

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

18 Victoria – Chapter 3

An Act for the abolition of feudal rights and duties in Lower Canada. Assented to 18th December, 1854.

Whereas it is expedient to abolish all feudal rights and duties in Lower Canada, whether bearing upon the *Censitaire* or upon the Seigneur, and to secure fair compensation to the latter for every lucrative right which is now legally his, and which he will lose by such abolition; And whereas in consideration of the great advantages which must result to the Province from the abolition of the said Feudal Rights and duties and the substitution of a free tenure for that under which the property subject thereto hath heretofore been held, it is expedient to aid the *Censitaire* in the redemption of the said charges, more especially as regards those which while they press most heavily on industry and enterprize, cannot from their very nature be otherwise made immediately redeemable without grievous hardship and injustice in many cases: 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:

I. The Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act the better to facilitate optional commutation of the tenure of lands en roture in the Seignories and Fiefs, in Lower Canada, into that of franc-aleu roturier*, and the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Act passed in the eighth year of Her Majesty's Reign, intituled, 'An Act the better to facilitate optional commutation of the tenure of lands en roture in the Seignories and Fiefs in Lower Canada, into that of franc-aleu roturier,'* shall be and they are hereby repealed in so far as regards the Seignories to which this Act applies: but deeds of commutation granted or other things done under them shall remain in full force and have the same effect as if the said Acts had not been repealed.

Determination of the Price to Be Paid by Seigneur and *Censitaire* for the Commutation of the Tenure of Their Property.

II. It shall be lawful for the Governor to appoint Commissioners under this Act, and from time to time to remove them, and to appoint others in the place of any so removed, or dying, or resigning office; and each of the said Commissioners shall, before entering upon the duties of his office, take and subscribe, before a Judge of the Superior Court, the following oath:

"I, _____, swear that I will faithfully, and without partiality, fear, favor or affection, perform my duty as Commissioner under the Seigniorial Act of 1854."

III. The said Commissioners shall receive for their services under this Act, and for their necessary expenses and disbursements, such compensation as shall be allowed to them respectively by the Governor, and no other fees or emoluments whatsoever.

IV. Each of the said Commissioners shall and may act as such in any part of Lower Canada, and they shall be aiding to each other, so that, any one of them, if need be, may continue and complete the work begun by any other of them; but subject to this provision the Governor may, from time to time, assign the Seigniori or Seignories in and for which each of them shall act.

V. It shall be the duty of each of the said Commissioners to value the several rights hereinafter mentioned, with regard to each Seigniori which shall be assigned to him as aforesaid by the Governor, and to draw up in tabular form in triplicate, a Schedule of such Seigniori, shewing:

1. The total value of the Seigniori, that is to say of all the property and lucrative rights which the Seignior holds as such, whether as Seignior *dominant* of any *fief* held of him as such Seignior or otherwise, including in such total value, the value of the rights of the Crown;
2. The value of the rights of the Crown in the Seigniori, including the value of the *droit de quint*, and all other valuable rights of the Crown therein as Seignior *dominant*, or by reason of any reservation in the original grant of the Seigniori, and any difference between the absolute value in *franc-aleu roturier* of all unconceded lands, waters and water powers in the Seigniori, and appertaining thereto, and the value of the Seignior's rights therein, as they may be ascertained by the decisions of the Judges, under the provisions hereinafter made;
3. The value of the lucrative rights of the Seignior *dominant*, of whom the Seigniori for which the Schedule is made may be held, if the Seigniori be an *arrière-fief*;
4. The yearly value of the Seigniorial rights upon each land, that is to say, each parcel of land originally conceded as a separate lot, or actually owned at the time of making the Schedule by a separate person; entering severally, — the yearly value of the *lods et ventes*, — the yearly value (if any) of the *droit de banalité*, and of the exclusive right to build nulls in the Seigniori, as distinguished from the right to the water powers, if such rights be recognized by the decision of the Judges who are to enquire of the same as hereinafter provided, but not otherwise, — the yearly value of the *cens et rentes* and other fixed rights, and of any other legal charges to which the land may be subject; but the *droit de retrait* shall not be deemed a lucrative right;
5. The extent of such land according to the title of the owner, if produced, and whether it is held for agricultural purposes, or is a mere emplacement or building lot;
6. In determining the Seigniorial charges to which each land is subject, the Commissioner shall be guided by the title of the owner from the Seignior, subject to the decision of the Judges hereinafter mentioned, if such decision shall in any way limit the rights of the Seignior under the said title; and in the absence of the title of the owner, the Commissioner shall determine the extent of the land

and the Seigniorial charges to which it is subject by such Books, Plans, procès-verbaux, or other secondary evidence as he may be able to procure;

7. Each land shall be described in the Schedule by the number, and concession, under which it stands in the land-roll¹ of the Seignior, (or if it bear no such description therein, then by the best brief designation the Commissioner can assign to it,) and the name of the owner as it appears on the land-roll, and in default of information on any of the said points, the Commissioner may describe it in such manner as he may think most convenient, provided he assign to each land a separate and distinct number;

8. The Commissioner shall also include in the Schedule all lands in regard to which the Seigniorial Rights have been, commuted, and write opposite thereto the word "Commuted" only.

