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Wesley's Gazette.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, THURSDAY, MARCH 6, 1856.

IN THE HOUSE OF ASSEMBLY. Wednesday, 20th February, 1856.

HIS Excellency the Lieutenant Governor having transmitted by Messrs. the following Documents to the House of Assembly, for the information of the House, it was thereupon—

Ordered, That the same be inserted in all the Newspapers published in Charlottetown.

Also, the Papers marked Nos. 1 and 2, viz:—
Extract from Minutes of the Executive Council, dated 27th August, 1855; and

Copy of Despatch of the Right Honourable H. Labouchere, Secretary of State for the Colonial Department, dated Downing Street, 21st December, 1855, subsequently presented to the House, were likewise ordered to be published as above.

JOHN McNEILL, C. H. A.

Extract of a Despatch from Secretary Sir George Grey of the 17th November, 1855.

Copy of a letter from Mr. R. B. Stewart to Lord John Russell, praying that the Royal Assent may be withheld from certain Bills passed last Session of the Legislature.

Copy of Memorial and Petition of certain Proprietors to Lord John Russell against "Rent Roll Bill" and "Tenants' Compensation Act," dated the 4th June, 1855.

Copy of Petition and Remonstrance of certain Proprietors and Agents of Land in Prince Edward Island, to the Queen, against the "Act to impose a rate on the Rent Rolls of Proprietors," dated the 4th June, 1855.

Copy of Petition and Remonstrance of certain Proprietors and Agents of Land in Prince Edward Island, to the Queen, against "Tenants' Compensation Act," dated the 19th June, 1855.

Copy of Petition of certain owners of Township Lands, against "Rent Roll Bill" and "Tenants' Compensation Act," to Sir Wm. Molesworth, dated the 27th August, 1855.

Government House, 20th February, 1856.

Extract of a Despatch from Secretary Sir George Grey, of the 17th November, 1855.

"I have to acknowledge your Despatches, by which you transmit to me, for Her Majesty's sanction, two Acts passed by the Legislature of Prince Edward Island, in the month of April last, intitled respectively:—

"An Act to impose a Rate or Duty on the Rent Rolls of the Proprietors of certain Township 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 further encouragement of Education;" and "An Act to secure Compensation to Tenants in Prince Edward Island, and thereby to promote the improvement of the Soil;" both of which Acts contain exceedingly clause receiving them for the assent of the Crown; and also transmit representations, from various parties interested in the subject of these Acts.

Her Majesty's Government have considered these Acts separately, and with an anxious desire to do justice between the Community of Prince Edward Island in general and the Proprietors of the Soil, and to allow the fullest possible scope to the principle of local independence in Legislative matters, subject only to their paramount duty not to advise the Crown to assent to any measure inflicting manifest wrong on any of Her subjects.

I regret to be obliged to inform you that Her Majesty's Government find themselves unable to advise Her Majesty to give Her assent to either the one or the other of these Acts. "If the Legislature of Prince Edward Island should find that the Revenue of the Island is not sufficient to defray the public expenses of the Colony, and if these expenses cannot be diminished by any economical revision without detriment to the public service, a general tax affecting alike all incomes arising in any way from land, from houses, from trade, from manufactures, from salaries, or from any other source, might be a fair and proper mode of providing the requisite funds; and if such an Act were passed (with sufficient reason shown for it)—applying equally to landowners and tenants, to proprietors and occupiers—such a measure would be free from objection.

The measure intitled "An Act to secure compensation to tenants in Prince Edward Island, in respect of the improvements on the soil," is a measure which Her Majesty's Government find themselves unable to advise Her Majesty to give Her assent to either the one or the other of these Acts.

"If the Legislature of Prince Edward Island should find that the Revenue of the Island is not sufficient to defray the public expenses of the Colony, and if these expenses cannot be diminished by any economical revision without detriment to the public service, a general tax affecting alike all incomes arising in any way from land, from houses, from trade, from manufactures, from salaries, or from any other source, might be a fair and proper mode of providing the requisite funds; and if such an Act were passed (with sufficient reason shown for it)—applying equally to landowners and tenants, to proprietors and occupiers—such a measure would be free from objection.

"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 equity, 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 connection with other Acts, the effect of depriving the landlord of every remedy, other than the ex-

Copy of a Letter from Mr. R. B. Stewart to Lord John Russell, praying that the Royal Assent may be withheld from certain Bills passed last Session of the Legislature.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, MAY 19th, 1855.

My Lord—
As the Proprietor of about 80,000 acres of land in this Colony, I beg to be permitted to address your Lordship, on the subject 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 cannot willingly believe that Her Majesty's Government intend to deprive themselves of their just right and prerogative as a Court of Appeal in extreme cases of injustice, such as those intimated here, and to which I now address your Lordship's attention.

