up a case.

Mr HAZARD.—Unfortunately for the Loyalists, the man who would have taken up their case was at that time in England, and a protest was entered against them for contempt of Court.

Mr C. BARNARD.—You must understand, too, that there was a number of applicants who never obtained any grants, as the land had been formerly granted away by Governor Patterson.

Mr N. JENKINS.—My father was in the British army for 16 years, and after receiving his discharge, came here, and had 500 acres of land allotted to him. He made application for the land; but Governor Patterson deprived him of it.

Mr S. DOVVER.—My father came here in consequence of a proclamation issued by Governor Patterson, about 1787—

[Com. HALIBURTON interrupting here, reads a protest against any investigation into the Loyalist question, and wishes it to be placed on file.]

Com. THOMPSON.—I protest against this protest going upon the file of the Court.

Com. RITCHIE.—Surely not, Mr Thompson! Why, protests are always made in courts of law; and can there be any harm in entering the protest? We cannot refuse it; besides, I think it is a very proper course for Mr Haliburton to pursue.

Com. HOWE.—It is no harm for both parties to protest, for though we were to endeavor to settle all matters connected with this question, it is just possible we have no right to enter upon this subject; and in that case it will set the people at rest. But if 200,000 acres have been given up by the proprietors to the Loyalists, it may affect our decision upon this question. I am very anxious as one of the Commissioners to probe all these old sores, and if we can settle all those things which have so long disturbed this fair Island, whatever time it shall take us, we shall be very happy. My opinion is, though it is quite right for Mr Haliburton to protest on behalf of his clients, that we have a right to investigate the case of the Loyalists as well as others.

Com. RITCHIE.—It will be satisfactory for us to think afterwards that we have investigated this subject, because if there has been no error then the matter will be at rest; but if there has, how unhappy we would feel, if we had not taken evidence upon it.

Com. HALIBURTON.—You will also have to reflect that you have taken up and agitated a question, on which we were not prepared to enter.

Com. GRAY.—I think with Mr Howe that we have full power to enter into all these questions, and think it quite proper to proceed with the investigation.

Com. RITCHIE.—If you can show, Mr Haliburton, that we have no right to consider this subject, or can bring forward any—



thing having an important bearing to that effect, we shall be glad to hear it.

**Mr BOYVEN proceeds**—The case in reference to my father's claim for land which he had a right to obtain possession of according to the proclamation, was taken into Chancery, and lost by him; and repeated at empty since to get possession of the land proved unsuccessful.

After a few other remarks the Deputation withdrew.

**W. H. PORE, Esq.**, then came before the Court and endeavored to show that independently of Lord Goderich's Despatch of 1833, the Quit Rents were remitted up to 1823. He read a number of lengthy extracts from Journals of the House of Assembly, &c., which we think unnecessary to give here. To show that some proprietors had paid Quit Rent, he read one or two old receipts, of which we have been unable to procure a copy.

**Hon. T. H. HAVILLAN, sen.**, before the Court.—Your Excellencies; I attend here as proprietor of Lot 56, of part of Lot 43, and of small tracts in other parts of the Island. I have been requested to give my views regarding the cause of the present excitement in this Colony with respect to the question you are called upon to consider. I came to this Island in 1816 in an official capacity.

**Com. GRAY**.—What office did you then hold?

**Hon. Mr H**.—That of Provost Marshal.

**Com. GRAY**.—What were the duties of that officer?

**Hon. Mr H**.—The office was a sinecure. . . . Governor Smith about the year 1817 eccited two Townships for non-fulfilment of the original grants; on what grounds he thus proceeded I know not. Eccit was very unpopular at that time. Governor Smith differed with the people, and the Legislature was not summoned to meet for four years.

**Com. HOWE**.—In what manner were the roads and bridges kept up during that time.

**Hon. Mr H**.—Governor Smith did nothing with respect to them. He left more surplus money in the Treasury than there has been in it since. About 1820, Mr William Couper became agent for Lot 56; and continued in the agency until the fall of 1829. He stated in evidence before you that the rent which the proprietor of the late Lord Townsend, received while he was agent, was about £360. Mr. Couper took it into his head, as he was a seafaring man, to build a ship; he took this ship to England, and in disposing of her, sunk a considerable sum of money. He charged the proprietor of the Township with the loss, as he himself had no private means to build this vessel. For this misappropriation of the funds of the proprietor, he was dismissed from the agency, and I was appointed to succeed him. During the period of his agency, he granted about 60 leases to tenants, the terms of which varied from 50 to 200 years. The front farms were generally limited to 84 years; the back farms to 200 years. As some of the settlers had leases before he became agent, he subtracted the time which they had held them from those which he gave. Directly after he ceased

to be agent for the proprietor of Lot 56, he appeared to receive new light, and told the tenants on that estate that Lord Townsend had no title to his land—that it was forfeited on account of non-fulfilment of the conditions of settlement. For several years he encouraged the tenants to withhold the payment of their rents to the proprietor, on this pretext. The tenants naturally enough listened to him, and many of them did not pay their rents for a number of years. About 1837, I commenced to proceed against 3 or 4 of the tenants to convince them that they should not listen to Mr Cooper. I had only, however, to commence proceedings, as they came and acknowledged. But I did proceed against Mr Cooper himself. To show the baneful influence exercised by this person, I may state that the arrears accumulated during my agency, amounted to about £1,500. In 1843 or 1844, Lord James Townsend died. He left his property here to his widow, by will, but the will not being legally executed, the property fell to his heirs, who assigned it to Blake and Henderson, as Trustees, and by them it was conveyed, by purchase, to me.

Com. RITCHIE.—Was there no considerable excitement on this question, before Mr Cooper commenced his agitation?

Hon. Mr H.—Not a word.

Com. Howe.—Is it not right to state, in justice to all parties, that the Journals of the House refer to a bill being past to authorize the sale of lands, long before Mr Cooper lost his agency?

Hon. Mr H.—If there had been any agitation at an earlier date, it was forgotten.

Com. GRAY.—In 1829, you think it had entirely died out?

Hon. Mr H.—Yes; and Mr Cooper was the first of whom I heard to question titles.

Com. GRAY.—Did Mr Cooper settle any German Protestants on the Township when he was agent?

Hon. Mr H.—Not one.

Com. GRAY.—Did you ever hear that German Protestants were any better than other Protestants? (Laughter.)

Hon. Mr H.—No. Probably Government wished to favor these Protestants, thinking that British subjects were too valuable to send out here.

Com. RITCHIE.—Is it not very astonishing that the proprietors adopted the practice of lending?

Hon. Mr H.—Probably it arose from the fact that Germans, being foreigners, could not hold the land otherwise.

Com. GRAY.—But they could not find good German leaseholders. (Laughter.)

Hon. Mr H.—Since I became proprietor, I have sold the fee simple of several farms.

Com. Howe.—At what rate?

Hon. Mr H.—Some at a sovereign, some at 20*s*. Halifax currency, and only in one case at 20*s*. Island currency. I have sold only one wilderness tract, viz: 200 acres for £160.

Com. Howe.—Have you much vacant land?

Hon. Mr H.—About 9000 acres, 6000 acres of which are scarcely capable of cultivation.

Com. HOWE.—Why is that?

Hon. Mr H.—It is mostly a white sandy soil, covered with juniper and spruce.

Com. RITCHIE.—What would you take for your land?

Hon. Mr H.—If the estate was taken as a whole I would sell it for 10s. an acre. I may remark that there has been no delinquency from the R.R. before this Court which I think may be taken as an evidence that they are satisfied with their proprietor.

Com. GEAR.—When you say that you would sell good and bad for 10s. an acre, do you mean only wilderness land?

Hon. Mr H.—I mean wilderness, leasehold, and all. You are aware that there was a reservation for a glebe on the different Townships; the glebe on that lot sold in 1826, at an average of 9s. 4d. an acre.

Com. GEAR.—What was the reason that these lands were sold?

Hon. Mr H.—Because it was disputed to what Church they belonged. . . I never granted short leases; never shorter than for 999 years.

Hon. Mr H. then presented a statement of the sales on his estate, and also filed an abstract of his sales.

Hon. Mr H. questioned by Com. PALMER.—You have a pretty general knowledge of the Island: in your opinion, are the tenantry generally improving in their circumstances? They are improving gradually. To what do you attribute this? To the market improving. Taking the Island generally—I ask this because it has been disputed here—do you think the leasehold tenure has operated injuriously to the people? I think it has done good, by acting as a stimulant to exertion. As far as you have been over the Island, do you think there is a marked difference among the settlers in favor of freeholders? No particular difference; but there are exceptions. What knowledge have you of the settlers on the Union Road? They mostly came here in indifferent circumstances. When did they come? About 1818. Where did they come from? Yorkshire, in England. How many came? About 100 families. In what circumstances are they now? In comfortable circumstances. What do you call comfortable circumstances? Having good snug farms, and good out houses. Have they got money in stockings? They are wiser than that,—they have it out at interest. Are they leaseholders? Yes; all leaseholders.

Com. GEAR.—Could they purchase their farms out?

Hon. Mr H.—Yes, if they should obtain them on moderate terms.

Com. RITCHIE.—What do you call moderate terms?

Hon. Mr H.—20 years' purchase.

Com. PALMER continues.—Have you ever heard any complaint of the land tenure? Yes. You have had opportunities of hearing? I should think I have; I was in the Legislature from 1823 to 1839. You were in the Colonial Treasury for several years? I was. When there, about the quit rents, how

was the calculation of the quantity of land made? All the ancient mentions in the grants. Without any reservation? No attention was paid to such. Did ever the Government sell land on the sea shore reserves, for land assessment? I believe so, but the records will show.

Com. GRAY.—After the fishery reserves became a matter of dispute, did the Government proceed to sell?

Hon. Mr H.—It did, and does so to this hour.

Com. PALMER continues.—Ifs proprietors' land not been sometimes sold to pay the assessment on land held by tenants? This has been the case. The course adopted was that if a proprietor had not paid his assessment, and a tenant on the same estate had not paid his, the whole arrears on the estate could be taken from one part of the property on which the assessment was unpaid. Was it the case that if land was sold as a Township by Sheriff's sale for non-payment of the land tax, that the person who bought the land could select it where he pleased, if there were different delinquents? If there were 10 persons on the Township who had not paid their assessment, the land of one could be seized for the whole.

Com. PALMER then remarked this was the reason that Mr McGowan was able to state at Georgetown, that he had purchased so much land at a low rate in a locality near his own mill; whereas had situation at which it might be chosen, been generally known, it would have brought a much higher price. That law, however, was not in force now.

Wm. DOUGL, Esq., M. P. P., before the Court.—He appeared as proprietor for Lot 31, and agent for part of Lots 24, 51 and 59. He submitted a statement in writing, which he read. He remarked—I may observe that I have had a great deal of experience on the Island, as I have resided here about 40 years. The account of sales of land which I have in my hand may be incorrect, for I have found it very difficult to obtain information for the last fortnight. But if they are incorrect, any person may state so; I shall be prepared to hear him. I think my lands are as valuable as any in the Colony, as your Excellencies will see by this statement of sales. In regard to the farm of one McWilliams which was referred to by the delegates from the Lot, I may say that there are two persons of that name, and that the one alluded to had paid a part of his instalment money, and the land was considered his, in consequence of which his name was struck off the roll of tenants.

Com. KITCHIN.—Are these all the sales which were made on your estate, or are they picked out?

Mr D.—These are all.

Com. THOMSON cross-examines.—Where did you get your information? From my own people. Whom do you call your own people? All the settlers on my land. Did you get the information from the parties themselves who bought or sold? No. Why? For a good reason, because probably they would not tell me.

Com. GRAY.—Do you think these sales would be a fair representation of the value of land on other Townships also?

Mr D.—I do not consider it would. . . . I will now present an abstract of the titles to my land.

Comm. THOMSON again questions:—In making up this statement of sales, did you make it up as a list of every sale that you knew was made on your property? No; these are such as I could obtain. Then you have made up a certain number of sales for a certain purpose? No. You say there are others as well? Yes, but I thought these were sufficient. Did you in making up this statement try to find the particulars of every sale that was made? These were all that I was aware of. At the time that book was made you did not hear of any other sale except what is down on that paper? I did not think of any other. Did you know of any other or not? Yes, I know of that man's (pointing to a certain person.) Can you think of any other? Not of any other. Did you then make this list out as a fair statement of the sales on your estate? I did. Why then did you not put them all down? [Here there was some confusion and the Reporter did not hear any answer.] You bought a part of Lord Selkirk's estate? Yes. How long were you agent for Lord Selkirk? From 1833. When did you purchase? In 1836. Did you remit much to Lord Selkirk while you were his agent? I cannot state. Have you books to show what you remitted? I have an abstract in what is due. Putting all together, did you remit £100 a year? Yes, £400 or £500. How much a year did you say? From £300 to £400 or £500 a year. That is a wide margin to travel over. Is this your statement correct? I should think so.

Comm. PALMER.—The Counsel is taking up too much time.

Comm. GRAY.—He wishes to affect the train of Mr Doune's statement.

Mr D.—He is not able to do that. I throw down the gauntlet.

Comm. THOMSON.—I take it up. How much did you pay Selkirk for the land you bought? I am not bound to answer. You have thrown down the gauntlet, and have taken it up again, have you not? Well I am not afraid to make the statement, for I earned the money by my industry; it was £5250. Did you grant licences to the tenants to cut wood on the estate? A great many did not require them. Did you allow the tenants to cut timber where they could find it? Yes. And did you ever purchase it? Yes; I wished to make the most of Lord Selkirk's estate for him, and bought the wood and remitted the proceeds home. You allowed persons to cut wood off his property; you bought the timber, and remitted the money home to Lord Selkirk—this is most extraordinary! I was allowed by Lord Selkirk to do so. Did you as agent of Lord Selkirk agree to give a certain piece of land on which to erect a church, and after you became proprietor you refused to give it? I would not give it to the people to build a small church, and at the place they desired to have it; but if they had agreed to build a church at the cross roads, I would have given them the land, and a handsome donation besides. [A few more questions were put by Comm. Thomson; but we think these will suffice.]

Comm. HALINGTON.—Do you know of any persons going

into the woods without means, and clearing their farms and purchasing them?

Mr. D.—Yes; and I have known people sell their improved leaseholds, and then buy freeholds of unimproved land.

Coun. HALIBURTON.—Are there any Government lands near your property?

Mr. D.—None; nor fishery reserves nor loyalist land.

The statement of Robert Bruce Stewart, Esq., was then read by Coun. Haliburton.

George Wright, Esq., Colonial Treasurer, before the Court, and examined by Coun. Palmer. Do you know if it is customary to charge land assessment for all that appears on the face of a grant? It is. Has that been the custom since you came into office? It has. If assessment for any part of the Township, whether reserves or not, is not paid, you sell the land for the arrears? We make no distinction. Do you own any property yourself? Yes. Where? On Lot 65. On what terms do you lease it? Is an acre. Do your tenants pay regularly? Sometimes they pay before the rent is due. Have you ever offered to sell to your tenants? I offered to one, but he said he could not purchase, as he had just lent £100.

Coun. HENSLKY.—At what rate did you offer it to him?

Mr. W.—I do not distinctly recollect; I think about 20s an acre.

Coun. PALMER.—There is a good deal of Government land for sale in the Island now; does it sell more readily than other lands?

Mr. W.—You may ask the Land Commissioner about that.

Coun. HALIBURTON.—Have persons come to your Township and bought land, since they had an opportunity of purchasing Government land?

Mr. W.—I think not.

Coun. Haliburton then presented a letter stating what the Messrs. Conard had paid for their estates. £12,050 was the cost of Mr. Edward Conard's property, and as regards the Harmond Conard's estates, they were bought for £15,000, sterling; and they cost him about £20,000, sterling. The letter also contained some other information.

Henry Palmer, Esq., before the Court, and questioned by Coun. Palmer.—You are part owner of Lot One? I am. As regards the tenants on your part, are they good payers? Very good. Is the land leased? Nearly all leased. At what rate? From 1s to 1s 3d per acre. Any restrictions in the leases? None whatever. What is the value of your land? When I was up the country last, one of my tenants asked me if I would sell him some land on a new back road. I said, yes. What is your price, he asked. I said 20s an acre. After asking if he might have some time to pay, which I granted, he said it was a bargain. Would you not sell it for less? I think that would be a fair valuation for the land. Do they raise good crops of grain there? Very good crops of wheat. They fish a little, but those who have not attended to fishing have done best.

Coun. HOWE.—What do you think the lands are worth in that



part of the Island?

Mr P.—The front lands are worth £1 an acre, but the back lands, being far from market, are perhaps worth no more than 18s an acre.

Comm. PALMER.—A considerable amount of arrears have been given up on that Township?

Mr P.—Yes; in some cases as many as 15 years.

Comm. GRAY.—At what time was that?

Mr P.—About 1811.

Comm. GRAY.—Has that particular Lot any advantages over others?

Mr P.—Not any in particular; but the soil is good.

Comm. HENSLEY introduced Mr John Simpson of Lot 22, who presented a statement showing that the actual property of the tenants on that Township contrasted with the rent due, and other dues, is scarcely equal to these latter,—in short that their rents and other debts amount to as much as their crops, stock, &c., are worth.

Comm. HOWE.—You know the people.

Mr S.—I know the people, and believe the statement is true.

Delegations from Lots 33 and 39 appeared before the Court.—

Comm. Hensley read the memorial from Lot 33, and examined Mr Rattray, one of the delegates.—You reside on Lot 33, Mr Rattray? Yes. You are a farmer, and can give your opinion about the soil and its capabilities? Had we had no leasehold tenure, we would have been able to cultivate our lands, and make progress. But the hardship was that we had to enter into the country without roads, and commence in the unbroken forest. Those who have kept out of debt, have overtasked themselves as well as their farms, and the young men go away from the Island.

Comm. HOWE.—It has been stated here that there are men in the Island who have cleared their land, worked their way, and have hundreds of pounds in their chests. Can you explain this?

Mr RATTRAY.—There are very few of these.

Comm. TOWNSEND.—Mr Rattray himself.

Mr R.—Beg your pardon; I have worked hard to keep out of the books of the merchants in Charlottetown.

Comm. HOWE.—You have found this a struggle?

Mr R.—I have, and have wasted this corpus to a mere shadow of what it was to keep my own. We would like to get our farms on fair terms; and hope that this agitation which has been rolling around us like a thunder storm may be set at rest.

Comm. HOWE.—I am afraid that let our decision be ever so wise, it will not calm the elements. The statements are so conflicting, that we scarcely know how to find out the truth.

Mr R.—My rent rises, in 100 years to 2s 6d an acre. I wished to purchase the fee simple of my land, but was asked £3 8s an acre for it. [Mr H. J. Candall in some manner contradicted this statement, but the Reporter did not hear his remark.]

Comm. HENSLEY.—We wish you to state what you consider to be the average yield of oats in this Island per acre?

Mr R.—About 20 bushels.

Comm. HENSLEY.—Of wheat?

Mr R.—About 8 bushels this year. And barley about 33 on an average.

Comm. HENSLEY.—What of hay?

Mr R.—I should suppose about 7 hundred-weight.

Comm. KITCHIE.—And what on your own farm?

Mr R.—Oats about 30 bushels an acre, wheat 15 bushels, and hay about half a ton.

Comm. HENSLEY.—Do you use lime?

Mr R.—A little, but not much, because it is so high here that people cannot afford to purchase it.

Comm. HENSLEY.—What do you think is the value of land on your Township?

Mr R.—I would take it in its wilderness state at 5s sterling an acre.

Comm. PALMER.—Mr Kennedy, how much wheat did you raise last year per acre?

Mr K.—About 15 bushels.

Comm. PALMER.—Well, hay?

Mr K.—Some 6 or 7 hundred weight to half a ton.

Mr James CURTIS.—It appears from the information which I can get that both landlords and tenants are given to make exaggerated statements. I think with a certain gentleman of the proprietors, that the average of oats per acre is from 40 to 50 bushels. I have put on about 20 barrels of lime to the acre—which costs about 4s 6d a barrel—and some manure, and have had about 450 bushels of turnips to the acre.

Comm. HOWE.—What will they bring?

Mr C.—We can scarcely sell them at all; we feed them.

Comm. HOWE.—And what do they bring that way?

Mr C.—About 5d a bushel. From half a ton to 15 cwt. of hay per acre, is the very outside of the average throughout the Island. Of barley, after strong manuring, I have obtained from 30 to 35 bushels an acre. I believe the price of land in this Island is now at its very climax. I think in the course of years it would become lower. If we can obtain the privilege of purchasing at 7s. 6d an acre,—which with the costs will come to about 10s—we shall be very willing to pay that amount.

Mr McCORMACK.—I will state to you how the price of land has become so high here. The sons of the farmers, who have worked at home, and improved their fathers' property, when they come of age, say, give us some money, and let us go to California or some other place, or buy us land in our neighborhood, and we will settle here. Their parents cannot think of them going away, and perhaps getting into bad company, so they buy farms for them; and that is the reason land is so high in some parts of this Island.

Delegation from Lot 30.—Comm. Hensley read their memorial. One of the delegates, Colin Holm, Esq., M.P.P., said he had no connection with the Township, but having the honor to represent it, the people wished him to come as a delegate to this Court. Comm. Hensley then read a petition in reference to an individual on the Lot, respecting the manner in which he had been treated

by Mr Bruce Stewart, the proprietor, who had taken proceedings against him, and as a means of ejecting him, had taken the roof off his house. Some objection having been taken to the case being heard, William McGill, Esq., another of the delegates, remarked:—"I was an individual case of hardship, and as there were many others similar, it ought to be heard. The dispute about the land had arisen, because it was said to be Loyalist land, and the individual alluded to had contended that Mr Stewart had no right to it." A person by the name of Carragher was at this juncture brought before the Court under the charge of the Sheriff, having his head bound round with a handkerchief, and looking very unwell. He was a resident on Lot 30, and had complaints against Mr Robert Bruce Stewart, the proprietor, who had caused him to be taken a prisoner.

COEN THOMSON.—He is a squatter upon the land, and has been writted by Mr Stewart for about 18 years' rent, and is ordered by him to be sent to jail to-night. He asked permission of the Sheriff to present his case to your Excellencies.

MR CARRAGHER examined by Coen Thomson.—Did you ever take a lease? I never took a lease or agreement from Mr Stewart. I heard the man had no title, and I never took a lease. Were you ever sued? Yes, about 7 or 8 years ago. He was annoyed then because you would not take a lease or agreement? Yes, and I have heard nothing about it since, until I was arrested last night for £80. Did you know that you were to be sued? I knew nothing about it.

The Sheriff, H. LOWWORTH, Esq., was then called upon. He said—I went down to Carragher's place, and went into his house, which is the most miserable abode that I ever beheld. I saw a woman, and some children; but he was not at home himself. I went and found him at a neighbor's house, and told him he must come with me. He said he could not come, as he had no coat. I remarked that he might borrow a coat. I do not think there was £5 worth about his place. When I brought him to Town, I took him to Mr Stewart to see if he was the right person. Mr Stewart said he believed he was. I saw the man was very unwell, and did not know rightly what to do with him. He begged to be allowed to come here and plead his case, which I granted, thinking he might in some way be prevented from going to jail.

COEN THOMSON.—What did Mr Stewart say?

MR LOWWORTH.—He said if the man had no property, he would have to go to jail.

COEN THOMSON.—What did Mr Stewart say about the state of health this person was in?

MR LOWWORTH.—He made no reply.

GEO. HOWE.—If there is another side to this story let us hear it.

COEN. PALMER.—This person some years ago, took an agreement, and has had the audacity to state that he never acknowledged the proprietor. He non-suited Mr Stewart in the Supreme Court, because he refused to acknowledge this document which he agreed to.

Com. HOWE.—I never knew of a person who is in such deep poverty, being treated in this manner.

Coun. PALMER.—This is a farce.

Com. HOWE.—Yes, Mr Palmer, this case is a farce; it is more like a tragedy! He may have an agreement, or he may not; but a person in his miserable circumstances to be dragged here under a real or assumed debt! It is a fearful evidence of the wretchedness of the tenant system. I am very sorry that this case has come here at the close of this investigation.

Com. RITCHIE.—If it be true that this man has signed an agreement, his statement is false, and he is to be blamed. I, however, see no occasion for this arrest; nor for his being brought here or sent to jail. I think the proceeding a great hardship.

Coun. THOMSON.—Mr Palmer has stated that the person has an agreement, but he says not; and we have the evidence of the one before the other. I warn the Council on the opposite side to be prepared in reference to this case, as I shall now make statements which I would not otherwise have done.

Com. HOWE.—I will make one or two observations. We did hope that there would be no advantage taken of the Commission by the tenants on their part; or by the proprietors again on their part as it may be sometime, owing to the great mass of evidence before us, before our decision be made. We shall very much regret, if during this delay, there should be any aggravation of the dispute between landlord and tenant.

Sheriff LEWISWORTH.—I may here state that Mr Stewart, since the opening of this Court, has complained to the Lieut. Governor and Council, that I had not discharged my duty as Sheriff, in not arresting this person sooner.

Coun. PALMER.—If this person has no lease, I do not see what the Commission have to do with his case; they were only to adjudicate between landlord and tenant; and if he has no lease he is not a tenant, and the Commission have nothing to do with him.

Com. HOWE.—There is a Higher Commission than this, then, that will deal with it.

Coun. HALIBURTON made some statements, showing that the system of collecting common debts here was just as bad as in the case of arrears of rent.

Com. RITCHIE.—We have been made to believe all along by the proprietors that there were no cases of hardship under the tenant system, and here is a case that has come up, which distinctly shows that there are cases of hardship caused by proprietors.

Sheriff LEWISWORTH said he had also a writ for £67 against another man on the same estate, but he had as yet been unable to find him.

Coun. HALIBURTON said he did not represent Mr Bruce Stewart, and had nothing to do with this case of Callagher which had been brought up.

The Sheriff remarked that the land on which Callagher lived was poor, and worth very little.

CASE. THOMSON.—Would you give 8s an acre for it?

Sheriff—No, indeed! Perhaps it is worth about 1s 6d an acre.  
Court adjourned.

THURSDAY Sept 27, 1890.

CASE. THOMSON made some explanations in regard to the case of Callagher which had been before the Court yesterday evening. He attached no blame to the Government in the matter, though they had sent a letter to the Sheriff inquiring why the writ had not been executed.

Hon. FREDERICK PARSONS, M. F. C., M. L. C. before the Court.—[Mr. Palmer began his remarks by repelling a charge made against him by Hon. Mr. Werburton, before the Court, when sitting at St. Eleanor's, relative to his (Mr. P's.) acts of ownership over some land on Lot 3; and also by repelling an imputation thrown out against his professional conduct by a Mr. Campbell, at Georgetown; but the Reporter regrets that owing to the Court having opened this day earlier than usual, he was not in his place to note down the hon. and learned gentleman's statements. What follows is the substance of that part of his speech which the Reporter heard.] Your Excellencies; reports are being industriously circulated by certain parties as to the reason why I have not appeared before you to take up and advocate the case of the tenantry. It has been broadly asserted that I, in common with the other members of the Government, should have been the first to present the grievances of the tenantry for your consideration; and that instead of this, we were not only standing aloof from this Court, but secretly endeavouring to favour the proprietors. I was pleased to hear Mr Thomson's remarks respecting the letter of the Government to the Sheriff: it was forwarded only according to the common course of business. The letter of the Government to the Sheriff was only a letter of inquiry, asking explanations why the writs were not executed; and I can assure you the Government have no desire to encourage proceedings of this kind on the part of the proprietors; and if they had this desire they would not have chosen Mr Stewart as the most exemplary proprietor to whom such aid should be given. The Gov't have no desire to limit the investigations of this Court. They represent the majority of the House, which came to certain resolutions on this question, and they feel bound to carry out these resolutions; but they do not feel themselves bound to do anything farther on the part of the tenantry. They consider that they are under obligation to carry out the views of the House, and for this purpose they have retained the most able Counsel within their reach to advocate the cause of the tenantry. I would beg to remark that the first intimation which I received that the proprietors intended to retain Counsel was on Friday, some ten days before the meeting of the Commission; and when this was known, a telegram was sent immediately—that very day—to New Brunswick to retain Mr Thomson on behalf of the tenantry; to this request an answer of compliance was received

on the Monday following. It is said by some outside this tribunal that parties connected with the Government should come here and give their views in regard to this inquiry. Now, my opinion on this point is, that as the Government have procured able Counsel to advocate the case of the tenantry, we have no occasion to interfere in the proceedings of this Court. But it may be stated by some that the Counsel should be restricted to the resolutions of the House. The Government, however, had no desire to limit their power to inquire into any question respecting land. There is, for example, the Quit Rent question, a dry subject of law, with respect to which it is unnecessary at present to give my opinions, as I have given them in the Legislature before. But we do not desire to limit this Court to the inquiry as to whether these rents have been remitted up to 1853 or not; and if this Court think that they have not been remitted, then let this Court so decide, and let the country have the benefit of it. And so with the Fishery Reserves. If this Court choose to inquire into this question, I as an individual member of the Government, and my colleagues as I believe, shall throw no obstacle in the way. So also with the Loyalist question; if this Court think they have a right to adjudicate upon it, we shall raise no objections. I reiterate these statements, because there are impressions abroad to the contrary, circulated by individuals who are trying to make the most of the present agitation for political purposes. The Government have full confidence in the Counsel whom they have retained; indeed they have already shown their ability to conduct the case, and the Government have no desire to take it out of their hands.

**COUN. THOMSON.**—The Government have in no way attempted to restrict us in the manner of conducting the case of the tenantry. They have stated that they were not prepared to go farther than the resolutions of the House; but they distinctly said that they would not prevent others from making any complaints to the Counsel, which they might have to offer.

**HON. JOHN LONGWORTH, M. P. P.** before the Court.—Your Excellencies; as Mr Palmer has already addressed you, I need not enter into the views of the Government regarding the manner in which this inquiry should be conducted; but as I represent a respectable portion of the Tenantry of this Island, I may be permitted to make a few remarks. I do not intend to travel out of the limits of the resolutions of the House of Assembly, of which body I am a member. I will read one of these resolutions.

“Resolved, That in the opinion of this House the basis of any such arrangement should be a large remission of arrears of rents now due; and secondly, the giving every tenant holding under a long lease, an option of purchasing his land at a certain fixed rate, at any time he might find it convenient to do so.”

From the intercourse which I have had with a large number of the people of this Island, I know that the most of them desire to be relieved of the leasehold tenure, and wish by some means to have their leasehold property converted into freehold; that is,

that they may have the opportunity of gaining an independent position.

Com. HOWE.—Do you represent the proprietors or tenants?

Mr LONGWORTH.—I represent the wishes of my constituents, by far the larger proportion of whom are Tenants. Some few of the tenantry may be able to purchase the farms on which they reside; but that is the case only where there are strong families; it is not the general rule throughout the Island. In many cases it becomes a matter of impossibility for a poor man to purchase the fee simple of his farm. Many circumstances may have intervened to cause this, such as a failure in his own or sinkings; and under drawbacks like these, arrears of rent have often accumulated to a very great extent. Of course there has been in some instances a want of industry; but with many of the tenantry who are unable to pay their rent, this has not been the case. These, then, have a right to expect that their condition will be ameliorated by this Court. I can speak with confidence of the difference between the circumstances of freeholders and leaseholders in the district which I have the honor to represent. On Lot 32 for instance, those who possess freeholds are in much better circumstances than the others, and are comparatively independent. Such persons are enabled to increase their property in a two-fold ratio, having the usual means of success, and being under no obligation to the proprietors. But the great advantage which results from possessing property in fee simple is the peace and contentment arising from a sense of independence. Unless some means be devised by which the leaseholders shall be relieved of a part at least of the burden which is expected of them at present, they cannot become freeholders; and I feel it my duty to urge on their behalf upon this honorable Court, the necessity of an adjudication that aid may be afforded them. On one particular estate, that of Lord Belkirk—upon which you will not be required to adjudicate, as it has become the property of the Government—arrears of rent have accumulated to the extent of £12,000 or £14,000. This shows that if so much has accumulated on one estate, what a large aggregate will be the amount of arrears for the whole Island. So it will devolve upon you to consider how much of this should be remitted,—it being admitted on all hands that heavy arrears of rent hanging over the head of a tenant are exceedingly depressing upon him, and tend to cramp his energies,—and the invaluable information which you have obtained in this investigation, will enable you to decide the relative amount of arrears on the different Townships.

Com. GRAY.—Should there not be a uniform reduction?

Mr LONGWORTH.—Perhaps there should; but the situation of lands would make a difference in their value, and in some parts near Town, tenants may have higher rent to pay.

Hon. T. H. HAVILAND, Jr.—This statement is not correct as regards the tenants on Lot 34 who are near the City; they have not so high rents to pay as some who reside in other parts of the Island.

H. J. CUNDALL, Esq.—The same may be said with respect to the Tenants on Lot 34,



Hon. Mr LONGWORTH.—It may be as on some Townships and I may remark that some Proprietors have dealt much more favorably with their tenantry than others, but those proprietors especially who have given short leases, have not acted wisely either for themselves or the country. Some of my constituents have only written acknowledgements to show for their land. I hope you will make your decision extensive enough to include them.

Hon. Mr COLES.—Some of them have given written acknowledgements for their rent.

Hon. Mr LONGWORTH.—I am aware of this that some of them have given writings of the nature of negotiable instruments, and in such cases possibly you will not be able directly to interfere, where such instruments may be in the hands of third parties; but I hope you will take the case of tenants so circumstanced into consideration. I do not purpose to enter into the subjects brought up in the different memorials presented to you; I only desire to lay the circumstances of my constituents before you.

Com. GRAY.—Do you think the people are not able to struggle through, and purchase their tenures, unless they have a family or some such advantage, without a reduction being made in the price of land?

Mr LONGWORTH.—It is my opinion that for a man to begin in the trade with a small or weak family, to work on and make a purchase, is next to impossible.

Com. RITCHIE.—Do you think if time were given, a person could buy his farm, at say 15 or 19 years' purchase?

Mr LONGWORTH.—They could in general, though there are exceptional cases, such as the one we had last evening, where little or nothing could be paid.

[Hon Mr COLES here interrupted by some remark which was not distinctly heard. The Reporter considers it due to Mr Longworth to state that he admits the above reply to Com. Ritchie's question may have been what literally fell from his lips, as Mr Coles appears to have made some objection to it; but he (Mr L.) says that it is manifest from the whole context (as well that portion of his evidence which precedes as that which follows it) that the answer was inadvertently given. To represent his real meaning, it might more properly have been expressed thus: "They might in some cases but not generally, and there are exceptional cases such as the one we had last evening, where little or nothing could be paid."]

Com. RITCHIE.—Are the leaseholders on the Townships which you represent as industrious as the freeholders?

Mr LONGWORTH.—Yes, many of them are.

Com. RITCHIE.—And as frugal?

Mr LONGWORTH.—Yes and as frugal . . . I have not entered into the matter of titles, but that is a subject which I trust you will fully consider. I take my stand upon the resolutions of the House; and I have advised to leaseholders being able to purchase their lands, but only upon the supposition that they can obtain them on reasonable terms.

**Com. HALISWATER.**—Do you think leaseholders generally are not able to purchase their farms?

**Mr LONGWORTH.**—Unless the parties have sea frontage, or some other such advantage, they are not able to convert their leaseholds into freeholds; generally speaking those living in the interior are not able to become freeholders.

**Com. KITCHIE.**—Supposing the case of a farm on which arrears of rent have accumulated, and that farm be sold; do the arrears go to the proprietor, or into the pocket of the person who purchases?

**Mr LONGWORTH.**—Generally when a purchase is agreed upon, a deduction is made in the amount of the price equal to the amount of the arrears; and a remission of arrears, if any be made, should be made to the tenant, as he is liable for them.

Some further discussion took place in reference to this matter, supposing such a case should occur. Mr H. J. Candall stated "it would be a great injustice to the proprietors of some Townships, were the arrears actually remitted, as in cases where low rent had been charged; but in some cases where leases had been given at a high rent, the arrears ought to be remitted. It would however, be unfair to make a general remission equally affecting all, as Mr Longworth had observed."

**Com. GRAY.**—What should be aimed at, is the greatest amount of good to the greatest number. Injustice might be done in a few cases, as every individual case could not be adjudicated upon.

**CORNELIUS HOWAT, Esq., M. P. P.**—I wish to make a few remarks. A certain person stated in Court that I purchased a leasehold farm for £400, which statement is not correct.

**Com. GRAY.**—What did you purchase it for?

**Mr HOWAT.**—£350. But I would also state that there is a large marsh attached to it, so that it is no criterion of the value of land generally in the Island. I would also remark that I have heard Mr Holland stated here that there was no dissatisfaction on Lot 28, regarding the leasehold tenure. This is not the case for there has been as great dissatisfaction among the tenants on that Township, as on any other. Some of them have been compelled to take new leases; their first were at 1s an acre, but then they have been forced to take at a somewhat higher rate. One person who resided has lost his farm altogether. A certain woman, a widow, had a minute of agreement, which the Agent, when she presented it to him, threw into the fire, and told her there was no redress but to take a new lease at three times the rent. This happened some years ago.

After some other remarks, Mr Howat urged upon the Commissioners to carefully consider the case of the tenantry, and said that their appointment proved the necessity for a Court to adjudicate upon it, not influenced by Island interests.