VI. In order to determine the value of the Seigniorial rights on lands held *en roture*, the Commissioner shall observe the following rules, namely:

1. The amount of the *cens et rentes* and annual charges shall be taken as the yearly value thereof; and if any of such rents or charges be payable in grain, fowls or other provisions or fruits of the earth, their average value shall be computed according to the average price of articles of the same kind, taken from the books of the merchants nearest to the place, or ascertained in any other manner the Commissioner shall think most equitable; to establish such average year, the fourteen years immediately preceding the period at which the valuation is made, shall be taken, the two highest and the two lowest shall be struck out, and the average year shall be established on the ten remaining years; the value of personal labour (*corvées*) shall be estimated in the same manner;

2. In order to establish the yearly value of the casual rights, an average year of their value shall be computed for each of the two classes of lands hereinafter mentioned, upon the ten years immediately preceding the passing of this Act, and the amount of the valuation of the said average year shall be the yearly value of the said casual rights for all the lands in the Seignior of the same class; and the Commissioners in estimating the yearly value of the *lods et ventes* in any Seignior, shall distinguish those accruing on lands held as *emplacements* or building lots or for other than agricultural purposes, which shall form one class, from those on lands held for agricultural purposes, which shall form another class; and the Commissioner shall apportion the yearly value of the *lods et ventes* on each class, upon the lands belonging to that class, charging each land with a portion thereof proportionate to its value with regard to lands held as *emplacements* or building lots, or for other than agricultural purposes, and proportionate to its extent with regard to lands held for agricultural purposes: and any *rente* expressly charged in any Deed of partial commutation under the Acts hereby repealed, as an indemnity to be paid by the *Censitaire* instead of *lods et ventes*, shall be held to represent the value of the right to *lods et ventes* on the land referred to, and shall be entered and dealt with in all respects accordingly;

3. In order to establish the yearly value of the *droit de banalité* and the exclusive right of having mills in the Seignior, (independently of the right to the water power,) if any such rights be

recognized by the said Judges as aforesaid, the Commissioner shall estimate the probable decrease (if any) in the nett yearly income of the Seignior from his mills, to arise from the loss of such right, and the said sum shall be deemed the yearly value of such right, and shall be apportioned upon the lands subject to the said right in proportion to their extent;

4. Any other rights shall be valued according to the revenue or profits which may have accrued therefrom to be ascertained by the Commissioner in such manner as he shall deem most equitable, and shall be charged upon the lands subject thereto respectively;

5. The yearly value of each class of rights upon each land, shall become a *rente constituée* charged upon the same as the compensation payable to the Seignior thereof, and the total amount of such *rentes constituées* on any land, after the deduction to be made therefrom as hereinafter provided, shall be payable to the Seignior yearly, at the time and place where the *cens et rentes* on such land are now payable, unless it be otherwise agreed between the Seignior and the *Censitaire*, and shall accrue from the day on which notice of the deposit of the Schedule of the Seignior shall be given in the *Canada Gazette*, on which day the present *cens et rentes* and other annual charges upon the land shall cease to accrue; and both they and the *rentes constituées* under this Act shall accrue rateably for any broken period less than a year, during which they may exist;

6. The value of the rights of the Seignior *Dominant* in any *arrière-fief* shall form the capital of a *rente constituée* payable yearly by the Seignior of the *arrière-fief*, on the day of the date of the publication in the *Canada Gazette* of the notice of the deposit of the Schedule of such *arrière-fief*, and accruing from the day of such publication; but out of the moneys coming to the Seignior of the *arrière-fief*, from the Provincial aid hereinafter mentioned, a sum bearing the same proportion to the whole of such moneys as the value of the rights of the Seignior *Dominant* in such *arrière-fief* bears to the value set upon the Seigniorial rights of the Seignior servant in such *arrière-fief*, shall belong to the Seignior *Dominant*, and his said *rente constituée* shall be diminished by the amount of the yearly interest at six per cent per annum, of the sum so coming to him out of the said Provincial aid;

7. And in estimating the value of the casual rights of the Crown in relation to each Seignior, the Commissioner shall be guided, as nearly as possible, by the same rules as are hereby prescribed for the determination of the yearly value of the casual rights of the Seigniors.