1. "An Act to impose a Rate or Duty on the Rent Rolls of the Proprietors of certain Township 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 further 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 thought 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 an outlay of time, money and trouble, which may demand the sympathy of British nobles and gentlemen, 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 upon all other classes of Her Majesty's subjects—the small Debt Court; by another existing local law, the process of distress 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 distress by way of making example of some more than ordinarily lawless 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, such 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 unoccupied 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 an 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 such a remedy 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. Lorne, 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 occasion of one of my tenants having quitted his land, and he was removed from the hands of the said tenant by a military body of armed soldiers, who were accompanied, and seconded by, a number 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 equity, 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 connection with other Acts, the effect of depriving the landlord of every remedy, other than the ex-

clusive one of an action at law in the Superior Court of Judicature, the rent being no more than one acre per annum, the defendant being generally a trustee or agent of the proprietor, and the jury being composed of tenants, or persons interested in purchasing themselves to become freeholders, without the aid of the sanctity of an oath being but regarded when a proprietor is to be injured by its infringement. Under all these adverse influences or circumstances, the landlord has but little chance of succeeding, and still less of getting his money, if he should gain his suit. Direct compensation to the landlord for deprivations such as these, or any person daring to take, or to treat with the landlord for taking the vacant farm—deprivation and threat 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 undisturbed, 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 tenant's 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 of 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 proprietor's vacant land also, long before more than a 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 deprivations such as these, by the outgoing 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.

3. In an Act relative to Highways there is the following clause. When land held by a tenant or lessee, under lease, 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 landlord 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.

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 extracts 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 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 in recovery, or to obtain a decree from the Court of Judicature, in order to obtain a right of way, 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 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 proof of such animus, I beg to submit to your Lordship some extracts from a speech made by the Colonial Secretary, the Hon. George Coles, in the House of Assembly, on March 29th last, in the course of a debate on the old subject of Echeat. 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 a past policy and present views of the speaker. "Believing that Echeat was impracticable, I have introduced a bill for other measures for the benefit of the people, at the expense of the proprietors. This course I proposed my constituents at my first election that I would pursue. They approved of it, and they returned me, and I have been retained to the House at every subsequent election, and I have loved the same policy of dealing with the Land Question morally, but to some practical effect. Under these circumstances, I consider myself at perfect liberty to oppose the reversion of the honorable member, and in doing so, I shall endeavor, 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 on the tenantry, arising from the operation of the Echeat, and to do so, by passing the Land Purchase Bill. I think the Bill I proposed to bring in, in connection with the Land Purchase Bill, will be a substantial benefit to the people."

The following is an extract from the speech of another member of the Government, the Hon. Joseph Williams, in the same debate:—"Before long I have no doubt that the proprietors will be glad to sell their lands to the Government, and the land tax will find to be a somewhat heavy burden, which is not without its influence upon them now. The completed tax upon their Rent Rolls, is another step in the same progression."

enquiry into the tenancy 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 tyranny with which we are charged by the demagogues who gain their bread by asserting falsehoods.

Eagerly hoping that the royal allowance may not be given to those continued and unjustifiable attacks upon the Proprietary body.

I have &c.

(Signed) ROBERT BRUCE STEWART.

The Right Honourable
Lord JOHN RUSSELL,
&c. &c. &c.

Memorial and Petition of Mr. R. B. Stewart and Mr. Charles Wright to Lord John Russell, against the Rent Roll and Tenant Compensation Acts, dated 4th June, 1855.

THE MEMORIAL AND PETITION OF THE UNDER-SIGNED RESIDENT OWNERS OF LAND IN PRINCE EDWARD ISLAND, SHewETH—
That in addition to any further representations to which your Memorials may become parties respecting late public measures affecting their interests as a class of Colonists, they beg leave respectfully to submit to your Lordship the following statements.

That certain local enactments, passed during the last five sessions of the Legislature, have called forth various remonstrances on the part of owners of Township lands in this Colony, respectfully urging the attention of the Colonial Minister to the serious consequences of such measures, as affecting the value and security of property throughout this Island; the object of the Legislature being to force land into the market, with a view to its being purchased by the Colonial Government, under an Act passed for that purpose, and thereby affect its re-investment in the Government by the working of oppressive statutes, whose operation, if sanctioned, will be tantamount to the confiscation of lands so situated.

That the titles to the lands in question, conferred by the Crown in the years 1769 and 1770, and Her Majesty's Ministers have on repeated occasions declared that it would be neither just nor politic to interfere with property so held for the non-fulfilment of conditions imposed by the original grants, as such conditions were impracticable; and this has been regarded by parties making investments of capital on the Island as an all-sufficient guarantee that Her Majesty's Government would not permit any undue encroachments on the interests of proprietors, holding under such titles. But the foregoing assertion as regarding the policy of the Legislature, will be fully borne out by the following extracts from a speech delivered by the Leader of the Government in the Assembly on the 29th March last:—"Believing that Echeat was impracticable, I have introduced and carried other measures for the benefit of the people at the expense of the Proprietors. * * * I am satisfied that this House has it in its power to mitigate the hardships on the tenantry, arising from the operation of the Echeat, and to do so, by passing the Land Purchase Bill. * * * And the Land Purchase Bill, the Education Act, and the proposed Act for taxing the Rent Rolls of Proprietors, would have the effect of inducing a reasonable and equitable settlement of the question."

As regards what the leader of the local Government may esteem "a reasonable and equitable settlement," it will be proper to refer to the opinions of different Secretaries of State, repeatedly expressed on the same subject.