**Com. HOWE.**—We all feel and agree with you that something must be done to settle this vexed question.

Benjamin Davies, and James Howat, Esquires, a Deputation of Delegates appointed on behalf of the Tenantry, appeared before the Court.

**Mr DAVIES.**—Your Excellencies :—Mr Howat and I were named a deputation at a meeting of the Delegates appointed on behalf of the Tenantry of various parts of Queens and Prince Counties, to wait on you with a series of resolutions passed at said meeting. The Delegates, though they believe that the case of the tenantry has been brought pretty fully before your Excellencies, yet think there is one point to which your attention has not been sufficiently directed, that might tend to affect materially the interests of the Island. The meeting in question was called because we thought as the Government had not explained to you the question of titles as we conceived they were in duty bound to do, that we should now present it before you.

**Com. RITCHIE.**—You yourselves are to blame, as the Government at the opening of the Court stated what they intended to do ; and you should not bring up this matter at the close of our public investigation.

**Com. GRAY.**—Oh let him be heard.

**Com. HOWE.**—You had better read your paper.

The address and resolutions were then read, and are as follow :—

*To the Honorable John Hamilton Gray, the Honorable Joseph Howe, and Wm. W. Ritchie, Esquire, Her Majesty's High Commissioners, &c. &c. &c.*

*say if please your Excellencies :*

We, the undersigned Delegates, having agreed to the enclosed resolutions, expressive of our views on the Land question, which we fully believe embody the sentiments of the people who sent us to attend your Honorable Court, respectfully request that Your Excellencies will take them into your most earnest consideration, and oblige

Your very obedient humble servants,

BENJAMIN DAVIES, Delegate for  
Lot 1, Cascumpec, Townships  
27. & 28.

F. KELLY, M. P. P.

ANGUS McDONALD, Lot 35

JOHN LORD, Lot 28

JOHN MCKAIG Lot 31

JAMES HOWATT, Lot 29

JOHN CLARK, Lots 5, 6

WM. S. MCNEILL, Lot 24

WM. MCGILL, Lot 30

PATRICK WYNNE, Lot 31

PHILIP LANE, Lot 49

ARTHUR RAMSAY, Lot 16

COLIN MCPHEE, Lot 63

DONALD MCFADYEN, Lot 68

JAMES MCGREGOR, Lot 52

ARCHIBALD CARMICHAEL, Lot 36

EDWARD WHELAN, Delegate for  
Grand River, Lot 56

WILLIAM MOORE, Lot 29,

SAMUEL MARTIN, Lot 33

At a Meeting of the several Delegates appointed on behalf of the Tenantry of this Island, from various parts of Queens and Prince Counties, assembled at the Globe Hotel in Charlottetown, on the evening of Tuesday, the 25th inst., the following resolutions were ordered to be prepared by a Committee appointed for the purpose, and were unanimously approved of at a subsequent meeting of the Delegates, on Wednesday morning the 26th instant.

1st. *Resolved*, That the Delegates appointed on behalf of the people of this Island cannot but express their dissatisfaction and disappointment at the course taken by the Government in not assisting to the extent they should, a full enquiry relative to the condition of the people of this Island with respect to the Leasehold tenure, but rather obstructing the enquiry, by allowing two members of the Executive Council, and the Colonial Secretary, who are all deeply interested in maintaining the claims of the Proprietors, to prejudice the interests of the people by constantly attending on the Commissioners, and advocating before them exclusively the claims of the Proprietors: and the Delegates are of opinion that the Government have further shown their disregard for the feelings and wishes of the people, with respect to the enquiry in progress, by not fully and definitely instructing the learned Counsel appointed on behalf of the tenantry, to bring all the circumstances of their condition before the Royal Commissioners.

2nd. *Resolved*, That the Delegates are firmly convinced that the question at issue between landlord and tenant can never be settled, in order to secure the peace and contentment of this Colony, without a thorough investigation into the titles and claims of the landholders to the Township lands in this Island; and they sincerely hope that the great powers with which Her Majesty's Commissioners are clothed will be used for the attainment of this object.

3d. *Resolved*, That as sufficient time has not been allowed to enable the people to make known their views and opinions to Her Majesty's Commissioners, the said Commissioners are hereby respectfully requested to postpone their award, until, at the re-opening of their Court in this Island, the people may have an opportunity to make their views more generally known, and thereby give further information to the Commissioners.

4th. *Resolved*, That a copy of the foregoing Resolutions be communicated by address to His Excellency the Lieutenant Governor, and another copy be communicated in the same manner to Her Majesty's Commissioners: and that the Editors of the *Examiner* and *Islander* be requested to publish said Resolutions.

5th. *Resolved*, That Benjamin Davies and James Howat, Esquires, be a Committee to wait on His Excellency the Lieut. Governor and the Royal Commissioners, to present the address, and offer any further explanations they may deem proper, and to report their proceedings to the Delegates.

Signed on behalf of the Meeting.

JOHN LORD, Chairman.

**Com. HOWE.**—Mr Davies, I think this first resolution ought not to have been brought here; it is a vote of want of confidence in the Government, and affects a matter from which we desire to keep entirely free. It would be quite proper to move such resolutions in the Legislature. As regards the time this Commission may make up its award, it is uncertain. We have accumulated a large amount of evidence, and we must in justice to the people here, the proprietors, the local Government, the British Government, and ourselves, take at least three months to consider it; and it is just possible that we may have to return to this Island next Spring, and still further prosecute the inquiry, and investigate more closely into the case of each particular Township. I am sorry that the Delegates have presented these documents, and I feel certain that my colleagues entertain a similar opinion. We beg you not to press upon us the placing of these resolutions upon our file. We have not taken up a political view of the question, and do not desire to do so.

**Com. RITCHIE.**—We have listened to all political parties without respect of persons. The day this Court was first opened, the Counsel for the tenantry distinctly stated that all parties who had complaints to offer, were at liberty to come forward, and state their grievances; and if anything has been kept back, you have done yourselves the injustice.

**Mr James HOWAT.**—The resolution does certainly convey a censure upon the Government; but when the Legislature has authorized this Honorable Court with extraordinary power to take into consideration the settlement of this great public question, which has agitated the public mind for half a century; and when the Duke of Newcastle has called the attention of the Government to the necessity of consulting the wishes of the people hereon, and it having neglected to do so, and the people themselves having appointed delegates to lay their grievances before you, I think it is worthy the attention of this Honorable Commission to give the same due consideration. The censure is merely a preamble to the resolution.

**Com. GRAY.**—The Court will give every representation touching this question due consideration, but I concur with what has been said by my colleagues in regard to political questions. It is stated in one of the resolutions that time has not been given by this Court to investigate all the subjects connected with this question. Now we desire to ask what has been omitted. You have had the opportunity of sending the ablest men you could find to lay the question before us, and we have besides perhaps not less than 100 memorials on our file.

**Mr DAVIES.**—Your Excellencies: It is true you have collected a vast amount of information in respect to the existing differences between landlord and tenant, but that grievance is purely one of a private nature, and the settlement of this difference might have been effected by an arrangement between the dissenting powers without leaving it to your arbitration and without the aid of Government interference, and independently of a special law. The delegates are aware that presentations have been made to your honorable Court in respect to the public claim on lands

held by the proprietors, but they do not feel secure in the opinion that private gentlemen are the proper persons to put forward claims on the part of the public. Your Excellencies are aware that Her Majesty's subjects on this Island are entitled to the same rights, the same privileges as those of the other colonies—that public men are chosen to look after, guard and protect the public interest, and that such being the case it certainly becomes the duty of the Government to bring forward the public claims on the lands of this Colony, in order that it might receive the consideration of this honorable Court. Your delegates have no guarantee, no precedent to lead them to believe that this or any other Court would take action on presentations made by men not duly authorized to make the same. We may be wrong, but we see the practice in every court is, that the principal or his agent in private cases are the only parties who can prosecute for private rights; and in cases which affect the public interest a public man is appointed to prosecute. In our opinion the public claims against the proprietors should have been prosecuted for by the Attorney General, or some special officer delegated thereto by the Government. I regret to trespass upon your valuable time, but I claim a few moments to lay before your honorable Court what the Land question is.—It arose from the fact of the greater part of the lands of this Island being granted or rather leased to gentlemen who style themselves proprietors; but who are only tenants to the Crown. They have never been peaceably allowed to hold the lands as proprietors, for their right thereto has been disputed by repeated Resolutions of the Representatives of the people. In the year 1854, the Crown sold its right over the tenants of the Crown to the Legislature of the Island without reserve, and the consideration which they, the Legislature, bound themselves to pay is about £5,500 a year.

Com. HOWE.—You mean to say that you bought the Crown rights, that the Crown was the proprietor of the Island, and that the gentlemen who style themselves proprietors are but tenants. We have heard much of this before from Messrs. Cotes, Cooper, yourself and others, and trust you will be as brief as possible.

Mr DAVIES.—I shall be as concise as possible, my Lord, but it is an important matter entrusted to us by the Delegates to explain to your honorable Court, and I wish to show that there was no political feeling existing in passing the censure which the address contains. The Delegates waited with anxiety to see if the Government intended to prosecute for the public interest in the lands of the Colony, and they deferred expressing an opinion on the backwardness of the Government, until it became evident their intention was to let the case of the Land question go by default. This was apparent to them when your Honorable Court declared on Thursday last the Court would close to-morrow. We then thought it high time to discharge the duty entrusted to us by making the representations contained in the address. Your Excellencies, I stated that the Legislature bought the rights of the Crown over the tenants of the Crown for a consideration which has been faithfully adhered to on the part of the Colony, as you will find on referring to the Civil list

Bill, passed in the year 1851. You will there also see that all rents, arrears of rents, debts, dues and forfeitures are ceded over to the Colony. Now, these debts, dues and forfeitures were held out to the Legislature as being an equivalent to a capital, the interest of which would be the £5,500 named, or probably nearly about that amount; and it appears the inducement of offering the debts, dues and forfeitures could not appear to have been held out with the view of overreaching the colonists in regard to paying the sum named, which they refused to do without this inducement the year previously, because accompanying the Bill the Lieut. Governor received a Dispatch, showing him the necessity of defining the rights of landed property before the people of this Island should obtain control over the Government. (See Dispatch Feb. 1, 1851.) The Lieut. Governor of the day did not carry out the recommendation of that Dispatch; hence arose the necessity of this honorable Court's appointment with power to do so; and what can your Excellencies think of a government under such circumstances, after instituting this Court by Law, to neglect to bring forward and substantiate by public documents and other proof, the public claim, thus leading your Excellencies to believe the Land Question exists only in the difference between the landlords and the tenants.

Com. GRAY. Surely you have not heard the legal questions which we proposed to the Council, as they particularly relate to these rights to which you refer, or you would not have spoken thus. The Court will go as fully into public claims on the representation of the private persons who have addressed us, as if they were laid before us by the authority of the Government.

Com. RITCHIE.—We would not have heard Mr Cooper the second day this Court was open on the question of Echeat, nor Mr Coles and Mr Swabey on the quit rents, did we not intend to consider these questions.

Mr DAVIES.—We would not have interfered were it not that we thought the claim to which the resolutions refer had not been properly brought before you.

Com. RITCHIE.—I am glad that we have had an opportunity to hear you.

Hon. Edward Palmer here presented to the Court a message from His Excellency the Lieut. Governor, to the effect that the resolutions of the Delegates had been presented to him, and he would not receive them, because they animadverted on the Government; but he sent them to the honorable Commissioners for their consideration.

Com. HOWE.—I suppose we ought to receive a message from His Excellency, but I insist that the whole be withdrawn.

Mr DAVIES.—I am satisfied with the manner in which the hon. Commissioners appear to desire to take up this question, and we shall withdraw the documents presented to the Court.

Coun. PALMER wished to enter upon the file of the Court an explanation by Mr Bruce Stewart, in reference to the case of Callagher brought before the Commissioners yesterday evening.

Coun. THOMSON protested against this document being put upon the records, unless Mr Stewart would submit to be examined



Com. GRAY.—We cannot adjudicate upon this case, as it is an individual case. Mr Stewart's grievance appears to be that the case has been made public, and still Mr Palmer would make it more public.

Coun. HALIBURTON also protested against anything from Mr Bruce Stewart appearing on the records, as he had not agreed to submit to the Commission.

Hon. T. H. HAVILAND, jun., said that as the representative of Sir Graham Montgomery, he would also protest against the explanation going upon the files of the Court.

Coun. PALMER said if he was not permitted to place it upon file, he would refer to it in his closing address.

The document was withdrawn, and the Court adjourned.

FRIDAY, Sept. 28, 1860.

#### COUN. HALIBURTON'S CLOSING SPEECH.

In rising to address your Excellencies, after so protracted an investigation into the various long pending, and endless disputes concerning the land tenures of this Island, an investigation in which no period seemed too remote for our enquiries, and no topic too trivial or too private for our scrutiny, I am reminded of unlucky Atlas of old, compelled to sustain the world upon his shoulders. Here, however, I find unfortunately that all resemblance ends, for I feel but too sensibly how little I am blessed with that power, that enabled him to sustain the burden imposed upon him. Before me I find a formidable array of time-honored questions of bygone generations, exhumed and revived from the graves in which they have long slumbered; and also a host of disputes, which have at least the claim of novelty, and seemed to have been specially created for the benefit of your decision. Most of these questions, it has been assumed, are peculiar to this Colony; and as their existence here is alleged to be exceptional in colonial history, you are called upon by certain parties here, to administer remedies even more unusual than the evils they are intended to remove, remedies happily unknown to any tribunal that professes to be guided by British law, and British justice. This idea, I shall be able to show, before I am done, is entirely unfounded; and I shall be in a position to prove, that in almost all the Colonies settled before the close of the last century, the same state of things has existed, regarding which the principal land questions have arisen in this Colony, and that there is not a shadow of an excuse for asking you to consider yourselves justified, in dealing with the right of the owners of property here, in a manner that would be as unprecedented, as it would be unjustifiable. If in submitting to you some of the materials for your consideration, which, during the limited period of my stay here, I have been able to collect, you will find, as I am sure you will, that there are many deficiencies, you must attribute them to my inability to deal with so vague, so novel, and so important an investigation, rather than to any lack of merit in a cause which I feel deserves an older and a better advocate. On arriving here five weeks ago, I was an

utter stranger to the Island, possessing but a vague idea of its history, and conscious of an utter ignorance of the topics, that have so long engrossed the attention of the people in this Colony. The disputes respecting land tenures in this Island, commenced with the first settlement of the Colony; but I shall show that they arose from no circumstances peculiar to this Island, but from an accidental occurrence in itself of but little moment, that gave an apparent importance to what was elsewhere utterly ignored and forgotten. Why the discussion of many questions now submitted to your Excellencies, should have been reserved for this Island, when other Colonies similarly situated were exempt from these grounds of discord and division, may not be apparent to any who have not studied the history of their Colony. The reason, however, is perfectly apparent. I shall, I trust, be able, if time will permit me, to show that a perfectly accidental circumstance in itself of but little importance, was the source of all the disputes between the land owners and the tenants in this Colony. What a strange lesson it is that important results often flow from acts, thoughtless and trivial in the eyes of the actors themselves, which, however, may influence the happiness and the fate of their successors, long after the memory of those, in whom these results may have originated, has passed away and been forgotten. Though difficulties have always existed in this Island respecting the settlement of lands, and quite as many as they were rather between the Imperial Government and the Grantees, than between the latter and their tenants.—It is true, that the difficulty of settling the lands, and the discussions between the Home Government and the proprietors, excited the hopes and the discontent of the tenants; but when these discussions ceased, and the Home Government, by sufferance or consent, acquiesced in the tenure of lands under the terms of old grants that had never been fulfilled, as was the case throughout the rest of the colonial empire, the sources of discord between proprietors and tenants seemed to die out; and there was up to 1830 the same security for the rights of property here, as was elsewhere enjoyed by the grantees of the crown. At that time, however, a gentleman, who has appeared before your Excellencies, and as to whose conduct and character I need offer no comment, as they must be as palpable to your Excellencies, as they have long been to every one else, was instrumental in renewing, and intensifying all the questions that had ever existed in the Island between landlords and tenants. As he has claimed, and apparently deserves the title of "the Father of Facheat," it may be interesting as well as instructive, to recall the circumstances that induced him to enter upon the honorable career that he has pursued with such untiring zeal. Mr Cooper, it appears, was agent for Lord William Townsend up to about 1830. He has given us his evidence; and from his own testimony, as well as that of others, you may judge as to his honesty as agent. If there could be any question as to this point, it has been removed by the evidence of Mr Haviland, who succeeded him as agent. We find that when Mr Cooper had been ejected from his office as agent, in consequence of his ap-

fortunate tendency to apply the funds of his employer for his own benefit, he took to what appears to have been a labor of love, in which honesty was but a secondary consideration. Having so well looked after his own interests by sacrificing those of the proprietor who employed him, he determined to obtain revenge for his dismissal, by devoting his leisure to looking after the interests of the people at the expense of the rights of owners of property; and thus Mr Cooper becomes a patriot! He had scores of times given leases to tenants, when he was in the service of Lord William Townsend, and apparently without remorse or compensation. But when he was ejected from his post, his eyes were suddenly opened. Leases assumed a new character. Clauses, by which he had bound the tenants of his employer, began to appear most oppressive and unjust; and the right to give leases became a most questionable matter—the leases he had given, it was plain, were void; and the people he had induced to come to the Island, and to become tenants, had been misled. The terms of the grants passed 60 years before, had not been fulfilled. The proprietors had no right to their lands, and the tenants no obligation to pay their rents. With these patriotic ideas dawning upon him, Mr Cooper at once commenced a crusade against the rights of property, under the name of Echeat. The effect may well be imagined. The minds of the people were so excited and influenced by the prospect of dispossessing the proprietors of their lands, that no rents could for a few years be collected, and military force was almost requisite to compel the tenants to fulfill their obligations. This is the origin of the main question, that has come before us, as appears by the evidence of Mr Cooper himself, as well as of his successor in office, Mr Heyland. Since 1830, Mr Cooper, as appears by the journals of the House of Assembly, has been unwearied in his efforts. Echeat repeatedly pressed upon the Home Government, and as often disowned by them, has been brought up under some new form, and always with the same results. The bait held out by Mr Cooper, and agitators of the same elevated stamp, to the tenants, is "Support us, and we shall get you free lands—we will dispossess the proprietors of their rights, and force the British Government to be the means of carrying out a system of confiscation, which they in vain disown; and we shall all come in for a share of the spoils." This has been the basis, on which all the agitation in this Island against the rights of property, has been carried on. As to the honesty, or the expediency of this mode of procedure, it is unnecessary to argue. What innocent persons, who have purchased their lands in this Island from the heirs of the original grantees, to be robbed of them for the benefit of political agitators of Mr Cooper's class, and their misguided followers, in order that what a member of the Executive designates openly in this Court, "the good times" may come; or in plain words, that there may be a general spoliation, in which politicians and their supporters may share, is a proposition so disgraceful, that we may well be astounded that men should be found in any British colony, not only base enough to conceive it, but also bold enough to avow such socialist princi-

ple in the presence of a Court conducted by the rulers of British justice. They have come before you, and asked you to become the means of violating the principles of justice and the rights of property, in order to satisfy persons, who have talked themselves into a belief, almost, that spoliation is a public necessity; and that the political agitation so long fomented, will be appeased by the British Government forgetting its own dignity and sense of justice, and sacrificing those rights, which have ever been held sacred in every part of the Empire. The Crown has consented to the appointment of your Excellencies, as Commissioners, to adjust the disputes between landlords and tenants, on just and equitable principles, "with a due regard to the rights of property;" and in doing so, the Crown could have but little supposed, that you would be called upon to violate those rights you were intended to protect; still less could it have anticipated, that a Court created under the sanction of law, should be made an instrument for subverting the very foundations of law, and under the solemn mockery of legal procedure be the agent of iniquitous spoliation. The owners of land in this Island look with confidence in your Excellency's decision, and though they have little justice to hope for at the hands of a Legislature, that is returned by tenants, and panders to, and inflames the passions of those whom it represents, they feel they can safely confide in judgment. The crime here free from the influence which a prolonged agitation must have had on the minds of all, who have lived here in a political atmosphere, in which the rights of property become but too vague, and even the rules of equity and common justice are lost sight of. For my own part, I have every confidence in your decision being just and fair. The proprietors have come through a searching ordeal; and your Excellencies have pronounced, that though this investigation has been allowed to extend back to things that occurred over half a century ago, no instance has been proved of harshness or injustice in the treatment of the tenants by the owners of land. Had many cases of tyrannical and oppressive acts been proved to have occurred since 1770, they would not, unless necessarily arising from something in the relation of landlord and tenant peculiar to this Island, have justified you in depriving all the owners of property here of their rights, because some unworthy persons may have abused those rights which the law sanctions. A mortgagee has far more power to oppress a needy mortgagor; but would any one presume to argue, that because there may be some cases of exacting mortgagees, all mortgages must be forfeited; or because creditors are sometimes oppressive in their conduct, all debts must be cancelled. Yet such is the tendency of the arguments of the opposite side. But unfortunately for them, there is not even a shadow of an excuse for applying the rule they would lay down in this case, even if such an execrable principle were admissible. They have established no cases of hardship; one of your Excellencies, in an early stage of the proceedings, stated, that so far the only parties who had any reason to complain appeared to be the proprietors. What then can justify or excuse the clamor for confiscation that has found its

way even into this Court? What can justify your Excellencies in yielding to a popular cry that might with as much reason be raised in every civilized country where there is property for a prey, and needy or unprincipled men anxious to participate in the spoil? If I in the least degree anticipated any chance of your Excellencies forgetting these rules of law and the rights of which the British Government is the unyielding guardian, I could appeal to the good faith and honor of the Crown to protect those, who, at the suggestion of the British Government agreed to refer the questions between landlord and tenant to a tribunal, to be conducted "on just and equitable principles with due regard to the rights of property." I hope to show to your Excellencies, if time will permit, how oppressed the proprietors have been by the Legislature,—how, failing to induce the British Government to sanction an unjustifiable confiscation of property under the form of excheat, or the collection of quit rents, attempted by indirect means to prevent the proprietors from enjoying the possession of those lands which could not be confiscated,—how it has passed Acts that virtually placed the owners of land at the mercy of every dishonest or refractory tenant, how when the proprietors in times of public distress liberally remitted for a time a portion of their rents, the Legislature made even their liberality an excuse for depriving them of their rights, by passing a currency Act that deprived them of one fourth of their incomes,—how even this injustice was but an instalment of what the proprietors might expect, if the British Government could be wearied into acquiescence by the Island Legislature—as the latter not being content with the pittance they had nominally left the proprietors, closed those courts against them, that are open to the tradesman, and the merchant: and endeavored to prevent the recovery of rent, except by a mode of proceeding that was so slow and expensive, as to render it in most cases practically impossible. By the Small Courts' Bill, it was provided, that the only process should be that of distraint, a mode which was most offensive to the tenant, a circumstance, however, amply compensated for by the *u-winn* between the lord and tenant, which it created and preserved. There is a long series of class legislation, all dictated by the same unjust, and iniquitous spirit, and most of the Acts, if not all, disallowed by the Government. At length these efforts being unavailing, a more reasonable spirit seemed to prevail.

[The remainder of this speech, the MS. of which has not yet been returned by Mr. Haliburton, to whom it was forwarded seven months ago for correction, must be omitted, at least for the present, as we cannot longer delay the publication of this Report.]—Ed.

SATURDAY, Sept. 29, 1860.

## CLOSING SPEECH OF COUNSEL HENSLEY.

If your Excellencies please:—I have the honor of appearing before your Excellencies on the retainer of the Government, to advocate not only their views, but also those of the tenantry of the Island; and therefore in rising to address your Excellencies, I feel in some degree as my learned friend Mr. Haliburton, one of the Counsel for the proprietors, in the commencement of his address yesterday, said he felt with regard to himself, the great responsibility attaching to the position which I now occupy, and the difficulties of the task I am called upon to perform. He stated that he felt like Atlas of old, when compelled alone to bear the world upon his back, but as Prince Edward Island is only a small portion of the world, he must, I think, have somewhat overrated his difficulties. I would rather compare him to that person described in a well known work whose burden was so heavy that it bowed him to the earth, and when I consider the cause my learned friend had to advocate, and the shortcomings of his clients, I am not surprised that he has felt it pressing heavily upon him. Atlas, however, had to bear his burden alone; but, judging from the vast amount of statistical information which the learned Counsel yesterday presented, I think that he must have received considerable assistance from others. On my part, I may state, that I was only retained as Counsel after your Excellencies' arrival in the Island, and my colleague, Mr. Thomson, when he came here was a stranger to the country, and unacquainted with the nature of the duties which were about to devolve upon him. Since that time, during the last four weeks, we have been incessantly engaged in examining memorials and holding interviews with Delegates, and had but a few hours to look over the important points which we are now about to bring under the notice of your Excellencies. I feel relieved, however, when I consider that each of the Counsel will have an opportunity hereafter of putting in writing anything which he may wish to add; and thus we shall have an opportunity of making amends for the unavoidable deficiencies of the present occasion. The learned Counsel for the proprietors in opening the case of his clients, took a review of the question of I shall from the commencement of the agitation of that question, down to the present time. He appeared to think it was a very great error that it was ever agitated; and poor Mr. Cooper came in for a considerable share of censure on that account. Now, without saying that I stand here as an advocate of all Mr. Cooper's views upon this question, it is certainly worthy of remark that it has been admitted on all hands that the granting away of lands of this Island in the manner in which they were originally granted, was a great evil, and has proved injurious to the best interests of this Colony. Looking at the disadvantages under which the Island has labored on that account, and considering that very few indeed, if any, of the original grantees complied with the conditions upon which they

received their grants, I submit that Mr. Cooper and others were not worthy of blame because they agitated for Escheat, and endeavored to relieve this Island from what they considered to be, and what actually was, a very great evil. In looking over the journals of the House of Assembly, I find that Mr. Cooper was not the only one who agitated that question; and that many other gentlemen besides him — who have occupied high positions in this country — have thought it was quite consistent on their part at times to agitate the question of Escheat. The real question is — Were lands in Prince Edward Island liable to forfeiture; and if so, has anything been done to relieve them from that liability? As to the justice of Escheat, I may in passing remark, that the question was not confined to mere "political agitators." By consulting the Journals of 1835, we find a letter written by Mr. Hume, and addressed to parties in this Island, from which it appears that Mr. Hume — who was a gentleman of high standing in the Imperial Parliament — considered that it would then have been just to escheat Township Lands in this Island. The learned Counsel, amongst other things, went into a comparative statement of the relative value of the soils of this Island and Cape Breton, and also put in various statistics to show that in this Island there was a greater return of agricultural produce for each individual inhabitant, than there was in one or two of the neighbouring Colonies. I may here state that I have had no opportunity whatever of examining these statistics, (I think they ought to have been given in evidence, and not formed part of a closing speech,) but it struck me at the time that, considering the relative position of these Colonies, no fair comparison such as was attempted to be drawn yesterday, could be made. In this Colony there are no manufactures — no mines — no minerals, — nothing to which the people can turn their attention excepting to agricultural pursuits. To fishing only a few turn their attention. The population here, too, is scattered. The people are not congregated together in large towns, as in some of the neighboring provinces. In Nova Scotia, e.g., there is at least one large and populous city, and there are in that Province many commercial towns, and some fishing ports where there are small towns; and in addition, there are mines. In New Brunswick, it is well known agriculture is not pursued to the same extent as it is in this Colony; and, therefore, as in other countries, similarly circumstanced; so in Prince Edward Island, where the whole population devote their attention to the cultivation of the soil, the agricultural productions must necessarily be more abundant, in proportion to the number of inhabitants, than in a country where a diversity of occupations are pursued. In a country entirely agricultural, more land in proportion will necessarily be brought under cultivation than in one where mines are worked, and where fisheries are carried on to any extent, and where there are commercial and manufacturing towns. I maintain, then, that from the returns furnished your Excellencies by the learned Counsel, the conclusions and inferences attempted to be drawn from them yes-



terday were unfair. I hold in my hand returns for 1884, and now put them in, showing the number of vessels engaged in fishing at Halifax & Lunenburg, and proving that a very large number of the inhabitants of those places are entirely employed in prosecuting the Fisheries. Looking at this Island, where almost every man is a farmer, I say no such comparison as that attempted to be drawn, can be drawn between the neighboring Colonies and this Colony; and we shall feel it to be our duty to furnish your Excellencies with other statistical information on those points. We know that Prince Edward Island has a vast sea-board, and from all places is easily accessible from the sea, and the land generally fertile, which is the reason why the productions of the soil here have been proportionally, to the total area, greater than in Cape Breton, Nova Scotia or New Brunswick, where there is much rocky and waste land. The learned Counsel, Mr. Haliburton, endeavored to show that in districts in this Island where leasehold tenures predominated, the increase in population has been greater than in those where there was a predominance of freeholds. His calculations were based upon the returns of 1848. Taking Prince County, he stated that the increase in the first district was 41½ per cent.; in the second, 21 1-6; and from that inferred that where there was the greatest number of leasehold tenures, there was the greatest increase in the population. Now I have not had an opportunity of inspecting these returns, but they did not seem to me to prove the benefit of the leasehold tenures. It would take a long argument and a great many tabular returns to demonstrate that a man is better off who pays £5 a year in rent, than he who does not pay anything.

COUN. HALIBURTON — I did not attempt to show that leaseholders were in better circumstances than freeholders, but that the people are not so averse to the leasehold tenures as they pretend to be.

COUN. HAWKINS — But nothing has been advanced to show that these parties had an opportunity, or if they had an opportunity, that they possessed ability to purchase the freehold of their properties. I shall now take up the subject of the Quit Rents, not extending my remarks beyond the year 1823. In the Journals of the House of Assembly of 1823, page 40, we find that Mr. Stewart, Chairman of the Committee of the House of Assembly, waited upon His Excellency Lieut. Governor Smith with an address concerning the quit rents. His Excellency, in reply, was pleased to say that he was not in possession of any communication on that subject, but he handed him a document which was an extract from a communication of Lord Bathurst, to the effect that, "as it appeared that the collection of the quit rents had not been regularly enforced since the date of the Proclamation in 1818, but that in numerous instances arrears for several years were then due, the Collector of quit rents was to be directed for the present to limit his demand to the payment of the quit rents for the (then) current year, and that the levy of the arrears was to be suspended until the account of the

amounts due had been transmitted to England, with the reasons why they had been allowed to accumulate." Again, at the 50th page of the same Journal, there is a copy of an address from the House of Assembly which was presented to His Excellency, stating the difficulty of collecting the quit rents, and praying a temporary remission of them. In the Journals of 1829, we find that the House of Assembly again addressed the Home Government on the subject, and expressed their dismay at the enormous amount of arrears of quit rents which had accumulated. (But as this was read by Mr. Pope, I need not read it again.) In the Journals of 1830, page 7, there is the copy of a Despatch from Sir George Murray to Governor Ready, acknowledging receipt of the Address of 1829, which prayed for a remission of the arrears of quit rents, and stating that he was "prepared to advise His Majesty to accept a permanent grant of £1000 per annum in lieu of any further demand on account of arrears or accruing quit rents." At page 14 of the same Journal, we find that the House again addressed the Home Government, declining to grant £1000 per annum, the amount demanded in lieu of the quit rents. Thus ends the correspondence on this subject between the years 1823 and 1833. Lord Goderich's Despatch in the latter year is one upon which the learned Counsel yesterday principally relied. Now without touching the point as to whether there was any remission of arrears to the year 1823, which I fail to discover, it is evident that between 1823 and 1833, the question remained open. The Home Government would have accepted of the £1000 per annum in lieu of arrears and accruing quit rents, but the grant was never made, the proposal was not complied with.

Com. HOWE.—Do I understand you to say that there is nothing conclusive to show that the quit rents were remitted?

Coun. HENNELLY.—There is nothing to that effect that I can discover.

Com. HOWE.—You contend then that the arrears of quit rents due between the years 1823 and 1833, stand on a different footing from those due before 1823?

Coun. HENNELLY.—Yes, to some extent. The despatch of Lord Goderich was referred to yesterday by the learned Counsel on the opposite side on this point, and I must say I take a very different view of that despatch from the one advanced by him. Taking the whole despatch, perhaps it is not so carefully worded as it might have been; but it appears clear to my mind that the irresistible conclusion to be drawn from that despatch is that there would be no remission of quit rents unless the proposed commutation was accepted. Lord Goderich starts with the idea that the agreement respecting quit rents embodied in Statute 11, Geo. IV., Chap. 17, could not be disturbed. Then he states further that he was desirous to extend the same advantageous terms to P. E. Island as had been offered to the Colonists of New Brunswick.

Com. HOWE.—From the words "is remitted" you argue

that a remission would take place whenever the proposal of the British Government was accepted?

Cons. HENSLAY.—Yes, but not before. Then Lord Goderich goes on to state how it would apply to Prince Edward Island. He does not say—I will apply it immediately,—but if on the same terms as in Nova Scotia and New Brunswick, he would have directed the Governor to issue a proclamation immediately.

Com. HOWE.—Was there ever any proclamation issued here remitting any portion of these arrears?

Cons. HENSLAY.—No. During the first two years they were to be redeemable at 15 years' purchase, during the next two years at 14 years' purchase, and afterwards at 20 years' purchase. The claim in the Quit Rents was to revive retrospectively and prospectively at the termination of the existing agreements embodied in 11 Geo. IV. c. 10,) but the arrears were up to the time when the proposed plan should come into operation were to be remitted. The learned Counsel argued yesterday that that very despatch which proposed a commutation, acted as a remission of arrears. As I understood him, he considered that from the time of the plan being proposed and offered, a remission took place without any commutation.

Cons. HALIBURTON.—The proposition was to concede a certain right to the proprietors; and the proposition was of no advantage to the Government for the Land tax imposed was larger than the Quit rent; therefore to commute would have been unfavorable to the Government; and, remission of arrears was irrespective of commutation. In the other Colonies that commutation was for future Quit rents. (?)

Com. HOWE.—In Nova Scotia a proclamation was issued absolutely remitting arrears of Quit rent; but it appears no such proclamation was issued in this Colony.

Cons. HENSLAY.—What has been argued by the learned Counsel on the other side is that immediately after the proposal was made, arrears were remitted irrespective of a commutation. The despatch itself, however, contradicts such opposition—if the learned Counsel take that position as I understand him to do—for had the arrears been remitted by the mere making of the proposition, not subsequent Act or document respecting their remission would have been necessary, or alluded to in the Despatch. But I am unable to perceive how the learned Counsel gets over the terms "retrospectively" and "prospectively." Unless "revive," relates to arrears, I cannot see what the word *retrospectively* can mean; for I can attach no other meaning to it. I understand the despatch to express this idea—"If you—proprietors—do not comply with the terms proposed to you, when the Act expires you will be in the same position in which you were before it came into operation. If you do not avail yourselves of this opportunity, old claims will revive again." Unless that meaning be taken from the word "retrospectively" I do not see what meaning it has in the connection in which it stands. As to the argument that these Quit rents were remitted without

further consideration when the proposals were made, I shall endeavour to show your Excellencies that they were to be redeemed before the expiration of the 5 years. Lord Goderich says—"It is possible that some persons may be desirous to redeem their Quit Rents before the expiration of the 5 years (continuation of Statute George IV c. 17.) Now if the mere proposition was to have operated as a positive remission why say—I will allow you to come in within the continuance of the Statute—the period of five years varied—I will advise Her Majesty to remit the claim. This proves that some subsequent action both on the part of the proprietors and the Crown, was required before a remission would take place. If the view of the learned Counsel be correct they were remitted before that period. The subsequent portion of the despatch which I have not read however, sets that matter in clear light. If there be any ambiguity about the first part of this document—but I confess I can see none—it is quite removed by what I have just read. If the word retrospectively has not reference to arrears not commuted, upon which Lord Goderich comments as I have already stated, then I say it is an extraordinary document to come from a Secretary of State. To my mind, however, it is as clear as any despatch possibly can be. In the Journals for 1833, page 126, we have the view taken by the then House of Assembly, in respect to a remission of these rents. The House addressed the King, saying that it proposed passing the Land Assessment Act. This Act was to come into operation immediately after the Land tax then in existence, being the Act of 11 of George IV. They state that if it went into operation it would contain the same clause as the old Land Assessment Act, suspending the collection of Quit rents. If this new Act immediately followed, then the plans of Lord Goderich for a commutation was not to be acted upon at all. It would be postponed. This shows that the Legislature of that day did not view the making the proposition as tantamount to an actual remission of the arrears. Respecting the next correspondence between Mr George Young and Lord Glenelg, on which the learned Counsel relied as endorsing his own view of the despatch of Lord Goderich, he read what was stated by Mr Spearman to this effect—"Under these circumstances it appears to their Lordships that all rents in arrear at the period when the Provincial Act of 11 George IV. cap. 17, was confirmed, and came into operation, must be considered to have been remitted by the authority of the despatch of 27th January, 1833. I take it that Mr Spearman is merely speaking of the view which he takes of Lord Goderich's despatch, and I submit this view of the case to your Excellencies—that he is merely stating his own view of the despatch, as a lawyer, and that his letter is not to be taken as an official document, but merely as an expression of opinion.

Com. RITCHIE.—Do you assume that Spearman's letter if it is authority, settles the case about the abandonment of the arrears of Quit rents?