VII. Before beginning to prepare the Schedule for any Seignior, the Commissioner entrusted with that duty, shall give public notice of the place, day and hour, at which he will begin his inquiry; and such notice shall be made by placards and publications in the English and French languages, at the door of every parish Church in such Seignior, during four consecutive Sundays at the conclusion of divine service in the forenoon, or by placards in both languages, posted during four consecutive weeks, in the most frequented place in any Seignior in which there shall be no church.

VIII. It shall be lawful for the Commissioner to enter upon all lands situate in the Seignior the Schedule whereof is to be made by him, in order to make such examination thereof as may be necessary, without his being subject in respect thereof to any obstruction or prosecution, and.

with the right to command the assistance of all Justices, Peace Officers and others, in order to enter and make such examination, in case of opposition.

IX. The said Commissioners, and each of them separately, shall have full power and authority to examine on oath any person who shall appear before them, or any of them, either as a party interested or as a witness, and to summon before them, or any of them, all persons whom they or any of them may deem it expedient to examine upon the matters subject to their consideration, and the facts which they may require to ascertain in order to carry this Act into effect, and to require any such person to bring with him and produce before them or any of them any Book, Paper, Plan, Instrument, Document or thing mentioned in such summons, and necessary for the purposes of this Act: And if any person so summoned shall refuse or neglect to appear before them, or before the Commissioner who shall have summoned him, or appearing, shall refuse to answer any lawful question put to him, or to produce any such Book, Paper, Plan, Instrument, Document or thing whatsoever which may be in his possession, and which he shall have been required by such summons to bring with him or to produce, such person shall for every such refusal or neglect incur a penalty of not less than ten nor more than fifty pounds currency, payable to Her Majesty, to be recovered with costs upon summary plaint by such Commissioner before any Judge of the Superior or Circuit Court, and in default of immediate payment shall, by warrant of such Judge, be apprehended and committed to the Common Gaol of the District for a period not exceeding one calendar month.

X. Whenever the Commissioner charged with, the making of the Schedule of a Seignior shall be of opinion that the rules prescribed in this Act for determining any value which he is hereby required to determine, do not form an equitable basis for determining the same, or when the Seignior, or not less than twelve *Censitaires* of the Seignior, shall call upon the said Commissioner in writing, within a period not exceeding eight days after the day fixed for the commencement of the inquiry by the Commissioner, requiring that *experts* be appointed to determine the value of the Seigniorial rights therein, the said Commissioner shall call a public meeting of the *Censitaires* of the Seignior, at such place therein, and on such day and at such hour, as shall be specified in the public notice thereof, which he shall give in the manner prescribed by this Act with respect to the commencement of his inquiry, for the purpose of appointing two *experts*, one of whom shall be appointed by the Seignior and the other shall be elected by the majority of the *Censitaires* present at such meeting; and in case the Seignior or his agent, shall not be present at the said meeting, or being present, shall refuse or neglect to appoint an *expert*, the said Commissioner shall appoint one on behalf of the Seignior, and such *expert* shall have the same powers as he would have had if he had been appointed by the Seignior, and in the event of the *Censitaires* refusing or neglecting to appoint an *expert* on their behalf, the Commissioner shall in like manner appoint an *expert* to act for them.

2. The two *experts* so appointed shall have and exercise the same powers with respect to the valuation of the Seigniorial rights as could be exercised by the Commissioner himself, except that they shall not in any case be bound by the rules aforesaid; and the said two *experts* shall appoint a third *expert*, but in case the two *experts* shall not agree upon the person to be the third *expert*, then any Judge of the Superior Court in the District in which the Seignior or the greater part

thereof lies, shall, on the application of- either *expert*, after three clear days' notice to the other, appoint such third *expert*: and the sums fixed by any two of such *experts* as the yearly value of the Seigniorial rights respectively, shall be taken by the Commissioner as the value thereof, and shall be apportioned by him in the manner hereinbefore prescribed, upon or among the lands subject to such rights; and the Commissioner shall mention in the Schedule that the value was determined by *Expertise*.

8. Provided that when the Seignior and the *Censitaires* shall agree to appoint and elect, or shall appoint and elect one and the same *expert*, such sole *expert* shall have the same powers as the three *experts* would have had, and his decision shall be final: And provided also, that the Commissioner may be appointed either third *expert* or sole *expert*.