When Responsible Government was conceded to this Island in 1851, the Right Honourable Earl Grey, then at the head of the Colonial Department in a Despatch dated Downing Street, 12th of February, 1851, directed Sir A. Bannerman, on his assuming the Government, to impress on the Legislature the necessity of abstaining from passing any laws bearing unjustly on the owners of landed property, and so far from recommending any measures which might tend to depreciate its value, his Lordship is pleased to say—
"It is obvious that an influx of capital and settlers, by tending to raise the value of property, would be most beneficial to the Colony and to all classes of its inhabitants. Prince Edward Island, possessed as it is of great natural advantages, which are becoming better known in this country than formerly, is likely at no distant time to attract both emigrants and capital, if the policy adopted by the Legislature is not such as to discourage them. But nothing could tend more to this unfortunate result, than the sense of indignity which must infallibly be created by any attempt of the Legislature to pass laws bearing unjustly on the owners of landed property. * * * It is the duty of the Government to advise her to abstain from such a course."

In the same despatch Sir A. Bannerman is also referred to "the correspondence between successive Secretaries of State and Lieutenant Governors of Prince Edward Island," for his guidance in carrying out the above directions; and your Petitioners beg leave more particularly to mention Lord Goderich's Despatch to Sir A. W. Young, dated 27th January, 1835, and Lord J. Russell's Despatch to Sir C. Fitzroy, dated 24th June, 1841, as having an important bearing on the same subject.

That the lands in Prince Edward Island are for the most part leased at from one to two shillings per acre, but by far the larger portion of them at one shilling, as appears by the last statistical returns; and these rents were, with few exceptions, reserved in sterling money of Great Britain, or payable at the same rate, such being regarded as the only safe standard in a Colony where the currency is liable to fluctuate. But by a recent Colonial statute, lessors are prohibited from reserving rents so reserved at their expressed value; the provisions of the statute being, that more than one-ninth in the pound advance on the present depreciated rate of the Currency shall not be paid by any tenant, though sterling money and Bills of Exchange, payable in Britain, bear a much higher premium, namely, fifty per cent. * * * owners of land so leased are thus subjected to a loss of thirty-five per cent.

That urgent remonstrance was made by different parties concerned against the allowance of the One-ninth Bill, on the ground of its interfering with covenants voluntarily entered into, and considered binding between parties, but as

enquiry into the tenancy 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 tyranny with which we are charged by the demagogues who gain their bread by asserting falsehoods.

Eagerly hoping that the royal allowance may not be given to those continued and unjustifiable attacks upon the Proprietary body.

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That in addition to any further representations to which your Memorials may become parties respecting late public measures affecting their interests as a class of Colonists, they beg leave respectfully to submit to your Lordship the following statements.

That certain local enactments, passed during the last five sessions of the Legislature, have called forth various remonstrances on the part of owners of Township lands in this Colony, respectfully urging the attention of the Colonial Minister to the serious consequences of such measures, as affecting the value and security of property throughout this Island; the object of the Legislature being to force land into the market, with a view to its being purchased by the Colonial Government, under an Act passed for that purpose, and thereby affect its re-investment in the Government by the working of oppressive statutes, whose operation, if sanctioned, will be tantamount to the confiscation of lands so situated.

That the titles to the lands in question, conferred by the Crown in the years 1769 and 1770, and Her Majesty's Ministers have on repeated occasions declared that it would be neither just nor politic to interfere with property so held for the non-fulfilment of conditions imposed by the original grants, as such conditions were impracticable; and this has been regarded by parties making investments of capital on the Island as an all-sufficient guarantee that Her Majesty's Government would not permit any undue encroachments on the interests of proprietors, holding under such titles. But the foregoing assertion as regarding the policy of the Legislature, will be fully borne out by the following extracts from a speech delivered by the Leader of the Government in the Assembly on the 29th March last:—"Believing that Echeat was impracticable, I have introduced and carried other measures for the benefit of the people at the expense of the Proprietors. * * * I am satisfied that this House has it in its power to mitigate the hardships on the tenantry, arising from the operation of the Echeat, and to do so, by passing the Land Purchase Bill. * * * And the Land Purchase Bill, the Education Act, and the proposed Act for taxing the Rent Rolls of Proprietors, would have the effect of inducing a reasonable and equitable settlement of the question."

As regards what the leader of the local Government may esteem "a reasonable and equitable settlement," it will be proper to refer to the opinions of different Secretaries of State, repeatedly expressed on the same subject.

When Responsible Government was conceded to this Island in 1851, the Right Honourable Earl Grey, then at the head of the Colonial Department in a Despatch dated Downing Street, 12th of February, 1851, directed Sir A. Bannerman, on his assuming the Government, to impress on the Legislature the necessity of abstaining from passing any laws bearing unjustly on the owners of landed property, and so far from recommending any measures which might tend to depreciate its value, his Lordship is pleased to say—
"It is obvious that an influx of capital and settlers, by tending to raise the value of property, would be most beneficial to the Colony and to all classes of its inhabitants. Prince Edward Island, possessed as it is of great natural advantages, which are becoming better known in this country than formerly, is likely at no distant time to attract both emigrants and capital, if the policy adopted by the Legislature is not such as to discourage them. But nothing could tend more to this unfortunate result, than the sense of indignity which must infallibly be created by any attempt of the Legislature to pass laws bearing unjustly on the owners of landed property. * * * It is the duty of the Government to advise her to abstain from such a course."