Com. HENLEY.—It would appear from it that in his opinion

it was the intention of Lord Goderich to remit arrears of Quit rents. If I understand rightly the view taken by the House of Assembly it is this—"The proprietors have pressed upon the tenants all their claims, and we have a right to hold them to a strict legal account in the matter of the arrears of Quit rents. We have a right to bind them to their own agreement." Are we not rather to consider that letter of Spearman's as written in answer to an application made by Mr Young for the proprietors? Will it be contended that this letter is to be taken as a receipt from the King's Treasury for a portion of the Quit rents?

Com. KIRCHIE.—How did that letter find its way to this Colony?

Com. HENSLY.—It was sent from the Colonial Office, London, as forming part of a correspondence which had taken place between that Department and Mr George R. Young relative to the amendment proposed by Lord Goderich for the commutation of the Quit Rents. In Lord Glenelg's despatch accompanying these papers, he speaks of the claim of the Proprietors to be relieved from Quit Rents "*retrospectively* as well as *prospectively* by the payment at any time within the first period of fifteen years, and within the second period of eighteen years of their annual Quit Rents," which shows that he considered the proprietors were bound to relieve themselves of arrears of Quit Rents by some commutation. "You will see" he adds, "that I have consented on the part of His Majesty's Government to accept the sixth year's tax as an instalment of the commutation which the Proprietor will hereafter have to pay." It was intended that the Land Assessment Act should be in operation only for a period of five years.

Com. GRAY.—Does it appear that Lord Goderich accepted of that year's tax as a part of the commutation?

Com. HENSLY.—It would appear that he was willing to do so; on account of the Royal warrant not being received till the end of the year, it made a six year's tax instead of five, as contemplated by the framers of the Act; and during that period they had an opportunity afforded them to commute.

Com. HALLIBURTON.—We contend that the proprietors had that opportunity extended to them in every subsequent year; the same rule applies (?)

Com. HENSLY.—That view of the matter is adverse to the terms of the Statute itself.

Com. GRAY.—I wish to direct your attention particularly to that despatch:—The British Government sent out a proposal to this Colony to the effect that if it would pay £1000 annually in lieu of the Quit Rents, it would be accepted; but the Colony refused. Then the local Government passed the Land Assessment Act, after which the Home Government sent out a despatch, saying, "We accept of the Land tax Act in lieu of a commutation."

Com. HENSLY.—I beg leave to differ entirely from that view of the case, because I do not know where that position is taken in any part of the despatch. Lord Goderich looked upon

the Land tax Act as of five year's duration; and gave the Proprietors the option of commuting at the end of five years; I think that on account of the tax having been imposed for six years instead of five, he consented to allow the tax of the sixth year to go as a part of their commutation. And, your Excellencies, I believe this is the first time this despatch has been brought under your notice.

Com. GRAY.—Yes; and a very important one it is too; read on further to the second question—

Coun. HENSLY.—In regard to the second question raised in our despatch he goes on to say,—Their Lordships' decision is contained in Mr Spearman's letter of the 10th March, but Mr Young, having in his letter of the 4th April controverted that decision, I thought it unnecessary to submit his arguments for their Lordships' consideration before taking any final steps in this matter, you will observe from Mr Spearman's letter of the 29th instant, that they do not see any sufficient ground in Mr Young's communication for altering the opinion which they had previously expressed. In this view I entirely agree, and you will therefore consider the decision contained in Mr Spearman's letter of the 19th March last as a rule for your guidance in this matter.

Com. HOWE.—That settles that point, I think.

Coun. HENSLY.—The whole matter connected with the arrears of Quit Rents has now been brought under the notice of your Excellencies; and whilst we contend they are still due, we leave the question with confidence in Your Excellencies' hands, to come to such a decision concerning them as in your wisdom you shall deem proper.

Com. HOWE.—Assuming that the Land tax Act was substituted for the Quit Rents, is there any likelihood of that Act being repealed?

Coun. HENSLY.—It has been in force for 30 years.

Com. HOWE.—Is its continuance likely to become the settled policy of the Colony?

Coun. HENSLY.—Probably it may.

Com. HOWE.—Let me turn your attention to another branch of the subject;—Suppose that upon a comparison of statistics running over this period, it appears the Legislature in accepting a commutation, or in getting something in lieu of the Quit Rents subjecting the lands to a heavier tax—supposing that were the case, in the event of the Act expiring should not the proprietors receive credit for any surplus which they may have paid?

Coun. HENSLY.—I cannot say. It is scarcely for me to say whether they should or should not. The next point to which I wish to direct the attention of Your Excellencies, is the Fishery Reserves. The learned Counsel on the opposite side did not enter upon the consideration of this question; but I think Mr. Palmer purposed taking it up. The question on the Fishery Reserves arises from the words of the original grants, which are of two classes. (Journal 1859) The first class is thus worded "And further saving and reserving for the disposal of His Majesty, His Heirs and

customers, 500 feet from High water, on the coast of the tract of Land hereby granted to erect stages and other necessary Buildings for carrying on the Fishery." The second clause runs thus;—"And further saving and reserving a Free liberty to all His Majesty's Subjects, of carrying on a Free Fishery or Fisheries on any part or parts of the Coast of said Township, and of erecting stages and other necessary Buildings, for the said Fishery or Fisheries within the distance of 500 feet from high water mark." Respecting the first of these, it is our opinion that the soil is reserved absolutely for the Crown; and respecting the second that the use of the soil is merely given up to the proprietors until any of His Majesty's subjects require it for a Fishery.

COUN. HALIBURTON.—Under the grants we have a right.

COUN. HENSLEY.—What right? Do you say both the reservations are alike?

COUN. HALIBURTON.—Yes.

COUN. PALMER.—The first ground we take is that the Order in Council ought to be obeyed, that is, that merely an easement ought to have been reserved in each grant according to the original order of 8th of July 1767, which reads thus:—

"That in order to promote and encourage the Fisheries for which many parts of this Island are conveniently situated, there be a clause in every grant of each Township that butts upon the sea shore containing a reservation of liberty to all Her Majesty's subjects in general, of carrying on a free fishery on the coasts of the said Township and of erecting stages and other necessary buildings for said fishery, within a distance of 500 feet from high water mark."

SENTRY.—That the soil itself passed to the grantees even under the wording of the exception, taking the whole grant together.

AND SENTRY.—That the lapse of time, at all events would now bar the Crown, because a grant of the reserves must now be presumed.

COUN. THOMSON.—Do you advance that as a legal view?

COUN. PALMER.—I do.

COUN. HENSLEY.—I differ entirely from the learned Counsel on this point, and contend that the soil is absolutely reserved in the Crown. Still I must give credit to my friends on the other side for the boldness with which they express their views in reference to this point, and in facing so many legal authorities.

COM. HOWE.—The point of most interest, I think, is this—supposing you had a legal claim, what would you do with it?

COUN. HENSLEY.—I am bound to establish the claim first.

COM. RITCHIE.—Almost all the people of this Island think these reserves should go into private occupancy.

COUN. HOWE.—Suppose you prove your claim to-morrow, the chances are that this Commission will decide upon establishing the rights of tenants to these reserves, and thus cause them to pass as rapidly as possible, into private occupancies. Yet, I think this would be fair ground for yourself and Mr Thomson to take; viz., that these reserves were seized upon and misapplied.



printed ; that a large revenue was raised from them ; and, that the sum which the proprietors obtained from property which they did not own, ought to be taken and allowed to go in payment for claims which they really did not own.

COUN. HENSLEY.—Respecting the Fishery reserves I may state I did not come here with any peculiar views of my own. No doubt the views of the majority of the deputations from the tenantry tend to that point. I believe it is their desire that they should be merged into the properties of those parties who now occupy them.

[At this juncture, and after an interchange of sentiments, it was agreed that the remainder of the discussion on the Fishery reserves and some other subjects be handed in to the Commission in writing.]

COUN. HENSLEY continues—Your Excellencies will have an opportunity of reading the 300 memorials now on the files of the Court. My friend Mr Thomson will soon go into the subject of the Original grants. As to the evidence taken before your Excellencies concerning the value of land, the learned Counsel opposite apprehends that the views of the tenants on that point will be an improper guide ; and with equal propriety we may say that the views of the proprietors on the same point will be an unsafe guide, for they are as much interested on the one hand, as the tenants are on the other. If—as Mr Haliburton has stated—the tenants are really able to make a living off their farms, and pay their rents off them also, I can only say that from respectable men from one end of this Island to the other, the general expression of opinion has been to the contrary. It is not as if one or two had said so, but your Excellencies know that is the sentiment in general, and you have heard it expressed by very intelligent men. For my own part I must say, so far as my own experience extends, it is very difficult for a tenant to do so unless there be something peculiar in the situation of a man's farm, very few can do it. It may be true—as stated by Mr Haythorne—that farmers may not carry on their operations on a proper basis ; but in very many instances I would ask—Where is manure to be obtained ? It has not been shown that the proprietors render tenants any assistance or even encouragement in procuring that article indispensable to successful farming. I am persuaded that your Excellencies must have seen that it is impossible for tenants generally to make a living off their farms, and pay their rent off them also. Again you will see that proprietors base their calculations on 20 years' purchase, but I think, even taking the statements of the proprietors themselves, you would not consider that a fair purchase. There is a considerable difference between the rent rolls of proprietors, and the sums which they actually receive. Again the expense attendant upon the collection of their rents must be taken into account. And taking these things into consideration, I think your Excellencies would at the very highest figure, take merely the result after these deductions and not the rent roll, at 20 years' purchase, as

suggested by the other side. But I will not trouble your Excellencies further upon this point. As Mr Thomson will enter upon the consideration of other topics connected with the Land question, I shall now give way and leave them in his hands.

#### COUNSEL THOMSON'S CLOSING SPEECH.

If your Excellencies please:—In reference to the question brought under the notice of your Excellencies, I remark that it is one of vast importance, not only to Prince Edward Island, but also to the whole Colonial Government of Great Britain. It is most important that there should not be found in any British Province dissatisfaction so extreme and general as that which has existed in this Colony for many years past. This dissatisfaction has existed in this Island for a long term of years, unless the mass of evidence furnished your Excellencies, has been, from beginning to end, untrue; therefore, admitting its truthfulness, the important duty of adopting such measures as will lead to the removal of this extreme dissatisfaction, will devolve upon your Excellencies. When I came to P. E. Island, I came, I may say, an entire stranger, and now stand before your Excellencies as such; and, since my arrival I have not had any means of becoming acquainted with the condition of this Colony, except judging of it by the feeling exhibited, and statements made by the different parties who from time to time have appeared before your Excellencies: and these have uniformly testified against the evil working of the proprietary system existing in this Colony. I would have been glad had the investigation of this question which involves interests of a magnitude so great, been spread over a longer period of time. During the time your Excellencies' Court has been open, both Mr. Hensley and I have been so much occupied in answering inquiries of all descriptions from different parties, and in inspecting memorials to be brought under the notice of your Excellencies, and in other respects,—our time has been so taken up with these things that we have not had sufficient time to prepare and arrange arguments to present before your Excellencies this day: therefore I feel that I am not in a position to do that justice to this great question which I ought, and which it merits. I feel this, standing as I do in the double capacity of Counsel for the Government and on behalf of the Tenantry of this Island, who are so decidedly interested in having this question settled. I feel this satisfaction, however, that I am not in the position of one who is addressing a jury in a Court of law;—instead of addressing such a tribunal, I appear before one where eloquence can not only have no effect, but before one where failures of the advocate will bring no injury on the cause which he has espoused. I feel that whatever may have been the deficiencies of either Mr. Hensley or myself during the course of this investigation, that the consequence of these failures will not be visited upon our clients. When your Excellencies return to your homes, I feel assured, that with the statistical information which you possess, and the vast number

of memorials you retain — which ought all to have been read, but all of which it was physically impossible for us to examine — when, however, your Excellencies look over these statistics and memorials, and exhaust their contents, you will be enabled to arrive at such a conclusion as will do justice to all parties. I may state, too, that it was quite out of our power to obtain that amount of statistical information which we should have laid before your Excellencies. Our clients are men scattered here and there over the whole surface of the country, and many of these do not enjoy the advantage of a good education, and so, in a great extent, would be disqualified for obtaining necessary information. These may, it is true, possess an abstract right to enter into the public offices of this Colony for the purpose of procuring necessary papers, but, even supposing they had the right, they would scarcely have known into which offices to have gone to obtain necessary documents. But the case was different with the clients of the Counsel on the opposite side. My learned friend on that side has received all the aid which he could possibly desire. He has been assisted by gentlemen who were not for the first time called upon to take up the gauntlet, but for half a century have been battling with the questions under consideration, — he was assisted by men who were fully posted up in these matters, and knew where to put their hands upon any document which would favor their own cause and be adverse to the cause of our clients. In the statistics presented yesterday by the Counsel on the opposite side, there may or may not be contained correct information; but, be this as it may, there is not the least doubt about them being the result of both labor and intelligence. Whether these statistics be correct or otherwise, is not for me to say. As they were not presented in evidence, as I mentioned yesterday should have been done, I am not now in a position to question their correctness. I may state, however, that I have been informed by a gentleman quite as competent to prepare such returns as the gentlemen who furnished the opposite Counsel with the statistics laid before your Excellencies yesterday, that they were cooked up for the occasion. I would not say so on my own responsibility, but had we received them as evidence we might have been able to show that the remark made concerning them is true. When, however, your Excellencies return to your respective homes, you will, of course, examine them, and ascertain how far they have a bearing upon the question under consideration. Had they been given in by witnesses on the stand, we might have put some searching questions to them such as these: — "When did you obtain this statistical information? How did you arrive at your conclusions? Are the statistics authentic? Have you made allowances for mistakes? etc. It is a singular thing that the course which I have just mentioned was not pursued by the opposite Counsel; it is rather singular that that which should have been used as an evidence was employed as an argument. My learned friend attempted to show from the statistics the increase of population in this Island. Now I find by the census of this Colony, that from the year 1841 to 1848, the increase in

the population was 15,000; and from '49 to '53, that it was only 8,651 — about one half; and considering the position of this Island, this is a startling fact. I affirm, too, that it is a great mistake to speak of this Island as being a young Colony. It is not a young Colony, but is now nearly a century old. It, too, is differently situated to a great extent, and in several respects from the neighboring Colonies. From one end of it to the other, and from side to side, the land is nearly all arable, and not any portion of it is more than nine miles from the sea. It has advantages then which the other Provinces do not possess; and, settled as it was about one hundred years ago, instead of having a meagre population of 70 or 80 thousand, it should have a population of 200 or 300 thousand. Had this Island been properly granted away, and had it been put on an equal footing with either New Brunswick or Nova Scotia, one half million of people would, this day, have been living on its bosom, prosperous and happy. The fact is, this meagre, sparse population is one of the fruits of the proprietary system which has existed so long in this Colony. Look at New Brunswick which was constituted a Province at a later period, and we find a population now of 250 thousand at least; and in Nova Scotia the population is still greater. It is well for the opposite parties to bring in statistics in reference to the population of this and the other Colonies, which may have been cooked up for the purpose, to serve an end, but let them consider these facts. And here I would remark that it is somewhat remarkable that my learned friend did not go down to Georgetown with us, but remained here a whole week, cocked and pruned himself, and got himself crammed as full of statistics as ever he could hold.

COUN. HALLIBURTON.—The statistics were only collected the night previous.

COUN. THOMSON.—I don't know about that; I can only say that, for one whole week my learned friend sat upon the hot-bed of proprietors — was surrounded by them night and day, so that no man, save a proprietor, ever saw him after sunset. (Laughter.) We were out occasionally at convivial parties and were abroad at different places now and again, but nowhere was my learned friend to be seen. The proprietors got him, and kept him body and soul. I must, too, do the proprietors justice by saying that they selected a suitable gentleman to plead their cause, for a better speech no a bad case than the one made by my learned friend yesterday, I never heard. Tho' I have been a few years at the bar, I may say that I never heard a more ingenious speech in a bad case. I was aware all along that his cause was a bad one, but so well executed was the learned Counsel's speech, that when it was being delivered I said to myself, "Is it possible that this cause of his which, day after day has been becoming blacker and blacker, worse and worse, now really assumes this aspect, and is capable of being so well defended!" After this colloquy with myself, I felt as if there must have been something wrong — some mistake in the cause of my clients. Doubtless black was made to appear white yea-

today. But how does it occur that in this Island — which to a certain extent is a grazing country, and which has a fertile soil, upon which good crops are raised, and lands as productive as those of New Brunswick or Nova Scotia — how does it happen that it contains a population so exceedingly small? The population is indeed sparse, and this solitary fact shows me, without another argument, that the proprietary system has worked ill to this Colony. Had we only had a week to have adjusted the facts in relation to the history of this Island, and then to have given the prominent or leading facts in the history of this Colony from the time it was first organized — from the time that the fertile Island was granted away in one day — had we, I repeat, had sufficient time to have arranged a few of these facts and evidences, I believe we could have brought before your Excellencies an exhibition of folly on the part of the British Crown, and of outrageous conduct on the part of representatives of the Crown, committed from the period at which this Island was formed into a separate Government in 1763 to 1830, facts with which the people of this Isl. may be acquainted, but which are not known in the other British Colonies, nor to the people of England. — I say if the true history of Prince Edward Island were published and circulated in England, it would, to a greater extent, be looked upon in the same light as the story of Robinson Crusoe. Think, for example, of a Lieutenant Governor of this Island arresting and keeping in custody a number of gentlemen, because at a public meeting they passed a number of resolutions which reflected upon his unconstitutional conduct as Governor — think of their being seized and treated in that manner for encroaching the rights of British subjects! What would the people of England think of that, and of his conduct being endorsed by proprietors.

COMM. HALIBURTON. — Proprietors were incarcerated.

COMM. THOMSON. — Yes, but proprietors first thought that taxation on tyrannical conduct which afterwards reflected upon themselves. All was right so long as an ecclesiastical could be hunted by them like a wolf; but, when that power was brought to bear upon themselves by the Governor, they gave expression to their sense of the injustice. I shall briefly trace the proceedings of proprietors of this Island, from the commencement of their control here, up to the year 1830, and I shall endeavor to show that a more extraordinary course of conduct was never adopted in any country, than that which was pursued by them in this Island. If your Excellencies please, I may cursorily state that I have my clients rights to maintain, and that those rights are all-important to the people of this Colony. The decision of your Excellencies, will, I feel, cause this Island to prosper, or work its ruin; so I trust that when you listen to my remarks, you will not consider them of a harsh description, or attribute them to animosity felt towards any individual; but rather, that you will attribute them to a sense of duty as an advocate. And should I in any observations which I shall make, reflect upon any gentleman or class of gentlemen, I do hope that each of

them will consider that I stand here before your Excellencies, under the solemn sanction of an oath ; and farther, that I should fearlessly set forth the arguments which I advance, and to the best of my ability, as a duty due both to the Government which retained me, and to the tenantry of this Island, on whose behalf I have been retained as their Counsel. In the investigation of the Land question raised in this Island, we find two contending parties ; the proprietors on the one hand — who say they have done every thing that is right, — and the tenantry on the other hand — who maintain that the proprietors have dealt with them very unfairly. Between these two parties there must necessarily be conflicting statements, and it is now my duty to bring to the notice of your Excellencies the statements and evidences of the tenantry, and to show that if they are true, the statements of the proprietors are untrue. As a gentleman, I would be sorry to make remarks which would give offence to any one ; but let us now turn our attention to some facts to see how the case stands. In 1767, proprietors came into the possession of lands in Prince Edward Island for nothing, and that nothing was not "payable in installments." From that period, they have held these lands. But when they received grants of lands in this Island, certain conditions were attached to them by the Crown, to which those who accepted of them became liable. It was a fair bargain : and one condition was to settle the lands with so many foreign Protestants — and another to pay quit rents to the Crown. This was the bargain, and they made it with their eyes open. From the beginning to the end of the investigation of the question in dispute my learned friends on the left were saying — "What right have tenants to come here and dispute their leases? They are their own to them with their eyes open." Granted, for the sake of argument ; but I take it, the proprietors had their eyes open — and mouths, too, perhaps — when they took grants subject to certain conditions, — on the same argument will apply to their clients. Yet, farther : these proprietors were intelligent men, and standing before their King when they agreed to be subject to the conditions of their grants, — a totally different way from poor ignorant tenants brought under terms by fraud and deception. The bargain, then, between the Crown and these men was a fair one, and should have been fulfilled, even as between one gentleman and another, and certainly should have been kept as between loyal subjects and a paternal King. The reasons for fulfilling the conditions of their agreement were indeed strong, but where, I ask, were they carried out in even one single solitary instance? These grants, too, were given in other Colonies, and quit rents were paid in Nova Scotia. It is needless, too, to argue that they could not fulfill them, for no exemption can be pleaded save a physical impossibility. I maintain that there was no impossibility at all in the conditions of settlement ; foreign Protestants could have been brought out to P. E. Island. I grant that it may have been difficult, but many a man enters into a contract difficult to fulfil ; that, however, is his business. All that period the King of England was from Hanover, and being a foreigner

himself, the probability is that they could have obtained his assistance in carrying out the conditions of their grants, had they been disposed to fulfil them. Well, after a flagrant violation of a contract fairly entered into, what is the next thing we find these gentlemen doing? Petitioning the King to turn this island into a separate Government, that they might have an opportunity of committing another and still more flagrant act of iniquity, if possible. Having thus violated their first engagements, they extremely petition the King to erect this island into a Province, they at the same time promising to pay the Civil List of the new Colony. The King — presuming they were honorable gentlemen, I suppose — took them at their word, and in an evil hour for this island, turned it into a separate Government. And did they fulfil their agreement this time? No, but just as unblushing as before did they violate it, and never paid their quit rents out of which the Civil List was to come. Gentlemen from England, whose salaries were to have been paid by those parties who engaged to pay the Civil List of this Colony, were sent out by the King, but they were soon reduced to starvation, and compelled to leave the country. My friend here — Mr. Pope, I believe — produced a document to show that £2,000 of quit rents had been paid in 1814. (?) The proprietors thought it would be a good joke, I suppose, to present that paper; people do glory in their shame sometimes. The gentlemen sent out by the Crown did not receive their salaries, yet these gentlemen now come forward and show that £2,000 of quit rents were paid, which proves that from beginning to end proprietors of this island failed to fulfil their faithful promises. What was England then obliged to do? — and most richly she deserved it — she was obliged to pay the Civil List of this Colony from the time it was established up to 1851; and even to the present day the salary of the Governor of this Province, is paid by the Imperial Government. How can these men, with unclean hands, come here and expect a decision from your Excellencies favorable to them? By their own showing they have no more right to the lands which they claim in this island, than I have to the floor on which I am now standing. Thus matters remained — England paying the Civil List of this Colony. Every now and then, however, an opportunity offered, the House of Assembly was making attempts at escheating the Township lands of this island, which being forfeited should have reverted to the Crown. When we speak of the Crown possessing lands, we know that it means the embodiment of the British people; and, I hold then, that the Crown was guilty of a gross breach of trust — I care not under what circumstances the covenant between the parties was made — and that she was in duty bound to see that the conditions under which she gave this island to the proprietors, were fulfilled. The subject of forfeiture was early mooted; and it was agitated in the general Assembly of this island ever since it dare say that the Lieutenant Governors who ruled this Colony, from time to time, were not absolutely supreme, and ever since it protested against a Lieutenant Governor proroguing the House of Assembly whenever he became displeased with



that body. When proprietors speak about their allowing their rights to slumber, and their fifty years possession, I hold that that possession should have been undisturbed. Has it been? No; for before the proprietors and their agents have present had a being, their claims were vigorously disputed; and whenever would say that the claims of proprietors in this Island were not disputed and fought against, would be held up to the execration of every decent man in this Colony. I understand then, that as a point of law, and as a matter of common sense, their possession should have been undisturbed; and to take any other view of the case would, in my opinion, be manifestly absurd.

Com. RITCHIE.—Do you think that when 60 years' possession is mentioned it means undisputed or uninterrupted possession?

Com. THOMSON.—I do; it was so in the Provinces of New Brunswick and Nova Scotia. In New Brunswick a law was passed in 1757, which was but a transcript of an Act of William IV., which expressly enacted that a continued claim should have no effect. (?)

Com. RITCHIE.—I take an entirely different view of the law. I take it that where parties have had possession for 60 years, no application for it year after year has not the effect of disturbing the possession; but, on the contrary, strengthens it. The mere claiming, and not arguing it by proceedings at law, makes it adverse. (?)

Com. THOMSON.—If a continual claim has operated to prevent the statute of limitation running, either horn of the dilemma must be seized. Either it was so, or the Legislature has been guilty of putting in that clause in the Act; for to say that it should have no operation, when it never had any, would be quite absurd. They were in that position till the Act passed. A continual claim has been urged. (?) Even without that consideration, is an equitable point of view, their claims are forfeited. They received lands upon conditions which they deliberately left unfulfilled, therefore as a trustee for the public the Crown was bound to seize these lands for the people. I maintain that proprietors stand here without the ghost or shadow of a title in law or equity. How then can they expect to get out of this Court unscathed? My learned friend—who evidently thinks his case a bad one—when he touches upon the Escheat question, generally slides off to something else—to attack old Mr. Cooper, for instance; but Escheat is one thing and Mr. Cooper's existence is another. The question is—Had Mr. Cooper a right to agitate Escheat? Was there anything in his arguments? I answer and say—Yes; there was a great deal in his arguments for Escheat. But, so far was Mr. Cooper from being the first advocate of this question, that in fact others had occupied the same ground long before him. My learned friend informed us that Mr. Cooper, when an agent for Lord Townsend, cheated him, and that when he lost his office he turned an escheator,—a most extraordinary argument to bring before this Court to prove that there was nothing in the arguments advanced by him

in favor of excheating forfeited lands. I shall now refer your Excellencies to the Journals of the House of Assembly of this Island for the year 1833, page 39, resolution 11th :—

" *Resolved*, That it is the opinion of this Committee, that there are still large tracts of land liable to forfeiture in this Island; from which circumstance, longer to delay the establishment of a Court of Excheat, similarly constituted with those in the neighbouring Provinces, can be regarded in no other light than a denial of justice to the Colony, and would inevitably tend to retard its settlement, cultivation, and general prosperity; and that, were the lands liable to Excheat sold in small tracts to actual settlers, the consequence to the inhabitants would be lasting and beneficial."

Here, your Excellencies, was collected the wisdom of this Colony speaking out on this question. It was referred to a Committee of the whole House, who examined witnesses, &c., and reported by a number of resolutions. The tenth resolution of the Committee is as follows :—

" *Resolved*, That it is the opinion of this Committee, with reference to Viscount Goderich's Despatch of August 1st, 1832, to his Excellency the Lieut. Governor, that the intention therein expressed, in the event of any lands being Excheated in Prince Edward Island, that there would be no remission to the occupying tenants of the portions on which such portions of the said Lands as were actually occupied are held of the Proprietors, would, if carried into effect, place a large proportion of the inhabitants of this Island on a footing much worse than that of the settlers in the neighbouring Provinces.— That the said Tenantry, in general, are a loyal and deserving class of men, and would, in the event of the lands they occupy being excheated, have a strong claim upon the indulgence of Government, from the consideration that it is well known in their persevering and industrious habits that the lands in question have arrived at their present value."

Now we shall see what the division was on these resolutions, to ascertain whether Mr. Cooper was the only gentleman who advocated Excheat. Before the division was taken, a motion was made to the effect that the report of the Committee be not agreed to, on which the division was :—

Yeas: Mr. McDonald and Mr. Nelson.

Noys: Messrs. Green, Hyndman, Pope, Brecken, Cady, Willock, Hines, J. S. McDonald, Brennan, Darymple, Owen, Cooper, A. McDonald.

To say the least, Mr. Cooper was certainly in respectable company; and in the twelve resolutions reported by the Committee, there were but two dissentient voices in the whole Assembly. My learned friend, I think, had not seen this Journal before he came to Court yesterday, for if he had, he would not certainly have called Mr. Cooper the "Apostle of Excheat," and spoken of him as being the only person who went about carrying this fire-brand. If he did not see this Journal, we may assume that

it was sedulously kept out of his sight; and if he did, then he is chargeable with a *suppressio veri* — a keeping back of a part of the truth. Such then is a specimen of the arguments used here yesterday against *façeats*, and when you find men keeping back facts, like these, the conclusion that their cause is a bad one is inevitable, for men do not resort to subterfuge when their case is a good one. Such a course, however, was adopted yesterday, but who is to blame I do not pretend to say. At any rate Mr. Cooper was not entitled to all the compliments which were paid him yesterday. Mr. Haviland came to this Court and stated that Sir Graham Montgomery — and I think he must have looked up his papers with great care — who partly owned Lots 34, 51, and 59, complied with the conditions of his grants; but on so far as Lot 51 is concerned, his statement does not correspond with the first of a series of resolutions drawn up and passed by the House of Assembly, in 1797, viz.:—

*Resolved*, That it appears to this House after having fully investigated with the strictest attention the state of the lands in this Island, that Lots or Townships Nos. 1, 2, 3, 7, 8, 9, 10, 12, 15, 22, 29, 44, 45, 46, 51, 52, 53, 57, 58, 60, 62, 66 and 67, containing in the whole 458,680 acres, have not one settler resident thereon.

And this is the only ghost of an attempt to show that any of the original grants of this Island were fulfilled. In the 5th resolution it is stated—

“That it appears to this House, that altho’ the Townships No. 7, half of No. 12, No. 30, and No. 51, are not settled according to the terms and conditions of the grants, the proprietor, the Right Hon. James Montgomery, Lord Chief Baron of His Majesty’s Court of Exchequer in Scotland, has been ever active in his exertions, and has expended large sums of money in the settlement of other lands in this Island. Also that the following persons, Mr. Edward Lewis and Mr. John Hill, proprietors of Townships No. 5, and the late partnerships of John Cambridge & Co., proprietors of Townships Nos. 63 and 64, have made different attempts to settle them, besides expending considerable sums of money thereon.”

In reference to the Townships mentioned in the first resolution, my learned friend on the opposite side remarks that there is room for argument — that the conditions could not be fulfilled — and then comes the question of waiver. In discussing the question of waiver, this distinction must be kept in view, viz., that when a proprietor has forfeited lands, and transfers his claim to another, that that is a transaction between one subject and another; but when the Crown exercises the power of *excheating* lands, it does so not for its own, but for the public good; therefore the most liberal construction should be put upon the exercise of this power on the part of the Crown. The case, however, is different with the landlord and tenant, for the proprietor acts solely for his own benefit. When, then, the Crown claims a forfeiture it is *pro bene publico*, and I argue that the Crown

cannot waive a forfeiture of this description, and that before a waiver of such a forfeiture could be granted it would be necessary to give a new grant to that effect, issued under the great seal of the Crown, and with the same formality as was used when the original grants were issued. It would be absurd to think for a moment that the Crown could invest a person with any right of this character without adopting that course. Her Ministers may perform absurd acts, but it is the great seal that binds the Crown. I maintain, then, that the right of Escheat was never waived by the Crown, and that it could not have been done save by a document under the great seal. I advance this proposition frankly and fairly, and as one which holds good in law. There is yet another argument against a waiver, viz., a forfeiture could only have been waived where damages could have been obtained, and the Crown was not in that position. All arguments in favor of Escheat are based upon this position — That the Crown could not abandon forfeiture, and, consequently, that it never did do so. My learned friend cannot show that accepting of quit rents was a waiver, and there is no evidence for the acceptance of quit rents from grantees, nor anything to show to which lands they belonged. (?) It may be said the Crown has a perfect right to exercise or not to exercise the power of Escheat, which I grant, for in some instances it may be for the public welfare not to exercise the right, I am at liberty to own that should your Excellencies come to the conclusion that certain lands in this Island are liable to forfeiture, and that you have power to Escheat them, that then you would have a perfect right to exercise or not to exercise your power. I take this view of the matter, unless the Crown by the Act of 1831, transferred or sold its claims to the local Government. In reference to the quit rent question, I will trouble your Excellencies for a short time. The whole fallacy concerning the quit rents on the part of those who say they are not due, is accounted for by looking at the construction which they put upon Lord Goderich's despatch. The quit rents are clearly due. Lord Goderich speaks of their collection as being merely suspended during the operation of the Land Assessment Act. If the local Legislature sees good to allow that Act to expire, then the claims to the quit rents will revive, *prospectively and retrospectively*. The words *prospectively and retrospectively*, have each but one signification. The Counsel for the proprietors argue that the quit rents merely revive *prospectively*, and they only ignore the word *retrospectively*. But every Court of Law adheres to this rule — to give every word in a document its proper signification, and to allow no word to pass without attaching its own meaning to it, if you can give it an expression in consistency with the whole paper. (?) In reference to the quit rents, however, tho' the proprietors solemnly promised to pay them, still, by fraud they evaded their payment, and in every respect come to this Court without the slightest equity. As they evaded the payment of these rents, so they expect to evade the subject in dispute between themselves and the Crown. Ever since there was a separate Government granted to this Island, they have been

begging and praying the Crown to remit to them their quit rents. Again and again the Crown made them offers as to their payment, but all were rejected. Say for example, that a man owes me £100, and I say to him—"Pay me now £10 and I will remit to you £90,"—would it not be a strange thing for him to turn round and say—"I will not pay you a single farthing? Yet proprietors act a part similar to that, tho' the Crown gave them time to pay their contribution money. In 1818 the Crown offered them their lands at the rate of 2s a hundred acres; but they did not say—as men who wished to act fairly under similar circumstances would have said—that they accepted or rejected the offer, but allowed several years to elapse, till the Crown was deluded into the belief that the offer was accepted. Finally the Lieutenant Governor of that day was obliged to issue a proclamation to the effect that if they did not comply with the proposal of the Crown he would immediately enforce the payment of the Quit Rents. Thus affairs went on, remonstrance after remonstrance having been phied, till at length, with hats in hand, they appear at the King's closet door, praying imploringly for a remission of their Quit rents. From the very commencement to the end, the conduct of proprietors in reference to the Legislature and in reference to the Crown has been most unreasonable. They have proved an obstructive body to the various Governments of this Colony; and through their instrumentality Acts passed by the Legislature never received the Royal allowance. They have been permitted to go to the Imperial Palace, and to make representations behind the backs of the people of this Island,—true or false they have been making representations in this way from the beginning of this business. In support of these statements, allow me to direct the attention of your Excellencies to the Act of 1803, under which a Court of Excheat was established in this Island, and in an extraordinary circumstance which afterwards occurred. In the terms of the despatch sent out at that period, the House of Assembly passed an Act which embodied all the principles which the Crown desired to have enacted. There is every reason to believe that that Act when sent Home would have received the Royal allowance when it was passed in accordance with the wishes of the Crown as expressed through her Ministers; and it continues to be generally believed that it did receive the Royal assent, but was afterwards withheld by interested parties. This is a dreadful charge, but I am not bound to vouch for its correctness. Under the administration of Governor Smith, however, the people could not give them credit for any more honesty than appeared at the surface. There is every reason to believe that the Act was suppressed. The general opinion is that it did receive the King's assent; but was never allowed to be given to the public. I do not say that I have arrived to that conclusion. It is my impression that it was deliberately and fraudulently kept from the King, and that he never saw it; and that proceedings in reference to cheating Lots 15 and 55 were based upon the common law of the land. I think that Act was kept from the King's eye, and that that is the reason why it is not the Law of this Island at the present day.

Had that Act been passed, this Court would not have been called into existence; and peace and prosperity would be reigning throughout the length and breadth of P. E. Island; and instead of the distressed homes now common, a different and happier state of things would exist. Now, supposing for the sake of argument that that Act was put out of the way, who would be most likely to make away with it?—Tenants would have no interest in destroying it—certainly not. They had no interest in keeping it from the King's eye; but not so the proprietors; for, most certainly it was adverse to their interests. This, I find exhausted English patience. The Crown could not stand their conduct longer. A despatch was sent out saying that the Quit rents should be enforced; or that if not immediately paid, stating what would be the consequence. The Act, however, having been passed here never reached the King. Who set it aside?—or who let it drop overboard when it was crossing the ocean? No tenant, certainly. Who then prevented the King from enforcing it?—I don't say who, but I have a most awful suspicion. (Laughter.)

COUN. PALMER offered to read an extract from a book which would throw some light upon the subject.