4. In the event of one of the said *experts* dying, becoming incapacitated, or refusing to act, the appointment or election of another in his stead shall be proceeded with in the manner above prescribed, excepting that it shall not be necessary to call a public meeting of the *Censitaires* for the appointment of an *expert* in the stead of the person representing the Seignior; but if the Seignior refuse, or neglect during eight days to appoint another *expert*, after having been required so to do by the Commissioner, the Commissioner shall appoint an *expert* on behalf of the said Seignior.

5. If the Commissioner be appointed third *expert* or sole *expert*, then if he be prevented from acting by any cause, the Commissioner who shall be directed by the Governor to continue the proceedings in the Seignior, shall be third *expert* or sole *expert* in the place of the former Commissioner.

6. The said *experts* shall be entitled to receive, out of the funds provided by this Act, such fees as the Commissioner shall deem proper to tax, provided that they do not exceed the sum of fifteen shillings for each day of necessary attendance. And the said fees shall be paid by the Receiver General upon the certificate of the Commissioner.

XI. The said Commissioner, immediately after the making of the Schedule of a Seignior, shall give eight days' public notice in the manner prescribed by the seventh Section of this Act, that such Schedule will remain open for the inspection of the Seignior and the *Censitaires* of the Seignior during the thirty days following the said notice; and during that time the Commissioner may correct any error and supply any omission which maybe pointed out to him by any party interested, or which shall come to his knowledge in any other manner, but he shall not alter any value determined by *expertise* without the consent of the majority of the *experts* or of the sole *expert*;

2. The proprietor or possessor of the Seignior may appear either in person or by his agent, before the Commissioner, for the purpose of having any error corrected which may have crept into the said Schedule; and for the like purpose the *Censitaires* of the Seignior may appear before the said Commissioner by their agent to be appointed by a majority of the *Censitaires* of the Seignior present at a meeting called for that purpose by any three or more of the *Censitaires* thereof, eight

days' public notice thereof having been previously given in the manner prescribed in the seventh Section of this Act;

3. But no Schedule shall be completed until the Judges of the Special Court shall have given judgment upon the Questions to be submitted to them as hereinafter mentioned; and in the event of any of the decisions pronounced by the said Special Court, being reversed or altered upon appeal to the privy Council, the Commissioners forming the Court of Revision of Schedules hereinafter mentioned shall alter and amend the Schedules accordingly;

XII. It shall be lawful for the Governor, by letter under the signature of the Provincial Secretary, to select from the Commissioners so to be appointed, four of their number, of whom any three shall form a Court for the revision of Schedules made under this Act, and in like manner from time to time to remove them and to appoint others in the place of any so removed, dying, resigning office or being incapacitated to act;

2. The decision of any two of the Commissioners so selected, whether the others be present or not, on any matter relating to the revision of any Schedule made under this Act, shall be final;

3. In making such revision the Commissioners shall proceed summarily, but they may order any evidence to be adduced which they may think requisite to enable them to pronounce a correct decision, and for that purpose shall have the same powers as in making a Schedule;

4. No Commissioner so selected shall sit in revision of any Schedule made by him;

5. And no revision of any Schedule shall be allowed unless application be made for the same within fifteen days from the expiration of the time allowed under the Eleventh Section of this Act, for the correction thereof by the Commissioner by whom it was made; and every such application shall be made by a Petition presented on behalf of the party interested to the Governor, specifying the objections made to such Schedule and the amendments demanded, and praying for the revision thereof;

6. Upon the receipt of any such Petition, the Provincial Secretary shall refer the same to the Commissioners forming the Court of Revision aforesaid, whose duty it shall be, after having given eight days' notice in the manner provided by the seventh Section of this Act, to proceed to revise the Schedule therein mentioned, and if they find any error to correct the same, in so far as, but no farther than, it shall have been so specially objected to; but they shall not alter any value determined by *expertise* without the consent of the majority of the *experts* or of the sole *expert*;

7. The said Court of Revision may award and tax costs against any party who may in their opinion have demanded or opposed the revision of the Schedule without reasonable cause, and such costs may be recovered on the certificate of any one of the said Commissioners as a debt due by the party against whom they shall have been awarded, to the party in whose favour they have been taxed.

