

Laws of Her Majesty's Province of United Canada, passed in the year 1854. Quebec: Stewart Derbyshire and George Desbarts, 1854.

18 Victoria – Chapter 103

An Act to amend the Seigniorial Act of 1854. Assented to 30th May, 1855.

Whereas it is expedient to amend The Seigniorial Act of 1854, so as to facilitate the operation thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

1. Notwithstanding any thing in the twenty-eighth and twenty-ninth Sections or in any other part of the said Act contained, any constituted rent (*rente constituée*) established by virtue thereof in any Seignior, in relation to which an opposition shall have been filed under any of the provisions of the said Act, may, at any time be redeemed by payment to the Receiver General of the capital thereof with interest computed up to the date of such redemption:

2. And the Receiver General shall dispose of all such moneys as follows:

If they accrue in a Seignior in relation to which opposition has been made on the ground that such Seignior is entailed (*substituée*) or held by a curator, tutor or other person holding in trust for others, and not as absolute proprietor (*jure proprietario*), the Receiver General shall, on the day in each year on which the *rente* would have become due if it had not been redeemed, and so long as such entail (*substitution*) or tenancy in trust (*fidéicomis*) shall subsist, pay to the person entitled to the revenue of the Seignior, interest upon the capital of all such *rentes* at the rate of six per centum per annum, and he shall pay the capital thereof at the expiration of the substitution, or tenancy in trust, to such person as shall be designated by the Judgment of the Court before which such opposition shall have been made: Provided always, that it shall be lawful for the said Court, on petition of such curator, tutor or other person holding in trust for others, at any time before the expiration of the substitution or tenancy in trust, to order that such capital, or any portion thereof, shall be by such curator, tutor or other person, laid out and invested in real or immoveable property to be designated in the order, and thereupon it shall be lawful for the Receiver General to pay the sum mentioned in such order to the person or party therein designated as the vendor of such real or immoveable property or as otherwise entitled to receive the price thereof, and thereafter such real or immoveable property shall be subject to all such and the same trusts (*fidéicomis*) or entails (*substitutions*) as the Seignior in respect to which the same was so ordered to be acquired as aforesaid.

And if they accrue in a Seignior in relation to which such opposition has been made by reason of hypothecary claims thereon, and not upon the ground of the same being entailed or held in trust

as aforesaid, the Receiver General shall deal with such moneys in the same manner as with money accruing to the Seignior out of the Special Fund appropriated by the said Act in aid of the *Censitaires*.

3. And in every Seignior the Seignior whereof shall have the right to receive the capital of the *rentes constituées* to be established under the said Act, such *rentes* may be redeemed without the consent of the Seignior by payment of the capital thereof to the Seignior or to his Agent either on the day on which such *rente* shall annually become due or on any one of the seven days immediately following; and whenever the capital of any such *rente* shall have been duly tendered to any such Seignior, or to his Agent, on any one of the said days, and the same, or a receipt therefor, shall have been refused, such *rente* shall become redeemable at any time thereafter.

II. And whereas the objects for which Seigniors under the existing law are permitted to obtain *Lettres de Terrier* for the purpose of forming a new Terrar (*Papier Terrier*) or land-roll will be secured in a manner less onerous to the *censitaire* by the provisions of the said Seigniorial Act of 1854, in so far as such objects are reconcilable with the intention of the Legislature in passing the said Act: therefore the right of Seigniors in Lower Canada to obtain such *Lettres de Terrier* in or for any Seignior to which the said Seigniorial Act of 1854 as amended by this Act extends, is hereby abolished, and the Act of the Legislature of Lower Canada, passed in the forty-eighth year of the Reign of King George the Third, and intituled, *An Act which declares in whom is vested the power of granting des Lettres de Terrier in this Province*, in so far as regards every such Seignior, is hereby repealed.

III. And whereas under the said Act no mutation fine will be payable on any mutation of land in a Seignior subject to its provisions, or of such Seignior itself, occurring after the publication of the notice of the deposit of the Schedule thereof, and there is therefore a strong temptation to defer mutations until after such publication, or to conceal the fact of their being made before it, to the great inconvenience and loss of all parties; And whereas some time will elapse before the Schedules of all the Seigniories can be completed; And whereas the appropriation in aid of the *censitaires* made by the said Act was made with the intent that it should take effect immediately, and until it is payable, the interest upon the loan necessary to raise the sum required, is saved to the Province: Be it therefore enacted, That no *lods et ventes*, quint, relief or other mutation fine, shall accrue upon any mutation which shall take place after the passing of this Act, in any Fief or Seignior to which the said Seigniorial Act of 1854 as amended by this Act extends or applies, but instead thereof the Receiver General shall credit the Fund appropriated by the said Act in aid of the said *Censitaires*, with interest from the passing of this Act on the total amount of the appropriation, and the *rente constituée* payable by any Seignior to his Seignior Dominant shall accrue from the passing of this Act; And if the Schedules of all the Seigniories be not deposited by the first day of January one thousand eight hundred and fifty-six, so that the said Fund can be finally divided among them, the Commissioners under the said Act, or any one or more of them authorized for that purpose by instructions from the Governor through the Provincial Secretary, shall, forthwith, make an approximate estimate of the share thereof coming to each Seignior or Seignior Dominant, to the best of their ability and according to the best information they can obtain, and the interest from the passing of this Act on the share coming to each Seignior or

Seignior Dominant, shall be paid to him on the first day of January and July, until his share shall be finally ascertained, when the amount so paid shall be debited to him, and he shall be credited with the interest from the passing of this Act on his share as so ascertained, and the difference shall be balanced by crediting or debiting him, as the case may require, in his account with the Receiver General in respect of such share, with a sum equal to such difference; and for the purpose of making such approximate estimates as aforesaid, the said Commissioners may require and receive from the several Seigniors such statements, attested on oath before a Judge of the Superior Court or a Circuit Judge, as they shall consider expedient for the purpose: Provided always, that the sum paid by the Receiver General as interest under this section, shall be taken into account in ascertaining the sum to which Upper Canada may be entitled for local purposes under section nineteen of the said Act.