COUN. THOMSON.—The learned Counsel knows that he is now infringing upon my privilege. He thinks, I suppose, to create an impression that he has the secret; but I have seen little dodges of that kind played before. In 18— the Land Assessment Act was passed—and by whom?—The proprietors could not have been favorable to it; and the Crown would not have sanctioned it had they not broken their promises with it. During the continuance of that Act the exaction of Quit rents was suspended; and it was based upon the despatch of Lord Goderich which says expressly that at its expiration Quit rents shall revive *prospectively* and *retrospectively*. It is quite clear, too, that in 1851 the local Legislature purchased the rights of the Crown in this Island. My learned friend argued yesterday that the Crown could not legally alienate its claims—could not transfer them to a third party,—a most extraordinary position to take,—but all business transactions carried on between the Colonies and the Crown are transacted in the name of the Crown. Again because the Crown made a proposition in reference to the Quit rents, to the proprietors—but which they refused to accept—he argued that it was absolutely a commutation (?) Who ever heard such a proposition? It must have been startling to your Excellencies. A man, e. g., owes me £50 and I say to him, "Pay me £5 out of the £50 and I will let you off;" what would you think were he to turn round after I had made my proposal to him and say,—“I don't owe you anything;”—and the conduct of the proprietors in reference to the Quit rents due the Crown is precisely analogous to this supposed case. In such a manner have these gentlemen acted, who kept their tenants ground down to the earth, and took every shilling from them which they could possibly get—with the exception of Mr Haviland who acted more wisely and humanely. But this is the only instance of a



remission of arrears of rent to tenants. The large majority have not remitted any. Even Mr DeBleis, who I believe is a conscientious and respected gentleman, and who is agent for the largest Estate in this Island, says that there is a large amount of arrears due on Cunard's Estate which he yet expects to receive. Yes, these are the gentlemen who have been begging and praying importunately for a remission of their Quit rents, and yet they keep that dreadful debt hanging over the heads of their tenants, and refuse to remit to them one shilling. Such, then, your Excellencies, is a specimen of the conduct of proprietors, and such is the position of their unfortunate tenants. So much for the part of our subject in reference to Quit rents:—I maintain they are due, and I am sorry I have not time to go into statistical information on this point. Should your Excellencies decide upon allowing proprietors a sum for the lands which they claim, I hold that the amount of Quit rents which are justly due by them, should be deducted from that sum. Beyond the shadow of a doubt I think such must be the result of your decision. I shall now show your Excellencies the effects produced by the Landlord system which has existed so long in this Island. Assume that Quit rents are due, or that they are not due, in either case there is one preliminary question which must needs be settled; viz. (the present system of tenancy to be perpetuated, or no longer to exist in this Colony?—I sincerely hope it may cease. I believe the hand-writing is already on the wall, that the sentence for the destruction of the tenant system has gone forth. I hope the day is not far distant when the lands in this Colony will be held, not by serfs, but by freemen, and I do so without being regardless of the rights of the proprietors. Assuming that these gentlemen are entitled to a compensation for lands of which they represent themselves to be the owners, still as proprietors they should not be allowed to exist one hour longer than is necessary to give an award that will terminate forever this degrading proprietary system. As one reason why it should be abolished, I urge the sparseness of the population. This Island should be settled at this present day by one half million of people, and its inhabitants would have numbered that many had this system not prevailed in this Island from its first settlement. When my learned friend alleged the larger crops raised here as an evidence of greater prosperity than was enjoyed in New Brunswick and Nova Scotia, where the population was proportionally greater, his reasoning was quite fallacious, either his premises were untrue, or if true his conclusion was not fairly drawn. Nova Scotia is a country of mines and minerals, and being such, the attention of a large portion of the inhabitants is not necessarily turned to agriculture. As to Cape Breton—set forward as a type of P. E. Island—he was greatly in error, for crops immeasurably larger are raised in Cornwallis N. S., than in Cape Breton; so in taking Cape Breton as a type of P. E. Island he must have deliberately selected a portion of the country inferior to this Island. Parts of Cape Breton and Maine are iron bound and wholly unfit for agricultural productions, and to



take them and hold them forth as representatives of the capabilities of this Island was a great mistake. In reference to the argument drawn from the population as taken from the census, it must go for nothing. I am aware that in New Brunswick the census as last taken was a matter of public discussion, for they were said to have been most improperly taken. This Island, in 1773, had a sufficient population to induce the British Government to form it into a separate Government, yet at the present day there is only a population of 70 or 80 thousand, while in New Brunswick, a younger Province, there is at least a population of 250,000. Between the years 1848 and 1850, there was a falling off of the rate of increase of the population of this Colony of about one half when compared with the previous period, 1847. In this Island, too, the timber trade has ceased, and ship-building has gone down, so the people must necessarily turn their attention to the cultivation of the soil. But further, look at the effects of the proprietary system in another point of view. In a kingdom, we know, there shall only be three estates—the Sovereign, Lords and Parliament—over the subject of the realm, but how does the case stand in this Colony?—In addition to the representatives of the Sovereign, and to the two Chambers which represent the Lords and Commons of Britain, there has existed a fourth estate in this Province which had power to put a veto on the acts of the other three estates. I assert this as a fact, and it will not be denied by any, save perhaps those who are wedded to the proprietary system, one of the effects of which has been to establish a fourth body in the Government of this Island, which has been unknown in the history of any other Colony. As I make not these assertions without proof, allow me to direct the attention of your Excellency to a Letter written by a proprietor behind the back of the three estates already mentioned, and the people of this Colony, and sent to the Colonial Office. It contains libels, I believe, on the people of this Island, of a most gross description. Outside the Government of this Island, then, proprietors of lands in this Island have been exercising a power which the Crown alone should exercise. This fact proves that the Legislature of this Colony was not even an exponent of the wishes of the public, nor the trustee of public interests. When the local legislature passed the Rent Roll Act, and the Tenants' Compensation Act, the proprietors of this Island raised a tremendous outcry, and as the result of representations or misrepresentations made by them to the Home Government, the first mentioned Act did not receive the Royal assent, and consequently never became the law of this Colony. In the Journals of the House of Assembly for 1850 is the copy of a letter written by Mr R. B. Stewart, and addressed to Lord John Russell, praying that certain Bills passed by the then last session of the Legislature might not receive the Royal allowance. It is dated

CHARLOTTETOWN, P. E. I., May 19th, 1855

**MY LORD**—As the proprietor of about 50,000 acres of land in this Colony, I beg to be permitted to address your Lordship, on the purport and objects of certain Acts recently passed by the

Colonial Legislature, and about to be transmitted for the Royal Assent. I am but too well aware of the amount of self-government conceded to the inhabitants of this Colony, and exercised by them in unlimited or universal suffrage; still I cannot willingly believe that Her Majesty's Government intend to denude themselves of their just right and prerogative as a Court of Appeal in extreme cases of injustice, such as those intended here, and to which I now entreat your Lordship's attention.

I "An Act to impose a Rate or Duty on the Rent Rols of the Proprietors of certain rented Townships Lands in Prince Edward Island, in order to defray the expenses of any Armed Force which may be required on account of the withdrawal of the Troops, and for the farther encouragement of Education."

The proposed rate or duty is to be 5 per cent. upon the annual rental of each proprietor of more than 500 acres of land, whether the rent be paid or unpaid. An exclusive tax to be solely levied upon one kind of income, may well be deemed unjust and oppressive. A penal tax upon the ownership of wilderness land, in the form of that Land Assessment to which I am already subjected, is now intended to be seconded by a penal tax upon the rental of leased land; a penal tax, I ought to say, upon our bad debts: for at least 50 per cent of the rents due to me under lease, may well be termed bad debts, and not recoverable without a waste of time, money and trouble, which may demand the sympathy of British noblemen, unused to such evils and annoyances in the recovery of their just dues from tenants on their lands. By one existing local law of this Colony, the landlord is debarred from the remedy open to all other classes of Her Majesty's subjects—the small Debt Court; by another existing local law, the process of distraint for rent is rendered so difficult as to be almost impossible especially, on property managed by Agents. By means of my own active personal agency on my own land, and by the aid of two or three active, honest, and resolute followers, I am able occasionally to effect a distraint by way of making example of some more than ordinarily knavish or insolent tenant: but this cannot be done without employing two or three men, and those actuated by attachment and good feeling towards myself, instead of the one man for whom the law allows me to charge expenses: and by maintaining and supporting, as it were, a garrison in the enemy's stronghold during the injuriously long period to which the law has extended the time for holding possession of the distrained goods, before sale. The preamble of the Act against which I address your Lordship recites that the proprietors, by certain covenants in their leases, contrive to evade the payment of the Land Assessment, and to saddle the tenant with it. The tenants indeed are generally bound by their leases to pay the Land Assessment, as well as their rent, much as tenants in England are bound to pay tithes and rates, but many of our tenants here pay neither Land Assessment nor rent; and if the proprietor in such case do not pay the Land Assessment, his freehold is proclaimed and sold by the Sheriff. Besides this, and much more than this, is the oppressive penal tax on wilderness or un-

occupied land on which there is neither lease nor tenant: the proprietor cannot even attempt to evade the tax upon this portion of his property: in my case it amounts to nearly as much as all the rents which I receive from my leased land. The preamble of this Act, and its consecutive sections, cannot but strike any impartial reader as breathing the strongest spirit of hostility to the landlords, speaking of "Proprietors, factors, trustees, receivers, or owners of more than 500 acres of land," much in the same tone as some old Acts of Parliament use in denouncing rogues, thieves and vagabonds, to be suppressed and put down for the benefit of the community. With regard to any armed force which may be required on account of the removal of the troops, our local Legislature are not likely to deem such force necessary for any purpose, and most assuredly not for the benefit of the proprietors, in enabling them to recover their rents, in the face of open and violent resistance to the Sheriff, as I myself can testify from experience. Nor was the case different under the old or exclusive regime. The late Col. Lane, when acting as administrator of the Government after the decease of Sir Donald Campbell, assured me that he had instructions, forbidding any such employment of the military force. This was in reply to my application to him on the circumstance of one of my tenants having stabbed a Sheriff's officer with a bayonet, and when at length arrested at my suit, he was rescued from the hands of the said officer by a mounted body of armed ruffians, who were accompanied, and seconded by, a member of the Legislative Assembly. The proprietor can look for no benefit from any armed force, and surely he at present contributes, under the Land Assessment Act, more than a fair or just proportion of his means for the encouragement of public Education.

2. "An Act to secure compensation to Tenants in Prince Edward Island, and thereby to promote the improvement of the soil." By this Act it is intended that when a tenant is in arrears of rent, and the landlord would proceed by the usual mode of distress, followed, when nothing can be found upon which to distress, by an action of ejectment, the tenant shall compel his landlord in the first place to compensate him, the tenant, for whatever improvements may have been made upon the land, since the commencement of the term, the value of such improvements to be ascertained by arbitration. Until within the last nine years, the period during which I have been a resident proprietor in this Colony, I was intimately acquainted with the practice and theory of the management of landed estates in Great Britain. The present Act does certainly seem to me a monstrous innovation upon all those principles which I had been accustomed to consider fixed and established by justice and usage, in regard to such property. But the evil of such an Act as this would be less extreme in Great Britain than in this Colony, wherein ninety-nine persons out of every hundred have a direct fellow feeling and personal interest on behalf of the tenant, and quite the reverse towards a landlord. I do not hesitate to say that justice is quite out of the question, and could not be hoped for, under such arbitration. The Act would have, and is intended to have, in

connexion with other Acts, the effect of depriving the landlord of every remedy, other than the expensive one of an action at law in the Supreme Court of Judicature,—the rent being no more than one shilling per acre per annum, the defendant being generally destitute alike of property and of principle, the jury being unavoidably composed of tenants, or persons interested for tenants, or hoping themselves to become freeholders without purchasing their land, and the sanctity of an oath being but little regarded when a proprietor is to be injured by its infraction.

[Mr T.—There stands this dreadful charge; and if it be true that tenants are "destitute alike of property and principle," and that "the sanctity of an oath is but little regarded when a proprietor is to be injured by its infraction"—then I state this day I am ashamed to be their Counsel. But I must have proof from other evidences. I take it to be a libel upon the people of this colony. In a country of Bibles, Schools and Churches like this, if it be true there are tenants "destitute alike of property and principle" let me ask who is responsible for their destitution in these respects. If they are poor and ground down to the earth, with but little means to support themselves, are not proprietors responsible in not exerting themselves, and in withholding those means by which such unfortunate wretches may be rescued from that happy condition? A humane man—any right-minded man—could have instituted Sabbath and other Schools in their midst, instead of giving expression to such a grave charge. If such be the character of the tenants of Mr Stewart, he will yet be obliged to stand before a higher tribunal than this one, to answer for his neglect in not putting forth exertions to reform them.]

Under all these adverse influences or circumstances, the landlord has but little chance of succeeding, and still less chance of benefitting by his success, if he should gain his suit. Direct intimidation and threats then are brought to bear against any person daring to take, or to treat with the landlord for taking the vacant farm,—intimidation and threats of injury both to property and person. It is evident that, for the most part, the improvements of the outgoing tenant can be of no value to the landlord, beyond the amount which an incoming tenant would pay for them, when fairly and without undue haste, brought to sale by public auction in the usual way. The value of clearing the land of trees, and bringing it under cultivation, is very generally reduced and destroyed by the tenants improvidently cropping and exhausting the soil, so that many of those very persons who, as arbitrators, would be likely to go to the utmost extent against the landlord, would be equally likely to say, in case of the farm being offered to themselves, that they would much rather take a green wood or wilderness farm at once, and "have all the good out of it to themselves" to say nothing of the timber trees, which the tenant invariably cuts from every part of his farm, and (if not closely watched), from the proprietors' vacant land also, long before a more than very small part of the said farm be brought into cultivation. In common fairness, an Act ought to be passed to give

compensation to the landlord for delapidations and theft by the out-going tenant. I have had a tenant greatly in arrears, who never paid any rent, and who actually removed and sold from the premises a good part of the farm buildings, before making his exit.

[Mr T.—I have read of Sampson walking off with the gates of Gaza on his shoulder, but never before heard of a tenant carrying off a house upon his back.] (Laughter.)

3. In an Act relative to Highways there is the following clause. When land held by a tenant or lessee, under lease, or agreement, or a part thereof, shall be laid off or taken for a line of highway or road, the tenant or lessee shall be discharged from any further or future payment to the lessor or landlord, in respect of the said land, or of a part or proportion thereof, according to the extent or area of the land taken for the highway or line of road.

[Mr T.—I cannot see anything unfair in that. With the question of Eacheat unsettled, and the Quit rents unpaid, I think it was right and proper that proprietors should have been made pay these taxes, especially when they got their lands on the terms which they did.]

I believe this enactment to be an unprecedented novelty in legislation, and quite unjust in principle. The Land Assessment is levied upon the entire area of each Township, *road and all*. The Act of which the above extract forms a part, or some other Act, was passed by the House of Assembly with a provision, that in case a road-way should ever be stopped up, as not being required, the fee simple of the area which had been occupied by the said road-way should go to the tenant and not to the landlord. This enactment was not passed by the Legislative Council. I may also state that an Act was passed by the House of Assembly during its recent Session, requiring proprietors to put their titles on record, before recovering rents from their tenants under lease, agreement or otherwise. I need scarcely point out to your Lordship how directly such an enactment would strike at the root of a great principle hitherto recognised in the letting of real property, that the tenant cannot question his landlord's title. The Legislative Council have not passed this Act, but it was brought forward as a Government measure. As such it was passed by the House of Assembly, and it has been published as having been passed by the Legislative Council, so as to lead the country constituency to believe it to be the law of the land, and thus to be strengthened in their obstinate resistance to the landlord. These facts are proofs of the animus entertained towards the proprietors. As further proofs of such animus, I beg to submit to your Lordship some extracts from a speech made by the Colonial Secretary, the Hon George Cole, in the House of Assembly, on March 29th last, in the course of a debate on the old subject of Eacheat. Your Lordship will see that these extracts are not mere expressions of feeling, uttered during the heat of debate; but that they are deliberate avowals of the past

policy and present views of the speaker :—" Believing that Escheat was impracticable, I have introduced and carried other measures for the benefit of the people, at the expense of the proprietors. This course I promised my constituents at my first election that I would pursue. They approved of it, and they returned me, and I have been returned to the House at every subsequent election, and I have followed the same policy of dealing with the Land Question moderately, but to some practical effect. Under these circumstances I consider myself at perfect liberty to oppose the resolution of the hon. member, and in doing so, I shall endeavour, as the common saying is, to give it a black eye."

"I am satisfied that this House has it in its power to mitigate the hardships of the tenantry, arising from the original grants; that remedy is by taxing the lands of the proprietors. Under that system, the proprietors will soon be glad to come in and offer their lands to the Government under the Land Purchase Bill."

"I think the Bill I proposed to bring in compelling landlords to record their titles, will be a substantial boon to the people."

The following is an extract from the speech of another member of the Government, the Hon. Joseph Wightman, in the same debate :—

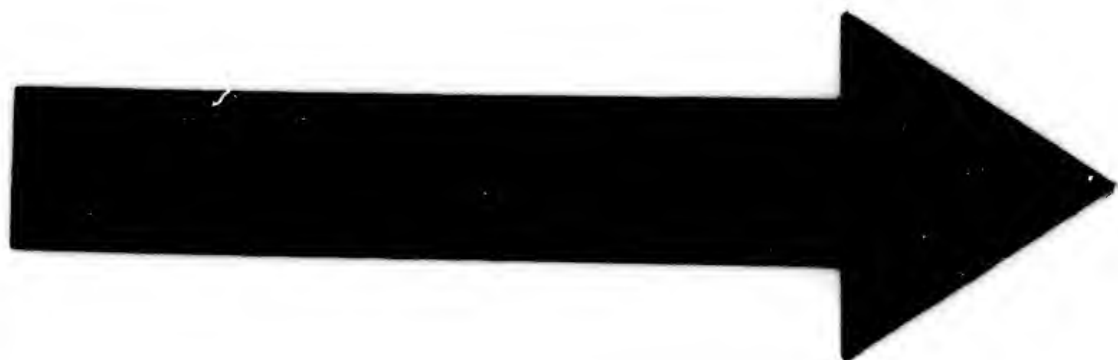
"Before long I have no doubt that the proprietors will be glad to sell their lands to the Government, the land tax they will find to be a somewhat heavy burden, which is not without its influence upon them now. The contemplated tax upon their Rent Rolls, is another step in the same progression."

I am no party man. The two opposing parties who divide our little state, abusing each other under the names of Tory and Liberal, or in Colonial phrase "Snarler and Snatcher,"—

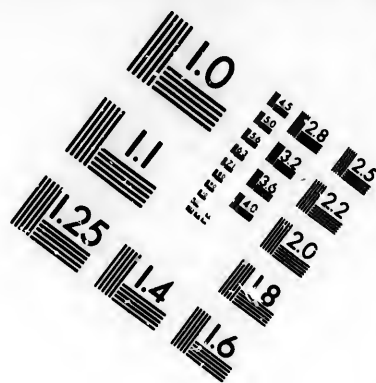
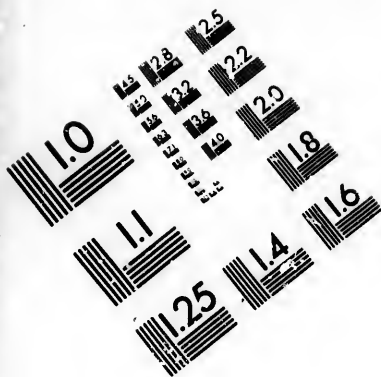
(Laughter.) [Mr T.—I am sure I shall return to New Brunswick with my vocabulary of political names quite enlarged.]  
differ solely upon the division of the spoil, and are, as it were, constantly bidding against each other for popularity, by promising their constituents, and so far as they are able, performing their promise, to keep up an incessant and sweeping attack upon all the rights of property and laws of justice. It is to Her Majesty's Home Government alone that I can look for either protection, or redress against whatsoever party may, by such promises and performances as I have mentioned, happen to be in possession for the time being, of the reins of local rule in this Colony. If an impartial view were taken of almost every Act sent home from this Colony, during many past Sessions of our Legislature, they would appear like guns in a long line of battery converging upon one devoted point of attack, the Proprietary interests.

(Laughter.)

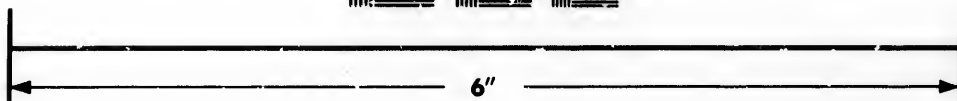
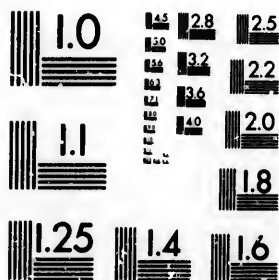
I beg to assure your Lordship that I can confidently and safely challenge the most searching enquiry into the lenity of my own conduct towards my tenantry: and further, that during the nine years that I have been in this Colony, there has not been a single instance, on the part of any Proprietor, of that oppression and







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tyranny with which we are charged by the demagogues who gain their bread by asserting falsehoods. [Laughter.]

Earnestly hoping that the royal allowance may not be given to these continued and unjustifiable attacks upon the Proprietary body.

I have, &c.,

(Signed)

ROBERT BRUCE STEWART.

The Right Honorable

LEONARD BEECHER.

&c. &c. &c.

Now we shall see how the House of Assembly stood fire, for Mr Stewart succeeded in setting up a long line of guns bearing on the Legislature. On April 9th, '56, the House went into Committee on the Letters and Memorials of proprietors sent home against the two bills already mentioned—Mr McDonald in the Chair. Mr McDonald reported that the Committee had gone through the consideration of the matter referred to them, and had come to the following resolutions:—

Whereas by a despatch from the Right Honorable Sir George Grey to the Lieutenant Governor of this Colony, dated 17th November, 1855—an extract of which is now before this Committee—His Excellency is informed that Her Majesty's Government could not advise the Queen to give her sanction to two measures passed by the Legislature of this Colony, namely, an Act to impose a rate or duty on the Rent Rolls of proprietors of Township Lands, and an Act to secure compensation to Tenants in cases of ejectment,—on account of certain objections urged in memorials to Her Majesty the Queen, and to the Colonial Minister, by Proprietors and Agents for the management of lands in this Island; and whereas these objections, as can be clearly shown, are, for the most part based on misrepresentation, and have their origin in selfish motives and views on the part of the said Proprietors and Agents of land; and whereas the Right Hon. Sir George Grey himself, in commenting on the Tenants' Compensation Act, has clearly misapprehended the object of that measure when he states "that its plain and direct tendency is to transfer property in land from the owner to the tenant,"—the real object of the Act, on the contrary, being, to use the language of Sir George Grey himself, "to secure to the tenant the enjoyment and profit of his improvements, and to protect him against harsh and oppressive conduct at the hands of his landlord;" *Resolved*, that this Committee deeply regrets the disallowance of the Rent Roll and Tenants' Compensation Acts; that the objections urged against their passage in the memorials and petitions of the land proprietors referred to by Sir George Grey, are untenable, frivolous, and in part highly offensive to the Legislature and people of this Island, and that this Committee regards the successful interference of the proprietors of land against the Acts referred to, as derogatory to the honor and independence of the Legislature of this Colony, in so far as its efforts are directed to promote the peace and prosperity of the people committed to its care.

**Resolved**, That while this Committee fully recognize the inalienable right of Petition, and would not deny its proper exercise to any class of Her Majesty's subjects, yet they cannot hesitate to enter their solemn protest against a most flagitious abuse of that ancient right, as is the case with respect to the petitions and memorials of the land proprietors and their agents, against Acts of the Legislature of this Colony; and that while it is perfectly constitutional and proper to memorialize the Sovereign against the final enactment of any Law, it is a grave offence to misrepresent the conduct of the Legislative bodies in passing such Law, and to libel the people with whose interests they are interested.

**WHEREAS**, amongst other passages of a similar character, in a letter signed "Robert Bruce Stewart," dated at Charlottetown, Prince Edward Island, May 19, 1855, and addressed to the Right Hon. Lord John Russell, the following extraordinary language is used in reference to the Tenants' Compensation Act, viz; "The Act would have, and is intended to have, in connexion with other Acts, the effect of depriving the landlord of every remedy other than the expensive one of an action at law in the Supreme Court of Judicature—the rent being no more than one shilling per acre, per annum, the defendant being generally destitute alike of property and of principle, the jury being unavoidably composed of Tenants, or persons interested for tenants, or hoping themselves to become freeholders without purchasing their land, and the sanctity of an oath being but little regarded when a proprietor is to be injured by its infraction. Under all these adverse influences or circumstances, the landlord has but little chance of succeeding and still less chance of benefiting by success, if he should gain his suit; direct intimidation and threats are then brought to bear against any person daring to take or treat with the landlord for taking the vacant farm,—intimidation and threats of injury both to person and property." **Resolved**, that the foregoing statements are untrue, both in inference and in fact: that the Compensation Act was not intended to have any such effect as that predicated of it; that the landlords' rights, under its operation, would be fully as well, if not better protected, than the tenants; that the annual rent is, in very many cases, more than one shilling per acre; that the allusions to the character of defendants in cases of landlord and tenant, and to the composition of juries in the trial of such cases, are false, scandalous, malicious, and premeditated libels on the whole community, deserving as such, the strongest reprobation; and that the statement with respect to threats and intimidation against persons and property, being used by any portion of the community, is wholly unfounded; threats and intimidation being unknown, unless perhaps, in one or two cases, where the title of the claimant of the land was believed to be unquestionably fraudulent and spurious. And whereas, in the before mentioned letter of the said Robert Bruce Stewart, the following passage also occurs: "I may also state that an Act was passed by the House of Assembly, during its recent session, requiring pro-

priesters to put their titles upon record, before recovering rents from their tenants under lease, agreement or otherwise. \* \* \* The Legislative Council have not passed this Act, but it was brought forward as a government measure, as such, it was passed by the House of Assembly, and it has been published as having been passed by the Legislative Council, so as to lead the country constituency to believe it to be the law of the land, and thus to be strengthened in their obstinate resistance to the landlord." And the following passage occurs in the concluding part of the said letter, viz: "The two opposing parties who divide our little State, abusing each other under the name of tory and liberal; or, in Colonial phrase, 'snarler and snatcher,' dither solely upon the division of the spoil, and are, as it were, constantly bidding against each other for popularity, by promising their constituents, and, so far as they are able, performing their promise, to keep up an incessant and sweeping attack upon the rights of property and laws of justice:"—*Resolved*, that the statements with regard to the Registry Bill as being a Government measure, and published as having passed the Legislative Council, are utterly untrue, and the imputations so flagrantly thrown out against political parties in the colony generally, as being actuated by a desire to attack "the rights of property and the laws of justice," is an unwarrantable and malicious libel.

And WHEREAS in a Petition and Remonstrance of certain proprietors and agents of land in Prince Edward Island to Her Majesty the Queen, dated 14th June, 1855, it is stated, amongst other things, that under the Land purchase Bill, lands are sought to be obtained for the government, at one-third of their value; and in another petition and remonstrance from the land proprietors (many of them being the same parties who signed the previous petition) dated 19th June, 1855, addressed to Her Majesty the Queen, the following statement occurs, in reference to the 'Tenants' compensation Act, viz:—"It is a specimen of class legislation, of the most odious kind, and can serve no other end than to reduce the value of real estate, already at a very low rate, as may be seen by the price paid by the government for the estate of Charles Worrell, Esq.," and in a further petition of owners of land dated 27th August, 1855, addressed to the late Right Hon Sir William Molesworth, then Secretary of State for the Colonies, it is stated in substance, that the Land purchase Act was passed "to enable the local authorities to resell and dispose of the public lands to their numerous friends and adherents:"—*Resolved*, that the statements thus put forth by the proprietors and agents of land, are, in every respect, unfounded; that government has not sought to obtain land at one-third of its value; that only one Estate has been purchased by the government under the operation of the Land purchase Act, and that was purchased at a price considerably higher than that for which the same land was obtained by a private individual a short time previous to the government purchase; that one of the petitioners who complains of the action of the local authorities in this respect, has recently purchased a large and valuable tract

of land in this Island for a price very considerably less than the maximum price in the Land purchase Act; and that the purchase on his part was effected, while the Tenants' compensation and Rent Roll Bills were under the consideration of Her Majesty's Government,—thus showing the inconsistency of the petitioner alluded to, when he affixed his name to one of the petitions, wherein it is expressly stated that one of the disallowed Bills, if passed into law, would have a tendency to "drive all monied men from the Island, as no one will be inclined, or can be expected to invest capital in the purchase of land;" and with respect to the assertion that the local authorities either did or ever attempted or sought to resell the public lands to their "numerous friends and adherents," it is wholly without foundation,—all persons in the Island, without distinction, being at liberty to purchase from the government, lands on the Estate alluded to.

*Resolved*, That nothing has contributed so much to retard the prosperity of this young Colony, to foster discontent and agitation, and, at times, seriously to imperil its peace, as the continuance of the leasehold tenure, and too often the absence of a conciliatory spirit towards the tenantry on the part of the owners of landed property; and while the Legislature of the Colony, actuated by a sincere desire to promote public harmony and prosperity directed their efforts towards the removal of the evils complained of, by passing such salutary measures as would tend to elevate the character and improve the position of the great majority of the inhabitants of the Island, without injuring the rights of property, or pressing unduly on any class, their exertions have been counteracted by an absentee proprietary body, wholly irresponsible to any authority, aided by resident land proprietors and Agents who invariably embrace the views of the absentees,—that while such a state of things is allowed to prevail, and while absentee landlords, and others, are allowed successfully to thwart the intentions of the Legislature, and thus despotically to wield the destinies of the Colony,—it would be in vain to hope that the people of Prince Edward Island can attain to that measure of prosperity and contentment to which their intelligence, their industry, and their fidelity to the British Crown entitle them, in common with other of Her Majesty's subjects in the surrounding Provinces.

*Resolved*, That an humble Address be presented to Her Majesty the Queen, embracing the facts and views set forth in the preceding Resolutions, and praying that the Royal interference and clemency may be exercised with the view of relieving the Colony from the anomalous position in which it is placed from its being practically under the sway of a power so foreign to the constitution as that of a body of land proprietors, chiefly non-resident,—and that the Legislative Council be requested to join in the said Address.

*Resolved*, That an Address be presented to Her Majesty the Queen, praying that the Imperial government will aid the local Administration in carrying out the recommendation of Her

Majesty's present Colonial Minister, with respect to the further purchase of Township Lands in this Island, and that the Legislative Council be requested, to join in the said Address.

Mr T.—In justice to Mr Stewart, I may state that there were many other memorials read besides his, but I selected his because the resolutions passed by the House were based upon his memorial; and the others were more moderate in their tone. I may remark, too, that I cannot see how any proprietor could have a any desire to live in a country where the members of the Legislature were against him. Were I a resident here, entertaining such views and feelings with Mr Stewart, I certainly would not remain one hour longer than was necessary to make preparations for my departure.—The division on the report of the Committee was taken, and is as follows :—

Yeas—Hons. Messrs Whelan, Col. Secretary (Geo. Coles), Col. Treasurer (Jas. Warburton), Lord, Wightman, Mooney; Messrs M'Donald, Perry, Munro, Laird, Dingwell, M'Intosh, Muirhead, M'Gill. There was one "Nay," and whom do you think that solitary individual was?—He was Mr You. I may remark, too, that I see the names of Messrs Haviland, Longworth and Douse, etc., in the debate, but they do not appear in the division; and what became of these gentlemen, when the others were recording their names against such a tremendous libel?

Comm. PALMER said Mr. Haviland and Mr Douse were absent.

Comm HOWE—Do I understand you to argue, Mr Thomson, that the proprietary system should be broken up, because proprietors in their combined capacity, overrule the Legislature of the Colony and obstruct the passage of Laws?

Mr THOMSON—Yes; That is my argument.

Comm. GRAY—Mr Thomson began by saying there was a fourth estate in this Colony. In addition to the Governor, Council and House of Assembly, that there was the proprietary body.

Comm. THOMSON—I think the proposition which I made respecting a fourth estate in the Government of this Province has been clearly substantiated, and I say of it that it is unconstitutional, anti-British, and should be immediately abolished.—And who knows but what memorial after memorial of this description may have been going home, and the people of this Colony not knowing anything about it. When a memorial of the kind just read was sent home so late as 1856, with Responsible Government established in this Colony and that Government directly responsible to the people, your Excellencies can see the force of the power which from time to time was brought to bear on the Legislature of this Colony.

Comm. HOWE—In Nova Scotia, I presume a memorial of that description could not have been sent to the Colonial Office without being submitted to the Executive and transmitted with a minute of Council. This acts as a check upon the irregular trans-



mission of such documents as the one just read. Is it a part of your argument that proprietors in England have recourse to the Colonial Office in an irregular manner?

COUN. THOMSON.—It is, and I think the time has come when such should not exist any longer. It is startling to think that this memorial was written only four years ago; and I may ask, what the nature of these communications would be previous to that period, when popular rights did not receive that consideration at the hands of the home authorities which they do now? I urge this as one great reason why the proprietary system should be immediately broken down. This system does not exist any-where save in this unfortunate Colony. Had I formerly and I had time to have examined into the history of the American States and noted their condition under this system, I think we could have shown that to be free from it, just such a struggle as was commenced and has been carried on here, took place there. I think we would have shown that not a single Colony, after being able to walk by itself, and speak like a man, to speak metaphorically, tolerated the proprietary system one hour longer than was necessary to put it down. Then why should this Colony stand out in such bold relief, as the only one which should be left the victim of proprietary rule. I do not say that rightful owners should not receive compensation for their lands; God forbid that I should stand here to advocate the cause of the tenantry of this land, or of any other body of men, and argue for the destruction of the rights of property. There may be parties who have received their lands fairly and honorably, and if so their rights should be preserved. In other cases these lands may be the sole dependence of the widow and orphan, and God forbid that I should advocate the taking away of their stay, without allowing them an adequate compensation. In reference to the arguments advanced by us in favor of Escheat, your Excellencies may determine that lands in this Island are liable to forfeiture, and, that the system be broken down, and I ask you to abolish it; but I do not say the property of any one, to which he is justly entitled should be taken away without paying for it; but at the same time, I say in justice to the tenantry it is only right that you should look at the circumstance under which they settled on these lands. In estimating the value of their possessions, you cannot look at them as they now stand, enhanced by the labor of successive generations. Many a poor hard-working man, having been deceived, came out to this country, settled down here, and thus became isolated, and almost cut off from the civilized world. At that period it was as difficult or more difficult to get across the Straits of Northumberland, as now it is to cross the Atlantic. When they arrived here, then, they found themselves helplessly in the power of the proprietors, being obliged to settle down on the terms which they were pleased to dictate or to endure the pangs of starvation. I affirm seriously that when your Excellencies come to place a value on these old men's farms, it will be your duty, as I have no doubt it will be your pleasure to take these things into your serious consideration. Few, very few have attained to a competency under the

proprietary system. It takes a man 25 years in this country, even having the assistance of his family, to put improvements on a farm which would afterwards make it sell for £250; and dare any one compare that fact a similar circumstance in Nova Scotia or New Brunswick? Where would you find an instance of a man living even in the most sterile part of Nova Scotia for that period, and having a property only worth £250?—In most cases, I dare say, it would be worth nearly as many thousands; therefore when you value their farms, it would not be fair to take the rental of £5 as the representative of £100. In cases in which lands have become worth £5 or £4 an acre, on account of the wood growing on them, I think in justice the tenant, not the proprietor, is entitled to the profit. In all cases where proprietors have not improved the lands with their own money, I think it would be fair to look at their value when their tenants settled upon them. Again, look at another evil of the proprietary system. Has it led to fair dealing between man and man?—At St Eleanor's, we were informed of persons who without titles sometimes came as the claimants of certain lands. In other countries, one can go to the public records and satisfy himself as to the validity of a man's title, but not so in P. E. Island. Here, a great gentleman who comes from the Old Country need not produce his title unless he chooses.

[Mr. Thomson here referred to a case which came under his own observation. It was about a lady who gave money to an agent to build her a house, and after it was built said he had not power to give a deed. He said, if the facts were as detailed to yourselves and himself, he would like to see a jury who would give a verdict against the deceived party.]

It was stated on evidence, too, that a Mr So-in-So would come along claiming certain lands, and demand the people settled on them to attorn to him as their proprietor; and if they refused he would take legal proceedings against them. The time for the sitting of the Court would arrive, but there would be no lawyers for the tenant: they would all be on the other side. A man who had pluck enough to stand the proprietor a trial, was fortunate enough to retain a lawyer from another Province. He happened to be on his way from Halifax to Canada. The case was called in Court, but the proprietor did not find it convenient to bring it on at that time. So soon, however, as the tenant's lawyer was gone, and the navigation closed, he found it convenient to try the case, and, of course, the unfortunate tenant having no lawyer lost his suit. Now, your Excellencies, this is no imaginary case; and, if so, may I not ask you what chance a tenant had of gaining a suit in Court here against a proprietor.

Cons. PALMER.—How long ago is it since that case occurred?

Cons. THOMSON.—I don't care how long ago it was; for the time when it occurred is entirely behind the question. Is it a fact?—That is the question. We were informed, too, that in those days certain parties were accustomed to go out in the morning to hunt seashore. I used to hear of parties in Nova

Bastia and New Brunswick going to hunt moose, deer or cariboo, or anything else in season, but what the hunting of ochesters meant, I could not understand. (Laughter.) One of these parties, however, on a hunting excursion one morning happened to fall in with a poor shipwrecked Frenchman. (Laughter.) I am 'not now drawing upon my imagination;' I confess it fails when I see such realities. To be brief, this unfortunate shipwrecked mariner was taken, and without form of law, warrant, or anything to justify their proceedings, was imprisoned; he laid in jail for months, and was not liberated till Mr Young very humanely bailed him out. And this man was taken for no other earthly reason than this—because he looked like an ochester.

Com. HOWE.—You had better tell what became of him.

Cons. THOMSON.—When liberated, he took to his heels and did not halt till he reached the mainland; and since, we were informed, was never seen again in Prince Edward Island. (Laughter.)

Cons. PALMER.—And sold his friend!