XIII. As soon as the Schedule of a Seignior shall be completed in the manner hereinbefore provided, the Commissioner who shall have made it shall transmit a triplicate thereof to the Receiver General of this Province; he shall deposit another triplicate in the office of the Superior Court in the District in which the Seignior is situate, or if such Seignior be situate in two Districts, then in the office of the said Court in that District in which the greater part of such Seignior is situate; and shall retain the other triplicate in his hands until it shall be otherwise provided by law; and he shall give public notice of his having so deposited the same, in the terms of the form A, annexed to this Act, or in other terms of like import, in the English and French languages in the *Canada Gazette*, or other newspaper recognized as the Official Gazette of the Province, and in at least one newspaper published in the District in which such Seignior or the greater part thereof is situate, or if there be no newspaper published in such District, such notice shall be so published in the nearest District wherein one or more newspapers are published. And the Clerk of the Superior Court shall furnish copies of or extracts from such Schedule duly certified in the usual form, to any person applying for the same, and may demand three pence currency for every hundred words or figures in any such copy or extract; and he shall also furnish one copy of every such Schedule on demand to the Seignior of the Seignior to which it relates, and the costs thereof shall be paid out of the funds provided by this Act; and all such copies and extracts, whether in words or figures, shall be deemed authentic, and shall serve as *primâ facie* proof of all matters therein set forth.

Abolition of Feudal Rights and Duties.

XIV. Upon, from and after the date of the publication in the *Canada Gazette*, or other Official Gazette as aforesaid, of a notice of the deposit of the Schedule of any Seignior as aforesaid, every *Censitaire* in such Seignior shall by virtue thereof hold his land in *franc-aleu roturier*, free and clear of all *Ceres*, *Lods et ventes*, *Droit de banalité*, *Droit de retrait* and other feudal and Seigniorial duties and charges whatever, except the *Rente constituée* which will be substituted for all Seigniorial duties and charges; and every Seignior shall thereafter hold his domain and the unconceded lands in his Seignior, and all water powers and real estate now belonging to him, in *franc-aleu roturier*, by virtue of this Act, and the same and the *Rentes constituées* payable to him under this Act by his *Censitaires*, or by any Seignior of whose *Fief* or Seignior he is the Seignior *Dominant*, shall be held and enjoyed by him free and clear of all Quint, Relief or other feudal dues or duties to the Crown or to any Seignior *Dominant* of whom his *Fief* or Seignior is now held; subject always, both as regards Seignior and *Censitaire*, to the provisions of this Act: Nor shall the Seignior as such after the said time be subject to any onerous obligation towards his *Censitaires*, or be entitled to any honorary rights, nor shall any land be thereafter granted by any Seignior to be held by any other tenure than *franc-aleu roturier*, or subject to any mutation fines or other feudal dues; Provided always, that no Seignior shall concede or alienate any part of the unconceded lands in his Seignior, until after the notice of the deposit of the Schedule thereof has been given as aforesaid, and any such concession or alienation shall be null and void.

XV. But no right which any Seignior may have acquired by any legal stipulation entered into before the passing of this Act, by any deed subsequent to the deed of concession, to take any land for the purpose of using the water power adjoining the same and belonging to such Seignior, on paying for such land the full value thereof and of all improvements thereon, shall cease by reason

of the passing of this Act, but the same shall remain in full force: Provided always, that the owner of any land adjoining any water power so acquired by the Seignior, and not then used by him, may, at any time after the expiration of one year from the passing of this Act, demand the right to use such water power from the Seignior on paying him the full value of such right, which value, if not agreed upon, shall be fixed by Arbitrators, one to be named by the owner of such land, another by the Seignior, and the third by the other two, or if they disagree, then by a Judge of the Superior Court or of the Circuit Court, and the award of any two of them shall be conclusive; and upon payment or tender to the Seignior of the value awarded, the owner of such land shall have the right to use such water power in the manner mentioned in the demand thereof and in the said award.

Determination of the Legal Rights of the Seignior and *Censitaire*.

XVI. And in order to avoid as far as may be possible, unnecessary expense, uncertainty and delay in the valuation of the several rights aforesaid, and in the completion of the Schedules of the Seigniories respectively, and all errors as to matters of law on the part of the Commissioners under this Act, Her Majesty's Attorney General for Lower Canada, shall, as soon as may be practicable after the passing of this Act, frame such Questions to be submitted for the decision of the Judges of the Court of Queen's Bench and of the Superior Court for Lower Canada, as he shall deem best calculated to decide the points of law, which will, in his opinion, come under the consideration of the said Commissioners, in determining the value of the rights of the Crown, of the Seignior, and of the *Censitaires*, and he shall file a copy of such Questions in the Office of the said Court of Queen's Bench, and cause a copy thereof to be transmitted by Post to each of the Judges of the said Courts;

2. The said Questions shall then be published at least once a week, during six consecutive weeks, in the *Canada Gazette*, with a notice to all concerned that they have been filed as aforesaid, and are submitted for the decision of the said Judges;