IV. The right of *retrait conventionnel* which the Seignior was allowed to stipulate solely for the purpose of securing to him the payment of mutation fines is hereby abolished.

V. The Receiver General shall, from time to time, place any moneys in his hands as part of the Fund appropriated by the said Act, and not then required for the purposes thereof, at interest in any Chartered Bank, or invest the same in Provincial Debentures or Debentures guaranteed by the Province, and shall apply the interest thereon towards making good that allowed under this Act.

VI. And for the avoidance of doubts, Be it declared and enacted, That any Commissioner under the said Act may give any notice required by the seventh section or by any other part thereof, with respect to any Seignior or Seigniories, and another or others of them may afterwards act in any way under the said Act with respect to such Seignior or Seigniories; and generally, each Commissioner who shall act with respect to any Seignior, shall be held to be the Commissioner assigned to act in and for the same under the fourth section of the said Act, unless the Governor shall have otherwise directed and ordered.

VII. So much of the said Seigniorial Act of 1854, as provides that none of its provisions shall apply to any lands held *en franc aleu noble*, and granted under and by virtue of the Act of the Parliament of the late Province of Lower Canada passed in the third year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act for the relief of certain Censitaires or Grantees of La Salle and others therein mentioned possessing lands within the Township of Sherrington*, shall be and is hereby repealed, and the said Act shall apply to the said lands; but inasmuch as the decision of the Special Court to be constituted under the sixteenth Section of the said Seigniorial Act of 1854, cannot affect the said lands, therefore the Schedule relating thereto may be completed and deposited without waiting for the decision of the said Special Court.

VIII. Notwithstanding any thing in the said Seigniorial Act of 1854, Schedules may, if the Governor shall see fit so to direct, be made under the provisions thereof for the Seigniories held by the Crown and the revenues whereof belong to the Province, including the Seigniories of the late order of Jesuits, in like manner and under the same provisions as for other Seigniories (omitting such particulars as cannot apply to Crown Seigniories), and with like powers to the Commissioners: Provided that no part of the appropriation in aid of the *Censitaires* made by the said Act, shall be

applied towards the redemption of Seigniorial rights in such Crown Seigniories, nor shall any such Schedule be deposited in the manner provided in the thirteenth Section of the said Act, or operate any compulsory commutation of tenure, or substitution of and *rente constituée* for the Seigniorial rights and dues in such Seigniorie; but the Governor in Council may, if he see fit, allow to the *Censitaires* in the said Seigniories, upon commutation of their lands, equal advantages and relief with those which the *Censitaires* in other Seigniories shall be found to obtain under the said Act, and the Schedules made under this Section shall serve as the basis for calculating the extent of such advantages and relief to be so allowed to the *Censitaires* in the said Crown Seigniories.

IX. And whereas some errors have crept into the French version of the said Act which it is desirable to correct: Be it enacted, that in the said French version, for the words "*tel que distingué*" in the eighth line of the fourth paragraph of the fifth section of the said Act, the words "*comme étant distinct*" shall be substituted; and for the words "*quize jours d'avis*" in the fourth line of the sixth paragraph of the twelfth section, the words "*huit jours d'avis*" shall be substituted, — the lines herein referred to being those in the first official edition of the said Act printed by the Queen's Printer.

X. After any Schedule shall have been completed and deposited under the said Act, it shall not be impeached or its effect impaired for any informality, error or defect in any prior proceeding in relation to it, or in any thing required by the said Act to be done before it was so completed and deposited, but all such prior proceedings and things shall be held to have been rightly and formally had and done, unless the contrary expressly appear on the face of such Schedule; and the same rule shall apply to all proceedings of the Commissioners under the said Act, so that no one of them, when completed, shall be impeached or questioned for any informality, error or defect in any previous proceeding, or in any thing- theretofore done or omitted to be done by the Commissioners or any of them.

XI. For the purposes of the said Act, every person occupying or possessing any land in any Seigniorie with the permission of the Seignior, or from whom the Seignior shall have received *rentes* or other Seigniorial dues in respect of such land, shall be held to be the proprietor thereof as *Censitaires*.

XII. Any person who shall in any manner interrupt, obstruct, impede or molest a Commissioner named under "The Seigniorial Act of 1854," or any person acting under his instructions, in the execution of his duty in any matter connected with the carrying into effect, of the said Seigniorial Act of 1854 or of this Act, or shall in any manner deter, prevent or hinder, by force, threats or otherwise, any such Commissioner or person acting under his instructions from performing any duties assigned to him by and under either of the said Acts, shall be liable to be imprisoned for every such offence for a period not exceeding two months, and it shall be lawful for any one Justice of the Peace to commit any person convicted before him on the oath of one credible witness of any such offence; and no conviction, order, warrant or other matter made or purporting to be made under this Act, shall be quashed for want of form, or be removed, by *certiorari* or otherwise, into any of Her Majesty's Courts of record for want of such form.

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XIII. In citing or referring to this Act in any Act or proceeding whatsoever, it shall be sufficient to refer to it as the "*Seigniorial Amendment Act of 1855*," by which title it shall be known and called.