Cons. THOMSON.—You could scarcely blame him. I, however, would like to see the man who ever took proceedings against Mr Young who bailed him out.—But if people are liable to be taken up in this Island on account of their fancied resemblance to ochesters, possibly I am beginning to look like an ochester, and may be detained here; if so, and your Excellency from New Brunswick get home before me, I hope you will be so kind as to present my compliments to my people and say that I may be expected shortly. (Laughter.)—I may now state that I am instructed to ask Your Excellencies to enquire into the titles of land claimants in this Island. I at the same time give it as my opinion that you are bound to do so, for it cannot be assumed that every individual claiming to be a proprietor is a rightful owner; therefore, I think Your Excellencies should examine and ascertain what number of titles are good. I have been informed by many of my clients that some titles, at least, are not good. Some proprietors have filed abstracts of their titles, and others have not done so. I would remark here, that extraordinary remarks were made by one of the latter class, during the examination which took place before Your Excellencies. He asserted in Your Excellencies' presence that statements which a tenant had just made were "gross falsehoods," for which he afterwards apologised to the Court; and after interfering with the proceedings of the Court, he filed a protest against the powers of this Commission. Subsequently, too, he offered to file a protest against the hearing of a prisoner who on a former occasion was brought before Your Excellencies. Now that protest was not rejected at my instance only, for Mr Haliburton also refused his consent to its being filed; and Mr Haviland objected.

Cons. HALIBURTON.—I think I stated that it would not come within the scope of Your Excellencies' Commission, and that therefore it would be unnecessary to have it filed.

Hon. Mr HAVILAND.—I objected on the same ground.

Comm. THOMSON.—By the way, I may state that according to evidence given at St. Eleanor's, Governor Fanning purchased two Townships, and gave £8 for the one and £28 for the other, which shows, I think, that the parties from whom he bought them, knew they were liable to forfeiture, or they would not have been sold for nominal sums. Respecting these two lots, 15 and 67 (?) the claimants can expect but little consideration at the hands of this Court. Another evil of the system, is the undue influence which it gives proprietors at general elections; and if there be one thing more obnoxious than another to a man, it is interference of this kind with the free exercise of his elective franchise. Mr Warburton informed us that at one time he was candidate on the proprietary side, and that, after the election, Mr Yen took him into his office, and showed him 82 writs issued against persons who had voted in opposition to his will. He showed Mr Warburton these Writs not as a Merchant; and they were not issued against persons simply as debtors, but as voters. We were told that little reliance can be placed on the statements of tenants; and with equal reason I might say, very little dependence can be placed upon the statements of proprietors, for they are as much interested on the one hand, as the tenants are on the other hand. Your Excellencies are aware that at one meeting held in Prince County, a proprietor was present, endeavoring to prevent the people from appointing delegates to send to this Court;—and here I would remark, that this is one difficulty under which we have labored as Counsel for the tenantry. Tenants were not in a position, in many cases, to come and give the real state of their respective cases. It was stated by my learned friend yesterday, that only one solitary case of hardship, during this investigation, was presented to this Court; but I affirm that if we produced one, that we could have brought forward ten thousand. Your Excellencies, we remembered, said your time could not be occupied in hearing private cases of hardship; and we would not have brought forward that individual case had we not considered the conduct of a proprietor to which I have already alluded, a gross contempt of this Court, which came here as a Royal Commission. Your Excellencies were surely entitled to some little respect. The case which we brought before you too, we knew was one in express violation of your wishes. As regards proprietary influence at elections, we had the testimony also of Mr John McLean, who received a threatening letter from Mr Yen, in reference to voting, and if that influence can be employed in this manner, the sooner the proprietary system is broken down the better. No representative body can be pure under such circumstances. When Responsible Government was granted to this Colony, it was expected that the members of the Assembly would be fairly elected; and that that body would be the exponent of the views of the people; but if the representatives are not elected by the free choice of the people the system should be abolished. I say, if the proprietary system is going to be perpetuated in this Colony, then the House of Assembly

should be dispensed with. So long as that system exists, so long will individual members be sent to the House of Assembly to do a vast amount of injury to the country: therefore either the one or the other should be abolished. Again, proprietors have done little or nothing towards the general improvement of this country. They have not made roads, or bridges, or erected school houses or churches. Mr DeBlois stated that Canard had given something towards some of these objects; and Mr Yoo also, it appeared, had built a whole personage himself; but these individual instances stand out in bold relief against a sterile back ground. Tenants were obliged to build their own school houses and churches, and to make their own roads and bridges, often under great difficulties. At length, however, the Legislature passed an Act to compel proprietors to contribute a proportion of the expense attendant upon the opening of roads. But what does Sir S. Canard—do, to avoid the payment of his assessment under the Act? He applies to the then Solicitor General—Mr Peters—whom the preceding Government would not allow to act for the tenants, to take up the case in his behalf, and thus the Solicitor General was allowed to act for Canard to overset a process of the Crown. On that occasion the Attorney General and Solicitor General were pitted against each other, and the result was that Canard escaped without paying his assessment. The Legislature, however, being dissatisfied, passed an Act authorizing the action to be renewed, but the Act through Canard's influence did not receive the Royal assent; so Your Excellencies will perceive that the influence of proprietors has been of such a character that it has prevented the free working of the Legislature in this Colony. But there is yet another view to take of the Land question.—Assuming that the titles are good, so far as revenue is concerned, and assuming that the Quit rents were given up as an act of grace, with what face can proprietors come to this Court and argue that arrears of back rents should not be given up?—They have placed themselves in the position of that servant mentioned by our Saviour in the parable, who, though he owed his Lord ten thousand talents was forgiven, all. Yet that same servant who was forgiven all went out, and finding a fellow servant who owed him one hundred pence, he took him by the throat, and said—"Pay me that thou owest." Now, proprietors say they have received remission of their Quit rents, yet they will not remit one shilling of their back rents to their poor tenants. The unmerciful servant mentioned in the parable, cast his poor fellow servant into prison, and Your Excellencies know that at this very moment the jail in this city contains a miserable tenant thrust in by his landlord. It contains a man in the most abject state of poverty. That old man was arrested by his landlord, for the sum of £80, and thrust into jail, though it appeared he was worth little more than 80 pence. His earthly career, too, is closing fast, and his gray hairs are rapidly descending to the tomb. According to the ordinary course of nature he would soon go down to the grave, and he is being hastened thither by a wasting disease. There

he lies, at this very moment in that cheerless prison, like the servant mentioned by our Saviour, and he was sent there by the one who claims to have received remuneration from his lord. But I hope that old man will live long enough to appear before a tribunal of his country, and if so, and the course pursued against him can be tolerated in this Colony, the House of Assembly will merit all the reprobation which may be cast upon it, and the time should at once arrive for it to be reformed or abolished. Talk of this Island prospering! talk about its population increasing!—Have the Counsel for the proprietors overlooked the fact that the proprietary system has driven away young men from this Island? Your Excellencies must have noticed the fact that you have seen but few young men in this Province. Among the large crowds which appeared before you here, at St. Eleanor's and at Georgetown, how many young men did you see?—I saw but very few. The assemblages were always composed for the greater part of men beyond the prime of life. With many, the sun of life was evidently setting. I accounted for the fact of there being only few young men present at those places where your Excellencies opened your Court, by the mass of evidence which we received on this point: viz, that the tendency and effect of the proprietary system was to drive young men away from this Island. And when your Excellencies come to put a value on these old men's farms, I would have you remember, that their sons who ought to have grown up beside and around them, were driven from their homes by this cruel system. We know that wherever we may wander throughout this wide world, we cannot refrain from looking back with an affectionate regard to the homes which we left. If there be one feeling stronger than another in the human breast—a feeling which above others would produce the effect of keeping these young men at home, it is love of Country. With all the fond wishes they feel deep breath, for the place where we spent our infant days,—for there we must always cherish a warm affection. All other feelings and sentiments may change; hearts which once loved us may grow cold; and lips which once gave expression to sentiments of loyalty may afterwards utter language of treason, but the feeling of patriotism remains unchanging and unchanged. After the battles and storms of life have been encountered, with emotions of pleasure a man looks back and reflects upon the days of his childhood—upon the days when, with his sisters and brothers around him, he played on his father's knee, and well, too, he remembers his mother's approving smile. He remembers, too, the room which death first visited—the room into which he first entered, and where he held his solemn court over a brother or a sister, and did not retire till he had left a pale face behind him. Thus in after years a man reverts to the days of his youth passed at home; but when you see young men with time such as these—with ties, the remembrance of which nothing but the coldness of the grave can efface, abandon their homes,—when you see a system have power to sunder ties so strong as those which bind a man to home, we turn from it with abhorrence, and regret that such a dreadful one ever existed. I hope your Excellencies



will exercise the power given you by Her gracious Majesty, and adopt such measures as will restore young men now wandering far from the homes of their childhood to that happiness which belongs to young men in the neighboring Colonies. I hope you will restore them to their Island homes, and if you do, down must come this detestable proprietary system, in relation to which I do not know that it is necessary to add much more. The legal points of the question will be argued where and as your Excellencies shall direct. With regard to the Loyalists' claims I say, in no point of view can proprietors come out of this Court unscathed. Thousands of acres were set apart for these people, but of which they have been unjustly deprived, and on that account many of them this day are living in poverty and misery. If your Excellencies please my duties are done, at least for the present. I have endeavored to discharge them with that ability which God has bestowed; and though sensible of many shortcomings in the management of this cause, still I would sincerely trust that, neither by the Government of this Colony, nor by the tenantry, shall I be considered derelict in my duty, or that I have overstepped the bounds which they assigned me as their Counsel. If I have, I can only say that I did not intend to err, on the one hand or on the other; and so leave the case of my clients in the hands of your Excellencies. I do not stand before your Excellencies as an advocate of isolated rights. A great constitutional question, involving interests of a great magnitude, has been discussed. But I feel that I am addressing gentlemen who will make every allowance for shortcomings. However far short of my duty I may have come in the management of the case of my clients, I have the satisfaction of knowing that I can recommend it to your most favorable consideration. Indeed, the case of my clients is recommended to your Excellencies by the highest possible brief—the Scriptures—for it is the cause of the widow and the orphan—of the oppressed against the oppressor; it is the cause of that God who has said in reference to expatriation, which has driven and held young men away from their homes, and which is worse than death—for where death comes and seizes his victim, he is buried out of our sight and we expect to see him no more in this life—but we do not expect to see our relatives leave us for foreign lands no more to return; therefore the Almighty has said—"Weep not for the dead, neither bemoan him: but weep sore for him who goeth away, for he shall return no more nor see his native country." There is an express declaration of the Almighty himself in reference to expatriation, and employing that language I present you with the highest possible brief. I again repeat, that however great my shortcomings may have been, I feel that your Excellencies will not allow them to weigh unfavorably against myself or my clients: so with perfect confidence I leave their case in your hands. I do so with the hope and confidence that this question so long agitated in this Island will be, by you, for ever set at rest; and that the homes over which this dreadful proprietary system has been hanging as the shadow of death, will soon be rendered peaceful and happy and prosperous. I



hope your Excellencies will arrive at such conclusions as will bring happiness and prosperity to Prince Edward Island, so long distracted by unhappy feuds, the offspring of the proprietary system. (Loud applause.)

#### COUNSEL PALMER'S CLOSING SPEECH.

May it please your Excellencies:—In coming before you, I may state that it will be impossible for me, at this late hour, to discharge all the duties assigned me. It has been justly observed by the last speaker that this is a great constitutional question. It undoubtedly involves great questions both of law and facts. As it will be impossible for me now, however, to go into the judicial and other branches of the subject, I intend to be somewhat general in my remarks. As regards the position in which the Colony stands to the Crown, let me direct your attention first to the Act of 14 Vic. Cap. 3, which has an important bearing upon this question. The first part of the preamble of this Act reads thus:—

"Whereas on the Thirty-first day of March, in the year of our Lord One thousand Eight hundred and Forty-nine, that part of the Civil List of Prince Edward Island which had previously been borne and paid by the Imperial Government, ceased to be so paid, and the House of Assembly of the said Island, by an Act passed on the Twenty-sixth day of March, (One thousand Eight hundred and Fifty, agreed to make provision for the payment thereof, provided the Quit Rents, Crown Lands, and Permanent Revenues belonging to the Crown, in Prince Edward Island aforesaid, were surrendered and placed at the disposal of the Legislature thereof, and all the Moneys arising therefrom paid into the Treasury of this Island, and that a system of Responsible Government, similar to that now in force in the Provinces of Canada, New Brunswick, and Nova Scotia, should be granted to, and established in this Island."

Now, this Act, or at least portions of it, was disallowed. It was permitted to go into operation, but the Secretary of State for the Colonies recommended the Legislature to pass a different one on the following year. Accordingly in 1852, an Act was passed in amendment of the other, the 2d and 3d sections of which read as follows:—

II. And be it enacted, That nothing in this Act or the said recited Act contained, shall extend, or be construed to extend, to prevent the grant, sale, lease, or disposal of any of the ungranted lands in this Island, by or on behalf of the Executive Government thereof, and in the name of Her Majesty, her heirs and successors; but all such grants, sales, leases, or disposal of such ungranted Lands, and the management and controul thereof, shall remain and be invested in the Government of this Island, on behalf of Her Majesty, her heirs and successors, or in such Officers as shall be directed by any Act of the General Assembly of this Island hereafter to be passed, and the net proceeds of such grants, sales, leases, or disposal of such ungranted lands, shall, after deducting the expenses attendant upon the management

thereof, be paid into the Treasury of this Island, and an account of such expenses shall be annually laid before the General Assembly of this Island; and the said expenses shall be subject to the control and regulation of the said General Assembly; and no other or greater allowance, salary or expenses shall on any account be taken or increased than such as shall be fixed and allowed, or sanctioned by the said General Assembly.

III. And be it enacted, That it shall be lawful for the Lieutenant Governor or other Administrator of the Government of this Island for the time being, by and with the advice and consent of Her Majesty's Executive Council thereof, from time to time, in the name of Her Majesty, her heirs and successors, to grant, sell, lease and dispose of any ungranted lands of the Crown in this Island, on such terms and in such manner as to him shall seem best and meet for the interests of the inhabitants of this Island, and for such purpose, under his hand and seal, to give and execute all necessary deeds and conveyances,—the same being made, nevertheless, in the name of Her Majesty, her heirs and successors.

These extracts from that Act show that the Crown did not wish the Colony to be in a different position regarding the granting, leasing, or disposal of ungranted lands from what she stood in herself. It is a fallacy then to say that the Colony received no other rights when it undertook the payment of the Civil List, than were necessary to carry on Responsible Government. Now, I shall advert to some of the arguments of the learned Counsel on the other side in regard to the general question. We here occupy a peculiar position, as the argument of our opponents is, "Do away with the system at any sacrifice to the landlord, because it is obnoxious." To whom is it obnoxious? Is it so to the landlord? If any class has a reason to complain, it is the proprietors. I think I can show that they are the injured party. The arguments made use of on the opposite side are these. First, the proprietors are harsh and grasping. But facts speak louder than words, and I request your Excellencies to refer to your notes of the evidence brought before you, and see if the conduct of the landlords can be called "grasping." On every Township it appears there are arrears of rent, and on some these arrears are very heavy. Why is this? Were the proprietors unable to collect the rents? They think they could have collected them, and so also do the tenants. Now, your Excellencies, is it not unreasonable to suppose that the landlords allowed these arrears to accumulate in order that they might have an opportunity of pouncing upon their tenants? This argument of the learned Counsel who last spoke astonished me; surely he has not been correctly informed. In all the evidence before your Excellencies, I ask if you have notice of such a case. To employ an argument of the kind here, therefore, we consider very unfair. Another argument brought forward by the opposite Counsel is that some of the tenants are so poor that they cannot do more than exist. Now, I ask, if this be the case, how are they to become able to purchase their leaseholds at any price, that is, those who cannot and

do not pay any rents or very little? Are some means of acquiring money to spring up by magic, that they are to obtain this ability? We maintain that the reasoning of the learned Counsel is fallacious. If the tenants are unable to pay any arrears, how are they to effect a purchase of the fee simple of their farms. Another argument of our opponents is, the constant drain out of the Colony occasioned by the transmission of rents to absentee proprietors. We admit to a certain extent that this is a grievance; but on the other hand, what is to become of the purchase money if the lands are sold? I presume that those proprietors who reside on the Island will spend it here, as they now do their rents; but those who are absent will spend it abroad, just as is at present the case with their incomes derived from the land. To attach much importance to this objection would be improper. For example, if a British merchant takes away money off the Island for goods, it is draining the country in the same manner; but to urge that such a merchant should not collect his debts here, because the money would be taken away, would be absurd and most unjust.

Com. HOWE.—It is unnecessary to dwell on this point. It is no matter whether a proprietor resides in London or Florence; if the system be broken up, it will be upon its general merits.

Coun. PALMER.—Then why is this point so generally harped upon, and pressed so strongly on the Court?

Com. RETRICK.—It was an evil to grant the land at first in a manner that admitted there were to be absentees.

Coun. PALMER.—I am willing, then, to dismiss this part of the subject. . . . Another argument employed was, that a good tenant, who has regularly paid his rent, should come in for a share of the spoil. I cannot see that if the proprietors have been lenient, and allowed some parties to run into arrears, that is any reason why they should be required to lose in regard to others. Such an argument amounts to nothing, or rather it would punish the clemency of the proprietor and foster carelessness and indifference in the tenant. Another argument is, that the proprietors have not paid their quit rents to the Crown, therefore they should not demand rent from their tenants. Now, this is the first time that I have heard it reasoned that two wrongs make a right. Admitting that the Crown as a matter of grace may have seen fit to give up certain claims on the proprietors, is that any sound reason that you should now virtually abstract from the pockets of the latter, rent, that may be due them by their tenants. This is no sound argument, either legally or otherwise. If Her Majesty, for reasons best known to herself, has remitted the quit rents due by her tenantry, the proprietors, does that say that the latter should surrender their claim for arrears of rent on parties who have nothing to do with this remission by the Crown?

Com. HOWE.—I may direct your attention to this; the Crown rented its land to the proprietors for a certain purpose, that was to settle the land—not for individual advantage. The proprietary system has engendered certain disputes, and the Crown it is said has given up its claims to arrears of quit rent:

now as regards the disputes between landlord and tenant, should the proprietors not grant some such similar remission?

Com. RITCHIE.—Do you, Mr Palmer, take your position as a point of law.

Com. PALMER.—Undoubtedly that is my position: the arrears of rent are something which do not belong to the people here, and should not be swept away without a consideration. They are not the property of the tenant, though the Crown may have given up some arrears of quit rent due by the proprietors. Your Excellencies must look on this question as one entirely between subject and subject, and one with which the Crown or Her Majesty's Government, or the Colonial Government, are not concerned; that is to say, it is in fact a bare question between the proprietor and the tenant of the present day, and, as such, strictly within the scope of this Commission. It will be quite apparent to this Court, from the Proprietary titles already before it, how frequently the estates have changed hands, both on the part of landlord and tenant. Whatever were the considerations paid by the original grantees, they have become more valuable as they have passed to strangers in later times, and have been greatly subdivided by hereditary descent and otherwise; so that now the proprietary estates in many instances are vested interests in many persons, male and female, constituting their sole means of living; the tenants in very many cases being far more opulent than their so-called landlords. Yet this Court is asked, because the Crown of Great Britain in former years saw fit in its bounty to give up certain claims against certain of its tenants, the proprietors of that day,—you are requested to enforce this principle on parties whose circumstances are entirely different, and where, in cases such as I have just mentioned, it would work monstrous injustice.—It cannot seriously be expected that this Court will give way to a mere popular clamor on such unreasonable premises. Another argument of the learned Counsel is that no Colony can prosper under such a system as obtains here, therefore it should be swept away as soon as possible. In the first place, we contend that this statement is not borne out by facts, as shown by the statistics laid before you. This Island has prospered in regard to population, and in other respects, as seen by the returns, in a greater ratio than the other Provinces.

Com. HOWE.—In what manner do you make that appear?

Com. THOMSON.—By showing that here the population is only 70,000, while in Nova Scotia it is 250,000.

Com. PALMER.—Yes, but that Province has a much larger area—in proportion to our area we are very far ahead of you. A good deal of stress was laid by Mr Thomson on the remark, that they had not opportunities to judge whether the returns before the Court were correct or not; but the Counsel on the opposite side have possessed just as great facilities as we have had. But I must now refer to another point. Receiving rent for the fishery reserves has been styled as an act of spoliation and robbery. I must say that I was astonished when I heard

this expression. Now, I am satisfied in regard to the proprietor's right to these.

COEN. HENSLEY.—I understood that the fishery reserves were not to be taken into the argument to-day.

COM. RITCHIE.—Had you not better turn your attention to the despatches.

COEN. PALMER.—I thought it was my duty to correct any statements which were made by the Counsel for the tenantry. I must refer to what has been said as to the political influence of landlords on this Island. It has been advocated that on account of this influence, the proprietary system should be done away with. My opinion is that such has been the political influence of the tenantry, that if the proprietors have had any success, it is a matter of wonder. We know that politicians take hold of whatever is most popular, and the system of landlord and tenant has ever been the political nest-egg of Prince Edward Island; and when we think of the dislike with which proprietors are regarded in this Island, it is almost a matter of astonishment that they have not suffered more from class legislation. The learned Counsel when referring to certain resolutions of the House of Assembly, characterized the influence of the proprietors at the Colonial Office as a sort of 4th or 5th estate, and I think as regards their interests, it is a very necessary one. In proof of this, I have only to refer your Excellencies to the Rent Bill, Tenants' Compensation, and other Bills passed by the local Legislature. Notwithstanding these extreme measures, I can show you from the debates of the House of Assembly for 1855, that a leader of the Government—and I may add a popular leader—opposed the question of Echeat. Others, however, strongly advocated the establishment of a Court of Enquiry.

HON. MR. HOWE.—It is quite possible that there have been persons in the Legislature who have advocated the extreme views of the tenantry, and obtained their election through that means; but does it not occur to you that all this goes to show the evils of the system?

COEN. PALMER.—I have adverted to these proceedings of politicians in proof of my position that the influence of proprietors cannot have been great or greatly exerted, or such men would not have been chosen as the representatives of the people; therefore it cannot be held as an argument to abolish the leasehold system. I shall now refer you to a Despatch of the Colonial Minister, under date of Dec. 21, 1855. The concluding paragraph of that Despatch reads as follows:—

"I would observe, that by the proposed Tenants' Compensation Act it was provided that a landowner should, when he ejected a tenant for non-payment of rent, buy up his own land from the tenant at the rate of twenty years purchase of the difference between the original and the improved annual value of the lands. It is to be presumed that if the tenants or the Colonial Government were to offer to the proprietors twenty years purchase of their reserved rents, there are few, at all events, of the non-resident proprietors who would not accept such offers."

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Now, the opinion of the majority of the House, which passed the Tenants' Compensation Act,—and that a majority which did not set the highest value upon lands—was, that the proprietor should buy up his own land from the tenant at 20 years purchase of the difference between the Original and the improved value of the lands; and the Colonial Minister of that day appeared to think that an equal amount should be offered to the landlords for their reserved rents, or that if it were offered few of them would not accept such terms. This was the view of Mr Labouchere, and surely he cannot be denominated a prejudiced person. Before leaving this branch of the subject, I would ask your Excellencies to remember that though the leasehold system is obnoxious to the people of this Island, no correct inference against it can be drawn from this fact. Facts speak louder than words. Look at the evidence of disinterested parties who have come before you; and you will see that the grievances of the tenantry are more imaginary than real. No doubt contrary statements have been made by the Delegates who have appeared before this Court; but their evidence does not fairly represent the general state of the country.

Com. GRAY.—Why so?

Com. PALMER.—Because they have come from the particular parts of the Island where there have been the worst cases, —the poorest and most clamorous; only have pressed themselves upon the Court. It must not be understood, however, by my remarks that I desire a continuance of the present state of this question, for I wish that the tenant system were done away with;—some of the Proprietors, I believe, are particularly wedded to it, if they get an equivalent. But what is the statement of the Hon. Mr Anderson, who is not in any measure interested in this question? He says he has been told by the people that they have found it more profitable to hold land by lease than to purchase it. And circumstances—such as the slow settlement of the Crown lands—go to prove this statement. The learned Counsel, Mr Thomson, maintains that the land should be valued according to the actual receipts of rent. We deem this proposition altogether absurd, because it would be taking advantage of the agitation in the country against the proprietors and the payment of rent. The landlord in most cases would have no difficulty to collect his rent; nothing would require to be done but to go into the barn-yards of his tenants, where it could be obtained in preference to any other claim whatever, if he chose to enforce it. And if proprietors have not done so,—if they have not insisted on their rights, should that be made the basis of a valuation of land. I will now advert to the statement frequently made before your Excellencies, and taken hold of by the learned Counsel on the other side, that the young men are driven from the Island on account of the leasehold system. You must be-ware, and not be misled by this argument, as it touches the sympathies of most hearts. Numbers of young men have left the Island to seek wealth abroad, but many of them have returned and become contented settlers. It is in evidence before you that young men in this Island are sometimes a little inclined to



be above their business. This is chiefly because they have enjoyed greater advantages than their parents: they have received a little education, and have been reared on improved farms; consequently they feel it a hardship to go and commence for themselves in the forest. This dislike to settle on new farms, and the want of means to purchase improved properties, has caused emigration; but this is not peculiar to our Island,—it is the same in all the colonies. What, then, does this emigration prove against the proprietary system? Is it more frequently the case that the sons of freeholders than of freeholders leave the country? We contend it is not. I will now touch on the question of the chest, and give your Excellencies some references to aid you in your investigations after you leave this Island. Great stress was laid, by the Counsel, Mr. Thomson, on the fact that certain Acts were opposed at Home, or not allowed to go into operation. Mr. Cooper represented that the Act of 1803 was refused the Royal allowance, or if it was granted, it never was communicated to the Colony. This statement seemed to make a great impression on the Court.

Com. HOWE.—Such a statement need not have excited much astonishment, for a person of any influence at Home, could, as late as 1841, thwart any measure passed in the Legislature of Nova Scotia.

Coun. PALMER.—That may be the case; but with respect to the Act referred to by Mr. Cooper, as his statement was made here publicly, I have a right to shew that it was not thwarted in this manner. [Read an extract of a despatch from Lord Glenelg about the Act of 1803.] This despatch shews that the Royal allowance was not granted to the Act; and the question is, had this Minister opportunities of knowing whether it was assented to or not. I have heard that one of your Excellencies does not consider himself bound by any number of despatches. It is true that no despatch will bind any person individually; but if it binds the Government, his assent is virtually implied to every act of his own Government,—that is a legal principle decided. There is a nice distinction to be observed here. Now was not Responsible Government granted in this Island by a despatch, in 1851, from Earl Grey to Governor Bannerman?

Com. HOWE.—The reason that I made that remark was because I have seen a great many of these despatches of rather a contradictory nature. My opinion is, that Earl Grey, the Secretary of State to the Colonies, did not understand your position in this Island.

Coun. PALMER.—Whether he understood it or not, Responsible Government having been introduced on the conditions which he laid down, his despatch has become binding. I conceive a despatch from the proper department to be the proper medium for the Crown constitutionally to convey its will in acts of State to the Colonies, and thus conveyed, it is binding both on the Imperial and Colonial Governments. The case of *Baron v. Denman*, decided in the Exchequer Court in England in 1848, goes farther than this in principle. In that case Denman, the defendant, was a naval commander on the coast of Africa, with



instructions to suppress the slave trade. He had orders from the Colonial Governor of Sierra Leone to liberate some British subjects held in slavery. He accordingly destroyed the barracoons of a Spanish slave-dealer, stove in his rum casks, and freed his negroes, 841 in number. For this he was prosecuted in the English Courts by Baron the slave-dealer; and it was successfully contended on behalf of the defendant, that, although at the time the defendant had no express authority from the British Government for all that he did, yet, inasmuch as his proceedings had been afterwards communicated to the Lords of the Admiralty and the Secretary of State for the Colonial Department, who had adopted and ratified the act of the defendant by *letter*, the defendant was justified in what he did. The Court there held that if the Crown, with a knowledge of what had been done, ratified the defendant's act by the Secretary of State or the Lords of the Admiralty, the action could not be maintained. They considered the ratification sufficiently proved by the Secretary of State for the Colonial Department, and the other authorities, on receiving the report of the Governor of Sierra Leone expressing their approbation of what had been done,—and that although that approbation had never been published. It was contended, moreover, on behalf of the plaintiff, that the Crown could only speak by an authentic instrument under the Great Seal, and therefore that the ratification ought to have been under the Great Seal; but the Court held that a written or parol ratification was sufficient. Now, undoubtedly this doctrine applies much more forcibly in the cases of the Colonial despatches now under consideration, and which passed from time to time between Secretaries for the Colonial Department, and the local Lieut. Governors, and which, being public State Documents, it is fair to presume would have considerable weight with vendors and purchasers of large tracts of land in this Colony, so that to consider these despatches as inoperative, at this late day, would be manifestly unjust and fraught with great injury. I refer particularly to the various despatches on the Farneham Question, which I intend shortly to refer to. I cannot, at this advanced hour, take up the subject of Quit Rents fully, but I will refer to one point. The Land Assessment was imposed as a kind of penal tax, on account of the quit rents not being paid, and this too on the suggestion contained in a despatch. Now, if the Legislature take action on a despatch, it must be binding.

Com. Hows.—I consider that Spearman's letter is different from a common despatch, as it proceeds from the Lords of the Treasury.

Com. PALMER.—In Spearman's letter, one of the questions is, whether payment of the Commutation at any time within the respective periods of 2 and 4 years, is an entire acquittal of all quit rents retrospectively, as well as prospectively. In giving the decision of the Lords of the Treasury, Mr Spearman, in answer to this, on the 4th April, 1838, considers this question as applying to two distinct classes of arrears,—first, to the arrears due in 1823; and secondly, to those which might accrue due after the expiration of the Act, during the period of commuta-

tion. In answering the first part of the question, he says that it appears to the Lords that the arrears due in 1933, when the Act came into operation, must be considered to have been remitted by authority of the despatch of 1933; but the rents that might accrue after the expiration of the Act should not be remitted.—That is the true construction. Mr Young's letter cannot alter the matter at all; he was contending for that which the construction would not bear, and we are not bound by his letter. It has been stated also to your Excellencies, that the Courts of Law here are under the influence of the proprietors. I repudiate this entirely, and pronounce it to be a libel on the Courts of the Island. I cannot allow it to pass without an unqualified denial. The assertion was made in the other County against the late Chief Justice, and never was there a more unfounded insinuation,—it emanates from very corrupt minds; and this is the first time that it was ever heard of, in this Colony or elsewhere.

Com. HOWE.—There is no occasion to refer to this. The late Chief Justice is above receiving any injury from a statement of this kind. The fact that an imputation was thrown out against the Bar of this Island, at first made an impression on my mind; but when the Hon. Mr Palmer came forward here the other day and stated that he never refused a retainer from a tenant, I am disposed to attach no importance to the charge made against the legal gentlemen of the Colony.

Coun. PALMER.—The Counsel on the opposite side have endeavored to prove that the proprietary system in this Colony has been characterized by oppression, and no doubt they thought the cap-stone was put upon the arch, when an individual was brought in the other day, in *propria persona* of one Terrance Carragher. This person came from a backward part of the country, and one inhabited by people who have made great exertions to oppose the proprietor's claim to the land. Here is a lease belonging to the said Carragher, and since it was executed he has not paid one farthing of rent. Some weeks ago a writ was issued against him. He has been proceeded against in order to be made an example of.

Com. RITCHIE.—What was the use of taking him at all?

Coun. PALMER.—To make him attorn or acknowledge his right to pay rent, which he repudiates; is Mr Stewart by lapse of time to loose his rights?

[The following were the arguments submitted on the Escheat and Fishery Reserve Question by Coun. Palmer, which we think is justice to him we ought to insert here, as he was prevented from advancing them in open Court owing to the lateness of the hour.]

The Question of Escheat is utterly untenable. On whose behalf is Escheat advocated before this Court? It certainly is not a question between landlord and tenant, but it is inferred that all benefits arising from it will flow to the Colonial Government, under the Act of 15 Vic. c. 3, by which the surrender of the Crown lands and permanent revenues of the Crown in this Island are confirmed on the introduction of Responsible Government, but even so, there is no law by which the local Government could take advantage of the conditions of the original

grants, to which it was not party or privy; there is an authority for this position in 4 Keat's Commentaries, and certainly if the conditions of the Grants were broken, there can be no assignment of a condition broken. And it admits of great doubt if the condition to settle the lands with foreign Protestants is not of itself absolutely void, since an alien could not hold Freehold lands or even leasehold for farming purposes. 4 Coke's Reports 33, &c. Besides, the Local Legislature has all along by various statutes recognized the lands as belonging to the present proprietors. See the Township and County Boundary Act, 4 Will. IV., Cap. 15; The Quit Rent Act of 42 Geo. III: c. 2. The Road Compensation Act of 15 Vic. c. 1, and many others. Again, the Despatch of Lord Goderich to Lieut. Governor Young of Aug. 1, 1832, refers to a Court of Exchequer with reluctance, stating that it was abandoned in the other Colonies, and states that the Crown would never consent to unsettle the minds of the Colonists thereby; and again in a later despatch from the same party to the same, dated 20th December, 1834, the grounds assigned for disallowing the Act to encourage settlement and regulate the Exchequer Question, are that the same might be done at Common Law, and that it would be only fettering the prerogative. And again in the Despatch from Lord Glenelg to Sir John Harvey, Lieut. Governor, dated 10th August, 1836, it is expressly stated that the Crown declines to accede to the address of the House of the 9th of April previous, for several reasons, among others that no freehold could be given to foreign settlers, and no benefit to the tenant would accrue as the Crown would step in. Again, in the Despatch from Lord John Russell to Sir C. Fitz Roy, Lieut. Governor, of 25th June, 1851, exchequer is expressly refused on the grounds that the original terms of settlement were impracticable and unjust. So also in reply to Mr Cooper's address on the same subject, Sir George Grey in his letter of 25th August, 1838, states that after fully considering the matter Her Majesty's Government decided that exchequer would be inconsistent with justice and sound policy and unsettle the minds of the Islanders. And as late as 12th February, 1851, Sir George Grey, in his Despatch to Lieut. Governor Bannerman, says that Her Majesty's Government are bound to adhere to decisions repeatedly adopted by his predecessors as regards Exchequer. Now, under the authorities before cited, are not these despatches binding on all parties interested in this question? And it may be that, in view of these very despatches, many proprietary titles have changed hands for valuable considerations; and yet your Excellencies are asked to set them all at naught. Again, it is very questionable whether the condition in the original grants to settle with foreign Protestants is not in point of law absolutely illegal and void, because if it is good for anything, a breach of it would absolutely void the estate and defeat the grant, it is not merely voidable but void. Co. Litt. 215; hence, if the grantees failed even in one settler short of the number within the limited time, his grant is void; then what is to become of all the other previous settlers to whom he may have sold or leased they are without any title and lose their land, this condition would be in effect a condition against alienation, and

therefore void and repugnant to the grant. See 4 Kent's Com. 136, 2 Cruise Dig. 6.

#### FISHERY RESERVES.

The reservation for these purposes in the original grants are of a different nature and involve different questions entirely from those last under discussion, and the hardships said to be entailed on the tenantry with regard to these reserves are undoubtedly more imaginary than real. The order in Council of 8th July, 1767, directing these reservations to be made in the grants, is already before the Court, — it seems to have been very carelessly carried out. The reservation is inserted in some grants not connected with the sea shore at all, in others the form is departed from; in fact the reservations for fortifications, and wharves and naval yards, &c., in the grants without any distinct locality, show clearly how little importance was attached to them at the time. The two forms of reservation are before the Court, and cited by Mr Henaley in his closing speech. In the first case it seems the Crown makes the Reserve for its own use and disposal for fishing purposes, and in the second case for that of any of its subjects for the same purpose. Now, in the first case, if the Crown intended to reserve *the soil itself*, and thus to prevent the Grantee from all access to the shore, why would it have limited itself, as to the use for fishing merely? and again a belt thus reserved on the whole Island coast would be perfectly not only useless, but highly injurious. What was to become of those parts unfit for fishing purposes? if the Grantee could not possess them, who was to do so? the Crown could not, except for fishing purposes, and was it intended that they should remain wild and useless forever; and thus subject the tenant to useless intrusion and trouble? surely not. In construing these Reservations it is quite competent for the Court to consider the situation of the parties at the time. *Hug. V. and p. 147.* And also to consider the order in Council above referred to. 1 Story's Equity Sec. 165, 2 Price Rep. 200. We contend, then, that all that the Crown intended to reserve was merely a right of giving a License as it saw fit, and that the soil itself passed to the Grantees, merely subject to that right or Reservation. Now in all cases of ambiguity in construing grants of this nature it is quite competent for the Court to consider the usage of the parties under the Grant and their situation as evidence of its intentions see *Hugden V. and p. 147.* 3 Starkie 776. 6 East 398. 3 ditto, 286. Here the Grantees invariably entered into possession of these Reserves with the other lands under their grants, and leased and sold without distinction, subject to the reservation, &c., contained in the original grants, and without any objection on the part of the Crown, and so have continued in their uninterrupted possession for very many years, a sufficient number we contend, to bar the Crown, no matter what the nature of the Reservations. Again, have not the Crown and the local Government at all times recognized and ratified that possession by receiving the Quit Rents, and in lieu of these the Land Assessment from the proprietors and their tenants for these very reserves? This is in evidence before the Court, from the testi-

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many of Mr Haviland and others, the Colonial Treasurers, who proved that the quit rents and assessment has been invariably assessed and paid for the whole quantity of land contained in the Grant without any exception. Now in the case of Devine v. Wilson, which was a case of appeal decided in the Privy Council in England, and reported in Nappa, P. C. C., the Court laid great weight on possession under a Crown Grant coupled with receipt of Quit Rents by the Crown. Besides which, their Lordships were of opinion, that from the long possession of these lands, the jury would have been justified in presuming a customary Grant, confirmatory, by the Crown. So here, your Excellencies, sitting as a Jury, would be quite justified in forming a like presumption. In the case of Powell v. Millbank, Cowp. 203, where the Crown had formerly granted a Deanery of Chester, reserving the Right of presentation, but in two instances the Grantee or those claiming under him and not the Crown, had exercised the right of presentation, it was decided by the Court that although the advowson did not pass by the Grant, yet that it shall now be intended in respect of the continual possession that there was a lawful Grant of the Exception, made by the King; this shall be presumed rather than ancient grants called in question and possession disturbed, and assuming that the *allum tempus* Act extends to the Colonies, still the cases of *Eldridge, v. Knott* Corv. 215; *Goodtitle V. Balam* 11 East 491, 263; *Gibson v. Clark*, 11. and W. 159; and many others decide that from a principle of questioning possession, the Jury should presume anything to support length of possession, even against the Crown, *vid 1, Greenleaf's Evd. 55; Star. Evd. 911*. Again, supposing that this Court were to decide that the Reservation in these grants was good and binding at the present day. How is it possible to give practicable effect to it? It is in evidence, by the testimony of several on both sides of this question, that there is a continual annual wasting and washing away of these reserves by the frost and action of the sea, differing according to locality. At what point on the sea shore is the measurement to commence at this late day? The Crown was bound to preserve its boundaries as much as a subject by breastworks, or otherwise; see the case of *Hall v. Selby Railway Co.*, 5 Moo; and *Wel. R. 832*. This point was the difficulty the Supreme Court of this Island felt in the case of the *Queen vs. J. B. Cox*, tried here, where a general verdict was found for the Crown, and where it was quite evident that a large portion of the reserves had been washed away by action of the sea. Such a verdict was fruitless, because to carry it out by taking 500 feet in-land from the present margin of the shore or bank, would be taking from the owner of the upland soil that which was never included in the Reserve and would be most unjust.