In the same despatch Sir A. Bannerman is also referred to "the correspondence between successive Secretaries of State and Lieutenant Governors of Prince Edward Island," for his guidance in carrying out the above directions; and your Petitioners beg leave more particularly to mention Lord Goderich's Despatch to Sir A. W. Young, dated 27th January, 1835, and Lord J. Russell's Despatch to Sir C. Fitzroy, dated 24th June, 1841, as having an important bearing on the same subject.

That the lands in Prince Edward Island are for the most part leased at from one to two shillings per acre, but by far the larger portion of them at one shilling, as appears by the last statistical returns; and these rents were, with few exceptions, reserved in sterling money of Great Britain, or payable at the same rate, such being regarded as the only safe standard in a Colony where the currency is liable to fluctuate. But by a recent Colonial statute, lessors are prohibited from reserving rents so reserved at their expressed value; the provisions of the statute being, that more than one-ninth in the pound advance on the present depreciated rate of the Currency shall not be paid by any tenant, though sterling money and Bills of Exchange, payable in Britain, bear a much higher premium, namely, fifty per cent. * * * owners of land so leased are thus subjected to a loss of thirty-five per cent.

That urgent remonstrance was made by different parties concerned against the allowance of the One-ninth Bill, on the ground of its interfering with covenants voluntarily entered into, and considered binding between parties, but as

definite conclusion would appear to have been arrived at with regard to it, during Earl Gray's continuance in office. It did not, however, require the royal assent, and another Bill was subsequently passed under another title with a view to accomplish the same purpose. This latter Bill, being strongly advocated by the official men of the Colony, as a Government measure, was finally sanctioned by the royal assent; some slight amendments which did not affect the principle contained against being suggested at the Colonial Office, and occurred in by the local Legislature.

The next measure of the Assembly was in the Session of 1852, to augment the then existing Land Tax, by an additional assessment on all Township Property, whereby wilderness land is now taxed at thirty-seven and a half per cent. higher rate than such as is under cultivation, being nine shillings and two pence on every hundred acres of waste and uncultivated land throughout the Island, without distinction as to value or capability of improvement—a measure, as your petitioners believe, having no precedent in the annals of British legislation; and a law was passed at the same time prohibiting rent which could by any possibility be made the subject of distress, from being sued for in the Courts for the recovery of Small Debts, although such Courts were previously open to suits for rent as for any other ordinary action for debt within the jurisdiction of the same. But now before a summons for rent can issue from such Courts, the party applying for it must take and subscribe an oath that sufficient property cannot be found to counterbalance half a year's rent, by search made on the premises, within seven days previous to such application. And this restriction, your Petitioners beg leave to submit, amounts to almost total exclusion, and is at once repugnant to the laws of Great Britain and the common principles of even-handed justice.

These measures were made the subject of a Memorial and Remonstrance to Sir John Pakington, transmitted through the Lieut. Governor, and dated 23rd July, 1852, praying for their disallowance, on the grounds therein stated. But immediately after the change of Ministers in December, 1852, the Bills comprising such measures were returned to the Colony, having received Her Majesty's sanction.

That among the unusual privileges conferred on tenants by local statutes, Stock, if distrained for rent, cannot be sold between November and June, comprising six months of the year—the tenant being required to give a bond and security that such stock shall be forthcoming at the time when sale thereof can legally be effected; all hay and provender found on the premises being reserved for the use of the stock, and no stock can, under any circumstances, be removed to a greater distance than five miles from the premises, without the consent of the tenant. These restrictions, being in favor of tenants on Township lands alone, do not extend to apply to the respective Towns and Royalities, and are admitted to share, that large exemptions have already been granted to the tenantry of this Colony, some of which originated in favors shown to them by their landlords, which were afterwards made precedents for law; and it can neither be controverted nor denied that the condition of the tenantry of Prince Edward Island, as regards mildness of terms, freedom from taxes, and both length and security of tenure, greatly exceeds that of the same class in England, or indeed most other countries. Three farthings sterling per acre will cover the amount of land tax to which the tenant here is liable, and it appears from the records of the Supreme Court, that only six ejections for non-payment of rent have taken place during the last four years, which does not argue much for the severity of landlords in a country where rents, in most cases, are very greatly in arrear.

That your Petitioners have been induced to make the foregoing statement in reference to two other Bills recently passed by the Legislature, and now awaiting Her Majesty's approval; one entitled "an Act to impose a rate or duty on the Rent Rolls of the Proprietors of certain rented Township lands in Prince Edward Island," &c., to which, in the first place, your Petitioners beg leave respectfully to call your Lordship's attention, and it will be at once apparent that the said Bill bears exclusively on a certain class of individuals, having vested interests in this Colony, and therefore founded on one of the worst principles of legislation, namely, that of imposing a burdensome duty on the ostensible income of a limited class, for the furtherance of objects, which if essential to the public service, ought to be provided for by equal and rational taxation. But a general income tax was never imposed, or even contemplated in Prince Edward Island, nor, as your Petitioners believe, in the neighbouring Provinces of Nova Scotia or New Brunswick; and apart from the unjust principle of partial taxation, your Petitioners contend that the unjust provisions of the Act are arbitrary and intoleral—the security required by it difficult to be complied with—and the penalties to be incurred under it needlessly severe, extending even to lunatics, idiots, and insane persons; and it can only be regarded as part of a plan for extinguishing the rights of Proprietors by means of an aggressive system of legislation, which, your Petitioners humbly conceive, bears more affinity in the present instance, to a statute for the punishment of offenders, than to an Act for contributing towards raising a Revenue by fair and legitimate taxation.