3. The said Judges shall take the said Questions into consideration, and shall hear the Attorney General, or Solicitor General, and such Counsel as such Attorney General or Solicitor General may deem it advisable to associate with them, at as early a time as may be practicable after the expiration of thirty days from the last publication of the said Questions in the *Canada Gazette*; and it shall be the duty of the said Judges to give the consideration of the said Questions and the hearing thereof such precedence over other matters before them, and to adopt such other measures with regard to them, as will ensure a decision thereon at as early a period as may be conveniently practicable;

4. Any Seignior may, at any time before the end of the said period of thirty days after the last publication of the said Questions, or with leave of the said Judges at any time before the hearing thereon, cause an appearance to be filed for him in the Office of the Court of Queen's Bench, in the matter of the said Questions, and having caused such appearance to be so filed, shall be entitled to be heard by his Counsel upon such Questions, and may submit any supplementary or counter-questions and may append to every such Question, a Statement of the Proposition or

Propositions he intends to maintain with regard thereto; but no more than five Counsel shall be heard on the part of all the Seigniors so appearing except by special permission of the Court, and if more claim to be heard, the Judges shall decide between them which shall be heard;

5. The *Censitaires* of any Seigniory acting by their Agent to be elected in the manner provided by the eleventh Section of his Act, may also in like manner and within a like delay cause an appearance to be filed for them in the Office of the said Court, and having so done shall be entitled to be heard by their Counsel upon the questions filed by the Attorney General as well as upon any questions or propositions filed by any Seignior, and may submit supplementary or counter-questions or propositions to those of the Crown or of any Seignior; but no more than five Counsel shall be heard on the part of all the *Censitaires*, unless by the special permission of the Court, and if more claim to be heard, the Court shall decide between them which shall be heard;

6. No publication or service of any such supplementary or counter-questions or propositions shall be necessary, but the same shall be printed, and, when they are filed, at least fifty copies thereof shall be delivered to the Clerk of Appeals, who shall give copies to the Attorney General and to the Advocates appearing for Seigniors or *Censitaires*;

7. From the expiration of the said thirty days after the last publication of the said Questions, the matter shall be dealt with by the said Judges, as if an appeal were pending and inscribed and ready for hearing, in which the said Questions had arisen for decision, but no case, or pleadings, or other proceeding than such as are herein prescribed shall be required previously to such hearing; no technical objection of procedure shall be entertained, and if any question arise as to the proceedings in any matter not provided for by this Act, the Judges sitting shall *instanter* make such order therein as shall seem most equitable and convenient;

8. The decision and opinions of the said Judges shall be *motivées* and delivered as in a judgment on a case in appeal in which all the Questions had arisen and were put in issue, but without any further sentence in favor of the Crown the Seigniors or the *Censitaires*, whether as to costs or otherwise;

9. The decision so to be pronounced on each of the said Questions and Propositions shall guide the Commissioners and the Attorney General, and shall in any actual case thereafter to arise, be held to have been a judgment in appeal *en dernier ressort* on the point raised by such Question, in a like case, though between other parties; Provided always, that it shall be competent to the said Judges to render separate decisions upon any particular question or questions; And provided also, that if, as to any such decision, there be any dissentient Judge, either party may, within one month, by summary petition duly notified to the others, appeal from such decision to Her Majesty in Her Privy Council; but otherwise, there shall be no appeal from any such decision;

10. The Governor may at any time and from time to time, by Proclamation, direct a Special Session of the said Judges to be held at the City of Quebec or at the City of Montreal, and to commence on the day to be named for that purpose in such Proclamation, which shall be issued at least twenty clear days before the commencement of such Special Session; and to any such Special Session all

the provisions of the Act constituting the said Court of Queen's Bench, and of the law with regard to the ordinary terms of the said Court (*Appeal side*) shall apply; except that at every such Special Session, nine of the said Judges shall be a Quorum: and the Questions to be proposed under this Act, and no other business, shall be taken up at such Session; and such Special Session shall continue until no further matter or proceeding relating to this Act shall be before the said Judges, who shall at such Session form a special Court for the purposes of this Act; Provided always, that if for the purpose of holding any term, either of the Court of Queen's Bench or Superior Court, it become necessary to suspend the sittings of such Special Session, the Judges shall adjourn such Special Session to the first convenient day after the close of such term; and the said Special Court may, after hearing all parties on the various matters submitted to them, adjourn for the purpose of rendering judgment only, to any day thereafter, on and after which day they may adjourn for the like purpose; and such adjournments for rendering judgment may be to any day during or between any terms of the said Court of Queen's Bench or Superior Court; And provided also, that it shall be lawful for the Governor, by any proclamation directing such Special Session, to suspend or postpone any Term or Terms of either of the said Courts, or to alter the duration thereof; and also to name any Circuit Judge or Judges, or Barrister or Barristers of at least ten years' standing at the Bar of Lower Canada, to be and act as Assistant Judges of the said Courts, or of either of them, during the pendency of any such Special Session, and of all adjournments thereof, and for such term of time before or after as he may deem necessary; and every person so named shall, for the term of such appointment, have all the powers of a Judge of the Court whereof he shall have been named an Assistant Judge, except the powers given by this Act. The presiding Judge at even' such special session shall be the Chief Justice of the Court of Queen's Bench if present: if absent, the Chief Justice of the Superior Court, and in the absence of both Chief Justices, the Senior of the Puisné Judges of the Court of Queen's Bench then present.