Having thus very briefly touched upon the prominent points for adjudication under this most important commission, I will not further trespass upon the time of the Court by pursuing the various arguments which are in fact exhaustless. Merely thanking the Court for the unwearied attention with which they have devoted themselves to the investigation.

OCTOBER 1, 1880.

The Court was opened according to adjournment. After several documents were handed in, the public sittings of the Land Commission were brought to a close as follows:—

#### HON. COMMISSIONER GRAY'S CLOSING ADDRESS.

Mr Hensley and Gentlemen of the Bar; Mr Haviland and Gentlemen of the Government; Mr Coles and Gentlemen of the Legislature, and of the different Delegations from the Townships of the Island:

In closing for the present the public sittings of this Court, the Commissioners desire to express to the Members of the Legislature, and to the leading public men of the Island, of all shades of opinion, their thanks for the promptitude with which they have responded to the circular of the Court, and afforded information.

The Commissioners desire also to return their thanks to Proprietors who have cheerfully come forward to file their rent rolls and furnish abstracts of their titles; and who have shown a disposition to secure a full and free discussion of the subjects submitted to their jurisdiction.

To the Township Delegates their thanks are also due for the valuable information which the Commissioners have been enabled to put upon their Minutes; and the Court desire especially to record their sense of the respectful deference which has been paid to them by the people everywhere, and of the order and decorum which have prevailed in all parts of the Island which they have visited.

The final decision of the Commissioners must necessarily be delayed for some months. Three hundred Memorials have been presented, and these, with the vast amount of testimony collected, must be examined and digested. The documentary history of the question, scattered over the public files for nearly a century must be viewed with care, the legal questions which have arisen in the course of this enquiry must be gravely considered; and it may yet be necessary to apply to the peculiar circumstances of each Township a more searching inquiry than the Commission, without the aid of an actual valuation, have been or may be able to extend.

In the meantime the Commissioners would enjoin, upon all parties concerned, mutual forbearance and moderation. All may be assured that while the rights of property will be respected, the equities presented by honest labor and the trials of life will be fairly balanced. But in the meantime, it would be a great misfortune to the Province if anything should occur to disturb the peace and harmony which ought to prevail, or to create an impression that the laws of the land will be disregarded!—equally would it be a misfortune, if the rents and arrears were hastily and harshly collected by the Proprietors, or resisted by the Tenants. The Commissioners, therefore, having no power until their judgment is delivered to control either Proprietors or Tenants, would earnestly urge that, wherever Tenancies exist, the year's rent terminating in last spring may be fairly demanded, and ought to be cheerfully paid so that all parties may stand rela-

tively to each other in the same position next year as they do now, neither taking advantage of the delay which it is quite apparent has been forced upon the Commission by the wide range of the enquiry, and the magnitude of the interests at stake.

It is the hope of the Commissioners that they will be enabled to settle the painful dispute which, for nearly a century, has marred the peace and happiness of the Island. Should such be the result, it will probably not be the less gratifying that the relief has come from the hands of your fellow colonists. As your fellow countrymen, therefore, sympathising with your difficulties, sharing your prosperity, and animated by the same hopes and inspirations, we earnestly request, that you will wait with patience the time that the Commissioners will require to deliver their decision; and that in the meantime all parties will act with moderation and mutual forbearance. [Applause.]



FINIS.



## ERRATA.

Page 29, 7th line from the bottom, read the following:—Mr Cundall also stated that that Township is held under a Mandamus, or Order of the King in Council, dated August, 1767, directed to the Governor of Nova Scotia; and that his (Mr C.'s) ancestors, and himself and co-heirs have held continuous possession of one half Township since that time. That said possession has never been successfully disputed or interrupted. That it was most likely that the original owner of their half township, Colonel Bassett, (from the nature of his profession, not having a permanent residence,) neglected to demand his grant until after this Island was erected into a separate Government; when, as a necessary consequence, the Governor of Nova Scotia would refuse to pass a grant. He further stated that the half township, with the exception of a small quantity, still continued in the family,—and that nearly the whole tract had been leased and settled for many years.

Page 99, 9th line from top, read William Clark of Darnley.

" 140, 8th line from top, read 5000 bushels of barley.

" 141, 18th and 19th lines from top, read, " In 1851, oats sold for 1s. 6d. a bushel; since then, they have risen to 2s. and even as high as 3s.

" 240, 16th line from bottom for M. Williams, read Patrick McQuilan of Lot 31.

" 243, 7th line from bottom, instead of whole paragraph read the following:—

Mr Rattray.—As my rent rises in 100 years to 2s. 6d. an acre, and my eldest son was about to leave me for the United States, I wished to purchase my farm in order to induce him to stay at home, by letting him have 50 acres of it. But I was told I could not purchase it for less than £2 5s. an acre.

Mr H. J. Cundall.—Who did so?

Mr R.—Yourself, Sir.

Mr C.—I do not remember that ever I did.

Mr R.—I can bring it to your recollection, if you choose. [Mr R. here entered into an explanation of the circumstances.]

Page 244, 2d line from top, read:—And barley in the neighborhood of Charlottetown, and where a good supply of manure can be obtained, will average from 30 to 35 bushels an acre.

“ “ 8th line from top,—instead of whole line, read:—

Mr R.—From 5 to 7 cwt. will be the general average of hay. The average of my own will be from 7 cwt. to half a ton.

“ “ 14th line from top instead of whole answer insert the following:—

Mr R.—When I arrived here, and for many years afterwards, the best lands in the neighbouring Provinces, in a wilderness state, could be bought from 5s to 7s sterling an acre; and if we are not obliged to purchase our own improvements, I think that would be a fair valuation.

# APPENDIX.



# REPORT

OF THE

## Commissioners appointed by the Queen

TO INQUIRE INTO

THE DIFFERENCES PREVAILING IN PRINCE EDWARD ISLAND  
RELATIVE TO THE RIGHTS OF LANDOWNERS AND  
TENANTS, WITH A VIEW TO A SETTLEMENT OF  
THE SAME ON FAIR AND EQUITABLE PRINCIPLES.

---

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

May it please Your Majesty:

Your Majesty, by Royal Commission, having appointed the undersigned to inquire into the differences prevailing in the Island of Prince Edward relative to the rights of landowners and tenants, with a view to a settlement of the same on fair and equitable principles, they have discharged the duties with which they were honored, and have unanimously agreed to submit to Your Majesty the following Report:—

In 1767 Prince Edward Island was divided into 67 lots or townships, of about 20,000 acres each, and with the exception of three small reservations, intended for three county towns, and the two lots or townships, numbers 40 and 50, were disposed of in one day by lottery in London, before the Board of Trade and Plantations. In August 1767 grants were issued to the several allottees, and contained certain terms and conditions, which may be thus briefly classified:—

1st. The payment of a certain quitrent, varying according to the several lots, from 6s. to 2s. sterling per 100 acres, payable annually on one-half the grant at the expiration of five years, on the whole at the expiration of ten years from the dates of the grants.

2dly. A reservation of such parts of each lot as might afterwards be found necessary for fortifications or public purposes; and of 100 acres for a church and glebe, and 20 acres for a schoolmaster.

3dly. A reservation in the grants of certain townships abutting upon the sea shore, of 500 feet from high-water mark, for the purposes of a free fishery. (A distinction in the terms of this reservation will be afterwards pointed out.)

4thly. A reservation of all mines of gold, silver and coals.

5thly. That the grantee of each township should settle the same within ten years from the date of the grant, in the proportion of one person for every 200 acres. That such settlers should be European foreign Protestants, or such persons as had resided in British America for two years previous to the date of the grant.

6thly. That if one third of the land was not so settled within four years from the date of the grant the whole should be forfeited.

On these terms the original proprietors accepted their grants, the Island at this time being within the Government of Nova Scotia. In the year following, 1768, the proprietors petitioned that the Island might be erected into a separate government, and proposed, in order to defray the expense thereof, that that half of the quitrents which would not be payable until five years after the date of the grant (namely in 1772), should become payable from 1st May, 1769 and the payment of the remaining half postponed for 20 years. This application was acceded to by His Majesty's Government, and, in 1770, the Local Government was organized accordingly. One of the first acts of the Legislature was the taking into consideration the nonperformance of the terms and stipulations of the grants.

During the ensuing five years the quitrents were not paid as stipulated.

During the first ten years the terms of settlement, with reference to population, were complied with only in ten townships (Nos 18, 21, 28, 31, 34, 36, 52, 57, 58, and 59); nine others were partially settled, and 49 neglected; but in no case do the settlers appear to have been foreign Protestants. In 1776, it having become evident that a fund dependent upon the payment of the quitrents was entirely too precarious to maintain the Local Government, His Majesty's Government, on the application of the proprietors, provided for the same in the Annual Estimates, commencing on the 1st January, 1777. But the Lords of the Treasury at the same time directed that all proper means should be taken to enforce the payment of the arrears and the accruing quitrents.

The extent of compliance with the terms of settlement in the respective grants may be gathered from the following resolutions passed in the Assembly in 1797, 30 years after the grants were issued:—

"1st. Resolved, That it appears to this House, after having fully investigated with the strictest attention, the state of the lands in this Island, that lots or townships Nos. 1, 2, 3, 7, 8, 9, 10, 12, 15, 22, 29, 44, 45, 46, 51, 52, 53, 57, 58, 60, 63, 64, and 67, containing in the whole 459,580 acres, have not one settler resident thereon."

"2dly. Resolved, That lots or townships Nos. 4, 5, 6, 11, 22, 20, 21, 55, 61, 63, 64, and 65, containing together 243,000 acres, have only between them 36 families, which, upon an average of six persons to a family, amount to 216 persons residing thereon, and that these lots, together with those above enumerated, comprehend upwards of one-half of this Island."

"3dly. Resolved, That lots or townships Nos. 13, 14, 20, 26, 27, and 42, comprehending 120,000 acres, are settled respectively as follows; viz., No. 13 nine families, No. 14 eight families, No. 20 nine families, No. 25 nine families, No. 27 seven families, and No. 42 eight families, calculated at the foregoing average to consist of 300 persons."

"4thly. Resolved, That the following townships are settled agreeable to the terms of the grants; viz., Nos. 16, 17, 18, 19, 21, 24, 26, 28, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 47, 48, 49, 50, 54, 56, and 59."

"5thly. Resolved, That it appears to this House that although the townships No. 7, half No. 12, No. 20, and No. 51 are not settled according to the terms and conditions of the grants, the proprietor, the Right Honorable James Montgomery, Lord Chief Baron of His Majesty's Court of Exchequer in Scotland, has been ever active in his exertions, and has expended large sums of money in the settlement of other lands in this Island. Also that the following persons, Mr Edward Lewis and Mr John Hill, proprietors of township No. 5, and the late partnership of John Cambridge and Company, proprietors of townships No. 63 and 64, have made different attempts to settle them, besides expending considerable sums of money thereon."

These resolutions were, with others condemnatory of the indulgences extended to the proprietors for the nonperformance of the conditions in their grants, forwarded to His Majesty's Government, with a petition, praying that measures might be taken to compel the proprietors to fulfil the terms and conditions of the grants, or that the same might be escheated, and the lands re-granted in small tracts to actual settlers."

In 1769, (two years after), the subject of this petition was taken into consideration by the Committee of the Privy Council for Trade and Foreign Plantations, the quitrents at that time due amounted to £59,162 sterling, and on some of the Townships, to more than their supposed value. His Majesty's Government, desirous of encouraging the farther settlement of the Colony, determined to accept of a moderate commutation; and discriminating between the proprietors who had exerted themselves to carry out the terms of their grants, and those who had not, divided the commutation into four classes.

1st. From such lots as appeared to have the full complement of settlers required by the grant, four years quitrent was only demanded, instead of 32 years (namely, from 1769 to 1801.)

2d. From such townships as appeared to have one-half the required population, five years arrears, in lieu of all dues up to May 1801 (32 years.)

3d. From such townships as had between one-fourth and one-half the stipulated population, nine years quitrents, in lieu of all to May 1801 (32 years).



4th. From those not appearing to have one-fourth the required population, 18 years quitrents, in lieu of all to May 1801 (23 years.)

5th. From those that appeared waste and uninhabited, 18 years, in lieu of all arrears up to May 1801 (23 years.)

It does not appear that the commuted arrears were paid, and in 1808 the Legislature passed an Act for establishing a Court of Exchequer. It was long opposed, and even before the Commission it was contended that this Act contained no suspending clause; but an examination of the original records of the Colony, and of the correspondence of the Colonial Agent in England, shows that it did, and it also appears that the Royal assent was never forwarded to the Island.

In 1808, several resolutions were passed by the Assembly, of a very strong character, respecting the circumstances attending the Act; and a similar Act was introduced, and sent the Legislature, also containing a suspending clause. An Act was also passed for enforcing the due and regular payment of the quitrents. These two Acts do not appear to have received the Royal assent; and proceedings at law, which were commenced under them, were subsequently suspended.

The agitation on the subject of quitrents and exchequer, for conditions broken in the original grants, appears to have been unceasing from that time to 1833, and the Journals are filled with resolutions, extracts from despatches, and reports of various kinds on the subject.

In 1831, the quitrents had been commuted in the provinces of New Brunswick and Nova Scotia, and all arrears to that date given up. In 1830, an Act for imposing a tax on lands, and suspending the collection of quitrents during its continuance, was passed by the Island Legislature and received the Royal assent. That Act or one of a similar character, has been continued by various re-enactments down to the present time, a period of 30 years. In 1833, Lord Goderich, then Colonial Secretary, addressed a despatch to the Island, referring to the above named Land Tax Act, and the stipulations as to quitrents therein contained, and extended to Prince Edward Island the same measure, with such adaptations as existing arrangements might require, which had been lately adopted in New Brunswick.

In July 1833, Lord Glenelg, in transmitting certain correspondence that had passed between Mr George R. Young and his department, on the subject of the Land Tax Act, the commutation therein referred to, and the quitrents, enclosed the decision of the Lords of the Treasury, expressed in a communication from Mr Spearman to Mr Stephen, as a rule of guidance for the Lieutenant Governor in this matter.

No return of the amount of quitrents paid appears ever to have been regularly kept in the Island; and the total sum shows to have been paid up to 1833 is not quite £6,000. Whereas the amount payable by the term of the grants up to that time, irrespective of any intermediate commutation, would have been about £145,000.

By arrangements made, early in the settlement of the Colony, the proprietors resident in England were at liberty to pay their

quitrents in England. Of such payments no returns have been made, and on application of the Local Government, it was alleged that no record of such payments could be found in England.

In 1839, the question of "Fishery Reserves" began to assume importance, and became a prominent subject of discussion in the Local Legislature. In the Order in Council under which the original grants were issued, is the following provision:—

"That in order to promote and encourage the fishery, for which many parts of this Island are conveniently situated, there be a clause in the grant of each township that abate upon the sea-shore, containing a reservation of liberty to all His Majesty's subjects in general, of carrying on a free fishery on the coast of the said township, and of erecting stages and other necessary buildings for the said fishery within the distance of 500 feet from high-water mark."

The reservation here contemplated was carried out strictly in the grants of 12 townships only, in the following words:—

"Having and reserving a free liberty to all His Majesty's subjects of carrying on a free fishery or fisheries on any part or parts of the coast of said township, and of erecting stages and other necessary buildings for the said fishery or fisheries within the distance of 500 feet from high-water mark."

In these 12 townships it would appear the Crown reserved an easement only.

In 22 townships the reservation is as follows:—

"And further having and reserving, for the disposal of His Majesty, his heirs and successors, 500 feet from high-water mark on the coast of the tract of land hereby granted to erect stages and other necessary buildings for carrying on the fishery."

In these 22 townships, therefore, it would appear that the fee in the reserves never passed out of the Crown, and consequently never became vested in the grantees, or at their disposal.

Of the remaining 22 townships, 18 contain no "fishery reservation," and of five no grants whatever are on record.

In the Appendix to this Report will be found a return of the townships and grants, showing the reservations, taken from the Journals of the Assembly for 1839.

No practical exercise of the rights so reserved in the Crown is known to have been made, and the proprietors, or acting owners of the adjoining lands appear to have exercised the same ownership over the 500 feet reservations as they did over their undoubted property, building, clearing and improving, leasing to tenants, receiving rents, and paying upon the 500 feet reservation, and the granted land, taxes and quitrents without distinction.

Previous to 1814 it does not appear that any licence to carry on the fisheries on these reserves had been issued by the Government; but between 1814 and 1837 five were issued. Of any occupation or enjoyment of the fisheries under these licences there is no evidence. In 1853 it appears that the Government again issued some few licences, but their right to do so was disputed by the parties in occupation of the reserves;

and informations for intrusion, filed by the Attorney General to test the question, were allowed to languish some five or six years, and are still languishing without any final decision having been made.

The opinions of several of the most eminent law officers of the Crown, in England, have been at different times taken by the Legislature of the Island, declaring that the fee of the 500 foot reservation in the second class of the grants, and the right of the easement in the first class were in the Crown, and that in the Island there was no Statute of Limitations as against the Crown. The opinions of equally eminent counsel in England have also been given in some of the proprietors, and placed before the Commissioners, declaring on the other hand, that by the proper construction of the grants, even in those cases where the 500 feet are reserved for the disposal of His Majesty, the fee in the 500 feet nevertheless vested in the proprietors, subject only to a right of use by the Crown for the particular purposes specified.

In March, 1834, the Assembly passed an address to His Majesty, referring to similar addresses transmitted in 1830 and 1832, praying that the lands reserved in the several grants for church and globe purposes, and for schoolmasters, might be sold, and the proceeds appropriated exclusively for the purposes of education. To this address His Majesty's assent was conveyed in month of October, and in the following session of 1835, an Act was passed, "to authorize the sale of Lands in the Island, reserved as "Sites for Churches and for Globe and School Lands."

This Act recited the reservation in the original grants and His Majesty's assent directing the sales, and then proceeded to declare the mode in which such sales should be conducted, and the titles given. In October and November 1836, sales of these reserves were made under this Act, and due returns thereof laid before the Assembly by the Lieutenant Governor in February 1838. It does not appear that any objections to these proceedings were ever raised by the proprietors, or any person claiming under them; no preliminary steps by exchequer or otherwise were deemed necessary, nor was any doubt raised by any party that the fee in such reservations had not remained in the Crown.

In 1783 a number of the proprietors signed and delivered to Lord North, one of His Majesty's Principal Secretaries of State, the following paper, viz:—

"We the undersigned proprietors of lands in the Colony of St. John, being informed that many of the Loyalists at New York prefer a settlement in that Island to one in Nova Scotia, and being very desirous of encouraging such a preference, and of affording an asylum to those deserving fellow-subjects, do engage for ourselves, or as attorneys for others, to grant as we hold of the Crown, and in the same proportions to each family as the other loyal emigrants receive in Nova Scotia, one-fourth of the quantity of lands placed opposite to our names, which they shall receive upon their arrival at Charlottetown, by application to the Governor and Council: and that they may receive the said lands in the fairest and most impartial manner, we will direct that the whole be divided by the Surveyor

" General into parcels of not less than 1,000 acres each, and  
 " drawn for by ballot before the Governor and Council. In con-  
 " sideration of the preference expressed by these loyal emigrants,  
 " and of the conditions offered by us, we have the fullest con-  
 " fidence that your Lordship will give instructions to the Com-  
 " mander-in-Chief of His Majesty's forces at New York, to  
 " furnish such loyalists as prefer a settlement in Saint John,  
 " with provisions and transports to carry them to Charlottetown,  
 " and every other necessary such as is given to those who go to  
 " Nova Scotia: and that your Lordship will also give such in-  
 " structions to the Governor of Saint John as will place such  
 " emigrants in every respect on a similar footing with their  
 " brethren who settle in Nova Scotia. The undersigned are the  
 " more zealous in promoting this measure, as they are persuaded  
 " it will greatly advance the prosperity of an infant Colony,  
 " which, from its natural and relative situations is peculiarly  
 " adapted to become a permanent and valuable possession to  
 " Great Britain. And they confide in your Lordship's wisdom  
 " and equity that you will obtain for them such an abatement of  
 " quitrent as will place them on an equality with the neighboring  
 " colonies, and by that means remove a cause which may pre-  
 " vent many faithful subjects to this country from emigrating to  
 " that Island from the American States, and which has hitherto  
 " obstructed the settlement and prosperity of this Colony.

(Signed)	ACRES.
" EDWARD LEWIS . . . .	70,000
" JOHN TOWNSON . . . .	10,000
" JOHN STEWART . . . .	10,000
" RICHARD BURRE . . . .	15,000
" JOHN MOREUX . . . .	20,000
" ROBERT M'KAY . . . .	20,000
" ALEXANDER ANDERSON . .	20,000
" JOHN PATTERSON . . . .	20,000
" JOHN PATTERSON, Attorney for Walter " Patterson	40,000
" JOHN PATTERSON, Attorney for Andrew " Todd	20,000
" JOHN PATTERSON, for Isaac Todd	20,000
" JOHN PATTERSON, for Charles Pierce	10,000
" DANIEL BERRAU, for Isaac Paschard	20,000
" LAURENCE SULLIVAN . . .	20,000
" PHILIP STEVENS . . . .	20,000
" LORD TOWNSHEND, for acres, and gives " 2000 to a loyalist who is to draw for it " in the mode prescribed above.	20,000
" LORD TOWNSHEND, for General Ho- " naywood	10,000
" LORD TOWNSHEND, for Lord Chief " Baron Montgomery	60,000

Thereupon Royal instructions were immediately sent to the  
 Lieut. Governor of the Island, which, amongst other things, after  
 reciting that certain of the proprietors had agreed to transfer and  
 convey in fee, to such persons as might avail themselves of the

offer, certain portions of the lands held by them respectively to the parties referred to, proceeded to direct, "that all conveyances and other deeds necessary for transferring such parts of the land as shall be agreed to be conveyed to Our faithful subjects aforesaid be prepared by our Attorney General of the said island of Saint John, and, when executed, be duly recorded in the Secretary's office of the same; and that Our Secretary of the said Island shall make out a docket of all deeds so recorded, specifying the name of the proprietor conveying, of the person to whom the land is conveyed, and the number of the lot of which the same was a part which shall from time to time be delivered by him to the Receiver General of Our quitrents, and shall discharge in the rent roll each proprietor from any future quitrent upon the land so conveyed, for which the person to whom the same is conveyed, his heirs or assigns, shall thereafter stand chargeable in the said rent roll. It is nevertheless Our will and pleasure, that no land conveyed as aforesaid shall be liable to the payment of any quitrent to Us, Our heirs and successors, till 10 years after the date of the respective conveyances. And in order to relieve Our subjects who have agreed to convey a part of the lands held by them as aforesaid, it is Our will and pleasure that any arrears of quitrent that may have been due and unpaid, upon the quantities of land which they may convey, shall be remitted. If they discharged therefrom; or, in case such arrears shall have been paid, Our Receiver General of the quitrents shall repay to the person or persons so conveying, so much of the last payment made as shall have been paid for the part of the lands so conveyed. You are, however, to take especial care that under colour of complying with this Our instruction, no collusive conveyances are made in order to obtain remission of arrears of quitrent, but that in every instance the indulgence and encouragement hereby granted be confined to actual and bona fide conveyances for the purposes herein-before mentioned, and no other."

The said instructions also farther directed "the Surveyor General to survey the several parts and portions of lands which shall be conveyed to Our faithful subjects aforesaid, and shall enter the several surveys or plots thereof of record in his office, and to transmit to the Imperial Government, through one of Our Principal Secretaries of State, a distinct account of what conveyances shall be made and certificates given, as herein directed; and also transmit a duplicate thereof to Our High Treasurer, or the Commissioners of Our Treasury for the time being."

It appears that delays took place in carrying out His Majesty's instructions, and in 1790 an Act was passed by the Island Legislature "to empower the Lieutenant Governor to give grants of Land under the Great Seal of the Island to such Loyalists and disbanded Troops as are in the occupation thereof by virtue of locations formerly made by the Governor in Council."

It appears that under this Act several grants were issued by the Lieutenant Governor containing clauses more exacting in their conditions than were contemplated by the Proclamation.

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It does not appear, however, that any of these grants so issued were ever executed or forfeited for conditions broken.

In 1809, 1823, and 1839, Bills were passed by the Assembly for the relief of the American Loyalists and disbanded Provincial Troops, but were lost in the Legislative Council, or not allowed by His Majesty's Government.

Lord John Russell, in conveying the disallowance of the latter Bill (A. D. 1839) briefly reviewed the question, and declared the final decision of Her Majesty's Government, that the lapse of time, being then over half a century, would prevent the Crown interfering to disturb the proprietors, or affect the presumptive titles acquired thereby. Subsequently to that despatch there does not appear to have been any action by the Legislature on the subject.

In 1851, Her Majesty, on the establishment of Responsible Government in the Island, and the passing of a Civil List Act, upon the terms and conditions pointed out by Her Majesty's Government, transferred to the Colony the revenue and territorial rights of the Crown. Whatever rights, therefore, the Crown at that time possessed over the proceeds of the casual and territorial revenues,—the quitrents, the Crown land funds, the Crown lands, and permanent revenues which had before accrued, or should thereafter accrue, became clearly vested in the Local Government, remaining, however, in the Queen's name as the constitutional head of the Empire.

Between 1851 and 1860, the Local Government purchased out the estates of two of the proprietors, under an Act passed by the Legislature, and are now owners of the Worrell and Selkirk estates, amounting to 140,000 acres, or thereabouts, as public or Crown lands.

The agitation upon the question of the land tenures still continuing, to the admitted disadvantage of the Island, and it having been deemed advisable by the Legislature that the different questions which had hitherto formed the subject of that agitation should be finally put at rest, and that a system should be devised by which the leasehold tenure of lands in the Island might be converted into freeholds, certain resolutions were passed by the Assembly, and subsequently embodied in an address to Her Majesty, which is as follows:—

“To the Queen's most Excellent Majesty.

“Most Gracious Sovereign;

“We, Your Majesty's loyal and devoted subjects, the House of Assembly of Prince Edward Island, in Parliament assembled, beg to approach Your Majesty, and most humbly submit for Your Royal consideration the following premises:—

“In certain despatches from one of Your Majesty's ministers, the Right Honourable Sir Edward Bulwer Lytton, Baronet, Secretary of State for the Colonies, dated Downing Street, 20th October and 3d December, 1858, the Right Honourable Baronet therein states, that the whole question of the land tenures in this Island is engaging his most anxious attention, and that it would give him unfeigned pleasure to receive such suggestions for their amicable settlement as could be accepted by Your Majesty's Government.



"Having taken three despatches into consideration, after mature deliberation, and with an earnest desire to terminate the disputes which have so long disturbed the peace and harmony of the Colony, the House have adopted the following resolutions:—

"Whereas certain questions arising out of the original grants of the lands in this Island, severally called the Echeat question, the Fishery reserve question, and the Quitrent question, have for many years caused much discussion, and difference of opinion amongst the people of this Island, and many defective projects and impracticable measures have been and are from time to time suggested respecting such questions, whereby the tenantry have been and are greatly imposed upon and induced to support the propounders of such measures, under the delusive hope that by doing so they will be relieved of the payment of rent; and the attention both of the people and Legislature being occupied with such deceptive schemes, measures intended to develop the resources of the Colony are not only neglected, but a state of society equally opposed to the moral, social, and political welfare of the people, and their true interests, is produced. And whereas various despatches have for a great number of years declared that Her Majesty's Government will not consent to any compulsory interference with the laws and rights of the proprietors, and which has been strongly reiterated in the despatch of Sir Edward Bulwer Lytton, now Her Majesty's Principal Secretary of State for the Colonies, dated 20th of October 1835, and 2d of December 1836, from which it is clear that any measures for the benefit of the tenantry must result from an amicable arrangement with the proprietors: And whereas the agitation of hostile measures, such as echeat, fishery reserve and quitrents must not only result as they always have done in loading the tenantry into costs and trouble, without in any way ameliorating their condition, but will also engender a feeling in the proprietors, rendering them disinclined to listen to proposals, which, if such agitation were at an end they would be likely to entertain. And whereas Sir Edward Bulwer Lytton in his despatches above referred to, while refusing to sanction measures which in England are considered inconsistent with the rights of property, has expressed the readiness of Her Majesty's Government to co-operate with the Legislature in furthering measures for the settlement of the land tenure, if conceived in a spirit of fairness and consideration to all parties:

"Therefore resolved, 1st. That an humble address be presented to Her Majesty, praying that Her Majesty will be pleased to direct a Commission to some discreet and impartial persons, not connected with the Island or its affairs, to enquire into the existing relations between landlord and tenant, and to negotiate with the proprietors for such abatement of present liabilities, and for such terms for enabling the tenantry to convert their tenements into freeholds, as, without infringing on the rights of the landlords, may be fairly and reasonably asked for to ameliorate the condition of the tenantry.

"2nd. Resolved, That in the opinion of this House the basis of any such arrangement should be a large remission of arrears



of rents now due; and secondly, the giving every tenant holding under a long lease an option of purchasing his land at a certain rate, at any time he might find it convenient to do so.

" 3rd. Resolved, That a remission of arrears of rent may be reasonably asked, inasmuch as the existence of these arrears, although it is due partly to an unwillingness of the tenants to pay rent, under the idea that overheat or some other defective scheme would enable them to evade: yet it is also due in part to the laches and remissness of the landlords and their agents in not enforcing it: and because, in many cases, the arrears, however inserted, amount to an large sum that the exaction thereof would prove ruinous to a large number of loyal and industrious people, and would further entirely put it out of their power to avail themselves of the plan suggested, in subsequent resolutions for purchasing their farms.

" 4th. Resolved, That as the circumstances of the tenantry would not in general enable them to pay down any large portion for the purchase money, the best and only means for converting the tenures into freeholds, lies in the adoption of the plan which would practically constitute every farm a savings bank for its owner, in which he could from time to time invest his savings at interest, towards the purchase of his farm, an arrangement which could be effected by the following means, viz: that the landlords should agree to permit the tenants to purchase their farms for such sum per acre as shall be fixed upon; and providing further, that when any tenant (whose rent was paid up) should be desirous of paying any sum not being less than ten pounds towards the purchase of his land, he should have the option of doing so, and that the interest on the sum so paid, or other sum so paid, should thenceforth go in reduction of his yearly rent, and so on for every payment on account of purchase until the whole was paid, when he should receive his deed, and that similar covenants should be inserted in all future leases for terms over 40 years, such an arrangement would not only give the tenant the advantage of paying an instalment of his purchase money, and at the same time reducing his rent whenever he chose, without subjecting himself to the variation and costs incident to cases of inability to meet instalments agreed to be paid at a particular day, but would, in the opinion of this House, gradually but certainly change the tenures into freeholds, without the aid of loans and the expensive subsistence of public officers, by which heavy liabilities have already been, and would, if persevered in to a much greater extent, be imposed on the public finances.

" We do therefore humbly pray that Your Majesty will be pleased to take the foregoing matters into Your Royal consideration, and to appoint some fit and proper person or persons Commissioners or Commissioners to inquire into the relations of landlord and tenant in this Island, and negotiate with the proprietors of township lands for the fixing some certain rate of price at which every tenant may at any time have the option of purchasing his land, or of paying instalments of such purchase, and thereby gradually reducing the yearly rent until the whole price thereof is paid: and also to negotiate with the proprietors for a

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cumstances of the tenantry or otherwise, may deem reasonable  
and expedient; and also to make such report respecting the  
Fishery Reserve question, and other questions relating to the  
township lands of this Island, as we confidently hope will effect  
a final settlement thereof, and prevent all agitation regarding the  
same in future."

(Signed) "DONALD MONTGOMERY, Speaker.  
"House of Assembly, P. E. I., 9th May, 1880."

This address having been forwarded to Her Majesty's Gov-  
ernment, the following correspondence took place, and was  
duly transmitted by his Grace the Duke of Newcastle, to the  
Lieutenant Governor of the Island:—

"No. 11.

"Downing Street, 9th September, 1880.

"Sir,—I have to acknowledge Sir D. Daly's despatch, No.  
20, of the 18th May last, addressed to Sir E. B. Lytton, trans-  
mitting an address to Her Majesty from the House of Assembly,  
in pursuance of certain resolutions of the House, praying that  
Her Majesty would direct a Commission to inquire into the ex-  
isting relations of landlord and tenant in the Island, with a view  
to the passing of remedial measures. The House of Assembly  
propose that this Commission should direct its attention to  
the Fishery Reserve question.

"The resignation of Her Majesty's late Government has pre-  
vented an earlier answer to your despatch.

The Assembly, in their address, not only pray for the ap-  
pointment of a Commission, but they likewise indicate, in detail,  
the measures which, in their opinion, should form the basis of  
that arrangement between landlord and tenant which the Com-  
mission should endeavor to bring about. Now, without express-  
ing any opinion adverse to the appointment of such a Commission,  
I am convinced that any prospect of a beneficial result from its  
labors would be nullified if its action were fettered by such con-  
ditions as the Assembly would thus impose.

"I cannot advise Her Majesty to entertain the question, unless  
it is fully understood that the Commission are at liberty to pro-  
pose any measure which they may themselves deem desirable.

"I have communicated this correspondence to Sir E. Cairnes,  
representing the landowners in this country, with a letter, of  
which I enclose a copy.

"I have, &c.

(Signed)

"NEWCASTLE."

"Downing Street, 9th September, 1880.

"Sir,—I am directed by the Duke of Newcastle to transmit  
to you a copy of a correspondence between the Government of  
Prince Edward Island and this Department, upon the subject of  
the appointment of a Commission to propose measures of ar-  
rangement between landlords and tenants in Prince Edward  
Island.

"With reference to this communication, I am to suggest that

you will call a private meeting of each landowner as may be in this country, and ascertain whether there are any concessions which they are ready to make, with a view of bringing these questions to an amicable issue.

"I am, &c.

(Signed)

"H. MERIVALE.

"Sir S. Casard."

"Downing Street, 21st March, 1860.

"Sir,—With reference to my despatch No. 11, of the 6th September last, in which I informed you that I had communicated to Sir Samuel Casard the correspondence which had taken place upon the subject of the appointment of a Commission to propose measures of arrangement between landlords and tenants in Prince Edward Island, I transmit to you the copy of a letter which has been addressed to me by Sir Samuel Casard, and several other proprietors of land in the Island.

"The Proprietors, it will be seen, do not think that the appointment of a Commission in the manner proposed by the House of Assembly in their address of the 9th of May last, would be the most desirable mode of proceeding, as the labors of such a Commission could only terminate in a report, the conclusions of which would not be binding on any of the parties interested. They suggest, therefore, instead, that three Commissioners or Referees should be appointed,—one by Her Majesty, one by the House of Assembly, and the third by the proprietors,—and that they should be invested with power to hear and determine all the questions in dispute. It is further suggested that the expenses of the Commission should be divided equally between the Crown, the tenants, and the proprietors.

"If the consent of all the parties can be obtained to this proposal, I believe that it may offer the means of bringing these long-pending disputes to a determination. But it will be necessary, before going further into the matter, to be assured that the tenants will accept, as binding, the decision of the Commissioners, or the majority of them; and, as far as possible, that the Legislature of the Colony would concur in any measures which might be required to give validity to that decision. It would be very desirable also that any Commissioner who might be named by the House of Assembly on behalf of the tenants, should go into the inquiry unfettered by any conditions, such as were proposed in the Assembly last year. I have therefore to request that you will ascertain and report to me whether the tenants of Prince Edward Island, or the House of Assembly on their behalf, are prepared to agree to the proposed reference.