That if it were really intended by the Legislature to make due provision for an armed force in case of exigency, it would have been just and prudent, on their part, to restrict the appropriation of all sums arising from any tax or taxes imposed for that purpose, towards raising a fund for the objects contemplated when needed. Property is already heavily taxed for the support of Education, and by the appropriation for the year ending 31st January, 1855, it appears that over a fifth part of the Revenue for that year was so applied; and when danger to the Colony is to be apprehended, it is but fair to presume that a due portion of the burden of any provision requisite for its defence, will be willingly borne by every patriotic Colonist resident on the Island, and not thrown altogether on one particular class of individuals.

That the next measure to which it becomes requisite respectfully to call your Lordship's attention, is entitled "An Act to secure compensation to Tenants in Prince Edward Island, and thereby to promote the improvement of the soil." As regards this Bill much more might be urged than can possibly be brought within the compass of a statement of this nature, and your Petitioners believe that a proposed Tenant's Compensation Bill for Ireland has engendered considerable attention in the British House of Commons, without any remarkable results having yet been attained. But the principle of compensating a tenant, against whom it is requisite to bring an action of ejectment for non-payment of rent, or any other breach of agreement before the term of his lease expires, your Petitioners humbly submit, is liable to very grave objections, and contrary to the received opinion of every sagacious statesman, which might be addressed to the subject, and these objections will particularly hold when applied to a tenant of waste lands, when he, on account of his inability to improve the land, when he, on account of his want of means, is unable to do so, and when the improvement of the land is dependent on the assistance of the landlord.

essential requisite to a farm in this country; and compensation for any improvements in the way of buildings, shipyards or otherwise, that might be made or created on lands so stippled, must at all times form a complex and difficult matter for adjustment, with a due regard to the merits of the respective claims that may be urged under the Bill, and an impartial consideration of the actual value of such improvements, with a view to any increased rent the landlord may be able to obtain for them, if placed at his disposal. By the provisions of the Act, this can be decided by the award of two arbitrators; but your Petitioners, with regard to the submission, contend that a fairer way of arriving at it, is to be by setting up the tenant's interest at auction, subject not due under it, including all costs and charges lawfully incurred for the recovery of them; and this finding, by public sale, what such leasehold interest will bring, subject to the amount of claim.

And your Petitioners humbly beg leave to submit, that under the circumstances above mentioned, it is reasonable to expect that some barrier shall be opposed to measures of this nature, when such measures involve a departure from principles hitherto regarded as forming the basis of civil security, and it is moreover essential to the interests of landowners in this Colony that the intentions of Her Majesty's Government with respect to a series of encroachments on the rights of property, as recognized by the British Constitution, should be clearly ascertained. This must obviously be regarded of the more importance, when the leaders of the local Government are chosen under a system amounting to universal suffrage, as granted to this Island by the extension of the elective franchise in 1853, which overbalances all property considerations in the scale of representative influence. And your Petitioners further beg leave to impress upon the consideration of Her Majesty's Government, the very slight prospect of permanent security afforded to subjects of Great Britain in a dependency of the Crown, where the qualification for a seat in either branch of the Legislature is such as at present exists in Prince Edward Island—a freehold or leasehold interest to the value of thirty-four pounds sterling being the qualification for a seat in the Assembly; or estimating such qualification at five per cent. yearly value, just thirty-four British shillings per annum. With reference to the Upper Branch of the Legislature, your Petitioners are informed of any recent instructions the Lieut. Governor may have received as regards filling up appointments to that Board. By the Royal Instructions given to a former Governor, and published here, the Legislative Councilors were to have been chosen from among "the principal freeholders, inhabitants of the Island;" but late appointments to that body would lead to the conclusion that a property qualification, if not altogether done away with, is at least not essential.

And your Petitioners deeply deplore that the public affairs of a small but valuable dependency should be entrusted to the management of deliberative bodies so constructed, without any limits being accurately defined for their guidance or restriction, in cases where the vested rights and immunities of a class of British subjects are placed so largely under their control; leaving your Petitioners no other hope of redress under such grievances, than an appeal to the justice and moderation of Her Majesty's Home Government. And they therefore humbly pray that the Bills specified in the margin hereof, may not be sanctioned by Her Majesty's Royal Assent. And your Petitioners shall ever pray, (Signed) ROBERT BRUCE STEWART, CHARLES WRIGHT.

The Right Honorable Lord JOHN RUSSELL, &c. &c. &c.

"An Act to impose a Rate or Duty on the Rent Rolls of the Proprietors of certain rented Township Lands in Prince Edward Island, and thereby to promote the improvement of the Soil."