"I have, &c.,

(Signed)

"NEWCASTLE.

"Lieut. Governor Dundas."

"Bush Hill House, Edmonton,  
18th Feb., 1860.

"MR LORD DUXE,—We have been furnished with a copy of a memorial, addressed to Her Majesty by the House of Assembly of Prince Edward Island, on the subject of the questions which

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have arisen in connexion with the original grants of land in that Island, and the rights of proprietors in respect thereof.

"We observe that the House of Assembly have suggested that Her Majesty should appoint one or more Commissioners to inquire into the relations of landlord and tenant in the Island, and to negotiate with the proprietors of township lands for fixing a certain rate of price at which every tenant might have the option of purchasing his land; and also to negotiate with the proprietors for a remission of the arrears of rent in such cases as the Commissioners might deem it equitable, and proposing that the Commissioners should report the result to Her Majesty.

"As large proprietors of land in this Island, we beg to state that we shall readily acquiesce in any arrangement that may be practicable, for the purpose of settling the various questions alluded to in the Memorial from the House of Assembly, but we do not think that the appointment of Commissioners in the manner proposed by them would be the most desirable mode of proceeding, as the labors of each Commission would only terminate in a report, which would not be binding on any of the parties interested.

"We, therefore, beg to suggest, that instead of the mode proposed by the House of Assembly, three Commissioners or Referees be appointed—one to be named by Her Majesty, one by the House of Assembly, and one by the proprietors of land,—and that these Commissioners should have power to enter into all the inquiries that may be necessary, and to decide upon the different questions which may be brought before them, giving, of course, to the parties interested, an opportunity of being heard.

"We should propose that the expense of the Commission should be borne by the three parties in the reference, that is to say, in equal thirds; and we feel assured that there will be no difficulty in securing the adhesion of all the landed proprietors to a settlement on this footing.

"The precise mode of carrying it into execution, if adopted, would require consultation, and upon that subject we trust that your Grace would lend your valuable assistance.

"We have, &c.,

"S. CUNARD

"P. CUNARD, per S. Canard.

"BRAMHAM MONTGOMERY.

"J. KIRK.

"JAMES MONTGOMERY.

"LAURENCE SULLIVAN.

"To his Grace

the Duke of Newcastle, &c., &c., &c."

The foregoing correspondence having been received in the Island on the 14th of April, the following resolutions were passed by the Assembly:—

"Prince Edward Island, House of Assembly,

"Saturday, 14th April, 1860.

"Resolved, That this House deems it expedient to concur in the suggestions offered for the consideration of the House of

Assembly, as set forth in the despatch from his Grace the Duke of Newcastle, dated 'Downing Street, 21st March, 1860,' on the subject of the proposed appointment of a Commission of inquiry for the arrangement of the long-pending disputes between landlords and tenants of this Island.

"The House of Assembly therefore agrees to the appointment of three Commissioners, one by Her Majesty, one by the House of Assembly, and the third by the proprietors, the expense of the Commission to be equally divided between the Imperial Government, the general revenue of the Colony, and the proprietors.

"The House of Assembly discharges on the part of the tenantry to abide by the decision of the Commissioners, or the majority of them, and pledge themselves to concur in whatever measures may be required to give validity to that decision.

"Resolved, That in order to carry into effect the suggestions of his Grace the Duke of Newcastle, as set forth in his despatch to his Excellency Lieutenant Governor Dundas, of the 21st March last, for settling the long-pending questions between landlords and tenants in this Island, this House do hereby name the Hon-<sup>ble</sup> Joseph Howe, of Nova Scotia, as referee or arbitrator on behalf of the tenantry of this Island, to act under the Commission to be issued by Her Majesty's Government, as set forth in the despatch referred to, the other two referees or arbitrators under the said Commission to be named, as intimated in the said despatch, one by Her Majesty's Imperial Government, and the other by the proprietors.

(Attest.)

"JOHN McNEILL,

"Clerk of Assembly."

On the 2d of May the following Act was passed:—

"Cap. 28.

"An Act to give effect to the Report of the Commissioners to be appointed on the Land Question.

"Passed 2d May, 1860.

"Whereas the lands of this Colony, shortly after it was ceded to Great Britain, were granted by His late Majesty King George the Third, in large tracts generally containing twenty thousand acres each, to divers British subjects and their heirs and assigns respectively, in fee simple; and in the grants or patents by which the said tracts of land were so conveyed, there were contained certain clauses and conditions respecting the time and manner of settling the said lands, and also respecting certain quitrents therein reserved to His said Majesty and his heirs, as well as certain reservations and rights intended for the benefit and encouragement of persons engaged in carrying on the fisheries of this Island: And whereas at different times since the issuing of the said grants, and often during the last thirty years the legal interpretation and construction of the conditions and reservations contained in the said grants respecting the settlement of the said lands, the right of enjoyment of the said fishery reserves, and the payment of the said quitrents, have been much questioned, and have greatly occupied and agitated the minds of large numbers of the inhabitants of this Colony: And whereas the final settlement and adjustment of these questions, with a due regard

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to the rights of all persons whomsoever interested therein, will conduce much towards the peace and contentment of the inhabitants of this Island: And whereas on the 9th day of May in the year of our Lord One thousand eight hundred and fifty-nine, the House of Assembly of this Island agreed to an address to Her most Gracious Majesty the Queen, wherein it was prayed that Her Majesty would be pleased to appoint some fit and proper person or persons as Commissioner or Commissioners to inquire into the relations of landlord and tenant in this Island, and negotiate with the proprietors of township lands for the fixing of some certain rate of price at which every tenant might at any time have the option of purchasing his land, or of paying instalments of such purchase, and thereby gradually reducing the yearly rent until the whole price thereof be paid; and also to negotiate with the respective proprietors for a remission of the arrears of rent, in such cases and on such townships as the said Commissioner or Commissioners, from the circumstances of the tenantry or otherwise, might deem reasonable and expedient; and also to make such report respecting the Fishery Reserve question, and other questions relating to the township lands of this Island, as the House of Assembly confidently hoped would effect a final settlement thereof, and prevent all agitation regarding the same in future; which said address was duly forwarded to England laid at the foot of the Throne: And whereas by a despatch from his Grace the Duke of Newcastle, Her Majesty's Principal Secretary of State for the Colonial Department, bearing date the 21st day of March last, and addressed to His Excellency the Lieutenant Governor of this Island, a copy of which has been laid before the House of Assembly, his Grace, after referring to the prayer of the said address of the House of Assembly, and also to a communication received by him from certain proprietors of the herein-before mentioned lands on the subject of the said address, was pleased to state as follows, namely:—They (the said proprietors) therefore, instead, suggest that three Commissioners or Referees should be appointed, one by Her Majesty, one by the House of Assembly, and the third by the proprietors, and that they should be invested with power to hear and determine all the questions in dispute. It is further suggested, that the expenses of the Commission should be divided equally between the Crown, the tenants, and the proprietors. If the consent of all the parties can be obtained to this proposal, I believe that it may offer the means of bringing these long-pending disputes to a determination. But it will be necessary, before going further into the matter, to be assured that the tenants will accept as binding the decision of the Commissioners, or the majority of them; and as far as possible that the Legislature of the Colony would concur in any measures which might be required to give validity to that: And whereas, in pursuance of the suggestions contained in the said recited despatch, the House of Assembly, on the 30th day of April instant, passed the following resolution, namely: Resolved, That this House deem it expedient to concur in the suggestions offered for the consideration of the House of Assembly as set forth in the despatch from



his Grace the Duke of Newcastle, dated Downing Street, 21st day of March, in the year of our Lord 1860, on the subject of the proposed appointment of a Commission of inquiry for the arrangement of the long-pending disputes between landlords and tenants of this Island; the House of Assembly therefore agree to the appointment of three Commissioners, one by Her Majesty, one by the House of Assembly, and the third by the proprietors, the expense of the Commission to be equally divided between the Imperial Government, the general revenue of the Colony, and the proprietors: the House of Assembly also agree, on the part of the tenantry, to abide by the decision of the Commissioners, or the majority of them, and pledge themselves to concur in whatever measures may be required to give validity to that decision: And whereas, in order to maintain good faith with Her Majesty's Imperial Government, as well as with the herein-before mentioned proprietors of the said lands, and all other persons interested therein, and for the purpose of rendering the report or award to be made by the said Commissioners, or by the majority of them, final and conclusive upon all parties to be affected thereby, and to bring to a final end and determination all and singular the various differences, disputes and uncertainties which have heretofore arisen between Her Majesty's Government, the proprietors of the aforesaid township lands and the tenants thereon, and all other persons interested in the settlement of the said lands, the right to and the use of the said livery reserves, and the extinction of the said quitrents, it is necessary that the award or report to be made by the said Commissioners, or by any two of them, should have an authoritative and binding force and operation.

"1. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, that the report or award, or one part thereof, to be made by the three Commissioners or Arbitrators, or any two of them, to be nominated and appointed by the several parties respectively, and to be authorized and empowered by Her Majesty, agreeably to or in conformity with the suggestions contained in the herein-before recited despatch of his Grace the Duke of Newcastle, when in all respects signed and completed by the said Commissioners, or any two of them, shall be delivered to the Lieutenant Governor of this Island, who shall endorse thereon, under his own hand and signature, a note of the day and year when received, and it shall thereafter be registered at full length in the Office for the Registry of Deeds in this Island; and the original part thereof, after being duly registered, shall be filed and kept in the office of the Colonial Secretary of this Island.

"2. That the said award, when so completed and delivered to His Excellency the Lieutenant Governor, shall be and be deemed and taken to be final and conclusive; and the rights, interests and estates of Her most Gracious Majesty the Queen, of, in, and to all the aforesaid township lands, tenements, hereditaments, in so far as Her Majesty stands seized therein or vested therewith on behalf of the Government or inhabitants of this Island, and so



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far as the said rights, interests, and estates shall be submitted to the consideration and determination of the said Commissioners; and the rights, estates, rents, issues, and profits of such estates, liberties, franchises, and interests of all and every person and persons whomsoever of, in, to, out of, or concerning the said township lands, tenements and hereditaments, whether acquired before or after the making of the said award or report, shall be and become subject to, charged and chargeable with, and bound by the award or report of the said Commissioners, or any two of them, in such manner, and to such extent, and for such time, as shall in the said award or report be awarded, ordered, or required.

"Every person whomsoever, whose estate, property, or interest shall in any manner be or become affected by the said award or report, shall and may be at liberty to plead the same in any Court of law or equity in this Island; and every such Court shall admit and allow to every such person the full force and effect of the said award or report according to the true intent, meaning, and operation thereof.

"In case of the death, resignation, or incapacity of all or any of the said Commissioners so to be appointed, before the final making of such award, a new Commissioner or Commissioners shall be nominated and appointed by the same party or parties respectively who had appointed the Commissioner or Commissioners so dying, resigning, or becoming incapacitated.

"In case of any new appointment being required to be made under the above section in lieu of the Commissioner appointed by the House of Assembly, at any time when the Legislature shall not be in session, such appointment shall be made by the Lieutenant Governor in Council; and in case of any new appointment being required to be made thereunder in lieu of the Commissioner to be nominated by the said proprietors of the said lands, and such new appointment shall not be made, accepted, and duly notified in writing to the Government of this Island within four months next after a requisition for that purpose, made in writing, and signed by the Lieutenant Governor of this Island in Council, shall be published in the Royal Gazette of this Island, then it shall be lawful for the said Lieutenant Governor in Council, or the House of Assembly of this Island, if then in session, to nominate and appoint some fit and proper person as a new Commissioner on behalf of the said proprietors of the said lands.

"6. Every new Commissioner so appointed shall be invested with and may exercise the like powers as shall have been or were intended to be exercised by his predecessor.

"7. It shall be lawful for his Excellency the Lieutenant Governor in Council, by warrant under his hand and seal, to order to be paid out of the Public Treasury of this Island one-third of what shall be deemed a reasonable remuneration for the services of the said Commissioners, with one-third part of the necessary expenses attending the said Commission; the said third part of the said remuneration to be paid to the Commissioner appointed by the House of Assembly, on behalf of the tenantry of this Island.

"Nothing in this Act contained shall have any force or effect until Her Majesty's pleasure therein shall be known."

These resolutions and notice of the Act having been transmitted by His Excellency the Lieutenant Governor to his Grace the Duke of Newcastle, the following Despatch was sent to the Lieutenant Governor:—

"No. 22.

"Dowling Street, 16th June, 1860.

"Sir,—I have had under my consideration your despatches, No. 15, of the 16th of April, and No. 22, of the 30th April. In the former despatch you enclose a resolution, in which the Assembly agrees to the proposed appointment of Commissioners on the subject of tenures of lands, binds itself to abide by the decision of those Commissioners, or the majority of them, and pledges itself to concur in whatever measures may be required to give validity to that decision. In the second despatch you inform me, that a short Act has since passed through both Houses, giving effect to the foregoing resolution.

"I cannot do otherwise than express my sense of the promptitude and completeness with which the House of Assembly has thus given its support to the plan devised, in the hope of putting an end to the differences which have prevailed in Prince Edward Island.

"In Mr Howe, the Assembly, acting on behalf of the tenantry, have selected a Commissioner whose known ability and prominent public position must well qualify him for the proposed inquiry.

"From Sir Samuel Cunard I have received a letter, of which a copy is enclosed, naming as the Commissioner selected by the proprietors Mr John William Ritchie, of Halifax, who I doubt not, will honorably discharge his functions.

"I have written, in exercise of the choice belonging to Her Majesty's Government, to request Mr John Hamilton Gray, of New Brunswick, to undertake the remaining office of Commissioner. Mr Gray has recently conducted another public inquiry, with a degree of ability, carefulness, and justice, which entitles him to the confidence of all concerned in the intended investigation.

"Although the privilege of selecting each Commissioner has been conferred on a separate authority, so as the better to ensure satisfaction with the composition of the Commission, yet it is my view, and I doubt not will be that of the Commissioners themselves, that none of them ought to be regarded as the special advocate of one interest, but rather that the whole should devote their efforts to framing such recommendations as shall be demanded by the equity of the case, and be conducive to the general good of all classes of the community. Their conclusions, whatever they may be, will possess double weight, if happily they should be unanimous.

"The time of meeting in Prince Edward Island will be best determined by the Commissioners themselves, who will be able to communicate with you upon any points which they may wish

to ascertain, as bearing on the subject of the most convenient period for the purpose.

"It will be desirable that previous arrangements should be made, as far as practicable, for having at hand all the witnesses and all documentary evidence which the Commission is likely to require, so that the time needed for their actual sitting in the Island may be reduced within the most moderate compass, consistent with the due and complete accomplishment of the inquiry.

"I shall take an early opportunity of forwarding to you a Commission under the Royal Sign Manual, containing the appointment of the several gentlemen named to serve on the Commission.

(Signed)

"NEWCASTLE.

"Lieutenant Governor Dundas."

On the 25th of June Her Majesty was pleased to issue the following Commission:—

(L. s.) VICTORIA R.

"VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To all to whom these Presents shall come, greeting.

"Whereas We have been moved by the Assembly of Our Island of Prince Edward, to appoint Commissioners to inquire into the differences now prevailing in Our said Island, relating to the rights of landowners and tenants in Our said Island, with a view to the settlement of the same on just and equitable principles: And whereas the said Assembly has farther, by a resolution dated the 14th day of April last, set forth its agreement to abide by the decision of any such Commissioners, or the majority of them, and to concur in whatever measures may be requisite for giving validity to their decision: And whereas it is highly desirable that the said differences should be adjusted:

"Now know ye, that We, taking the premises into Our Royal consideration, are graciously pleased to nominate and appoint, and do by these presents nominate and appoint, Our trusty and well-beloved John Hamilton Gray, Esquire, Our trusty and well-beloved Joseph Howe, Esquire, and Our trusty and well-beloved John William Ritchie, Esquire, to be Our Commissioners for inquiring into the said differences, and for adjusting the same on fair and equitable principles.

"Given at Our Court at Buckingham Palace, this 25th day of June, 1860, in the 24th year of Our Reign.

"By Her Majesty's Command,

(Signed)

"NEWCASTLE."

By virtue of this Commission, the undersigned Commissioners proceeded to the Island in the month of August, and after some preliminary investigation and examination of public documents, opened a Public Court of Inquiry, in Charlottetown, on the 8th of September, pursuant to Proclamation in the Royal Gazette. This Court was held in the hall of the General Assembly, and was opened to the public.

The members of the Local Parliament, and persons of permanent public standing, were invited to attend by special circular,

and all others in any other way interested in the questions submitted for consideration, or in the general welfare of the Island, were also invited by notification in the public newspapers.

This Court was held with continuous sittings from the 8th of September to the 1st of October, either in Charlottetown or the two other shire towns of the counties into which the Island is divided.

The Local Government, and tenantry of the Island, and the proprietors whose names are subjoined to the memorandum forwarded by the Duke of Newcastle to the Lieutenant Governor, were ably represented by counsel of eminence and distinction. The members of Government and of Parliament, and public men of all shades of politics, attended and were heard. Numerous delegations, presenting memorials from the various districts which they were selected at public meetings to represent, tenants, proprietors, and agents also attended, made their statements, were heard, examined and cross-examined in open Court by the counsel, and all means of exhausting the sources of information were adopted. On the 1st of October the Commissioners adjourned their sittings to Halifax in the month of December following, whither in the mean time the Journals of the House of Assembly and copies of other public documents were to be sent.

On the 20th of December the undersigned met at Halifax, and continued their investigations until the 12th of January, when they were compelled to adjourn on account of other important public business requiring their attention.

During the sitting of the Court of Charlottetown protests against being affected by the proceedings of the Commission were made by Mr Charles Wright and Mr Robert Bruce Stewart, representing themselves as proprietors of townships or parts of townships, and at Halifax a similar protest was received from the Honorable Lady Cissy Jane Georgiana Fane.

In the month of February (1861) the following despatch was transmitted by His Grace the Duke of Newcastle to the Lieutenant Governor of the Island, and laid before the Legislature:—

"No. 45.

"Downing Street, 2nd Jan., 1861.

Sir,—I have had under my consideration the two Acts passed by the Legislature of Prince Edward Island, and enclosed in your despatch No. 56, of the 1st of October last, entitled No. 1825, 'An Act to authorize Grants of the Shores of this Island,' and No. 1826, 'An Act to give effect to the Report of the Commissioners to be appointed on the Land Question.'

"I feel some doubt as to the object with which the first of these Acts was passed; I do not see what lands it will affect, at least above a high water mark, unless it was to operate on the fishery reserves.

"At the same time as the treatment of these reserves was a question on which Her Majesty's Government have expressed a decided opinion, and which at the instance of the Prince Edward Island Legislature, is now under reference to the recently appointed Commission, I can hardly imagine that the Legislature

would have passed an Act calculated to anticipate the judgment of their own referees, or that you would have submitted it for Her Majesty's confirmation without any notice of its intended effect.

"I have therefore to request that you will furnish me with information on the following points:—

"1. Whether there is in the Island any Land above high-water mark upon which the Act would operate, except the fishery reserves; and if so, what, in general terms, may be supposed to be its extent.

"2. Whether it is intended or supposed that the operation of the Act would be confined to those lands, if any, and to the land below high-water mark, or whether the Act was intended to apply to some or all of the fishery reserves.

"3. What are understood to be the present powers of the Crown respecting these lands, not comprised in those reserves, and what the additional powers which it is intended to confer in respect of those lands by the present law.

"4. What effect, if any, the Act is intended to have upon the fishery reserves.

"5. And lastly, whether there is in the present circumstances of the Island any ground for expecting that 'commercial enterprise' will be much encouraged (as stated in the preamble of the Act) by granting such grants on the sea-shore as would be authorized by the proposed Act, and would not be authorized without it.

"I must add, however, that whatever answer may be furnished to these questions, I cannot advise the Queen to assent to the Act while the subject on which it legislates is under the consideration of the Commissioners."

"With regard to the Act for giving effect to the award of the Commissioners, I gladly acknowledge the promptitude with which the Provincial legislature has hastened to give effect to what they supposed to be the desire of Her Majesty's Government, conveyed in my despatch of the 21st of March last, and I very much regret that an apparent misconception of my meaning has led the Legislature to pass a law which appears to be premature.

"My object was not to require immediate legislation for the purpose of giving prospective effect to the award of the Commissioners, but only to obtain from the House of Assembly, as representing the whole body of the tenants, an unequivocal acceptance of the proposed reference, and from the Legislature a pledge that the laws necessary to give effect to the Commissioners' award should be passed when it appeared what legislation would be necessary for that purpose.

"But the present Act, or any other Act which could be passed at the present moment, might in the event prove either too sweeping or too limited for that object. It would be too sweeping if it were found that the referees promulgated decisions respecting lands belonging to persons who have not consented to the reference, or if they made awards respecting questions (like

that of each) which did not fall within the scope of their inquiry.

"It would be too limited, or at least inadequate for its purpose, if it failed to make such provisions of detail as were necessary to give practical effect to the general principles laid down by the Commissioners.

"For these reasons it appears to me impossible to advise Her Majesty to assent, at the present moment, to any such general law as that which has now been forwarded; nor do I see that any present legislation could be valuable, except such as may be based upon suggestions to be made by the Commission, with a view of defining the persons and questions to which their inquiry was to extend, or of conferring on them the powers (like those of compelling the attendance of witnesses and of examining on oath) which are requisite to enable them to carry on their inquiries to the satisfaction of all concerned.

"I trust you will impress upon the Commissioners (if requisite) the necessity of avoiding as far as possible any steps calculated to excite unreasonable expectations, or to stimulate agitation; on the other hand, while assuring the proprietors that the award of the Commissioners will not be enforced by Her Majesty's Government against any persons who have not, either personally or by their representatives, consented to refer their claims to arbitration, I should wish you also to observe to them, that their refusal to concur frankly in a measure which was intended to compose existing differences, and which, so far as it has yet proceeded, has been assumed to be a large portion of their body, may materially influence the conduct of Her Majesty's Government, if called upon hereafter to support them in any future disputes with their tenants.

"I have, &c.,

"NEWCASTLE."

(Signed)

On the 14th of June following the undersigned Commissioners again met by appointment at Rutherglen, in the Province of New Brunswick.

"They trust that they entered upon the discharge of the duties assigned to them not only with a high appreciation of the honour conferred by their appointment, but with a due sense of the grave responsibilities which they assumed. When they commenced their labours, there was a general impression that the Act of the Provincial Legislature, which made their award binding on all parties concerned, would receive the Royal assent; and although the decision of His Grace the Colonial Secretary, not to submit that Act for Her Majesty's approval, somewhat relieved them from the weight of responsibility necessarily involved in the preparation and delivery of a judgment beyond appeal, they still felt that as their award was to affect the titles of a million of acres, and the rights and interests of 80,000 people, a hasty decision would not be a wise one, and that the materials for a judgment ought to be exhausted before their report was made.

By traversing the Island, and mixing freely with its people, the undersigned have become familiar with its great interests

and general aspects. By holding an open Court, in all the shire towns, they have given to every man on the Island, however poor, an opportunity to explain his grievances, if he had any. By bringing the proprietors and tenants face to face before an independent tribunal, mutual misunderstandings and exaggerated statements have been tested and explained; and the real condition of society and the evils of the leasehold system have been carefully contemplated, from points of view not often reached by those whose interests were involved in the controversy. The evidence collected, though not under oath (the Commissioners not being clothed with power to administer oaths) was most valuable in enabling them to form a correct estimate of the evils of which the people complained.

The documentary history of the questions submitted is too voluminous to append to this report; it covers nearly a century of time, and is to be found in the journals of the Legislature, in the newspaper files of the Colony, and in pamphlets more or less numerous, which the animation of party spirit invests with a certain degree of interest, and which it was necessary to read, in order that the points on which from time to time the controversy turned should be understood.

From the issuing of the grants, in 1767 down to the present time, every Secretary of State for the Colonies, and every Governor, has been perplexed by the questions arising out of that ill-considered exercise of the Royal prerogative.

The amount of money and time wasted in public controversy, no man can estimate; and the extent to which a vicious system of colonization has entered into the daily life of this people, and embittered their industrial and social relations, it is painful to contemplate and record.

The fact is beyond remedy; but the undersigned have felt that if tranquility and mutual co-operation among its people could be hereafter secured to the Island, such a consummation could only result from a searching review of all the questions which there touch the tenure of the land.

The undersigned have also felt that as the case of Prince Edward Island was exceptional, so must be the treatment. The application of the Local Government for a Commission, and the large powers given to it by the Queen's authority, presupposed the necessity of a departure from the ordinary legal modes of settling disputes between landlords and tenants, which the experience of half a century had proved to be inadequate.

Finding, therefore, that it was impossible to shut out of their inquiry while on the Island, the questions of coheant, quitrents, the fishery reserves, the claims of the descendants of the original French inhabitants, Indians, and loyalists, they have thought it quite within the range of their obligations to express their opinions freely upon these branches of the general subject.

The question of coheant, though apparently withdrawn from the scope of their inquiry by the despatch of his Grace the Colonial Minister, received long after the opening of the Commission, the undersigned could not put aside. The discussion of this question was forced upon them from the day the Court



opened until it closed. Many public men referred to it, and, either as a remedy or a source of apprehension, each has been urged or resisted in a very large proportion of the documents laid before them.

To pass over each case was as impossible as it would seem to be impolitic. Upon no branch of the general subject has more gross ignorance and misapprehension prevailed; and were it omitted, controversy would spring up with increased violence in all quarters. The silence of the Commissioners upon this all engrossing topic would be regarded with suspicion, and might render nugatory their efforts to balance the interests involved, and to calm the passions stirred.

The undersigned have therefore thought it to comport with the duty they owed to all parties, to express the conclusions at which they arrived, even upon this question.

For simplicity of arrangement it is desirable to consider the different subjects under separate heads.

#### LANDLORD AND TENANT.

*The best mode of settling the Disputes between the Proprietors and their Tenants, and of converting the Leasehold into Freehold Tenures.*

In approaching this, the most important branch of the subject referred to them, the undersigned feel the grave responsibility of the task imposed. Perhaps no three men in British America were ever called to arbitrate upon interests of the same magnitude, or questions of greater delicacy affecting the welfare of large numbers of people. If a judge or a juror about to decide the title to a single estate, feels the responsibility of his position, the undersigned may be pardoned for admitting that with hundreds of estates, and the interests of many thousands of persons, dependent upon their adjudication, they have only been sustained by a very sincere desire to restore peace to a disturbed province, and by the conviction that the high duties imposed by Her Majesty's Government, and by their fellow subjects, could not honorably be put aside.

The impatience with which their award has been looked for, if not demanded, has been a source of anxiety. Her Majesty's Government, in appointing the Commission, evidently undervalued the difficulties of the task imposed. His Grace the Colonial Secretary had been led to believe that the evidence had been collected at Charlottetown, and that the case was ripe for decision. He had been misinformed. No case had been prepared, no evidence had been collected, upon which any arbitrator could have fairly decided the value of an acre of land, or on the interests of the poorest man in the empire. It was apparent, on the arrival of the Commissioners, that the materials for a judgment must be extracted, first, from the people themselves, examined and cross-examined in presence of each other in each important section of the Island; and next, from the public documents, to be sought for as their importance became apparent. Of these not even a list had been prepared, and they had to be gathered and collated, often with much difficulty and no little

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loss of time. Besides the conflicting statements made by land-  
lords and tenants, as to the value of lands in all parts of the  
Island, the existence of barren tracts of large extent, the small-  
ness of the timber, the difficulty of raising grain even on the best  
lands, the causes of emigration, and of the poverty and equal  
appearance of the people, the apparent on some of the estates,  
rendered a very desirable, if not imperative upon the Commis-  
sioners, to test these conflicting statements, through the in-  
dependent agency of a person of large experience, having no con-  
nections in the Island, and whose mission would hardly be ques-  
tioned in his work was done. In this service a competent  
person has been employed for several months, and has, acting  
under instructions from the Commissioners, prepared a series of  
statements and comparative tables, without which they should  
scarcely have felt that the subject had been exhausted, or that  
the elements of a just decision were in their hands.

The opposition of some of the proprietors who had not become  
parties to the arbitration, and who seemed to regard the Com-  
missioners as intruders upon their property, and willing violators  
of their rights, was apparent. These persons appeared to forget  
that the Commissioners did not seek the duties imposed upon  
them, that they had no personal interests in the inquiry, that the  
grievances of Prince Edward Island grew out of no neglect of  
their rights. These persons appeared also to forget, that, though the  
rights of property have ever been sacredly guarded by the law,  
whenever the possession or abuse of property becomes prejudi-  
cial to the public interests, the rights and prejudices of individu-  
als can be constitutionally controlled for the public good. The  
protesting proprietors of Prince Edward Island have no better  
titles to their properties than had the Seigneurs of Canada, the  
owners of the crown-land estates in Ireland, or the slave-holders  
in the West Indies. They have none in good, because every  
acre they own is held by the generous forbearance of the British  
Government, after breach of conditions over and over again.  
Were these people, in view of the distracted condition of the  
Colony, dealt with by specific legislation, or were they now  
compelled to accept the conditions of this award, they would  
only be treated as large classes of their fellow subjects have been  
under the pressure of similar exigencies, and, for the reasons  
stated, would have but little right to complain.

Looking back at the origin of these unhappy disputes, it is  
apparent that the granting of a whole Colony in a single day, in  
huge blocks of 20,000 acres each, was an improvident and un-  
wise exercise of the prerogative of the Crown. Had the pro-  
prietors, however, formed themselves into an Emigration Society,  
and commenced the colonization of the Island, on a rational plan  
for their mutual advantage, there is every reason to believe that,  
with the surplus population of the British Islands to draw upon,  
they might have fully populated Prince Edward Island in a few  
years. But there was no plan, and no co-operative movement  
among the grantees. Some of them early entered upon the  
duties of colonization in a spirit of judicious enterprise, and with  
a liberal expenditure; but others did little, and that little often

unwisely, while the majority did nothing. The emigrants sent out by the few were disheartened by the surrounding wilderness owned by the many, who made no effort to reclaim it, or were tempted to roam about or disregard the terms of settlement, by the quantity of wild land with no visible owner to guard it from intruders. By mutual co-operation and a common policy, the proprietors might have redeemed the grants of the Imperial Government from the charge of imprudence. The want of these indispensable elements of success laid the foundation of all the miseries which subsequently afflicted the Colony.

The separation of the Island from the Government at Nova Scotia, on the pledge of the proprietors to provide by the payment of their quitrents for the expenses of its civil government, was another grave Imperial mistake. Had the Island been permitted to remain part of the larger Colony, its interests would have been controlled by independent legislation, and the impolicy of the grants would have long since been corrected by the Court of Exchequer, which has always been effective in that province. This error entailed upon the British Government a heavy annual expenditure, and deprived the Island of the remedies which would have been applied to its grievances in the ordinary course of events. When a separate government was established, a Court of Exchequer was the simple corrective, and the proprietors could not have complained had the forfeitures of their grants followed upon the flagrant breach of the conditions and their utter failure to provide for the expenses of the civil government.

It is apparent, then, that the proprietors, down to the present hour, have been treated by the Crown with an excessive indulgence, which warrants the exercise of the prerogative in the application of remedial measures, after a century's experience of a vicious system; and it is equally apparent that all the proprietors ought cheerfully to acquiesce in any rational plan for quieting titles, restoring harmony, and promoting the future prosperity of the Island.

The most simple remedy for the evils which actually exist at the present time, would seem to be suggested by the operation of the Land Purchase Act, so far as the Commissioners have been able to estimate the results of its operations. Under that Act the Worrell and Belkirk estates have been purchased, covering 110,000 acres. No injustice has been done to the proprietors, who have cheerfully accepted the same offered by the Government. They have been promptly paid, and at once relieved from all uncertainty as to the future, from the risk of unpaid rents and the heavy expenses of management and collection. The estates thus purchased *en bloc*, have been bought at prices so low, that the Government has been enabled to recoup the lands in fee, at such an advance as not only meets the outlay, but all the expenses of management and distribution. By this system, it is apparent that three signal advantages are secured, that are not presented by any other.

1st. The proprietors are dispossessed by their own consent.

2dly. The tenants are enabled to purchase their holdings and improvements, not necessarily at a price as high as to represent

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the rents stipulated to be paid, but at the lowest price which the expenses of management, added to the aggregate cost of the estate, will warrant.

Sdly. The wild lands are at once rescued from the operation of the leasehold system and are subjected to the wholesome control of the Local Government, to be hereafter disposed of in fee simple, at moderate prices, as they are in all the other North American provinces.

After mature consideration of the subject, in all its bearings, the undersigned have unanimously agreed to recommend the application to the House of the principles contained in the Land Purchase Act, under certain guards and modifications which would appear to be essential to their more extended adoption.

It is clear that the local Government cannot generally apply the principles of the Land Purchase Act, without the assistance of the Imperial Parliament. To complete the purchases already made, other resources have been strained; and even if the money paid could be at once collected the Government could only purchase two other estates at one time, so that many years must elapse before any large measure of relief could be given to the great body of the tenantry, whose complaints have led to this inquiry.

But if the Imperial Parliament would guarantee a loan of £100,000 sterling, the money could be borrowed at a very low rate of interest. The Imperial Government would run no risk, because the annual interest, and such a sinking fund as would extinguish the debt in 21 years, could be secured by a permanent Act, and made a first charge upon the general revenues of the Island, and upon the fund arising from the sale of the estates purchased with the borrowed money. The security would be ample, and a slight re-adjustment of the tariff would enable the Local Government to meet the expenditure with ease. The capitalists and people of the Island should be encouraged to purchase the *dahontaras*; that as small a portion as possible of the interest might be remitted abroad. With the command of such a fund as this, the Government would be in a condition to enter the market, and to purchase from time to time such estates as could be obtained at reasonable prices. There is no doubt that many of the proprietors would be glad to sell, and the competition for the funds at the disposal of the Government would so adjust the prices, that judicious purchases could be made, without any arbitrary proceedings or compulsory interference with private rights.

Taking the prices paid for the Worrell and Belkirk estates as the basis of a calculation, (and though one of them was of an inferior description, the other was confessedly one of the best in the Island), it is apparent that £100,000 would purchase, at 2s. 6d. an acre, 800,000 acres. By the census of 1855, 308,013 acres were then held in freehold; if we add the area of the estate since purchased by the Government, and make a reasonable allowance for purchases by individuals, we may assume that 400,000 acres are already relieved from the leasehold

tenure. If 800,000 more could also be freed by the loan suggested, there would remain but 163,400 acres to be dealt with hereafter.

This residue could in a short time be liberated as the estates were repurchased by the tenantry, and the obligations of the Government reduced.

The advantages of this mode of converting the tenures are so obvious, the objections to it so few and so trivial, that the undersigned beg to submit to Her Majesty's Government the propriety of guaranteeing a loan, which they have no doubt would be gladly accepted by the Island authorities.

The Commissioners feel that it may be going beyond their duty to make such a suggestion, but they hope that Her Majesty's Government will regard the case of Prince Edward Island as exceptional, no grievances having sprung from the injudicious mode in which its lands were originally given away.

Assuming that the Crown will grant and the Colony accept this guarantee, there remains to be considered the security which ought to be defined, for the faithful application and repayment of the money borrowed. These funds ought not to be mixed up with the General Revenue of the Colony, but ought to be sacredly guarded from misappropriation, from suspicion of party bias, or political indirection. This could be effected by each guards as Her Majesty's Ministers would approve. A measure of this character was suggested by Mr. La-bouchere, the Colonial Minister in 1855, and a loan, to the extent of £100,000, was warmly advocated in 1858 by Lord Stanley, then Colonial Secretary, on introducing a Bill in Parliament to the same effect. That Bill was subsequently withdrawn, for reasons which do not very distinctly appear from any papers submitted to the undersigned.

Although it is not improbable that doubts may have arisen as to the ability of the Colony to repay so large an amount, a glance at its present financial condition will show that this relief may be given without any risk to the mother country.

The revenue of Prince Edward Island increased from £17,611 14s. 2d. in 1839 to £41,106 3s. 10d. in 1859, so that it more than doubled in 20 years, the annual increase, in round numbers, being £1,300. It is apparent, then, that without disturbing the tariff, or reducing the ordinary appropriations, in five years the natural increase of population, trade, and consumption, would give £6,500 a year, or a sum sufficient to pay the interest on £100,000, at 5 per cent; so it is not improbable that five years would be required to purchase up the estates, and expend the loan to advantage, it might happen that the revenue would increase so fast as the interest was required, without any increase in the tariff or diminution of the appropriations. But, assuming that a more rapid conversion of the tenures was practicable, and that in three years the whole loan was expended, by that time, £3,000 of additional revenue would be flowing into the treasury under the old tariff, and there would be but £2,400 to provide for by increased taxation, and that only for the short period of two years.

But, it may reasonably be assumed, when a new spirit is breathed into the Island, and its population turn to the business of life with new hopes and entire confidence in the future, that trade will be more active, and the condition of the people will improve. The very operation of the Loan Act may therefore supply all the revenue required to meet the difference; but, if it should not, an addition of two and a half per cent. upon the imports of the Island, or a reduction of the road vote for two or three years, would yield the balance that might be required.

In preparing this Estimate, no reference has been made to the fund which would be at once available from the payment of their instalments by the tenants who purchased. £2,450 was paid in by the tenants on the *Beikun* estate (bought for £10,000) in the first year after it was purchased. Guided by the experience thus gained, of the disposition and of the resources of the tenantry, it is fair to conclude that if such a sum could be promptly realized from sales of lands admitted to be among the poorest in the Island, the local Government might fairly count upon the command of such an income from the resale of the estates they purchase, as would enable them to keep faith with the public creditor without any risk of embarrassment.

Should the Imperial Parliament refuse to guarantee a loan, or the Government of Prince Edward Island decline to tender the securities, some other mode of adjusting the disputes between landlord and tenant must be devised, or the discontent, which has hitherto prevailed, will continue to disturb the peace of the Island, and exercise a pernicious influence upon its politics for many years to come.

The Commissioners are expected to propose a remedy, and discharge themselves of that duty, entirely conscious that the slightest modification or compromise of his legal rights will be regarded as spoliation by the landlord, while anything short of confiscation will scarcely satisfy the tenant. Their duty is not to satisfy either; but with all the elements of a sound judgment before them, to do substantial justice to both.

It is difficult for an European to understand why almost every man in America considers it a personal degradation to pay rent. In the British Islands leasehold tenure is the general rule, and freehold the exception. A wealthy man pays rent with no more sense of inferiority than he feels when he pays his taxes. A poor man lives and dies without any hope of owning land, often without any desire to become a freeholder. On this side of the Atlantic a very different sentiment grew out of the discovery and settlement of a boundless continent, where the best land could be seized upon, or bought for a trifle, in the early stages of colonization; and where even now, after two centuries of occupation, land is so easily obtained, at prices so low that almost every industrious man may own a freehold; if he does not, in the agricultural districts, something discreditable to his character or his capacity is assumed; and even in the towns a man prefers to own the house he lives in, though the amount of interest he would pay upon a mortgage may be quite equal to his rent. So strong was this feeling all over the Continent, that even the



French inhabitants of Lower Canada, to whom *lots of terres* and seigniorial dues were no burdenn, while old world impressions lasted, no sooner became surrounded by a British population, who were freeholders, than they could not endure what they felt to be a degradation, and the Legislature was compelled to stop in and commute their tenures. The tenantry of Prince Edward Island share the common sentiment of the continent which surrounds them. The prejudice in favor of a freehold tenure, if it is one, is beyond the power of reason. The proprietors cannot change the sentiment, the local Government have no power to resist it; and the Imperial Government, having become weary of collecting rents and supporting evictions in *Island*, can hardly be expected to do for the landlords in Prince Edward Island what has ceased to be popular or practicable at home.

It is, therefore, imperative upon all the parties concerned to convert this tenure. Agrarian questions now occupy the public mind incessantly in this fine Colony, to the exclusion of all sound politics. A public man is valued in proportion as he is subservient to the proprietors, or friendly to the tenants, not for the measures of internal improvement or international policy he may propound; and the intellectual and social life of this people is exhausted and frittered away by disputes and contentions detrimental to the interests of all parties.

In addressing themselves to the remedies, the Commissioners freely admit,—

1st. That the original grants were improvident, and ought never to have passed.

2dly. That all the grants were liable to forfeiture for breach of the conditions with respect to settlement, and might have been escheated.

3dly. That all the grants might have been practically annulled by the enforcement of quit rent, and that the lands could have been seized and sold by the Crown at various times, without the slightest impeachment of its honor.

While these admissions are made in clear and specific language, the undersigned are bound to acknowledge that the Crown was the judge in all these cases; and even though it were admitted that the Sovereign was ill-advised, and that the policy adopted from time to time was too lenient and injudicious, still the Sovereign having not only overlooked the laches of the subject, but, in express language, having repeatedly confirmed the original grants, it is impossible to encourage any delusion upon a point so important, or to treat the grantees in any other manner than as the lawful possessors of their lands.

The undersigned do not mean to assert that every proprietor who now claims land in Prince Edward Island has a legal title, or that those who have compelled the people to attorn were or are, in all cases, the rightful heirs or owners of the estates. But what they mean is, that the original grants must be respected; that never having been escheated, but often confirmed, they cannot now be disturbed, and must be taken as the basis of any equitable adjustment.



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As little power have they to disturb leases actually executed. They may not doubt that parties with questionable titles, or no titles at all, may have sometimes claimed and exercised ownership over portions of these lands, may have harassed the tenantry and compelled them to attend; but even where this has been the case, the undersigned can apply no remedy, because the tenant has himself acknowledged the title he asks them to dispute. Such cases are, they trust, and have reason to believe, exceptions to the general rule. In most cases it may be fairly assumed that the titles, whether claimed by purchase or descent, are valid and sufficient although on the part of the title.

Assuming, then, the validity of the original grants, and the binding authority of the leases, the Commissioners are clearly of opinion that the leasehold tenure should be converted into freehold. It is equally the interest of the Imperial and Local Governments that this should be done; that agrarian questions should be swept from the field of controversy; that Her Majesty's Ministers may be no longer assailed by remonstrances and complaints, and that the public men in the Island may turn their attention to the development of its resources. It is equally the interest of the landlord and the tenant, however, as matters stand, the future of both is clouded, and incessant warfare involves a fearful waste of time. The question arises, therefore, upon what terms can a compromise, which is forced upon both, be arranged, should the Provincial Government, for want of the Imperial guarantee, not find itself in a position to purchase the estates?

It is assumed, at the outset, that the proprietors will be willing to convert the tenures, and will be coerced by legislation, should this terms be offered and they refuse to comply.

But they ought not to refuse.—

1st. Because a valuable island, won by the valor and enterprise of British soldiers, maintained by the taxes of the whole people, was inadvertently parcelled out to a few individuals, either for an equivalent, or for services that it is exceedingly difficult at this period to estimate.

2. Because the British Government, deceived by the representations of the original grantors, has paid an amount of money to maintain its Civil Government, the capital of which the entire rental of the Island would scarcely represent.

3. Because, when liable to forfeiture, their grants have been generously confirmed.

4. Because the arrears of quitrent, justly due, and never exacted, far exceed any amount that they will be asked to forgo in order to restore peace to the Colony, and to carry out the policy of the Imperial Government, to which they are under such deep obligations.

5. Because, if they reject a liberal compromise, they must hereafter collect their rents, not only with the public opinion of the Island, but of the Empire, against them, with no power to control the Local Government, and with but slender hopes of any arbitrary interference from home.

That the tenantry will cheerfully purchase their farms from the Government should a general measure result from this Report, is proved by the promptness with which they have paid their instalments for the farms included in the Warrall and Balthark estates. That they will purchase from their landlords, even at higher prices, and on terms adjusted by the Commission, if no general measure is practicable, is confidently hoped and believed.

1. Because, with this Report in their hands, they can hardly place much confidence in those who may tell them of the ~~possibility of the general and the necessity of some measure.~~

2. Because coercion can only be enforced, even if the public men of the Colony were as much in favor of, as they are evidently against it, by a long and doubtful conflict with the Imperial Government.

3. Because their minds will be distracted, and their resources exhausted by perpetual agitation and litigation, until there is a fair adjustment.

4. Because every year's delay makes their condition worse, as their young men will emigrate, and their produce decrease if their farms are not improved; and if their young men stay at home and increase the value of their lands, the price will ultimately rise with the lapse of time.

According, therefore, that a compulsory compromise is inevitable, the question arises, upon what terms should the proprietors be compelled to sell, and the tenants be at liberty to purchase?

For a long time the undersigned cherished the belief that by taking the rent actually stipulated to be paid as a basis of the calculation, they could, estimating the quality of the land and produce yielded, and deducting bad debts, expenses of management, and other charges on the estates, fix a general rate per acre that would be fair to all parties, and determine the price of leased land all over the Island. Acting on this belief, they have prosecuted inquiries, and prepared tables drawn from the census returns, and from a careful examination of each township, but after a laborious investigation into the whole subject, with these returns, the statements of the tenantry, the rent rolls, and accounts current of the landlords in their hands, they have reluctantly been driven to the conclusion that no general rate can be fixed, to operate over the whole Island, or even over the whole of a single estate, without working manifest injustice.

Taking the whole Island it is apparent that many causes may affect the value of land. A sand cove on the coast to which fish resort, or the head of a river full of mussel mud, may be more valuable than an inland farm, however highly cultivated. It would not be fair to compel a proprietor to sell a mill site, which rents for £40, at an average that might be equitably applied to a line of farms renting for £5; nor would it be fair to deduct from the chival proprietor of an estate, who had taken care to get only good tenants, and to collect his rents regularly, the same per centage for loss and collection that would be equitable in cases where the tenants were indifferent, or the agents careless.

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the sea coast, or on the beds of navigable streams, would not suit a less acceptable estate. The proximity to a market, or the establishment of a steamboat line, may vary to the extent of 25 or 50 per cent. the value of the land. The presence or absence of ship timber, of swampy or white sandy soil, may so affect an average that the injustice that would outrage the feelings of a landlord on one side of a road would be as deeply resented by a tenant on the other. Industry or idleness, good health, or a sick family, a barren bed, or many children, affect the productiveness of farms; and it is quite impossible to apply any rule that will meet all classes, or to cut through difficulties that are presented on every side.

But there is another reason why the adoption of a general rate as a mode of conversion, cannot be entertained. If put low, all a proprietor's best farms would be readily bought up by the occupants, and all the worst, with the expenses of agency, taxation, and litigation, would be left upon his hands. If the average was raised high enough to cover these contingencies, and protect the landlord, the poorer class of tenants could not purchase at all; the evils of the present system would be perpetuated, and the appointment of this Commission would have been followed by no practical results.

Political agitations may also affect the value of land, and a rate that would appear fair at one period, might operate most injuriously at another: this may be illustrated by the rent rolls of some of the best managed estates on the Island.

Driven, after mature reflection, to abandon all hope of a solution of their difficulties in this direction, the Commissioners have finally decided to adopt two simple principles.

1st. To give to every tenant of township lands not coming within the fourth and fifth provisions herein-after made, the right to purchase the land on which he lives.

2d. To give to landlord and tenant the security of a fair valuation of the land in case of difference.

To secure a just valuation presents many difficulties. The Commissioners were at first disposed to recommend that the system which had been found to work well, in the sale of the Werrell and Belkirk estates, should be adopted, and that the duty of valuation should be assigned to three Commissioners to be appointed by the Government of the Island.

But this mode is open to serious objection.

Where the estates are purchased by the Colony, the claims of the proprietors are extinguished, and they have no longer any interest in the valuation. The Government have only the general interest which naturally arises out of a desire that their policy should be successful, and that the operation should be self sustaining. Political considerations may operate in the selection of the valuers, but once appointed, it is hardly reasonable to suspect that they act upon any party principle in arranging the classifications. If, however, the estates were not purchased by the Government, and proprietary interest, or popular influence, were brought to bear upon their decisions, they could hardly, if selected by any administration, or from any class

within the island, be regarded as independent and above suspicion.

Another mode is the ordinary one of permitting the landlord and tenant to select each an arbitrator, with power to the two, in case of difference, to choose a third.

The objections to this course are, that no application of general principles, no uniformity would govern the decisions. The men selected would be as various as the localities; many of them it is but reasonable to assume, would hardly possess the necessary qualifications for an enlightened judgment; some of them might be zealous partisans; and, even if an umpire could in all cases be selected who was not, the decision would be as arbitrary as the views and tempers of the parties engaged were diverse and irreconcilable, or their skill in argument or negotiation was fairly balanced.

The particular knowledge of those circumstances of each separate tenancy which affect the interests held by both the landlord and the tenant, could only be obtained by the selection of a competent person who would devote his time exclusively to the business, and make a distinct valuation of every separate holding in the island. The selection, appointment, or remuneration of such a person, however desirable, is not within the power of this Commission. The knowledge which would enable the Commissioners to make such a valuation themselves is manifestly not attainable within any period which can be allowed them for making their award.

Notwithstanding the objections above stated, arbitration therefore under certain circumstances, appears the only feasible and expeditious mode by which the conversion can be effected, and the fact that each party interested will have a voice in the constitution of the tribunal which is immediately to pass upon his rights, may, in the opinion of both landlords and tenants, outweigh the objections to this mode of adjustment, which the undesignated have no desire to conceal.

In the business of life, a speedy and final settlement, even if it be not exactly what is wished for, is better than one that is protracted and uncertain. In the case of the tenants of Prince Edward Island, it is not more the price at which they may obtain their holdings, than it is the compulsory power of purchase at some price, that is wanted. The tenant who has this power has a marketable commodity; if he has not means, he can sell it to those who have, and sickness or accident will not deprive him of the fruits of his industry. The harshness of a landlord, who claims the right of re-entry, and the determination of the tenant's estate, for rent in arrear, becomes unimportant when the tenant by raising the comparatively small sum which represents the landlord's interest, can put an end to the landlord's estate itself. It is the power which the landlord at present has of lying by to take advantage of sickness, distress or accident, which to the tenant constitutes the bitterness of his position. The landlord, who has leased for 999 years, can reasonably claim nothing beyond the capital, of which the rent would represent the interest. The tenant's improvements in such case ought to be the

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heritage of his family; they may amount in value to many hundred pounds, but they are interests to that family, when the right to refuse upon any terms the removal of the risk of forfeiture, which hangs over them improvements, still exist in the landlord. It being then admitted that there shall be a compulsory power of purchase, at some price, that difficulties exist in the way of determining that price by a specific value, that it is desirable to avoid the delay and uncertainty of arbitration as much as possible, and that a general rate per acre throughout the Island would be unjust, some other mode must be adopted, a mode which, while it maintains the rights of property, and the validity of contracts so far as can be consistent with a compulsory transfer, will afford to the tenant an opportunity of redeeming his estate in a short period, and on reasonable terms. The basis of this compromise must be the amount of rent stipulated to be paid: it is the only clue which will safely guide all parties through the perplexities by which they are surrounded.

The Commissioners therefore report and award—

1st. That tenants who tender 30 years purchase to their landlords, in cash, shall be entitled to a discount of 10 per cent. and a deed conveying the fee simple of their farms. Where the tenant prefers to pay by instalments, he shall have the privilege, but the landlord shall not be bound to accept a less sum than £10 at any one time; nor shall the tenant have a longer term than 10 years to liquidate the debt.

2nd. That tenants whose lands are not worth 30 years purchase, and who therefore decline to pay that amount, may tender to their landlords what they consider the value of their farms. If the landlord declines to accept the amount offered, the value shall be adjusted by arbitration. If the sum tendered is increased by the award, the tenant shall pay the expense, if it is not, they shall be paid by the landlord. If the sum awarded is tendered in cash, a discount of five per cent. to be allowed; if not, payment to be made by yearly instalments of not less than £10, the term of payment in no case to exceed 10 years.

3dly. That the rent shall be reduced in proportion to the instalments paid, but no credit shall be allowed for any cash instalments, until the three years arrears allowed by this award have been paid, nor while any rent accruing after the adjustment of the value of the farm remains due.

4thly. That proprietors who hold not more than 1,500 acres, or those who desire to retain particular lands to that extent, shall not be compelled to part with such under this award.

5thly. That leases under a term of less than 40 years shall not be affected by this award.

The Commissioners cannot close this branch of their report, without again expressing their conviction, that the purchase of the estates, by the negotiation of a loan through the Imperial Government, presents advantages so manifest that they cannot too strongly recommend its adoption, in preference to all other plans for the settlement of these unhappy disputes. Assuming that their alternative remedy is preferred, then they desire to

place on record their regret that they could not have prepared the way for a uniform and equitable adjustment, by the appointment of a valuator perfectly independent of any bias, whose decisions would have been governed by general principles, capable of explanation and legitimate defence.

#### ARREARS OF RENT.

##### *The Remission of Arrears of Rent due by the Tenants.*

Assuming the tenants able to pay the arrears of rent due, it may be imagined unnecessary to require the landlords to relinquish their rights to them; but not altogether so, if, from the poverty of the tenants, or the remissness of the landlords, no large amount has been allowed to accumulate as to render its collection in most cases hopeless; and while they duly estimate the delinquency of the task, the Commissioners feel that they are justified in recommending a remission of a portion of the large accumulation of arrears. This would confer a great boon upon the tenants, and would, it is conceived, occasion little or no loss to the landlords. In effecting this, no greater violation of the rights of property would take place than a creditor is subjected to by the laws which relieve his bankrupt debtor from his liability. Although the undersigned are convinced that the arrears in most instances have accumulated from poverty of the soil, from unavoidable sickness or misfortune, or from the rate at which land has been taken being too high, yet they cannot resist the conviction that in some cases persons have withheld payment of rent who were not unable to pay it.

To adjust the question of arrears by any sliding scale which would meet the peculiarities and equities of each case, has appeared to them, after much reflection, to be impossible. But, as some specific remission is absolutely necessary, they are of opinion that a release of all arrears beyond those which have accrued during the three years preceding the 1st of May last would, under the circumstances of Prince Edward Island, be for the benefit of both landlords and tenants. They therefore report and award, that all arrears of rent due by the tenants previous to the 1st of May, 1866, be remitted.

#### FISHERY RESERVE.

##### *The Rights of the Crown at the time of the Transfer of the Casual and Territorial Revenues to the Local Government in the Fishery Reserve, contained in the original Grants, and the best policy to be adopted for their future disposal.*

The reservation in 1767 of a belt of 500 feet in width, round the shores of Prince Edward Island, for the use of the Fisheries, though quite in accordance with the policy of the period, has been found by experience to have been an impolitic reservation.

In Nova Scotia, where no such reservation existed, and where lands have been granted down to high-water mark, an invaluable resident fishery has sprung up, which is self-sustaining, supplies a profitable export, and lies at the basis of the extraordinary commercial development of that Province. On New Brunswick, to some extent, a similar observation may be made.

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In Prince Edward Island, during the last three or four years, there appears a most promising increase in the export of fish, as compared with former years. Yet fishermen, as a class, can hardly be said to exist, although the Island is surrounded by the best fishery in the world,—so profitable in fact, that hundreds of schooners are annually attracted to the Gulf of Saint Lawrence from the northern coast of Nova Scotia, and from the more distant coasts of Maine and Massachusetts.

In view of these facts, and of the comparisons which they establish, and of the still more prominent fact that the preservation of the fisheries in the Island, limited as it is, compared to the immense advantages possessed, has been in no way promoted by the reservation, the undersigned are clearly of opinion that the Fishery Reserves of Prince Edward Island should be abandoned, and that the territory, thus nominally dedicated to a branch of industry which will more surely grow from the operation of natural causes than from adventitious aids, should be left to the unrestricted use which the necessities or intelligence of the people may suggest, or the interest of commerce require.

Practically, as already shown, these reserves have never been respected. The reclamation by the Crown, or of persons claiming under the Crown, in case of licences issued, of those parts of the reserves which have been actually reduced into possession, and improved land cultivated (if possible at all) could only be accomplished by means of expensive and harassing litigation, rendered still more embittered by a sense of injustice. It is difficult to get over an acquiescence of nearly a century in the enjoyment of property untrammelled by the exercise of a dormant encumbrance reserved in the grant, even though there be no Statute of Limitations in the Island against the Crown. It would be equally difficult, after a lapse of 90 years, territorially to define where that reservation commenced and where it ended. The sea coast has changed, in many parts materially receded. From the north point to the east point, is the great curve which constitutes the bight of Prince Edward Island, and which is the principal resort of American fishermen, there is, and has been, as correctly as can be gathered from observation, and the statements of those who have longest lived on that coast, a receding of the mainland at the rate of two feet a year. On one of the islands in Richmond Bay, there was formerly a French burying ground, which it must be assumed, was originally some distance above the water level; 15 or 20 years ago coffins were washed out by the sea.

From the north point to the west point, where the coast is bolder and more rugged, the receding has been at the rate of one foot a year, and from the west point to the east point, on the south and convex side of the Island, at the rate of one foot and a half a year.

At one point, near Cape Egmont, within the memory of living men, the mainland has receded 300 feet. Thus it may fairly be assumed that at least 200 of the 500 feet have gone since the date of the grants.

The enforcement of the legal right to the encumbrance at the



present day, even in the parts of the reservations which have not been actually cultivated or improved, if resisted by the legal owner of the adjoining land as representative of the original grantee, would from such cause alone, be most difficult. In some of the grants the Crown gave the fee simple in the 800 feet over which the easement was to extend; in others the 800 feet was reserved to the Crown, but only for the same purpose for which the easement in the first case was intended; therefore the Crown itself would be stopped from granting the reserve, in the latter case, for any other purpose than that of the fishery.

To settle complications which have sprung, and might hereafter spring from the perpetuation of these reserves, the undersigned are clearly of opinion that in those cases where the original grants passed the entire fee of the lot or township, reserving over the 800 feet the easement only, the land constituting such reserve should henceforth be held by the legal owners thereof, and those claiming under them, free from such easement or any claim thereto.

The policy of breaking up the reserves being assumed, it is with reference to the class of grants, where the fee remained in the Crown, that in carrying out such policy the principal difficulties will arise.

It is to be borne in mind that in the Island there is no Statute of Limitations against the Crown. No title by possession to these reserves can, therefore, have been acquired as against the Crown; some steps must now be taken to give title. To whom is it to be given? By the surrender of the casual and territorial revenues to the Island, on the establishment of responsible Government, these reserves became the property of the Local Government, and if justice could be found to carry out the law, possession could or ought to be recoverable in the ordinary way, by which the Crown expels intruders from the public domain. Such a course, however, in the present case, would lead to great confusion, and in many instances to gross injustice. In the cases of the grants last mentioned, though the fee remained and still is in the Crown, yet the possession since the issuing of the grants has been in the grantees of the lands of which the reserves form the sea front, or their representatives. The lessees of such persons have held, improved, and occupied under them as owners. To give to the original grantees, or their representatives, an unconditional fee at the present time, would be gross injustice to the lessees. To give to the lessees would be equally unjust to the owners in fee, as placing a clear belt of freehold between their lands and the sea, and virtually putting them at the mercy of the tenants.

The equitable rights of both parties ought to be respected. The restriction of the Crown to grant for any but fishing purposes ought to be abolished. The only mode by which justice can be effectually done, is to put an end to such reserves, and let the land be held in fee, as if the same had absolutely passed at the time of the original grants, and that the grantees, their representatives or tenants, shall be bound by all contracts which may affect the same as if the reserves had been included in such

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The reserves being entirely abolished, it remains to be considered in what way fishing stations can be secured. In the opinion of the undersigned, commerce and self-interest will, as a general rule, regulate such matters, and as the fisheries cannot be carried on in a continuous belt round the whole Island, such reservations are, as they have proved, comparatively valueless.

The harbours are open and available to all persons; what is required is the right to secure, at a reasonable rate, in parts where fishing stations can be judiciously selected, so much ground as will answer the purpose. The right to permit the erection of wharves, buildings, and the enjoyment of exclusive privileges below high-water mark belongs to the Government. Provision should be made that parties embarking in the fisheries, who may have obtained a grant from the government of any portion of the land below high-water mark, and shall require to make erections on the adjoining shore for the purpose of prosecuting the business, with effect, and shall not be able to obtain, by purchase from the owner, a suitable lot on reasonable terms, may be authorized to appoint an appraiser, and require the owner to do the same, who, with an umpire, to be selected by the two appraisers, should proceed to lay off a portion of land, not exceeding one acre, in a locality on the shore most suitable for the purpose of carrying on the fisheries, and in such a way as to occasion as little injury as possible to the owner, and to make a valuation thereof; the party applying for such land, on payment of the amount of such valuation to the owner, to become entitled to a deed thereof in fee simple.

The Commissioners therefore report and award, that the reservations for fishery purposes, contained in the original grants of the townships of Prince Edward Island, abutting on the sea-shore, be abandoned, and the policy with reference thereto, suggested by this report, be adopted.

#### RESHEAT.

*The Resheat, at the present time, of the original Grants for non-performance of Conditions as to Settlement.*

Previous to thecession by Her Majesty in 1881 of the Crown and Territorial Revenues in the Island to the Local Government the Crown had, by repeated declarations, denuded itself of the power of exchequering the original grants, and declared any measure of that character impracticable. This is clearly expressed in Lord Gray's despatch to Sir Alexander Bannerman, of the 12th of July, 1881.

"Repeated applications have been made at different times to Her Majesty's Government to consent to measures to deprive the proprietors under the original grants of their estates, on account of their having exchequered to the Crown, by reason of the non-fulfilment of conditions. The applications have been resisted on grounds with which the correspondence between successive Secretaries of State and Lieutenant Governors of Prince Edward Island, especially since the year 1882, will render you sufficiently familiar. It is only my purpose now to state, that Her Majesty's

Government feel themselves bound to adhere to the decision, so repeatedly adopted by my predecessors in this matter, and to state that both on the grounds of justice to the landed proprietors, and of the permanent interests of the community of Prince Edward Island, they regard such a measure as impracticable."

It could hardly be conceived that, with such views as these, Her Majesty could ever have intended to transfer to the Local Government a power, the exercise of which would be in derogation of the faith and honour of the Crown. But apart from this, the exercise of such power at the present time would be directly at variance with the interests of the Island.

Ninety-four years ago the grants were issued; 84 years ago the conditions of the settlement by foreign Protestants, on which they were issued, were broken; 84 years have passed and no forfeiture for such breach has been exacted. In the meantime the character and value of the lands have altered; improved, cultivated, and paid for, acquired by purchase, or passed by inheritance, in some instances no taint of the original ownership remains.

If it were possible that any country could be found, where, after a century the possession of property could be disturbed for non-performance of an absurd condition in the original grant, the authority having the power to enforce the forfeiture during all that period, not only being fully cognizant of the omission to perform, but actually declaring that performance should not be required, and acquiescing in the expenditures, improvements, and transmissions that were made on the faith of such declaration, that country would cease to be regarded among the civilized communities of the world.

If it were believed that such a principle existed in Prince Edward Island, or could be enforced, it would be utterly ruinous to its prosperity.

The insecurity of the tenure would prevent any person purchasing land. Titles would be insecure, because, with few exceptions, the forfeiture would apply to every township, and every subdivision of a township in the Island. No particular lot, no particular proprietor could be selected; the law would be general in its application, and must fall on all alike; not solely on the representative of the original grantees of 1776, if any such there be, but on the purchaser of yesterday, or the orphan whose inheritance fell to him the day before. The destruction of the primary title would carry with it the titles of the small freeholders who hold under it, as well as the improvements of the tenants. If courts and juries could be found to work out such a principle, no free people would endure it long.

But if the scheme could be carried out, and these lands became vested in the Local Government, how could they be disposed of, and who would become the owners? If put up at public auction, it does not follow that the man whose labor had made a farm valuable, or whose money had purchased it before the scheme, would be certain of securing his improvements. If disposed of at a private sale, the practice would lead to the grossest favoritism and corruption.

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There is no light in which the present aspect of the titles, on the ground of the conditions of the original grants having been broken, can be viewed, which would not exhibit consequences most disastrous to the Island. That such, practically, has been the opinion of every Government for the last 40 years, is apparent to any one acquainted with its history. Constitutionally, a Court of Exchequer has always existed. Exchequer is incident to the power of the Crown in the administration of the public domain. It required no particular legislation to put the machinery of exchequer in operation; none is required now. Yet no Government, whatever party may have been in power within that period (and opposing administrations have constantly succeeded each other), has ever attempted to enforce a forfeiture.

The Commissioners therefore report and award, that at the present time there should be no exchequer of the original grants for non-performance of conditions as to settlement.

#### QUITRENTS.

##### *The Relinquishment by the Crown of the Arrears of Quitrents previous to the Transfer of the Crown Revenues to the Local Government.*

The action of the Imperial Government on this question has not been so decided as on the question of exchequer. Up to the time of passing the Land Tax Act, 11 Geo. 4, c. 17, (1830), it is clear that the right to the arrears had never been wholly abandoned. The liberality of the British Government, in the commutations offered to the proprietors in 1802, was an evidence of its desire for the advancement of the Island; and, had the commutations at that time been exacted from the proprietors, and expended in local improvements, some atonement would have been made for the prejudice of its prosperity resulting from the mode in which the lands had been originally parcelled out. The expenses of a separate Civil List had been incurred by the British Government, on the representations of the proprietors, and on the faith that the accruing quitrents should constitute the fund upon which those expenses were to be borne.

The Imperial Government showed great forbearance; it sustained the Civil List for many years, and did not exact the quitrents. The proprietors, or those claiming under them, held their lands without performance of the stipulations and conditions on which they were granted.

In 1830, at the time of the passing of the Land Tax Act, the Imperial Government evidently contemplated not only the collection of a portion of the arrears of quitrent, but the revival of those rents at the period when that Act would expire. Since that Statute came into operation, and during its continuance, or the continuance of those Acts passed in lieu of it, the tax collected has largely exceeded the quitrent chargeable. That this would be so was apparent at the time the first Act was passed.

In 1838 the Imperial Government removed all doubts as to the arrears, prior to the 11 Geo. 4, c. 17, by stating, through the Colonial Secretary, Lord Glenelg—

"That all rent in arrear at the period when the Provincial Act 11 Geo. 4, c. 17, as confirmed and came into operation, must be considered to have been remitted by the authority of the despatch of 27th January, 1833, but that no further remission could have been contemplated by that despatch, nor ought to be allowed, with the exception already stated of the rent of the year in which commutation may be effected, whether the same be payable as in the year 1837-8, under the provision of the Act, or as will subsequently be the case, under the original grants and tenures of the land."

The commutation, in the latter part of the foregoing passage referred to, was in view of an extinguishment, by so many years purchase, of the quitrents which would commence to accrue after the expiration of 11 Geo. 4, c. 17.

But as that Act has since in principle been constantly renewed, and the tax continued, the commutation contemplated has become a dead letter, and must so remain until the Local Legislature ceases to renew the Act, or to make other provisions in lieu thereof,—the whole matter, for future regulation, being now under its control. But all arrears, up to the time of the passing of 11 Geo. 4, c. 17, the Imperial Government clearly remitted, and however little the proprietors or their representatives were entitled to such an act of grace, yet those arrears having been once remitted, it is impossible to suppose Her Majesty's Government handed over in 1851 to the Local Government, on the surrender of the casual and territorial revenues, the debts which in 1833 had been cancelled by the Crown.

The Commissioners therefore report and award, that previous to the transfer in 1851 to the Local Government of the casual and territorial rights and revenues, the Crown had remitted all arrears of quitrent due up to the period when the Act 11 Geo. 4, c. 17, was confirmed and came into operation; but that the right of the Local Government to the revival of future quitrents, on the expiration of the Acts imposing a land tax in lieu thereof, is clear and undoubted.

#### CLAIMS OF THE DESCENDANTS OF THE LOYALISTS.

That the Loyalists, who sought homes in Prince Edward Island after the confiscation of their properties in the old revolted colonies, had strong claims upon the British Government, will be universally admitted. That His Majesty's Government, in 1783, felt the full force of those claims, and was sincere in its desire to make a liberal provision for the loyalists, there is no reason to doubt.

That some of the proprietors of Prince Edward Island, who, with apparent willingness came forward and offered to relinquish portions of the improvident grants they had received, for the benefit of these sufferers, were sincere, it is charitable to assume. But there is too much reason to believe that some of them were not sincere, and made the offers but to cover the non fulfilment of the conditions of their grants. That the rights which the loyalists then acquired were not enforced, is deeply to be regretted; yet it is impossible, for the reasons stated by Lord

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John Russell, after the lapse of three-fourths of a century, to revive them to the prejudice of the present owners of the lands. But, even at this distance of time, the sense of harsh neglect and injustice, which still exists, ought, if possible, to be effaced from the minds of many deserving people, who proudly trace their descent from men, the confiscation of whose properties in the revolted colonies was accepted as an inevitable necessity, but who still resent what they regard as injustice and deception, practised upon their ancestors upon British soil, and under the flag which they had begun to believe to be British.

The British Government, having for so many years provided for the Civil List of the Colony, the Commissioners would respectfully suggest that the Provincial Government might, at a small sacrifice, dispose of this old vexed question.

Since 1839 no action on this subject has been taken by the Legislature or inhabitants of the Island. From 1851 the Local Government has had the disposal of the Crown lands; but, even since that period, no application has been made to the Legislature for compensation or redress. It would, however, be in the power of the Local Government, out of the lands ceded to them in 1851, or since purchased, or that may hereafter be purchased to give to any descendant of a loyalist who could prove his descent and that his ancestor had not participated in the distribution of land which some of the proprietors fairly and honorably appropriated (the burden of proof in both respects being upon the applicant) a free grant equivalent in quantity to the proportion he would be entitled to as such descendant, had his ancestor gone into possession and died seized.

This remedy is now so entirely in the power of the Local Legislature, that the undersigned feel they would be exceeding their duty were they more than respectfully to suggest it.

#### CLAIMS OF THE DESCENDANTS OF THE ORIGINAL FRENCH INHABITANTS.

The claims of certain descendants of the French inhabitants of the Island were earnestly pressed upon the Commission.

It was alleged that the French settlers, who were in the Island prior to the treaty of 1763, were by that treaty confirmed in the rightful occupancy of their lands, which were subsequently granted away in 1767; and that those grants of the whole Island must have been made in ignorance of the occupancy, or in violation of the rights of the French. Though this subject was not specially referred to the Commissioners, yet it appeared very desirable that it should be disposed of, as it seemed to interest a large class of the inhabitants whose forefathers had been driven from lands they thought their own, and who had themselves suffered a good deal, either from ignorance of their rights, or, assuming that they had any, from their practical invasion.

Having examined this subject in all its bearings, the undersigned deem it their duty to report, that, assuming the statements made by the French to be true, and that their rights were not compromised by the facts of history, they would seem to have been harshly treated. But upon the proprietors who have

been in undisturbed possession of their lands for nearly a century, no legal claim can now be established, and it is clear that the Island Government, which was not organized till long after the wrong complained of was done, cannot be expected to make atonement.

An appeal to the British Government can hardly be sustained, if it is judged by the light of our early Colonial history.

The British attempts at colonization in all the maritime provinces were, as was very natural, opposed and rendered hazardous by the French, who occupied the alluvial lands around the Bay of Fundy, and Basin of Minas, who had built forts at Annapolis and Chignecto, and who, when the neighbouring provinces were rescued from them by conquest and by treaty, still occupied Cape Breton and fortified Louisbourg with great skill and at an enormous expense. Prince Edward Island (then the Island of St. John) was the granary of Cape Breton, which was but little cultivated, its inhabitants being chiefly occupied with the fur trade and the fishery. It is fair to assume that in all the measures and policy of that period, which led to the expulsion of the French Acadians from Nova Scotia, and to the confiscation of their lands, the French inhabitants of the Island of St. John participated; if they did, their descendants have no reason to complain. The expulsion of the Acadians occurred in 1755. The grants to the proprietors of Prince Edward Island were issued in 1767, twelve years after the lands of the Acadians were confiscated. Were the French of Prince Edward Island equally guilty, or were there any peculiar circumstances which gave them a claim to the favour and merciful consideration of the British Government, which could not be pleaded on behalf of the Acadians of Minas and Beau Sejour? The undersigned fear not. At a later period, when the British Government had become firmly established in all the British Colonies, the French, who had fled to the woods of Nova Scotia, or who sought refuge on the unoccupied and remote portions of its seacoasts, were suffered to purchase lands, or acquire title by peaceful occupation. But there is no instance, in the history of that province, where lands once confiscated and granted to British settlers were ever again restored. With every desire, therefore, to take a generous view of the claims and sufferings of persons whose only crime was adherence to the weaker side, in a great national struggle, yet the Commissioners do not see how they can, after the lapse of a century, rescue them from the ordinary penalties which are incident to a state of war.

#### INDIAN CLAIMS.

The Indian claims are limited to Lennox Island, and to grass lands around it, and as it appears by evidence that the Indians have been in uninterrupted occupancy of this property for more than half a century, and have built a chapel and several houses upon the same, the undersigned are of opinion that their title should be confirmed, and that this very small portion of the wide territory their forefathers formerly owned, should be left in the undisturbed possession of this last remnant of the race.



Should the general principles, propounded in this report, be accepted in the spirit which animates the Commissioners, and be followed by practical legislation, the Colony will start forward with renewed energy, dating a new era from 1861. The British Government will have nobly atoned for any errors in its past policy. The Legislature will no longer be distracted with efforts to close the Courts upon proprietors, or to tamper with the currency of the Island. The cry of "tenant right" will cease to disguise the want of practical statesmanship, or to overawe the local administration. Men now warring and divided each wither will be reconciled, and pursue their common interests by mutual co-operation. Roads will be levelled, breakwaters built, the river beds will be dredged, and new fertilizers applied to a soil, now annually drained of its vitality. Emigration will cease, and population, attracted to the wild lands, will enter upon their cultivation unembarrassed by the causes which perplexed the early settlers. Weighed down by the burden of this investigation, the undersigned have sometimes felt doubtful of any beneficial results. But they now, at the close of their labours, indulge the hope that if their suggestions are adopted, enfranchised and disenthralled from the poisoned garments that enfold her, Prince Edward Island will yet become, what she ought to be, the Harbouroes of the St. Lawrence.

All which is humbly submitted to Your Majesty.

(Signed)

JOHN HAMILTON GRAY,

JOSEPH HOWE,

Rethsay, 18th July, 1861.

J. W. RITCHIE.



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