4th June, 1855.
Petition and Remonstrance of certain Proprietors and Agents of Land in Prince Edward Island, to the Queen, against the Act to impose a rate upon Rent Rolls of Proprietors.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.
The Petition and Remonstrance of the undersigned Proprietors and Agents of Land in Prince Edward Island, most respectfully sheweth—

That in the last Session of the Provincial Parliament of the said Island, a Bill was passed, intitled "an Act to impose a rate or duty on the Rent Rolls of the Proprietors of certain rented Township 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 further encouragement of Education," in which said Act is a clause restraining the operation thereof, until Her Majesty's assent shall have been first given thereto.

The undersigned humbly pray that your Majesty will be pleased to withhold the royal assent to the said Bill, for the following among other reasons.

That the real object of the Bill is not what it purports to be on the face of it. According to the preamble of the Bill, it is intended to provide a fund for the purpose of maintaining an armed force, in case the necessities of the Island should demand that such a force should be raised. In reality it is one of a series of measures, the avowed purpose of which is to compel the owners of Township Lands to convey the same to the local Government of this Island, and to be by it disposed of to the present tenantry in freehold, and to those usually termed "squatters," who have taken and held possession without the consent of the owners.

The truth of this assertion is of easy proof. During the course of the Session, the long-anticipated question of Eschsch was before the House of Assembly, and in a speech of the Hon. George Coles, Colonial Secretary and President of the Executive Council, delivered when the whole House was in Committee, the true intent of passing this, with the other Bill alluded to, is thus adverted to by the Hon. Colonial Secretary: "Believing that Eschsch was impracticable, I have introduced and carried other measures for the benefit of the people, at the expense of the proprietors;" and subsequently in the same speech, he says: "I am satisfied that the House has it in its power to mitigate the hardships on the tenantry, arising from the original grants; that remedy 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." And again—"I regret that the minds of the people are excited on this question, (Eschsch.) Had it not been for these exciting times and holding out false hopes, every thing would have gone on quietly, and the Land Purchase Bill, the Education Act, and the proposed Bill for taxing the Rent Rolls of the Proprietors, would have had the effect of inducing reasonable and equitable settlement of the tenantry." It is meant by "reasonable and equitable settlement" is to be said of the speaker, it is impossible to say, unless it be that the proprietors are to forego all arrears of rent and claims of their lands, either to the tenantry or to the local Government, at one-third of their value, that being the principle of the Land Purchase Bill. That the Bill is founded upon the principle of class legislation, and that no other case has been, or can be shown, why the present proprietors of lands over five hundred acres, should be taxed for the purpose of raising and maintaining an armed force for the preservation of the Colony, in preference to the holders of smaller portions of land, and the owners of property generally in the Island.

proprietors of Township Lands in the said Island have leased a large portion thereof to tenants, from whom they derived large rents, and covenants are generally contained in the leases of such lands, that the tenants or occupiers thereof shall pay all taxes imposed or to be imposed on the lands so leased to them, whereby the proprietors avoid the payment of said taxes, and the principal part thereof are paid by the tenantry; and whereas such lands have greatly increased in value from the industry of the tenants, and from the prosperity and progressive state of the Colony, independently of any outlay made by the proprietors of such lands.

That the rents are by no means excessive, the following statistics of the Colony will prove. By the Census of 1848, in the 67 Townships, there were 6,000 tenants holding under lease, written leases or agreements, or without agreements; and of these 2,302 held under leases for 999 years: 440 from 999 to 100; 319 from 100 to 50 years; and 208 from 50 to 30 years, while the whole number of those holding for a less term than 30 years, is 108. Of the 6,000 tenants holding under either lease, written leases, agreement, or without, 4,970 hold their lands at a rate not exceeding one shilling sterling, but in reality owing to the One-third Bill, at a rate not exceeding nine-pence British sterling; the rest; 898 at rates varying from nine-pence to six-pence British sterling per acre; and 87 not exceeding two shillings British sterling per acre, there being but 85 farms rented above that sum, and the tenants of these residing chiefly in the older, and more densely settled Townships Lots 17, 19 and 48, and in all probability not payable to the original proprietors or their representatives.

When the landlord has parted with his interest in the soil for 999 years, he has virtually sold it from him and his heirs, for an annuity of about three pence fifteen shillings, British sterling, the one hundred acres; and it is hardly to be expected that he should contribute towards its improvement, as let what will be the ultimate value either through the industry of the tenant, or the property and progressive state of the Colony, he can receive no more than the stipulated rent or annuity of three pounds fifteen shillings the one hundred acres, or nine-pence the acre.

The fact of the tenants' lands having risen greatly in value, only tends to prove that they have had favourable terms of tenure, and that they, and not their landlords, ought to contribute most largely to the defence of the Island, as having the most valuable interest to defend.

That the arrangements for carrying out the provisions of the Bill are most inequitable, inasmuch as it taxes the gross rental without any inquiry as to what has been paid, and what has been in arrear; thereby compelling the proprietor to pay considerably more on his real income than the five per cent. mentioned in the Bill, thus taxing the loss equally with the gain, a species of legislation without a parallel, it is to be hoped, in any country, however despotically ruled. And this is the more unjust, as it is well known that such has been the leniency of the landlords, that vast sums of money due for rent are in arrear, and that a continuing loss is annually suffered by the failure of the tenants to meet their engagements, so much so that if two-thirds of the yearly rent is regularly paid up, the proprietor or his agent may think himself fortunate.

That the line of distinction drawn between proprietors of five hundred acres, and those above that number, is an arbitrary one, and founded on no principle either of justice or equity, the proprietor of 500 acres being just as much bound to contribute to the defence of the Colony, as one of 1,000 or 10,000, and can be attributed only to the determination already alluded to, as expressed by the leader of the Government, to compel the sales of Township Lands under the provisions of the Land Purchase Bill.

That it is assumed by the leader of the Government, the introducer and supporter of the Bill, that the tenantry of Prince Edward Island are suffering and oppressed, and that nothing can be more fallacious, nothing more opposite to fact. It has been already shown, that the great mass of the tenantry pay about nine-pence sterling per acre, and if all the taxes to which the land is liable be added to the rent, the charge per acre will not amount to ten-pence British sterling per acre; and no one can presume to call this a rack rent.

An unusual increase of population, accompanied by a corresponding augmentation of wealth, may be safely taken as a criterion whereby to measure the advance of a people in the social scale. By the Census of 1827, published in the Appendix to the Journals of the House of Assembly, for the year 1828, the population of the Island was, 23,266; twenty-one years after, in 1848, (without any very material increase from immigration), it numbered 66,678; and during the same year, the amount of the Colonial Revenue rose from £5,456 16s. 11d., in 1827, to £25,264 1s. 9d., in 1848—in 1854 it has reached £46,033 11s. 6d. The number of cultivated acres in 1827 amounted to 59,909, or about 24 acres to each individual. In 1848 the number of acres of arable land was 215,880, or nearly 3 1/2 acres to each individual, showing not only an almost unexampled increase in population and public wealth, but an augmentation of private fixed capital to the amount of one acre in three and a half to each inhabitant, from the child in arms to the oldest inhabitant in the Colony. The same comparative increase in animal produce and stock of all descriptions, is to be derived from the same sources, all published by the order of the Legislature in the different Appendices to the Journals of the House of Assembly.

In the year 1847, when the people of the Island suffered most severely from the almost total loss of his principal crop—the potato—combined with unfavourable seasons for grain crops, when 731,575 bushels are returned as the produce of that year, while in the year 1841 the returns were 2,250,114 bushels, it might have been reasonably imagined that some of distress and suffering would have been here, similar to those which took place in the year 1847; but the contrary was the case.

The population of the Island is now computed at upwards of 80,000, and during the last year, 1854, it was found requisite to vote the trifling sum of £250 sterling only, for the benefit of about 200 individuals—about 1/4 per 1,000.

A community whose poor do not amount to four in one thousand, and whose necessities are relieved by a grant of something less than thirty shillings sterling per head, cannot be said to even approximate to distress or poverty of any description. These facts are introduced for the purpose of showing that the present Administration has substituted the Bill in question, and other Bills of a like tendency, in order through their operation, to work out a virtual confiscation of the property of the proprietors, and the conversion of the Colony, no one will deny to be just, by this, or other Bills all other classes were called upon to contribute their reasonable part in the same Session, to the same tax at the same rate, for the quota, or submit to an income tax at the same rate, for the same purpose, these classes would be no just cause for complaint, same purpose, these classes would be no just cause for complaint. But such is not the case. The owner of a house in Charlottetown, for which he receives a rent of the proprietor of one hundred acres of land at nine-pence British sterling the thousand acres of land at nine-pence British sterling the thousand acres of land. In case of invasion, the house is liable to be burnt, and the land is liable to be seized, and the work more than any one hundred acres of land in the hands of proprietors, who are bound or unbound, and these lands have acquired their present value solely from the property and progressive state of the Colony; and yet these are subjected to go free, and an intimation of having them to

not even whispered. It is submitted, that in a community of danger, each should bear the burden of providing the means of averting or repelling it, according to the amount of his stake or interest.

Although it has been admitted, that in case of invasion, the proprietors are equally bound to contribute with others for the purposes of defence, yet there exists no such obligation upon them to contribute towards the further encouragement of Education, the inland, and consequently to the proprietors unproductive lands, having been taxed for this purpose at about one-third over the rate of the productive lands of their tenants; nor is this all, as the proprietors are compelled to pay for land which will not for years, if ever, be productive.

The joining in one Bill, of two objects totally unconnected with each other, and which ought to have been made the subject of separate Bills, is a clear proof, that there is no immediate intention of putting any armed force, and that the mission of an armed force in the Bill is only for a cloak to the real object of the Legislature—a determination to harass the proprietors and render their property less valuable.

That had the defence of the country been the true object of the Bill, it would have provided, that all sums arising therefrom should be religiously applied to that end, and formed into a fund for the express purpose of providing munitions of war, or in the construction of fortifications; and estimates of the cost would have been put forward, and the probable amount of the sum required, and the means by which the additional expense would have been to be defrayed—nothing of which has been done, and the fact of any armed force being raised, is a measure that, when called for, must be met by a much more ample provision than what would be realized under the Bill in question.

That, by one of the clauses of the said Act, the tenants or occupiers of land are compelled to disclose to the receivers of the said tax the names of the proprietors or their Agents, the number of acres they hold, and the amount of rent received; but that no mention is made of whether the rent be in arrear, or whether it be paid; and by another clause, execution is to issue against the lands and tenements, though there may be a sufficiency of property in the tenants' hands to enable them to pay the rent.

That in all Acts of Parliaments hitherto passed, either in the Parent State or its Colonies, infants, married women, lunatics, idiots, or insane persons, have been considered as entitled to the special protection of the laws; whereas in this Bill they are specially excluded, and rendered liable, not only to the payment of the tax, but to all the fines, penalties and forfeitures imposed by it.

It may be objected that this Bill has received the sanction of both Houses of the Legislature. It is, however, submitted, that the members of the Legislative Council are not qualified, according to either the letter or spirit of the Royal Commission and Instructions; and that instead of being composed of the principal freeholders in the Island, the reverse is the fact; and that few, if any, come under that designation; but that some of them are tenants to proprietors; and without any real estate or adequate property, as contemplated by the Royal Instructions, and that those who do come under the description of persons as eligible for seats in that House, have voted and protested against its passing.

That the whole Bill is unconstitutional in principle, and unjust, harsh and oppressive in detail. That the allowing the royal assent to be given to it, will tend to lower the dignity of the Crown, and impair that confidence in its wisdom and justice, that has hitherto prevailed in the Colony.

The undersigned, therefore, most humbly pray that Your Majesty will be pleased to take the above Petition and Remonstrance into your most gracious consideration, and decline to give the Royal assent to the said Bill. And, as in duty bound, Your Majesty's Petitioners will ever pray, &c.

Charlottetown, Prince Edward Island, 4th June, 1855.

(Signed) ROBERT BRUCE STEWART, Proprietor of Lots 20, 7, 10, 12, & of Lot 47, parts of Lots 46 & 47, Lennox Island.

R. BENTIE, Agent for D. S. BROWN, Proprietor of part of Lot 23.

D. HODGSON, Proprietor of part of Lot 23.

M. FANNING, By her Attorney, SAMUEL NELSON, owner of part of Lot 24.

C. PALMER, For self & others, owners of 1/2 Lot 1.

JOHN R. BOURKE, Owner of part of Township No. 36.

J. R. & GORDON THOMPSON, Of Belfast, Ireland, owners of part of Township No. 26, by their Attorney, J. R. BOWMAN.

Rev. J. McDONALD, Chichester, England, owner of part of Township No. 37, by his Attorney J. R. BOWMAN.

JOHN A. McDONALD, For self & others, owners of part of Lots 25 & 26.

CHARLES WRIGHT, Owner of Land on Townships Nos. 45 & 50.

P. MCGOWAN, On behalf of Sir J. HUNTER LITTLE, G. C. B., Owner of Lands on Townships Nos. 37 & 38.

ELLEN STEWART, For self & sisters, owners of half of Lot 18.

HATTON H. STANFIELD, Township No. 54, per his Attorney, G. W. DEXTER.

PETER D. STEWART, Agent for the Trustees of the late Earl of Selkirk, for parts of Township Lands.

Wm. BOWLEY, By Wm. DOWNS, his Attorney, for part of Township No. 40.

JAMES MONTGOMERY, For part of Townships 34, 35 & 39, by his Attorney Wm. DOWNS.

4th June, 1855.

Petition and Remonstrance of certain Proprietors and Agents of Land in Prince Edward Island, to the Queen, against the Act to secure compensation to Tenants.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Petition and Remonstrance of the undersigned Proprietors and Agents of Land in Prince Edward Island, most respectfully sheweth—

That in the last Session of the Provincial Parliament of the said Island, a Bill was passed, intitled "An Act to secure Compensation to Tenants in Prince Edward Island, and thereby to promote the improvement of the Soil." in which said Act is a clause, restraining the operation thereof, until Your Majesty's assent shall have been first given thereto.

The undersigned humbly pray that your Majesty will be pleased to withhold the royal assent to the said Bill, for the following among other reasons.

of the mutual relations existing between Landlord and Tenant, as recognized by the common law of England from time immemorial; and directly opposed to the dictates of common sense, so that it is difficult to suppose that those who are...

entirely impossible for any arbitrator to come to a just decision, inasmuch as, if any of the tenants in the Island had any...

and in consequence of the change which has taken place in the head of the Colonial Department, humbly presume at this stage of the proceedings...

of every description of property in this Island, to drive persons of capital away from it, an effect which is already being felt, and must also tend to lessen the confidence hitherto reposed in the protection of the Crown, and in the integrity of British institutions.

Extract from the Minutes of the Executive Council. COUNCIL CHAMBER, 27th August, 1855. At a Meeting of a Committee of the Executive Council.

His Excellency the Lieutenant Governor having submitted for the consideration of a Committee of the Executive Council, a Paper purporting to be a Petition of certain owners of Township Lands in Prince Edward Island...

Copy of a Despatch from the Right Honorable H. Labouchere, Secretary of State for the Colonies, to His Excellency Lieut. Governor Daly, in reference to what is usually termed "The Land Question."