Provincial Appropriation for Relief of the *Censitaires* and Expenses.

XVII. The emoluments and disbursements of the Commissioners who shall be appointed under this Act, with the expenses to be incurred under the same, shall be paid out of the Consolidated Revenue Fund of this Province, by Warrant of the Governor: and a sum not exceeding in the whole what shall remain of the amount hereinafter limited after deducting therefrom the said emoluments, disbursements and expenses may likewise be paid out of the said Fund for the purposes of this Act: and it shall be lawful for the Governor in Council to cause any sum or sums not exceeding in the whole the sum required for defraying the expenditure authorized by this Act, to be raised by Debentures to be issued on the credit of the said Consolidated Revenue Fund, in such form, bearing such rate of interest, and the principal and interest whereof shall be payable out of the said Fund at such times and places as the Governor in Council shall think most advantageous for the public interest: and the moneys so raised as aforesaid shall make part of the said Consolidated Revenue Fund of this Province: Provided always, that the total amount of moneys to be paid, whether in money or debentures, under this Act, shall not exceed by more than one hundred and fifty thousand pounds, the sum of which the average yearly proceeds of the other sources of Revenue hereinafter mentioned (upon an average of the last five years) would be the yearly interest at six per cent per annum added to the value of the Crown's rights in the Seigniories affected by this Act.

XVIII. The moneys arising from the following sources of Revenue, shall be and are hereby specially appropriated to make good to the said Consolidated Revenue Fund, the amount which may be taken out of the same for the purpose of paying the sums charged upon it under the next preceding section, that is to say:

All moneys arising from the value of the rights of the Crown, from *droits de Quint* and other dues, in or upon the Seigniories of which the Crown is Seignior *Dominant*, and which are to be commuted by this Act as such value shall be fixed by the Schedules of the said Seigniories respectively, and all arrears of such dues;

All moneys arising from the Revenues of the Seigniorie of Lauzon, or from the sale of any part of the said Seigniorie which may hereafter be sold, and all arrears of such Revenues;

All moneys arising from Auction Duties and Auctioneers' Licenses in Lower Canada;

All moneys arising in Lower Canada from licenses to sell spirituous, vinous or fermented liquors by retail in places other than places of Public Entertainment, commonly called Shop or Store Licenses;

All moneys which shall arise from Tavern Licenses in Lower Canada, after the present charges on that Fund shall have been paid off, except however such portion of that Fund as shall be levied in the Townships.

And separate accounts shall be kept of all moneys arising from the sources of Revenue aforesaid, and of the moneys, disbursed under this Act, allowing interest on both sides at the then current rate on Provincial Debentures, to the end that if the sums payable out of the Consolidated Revenue Fund under this Act, shall exceed in the whole the total amount of the sums arising from the sources of Revenue so specially appropriated and any interest allowed thereon as aforesaid, a sum equal to such excess may and the same shall be set apart, to be appropriated by Parliament for some local purpose or purposes in Upper Canada

XIX. The Special Fund constituted as aforesaid for the purposes of this Act, shall, after deducting the expenses incurred under this Act, be appropriated in aid of the *Censitaires* in the several Seigniories, in the following manner:

2. The sum to be established as the value of the rights of the Crown in each Seigniorie as aforesaid, and the difference between the absolute value in franc-aim roturier of all unconceded lands, waters and water powers in the Seigniories and the value of the Seigniors' rights therein, shall be appropriated in aid of the *Censitaires* of such Seigniorie in reduction of the *rentes constituées* representing the *lods et ventes* or other mutation fines therein, by an equal per centage of reduction on each such *rente*;

3. The remainder of the said Special Fund shall be apportioned by the Receiver General (amongst the several Seigniories to which this Act extends,) giving to each an equal per centage on the total

amount of the constituted rents established by the Schedule of each such Seignior, after deducting the value of the Crown's rights therein; And the sum as apportioned to each Seignior shall be applied by the Receiver General in the following order, which shall be the order of charges thereon:

1st. To the redemption of so much of the said *rentes constituées* representing the *lods et ventes* or other mutation fines in the Seignior as may remain after the reduction made by the application of the value of the Crown's rights as aforesaid, by an equal per centage of reduction, on such remaining *rentes* in each case;

2dly. To the redemption of the *rentes constituées* representing the Banality in the Seignior, by an equal per centage of reduction on each such *rente*;

3dly. To the redemption of the *rentes constituées* representing the *cens et rentes* and other charges on lands held for Agricultural purposes in the Seignior, by an equal per centage of reduction on each such *rente constituée*, exceeding the rate of one penny half penny per annum, per *arpent*;

4. The reduction of such *rentes constituées* shall always be in proportion to the capital sum applied to effect such reduction, the reduction being equal to the legal interest of such capital;

5. The sums so apportioned for each Seignior shall belong to the Seignior thereof, subject always to the right of the Seignior *Dominant*, and shall be dealt with in every respect, as moneys paid in redemption of the *rentes constituées* mentioned in the Schedule of such Seignior, subject to the special provisions hereinafter made.

Application of Moneys Arising from the Redemption of Seigniorial Rights, &c.

XX. Every proprietor of a Seignior who shall have within his *mouvance* another or several fiefs, (unless the value of his rights has been entered in the Schedule thereof), and every person having an hypothecary claim on any Seignior the Schedule relative to which shall be deposited in the office of the Clerk of the Superior Court in the District in which such Seignior or part thereof is situate, must, for the preservation of his privileges, within six months from the date of the notice in the *Canada Gazette* of the deposit of the Schedule of such Seignior, file an opposition to the distribution of all moneys arising or which may arise from the redemption of the Seigniorial rights in such Seignior; every such opposition shall be filed in the said office and have effect for thirty years, unless sooner withdrawn, or by Judgment of the Court dismissed; and if any such opposition be renewed within a less time than thirty years, the opposant shall only be entitled to the costs of one single opposition; and while such opposition shall so remain in force, any *Censitaire* who shall pay the capital or redemption money, of the *rente constituée* to the Seignior, shall do so at his peril, and on pain of being liable to any such opposant for any loss he may thereby sustain.

XXI. All minors, interdicted persons and married women, even in the case of dower not yet open (non encore ouvert,) and all who have entailed or contingent rights, by themselves or their tutors, curators, husbands or others, who may act for them, shall be also required, for the preservation of their privileges, to file their opposition to the distribution of all such moneys in the manner provided in the next preceding section: but tutors, curators, husbands or others who shall have neglected to file such oppositions shall, nevertheless, continue to be responsible towards the persons under their charge or authority for any loss which may result from their negligence in the said behalf.

XXII. If, after the expiration of six months, from the date of the first publication in the *Canada Gazette* of the Notice by the Receiver General of the Deposit, of the Schedule of the Seignior in which such land is situate, the possessor of such Seignior produce to the Receiver General a certificate, granted by the Clerk of the Superior Court for the District in which the Schedule relative to such Seignior, or a triplicate thereof, is deposited, stating that there is no opposition to the payment of the redemption moneys in such Seignior, the said Receiver General shall pay to the said Seignior, on his giving a duplicate receipt therefor, the amount of any moneys coming to such Seignior out of the Special Fund hereinbefore mentioned, with interest thereon, at six per cent per annum, to be computed from the date of the said notice, and thereafter the Seignior shall have full right to receive the price of the *rentes constituées* in his Seignior directly from the *Censitaires*, and to deal with such *rentes* as he shall see fit.

XXIII. Whenever the Receiver General shall have ascertained the amount of money coming to any Seignior out of the Special Fund hereby appropriated in aid of the *Censitaires*, and there shall be an opposition filed as aforesaid to the distribution of such money, the Receiver General shall deposit a certificate of the said amount in the hands of the Clerk of the Superior Court in the District wherein the Schedule relative to the said Seignior, shall have been deposited; and the said Court shall make the distribution of the said moneys among the opposants, according to the order of their hypothecs, and the preference of their respective privileges; and the Receiver General shall pay the same to the Clerk of the Court to be distributed according to such order, but the interest on any sum coming to a Seignior, and in the Receiver General's hands, shall always be payable to such Seignior.

XXIV. All persons holding in mortmain, corporations, tutors, curators and administrators possessing lands held *en roture*, or persons holding entailed lands the *rentes constituées* upon which may be redeemed with advantage to those whom they represent, may effect the redemption of any *rente constituée* under the provisions of this Act by paying the price of redemption out of the moneys of those whom they represent: Provided that tutors, curators and usufructuary proprietors (*usufruitiers*) and holders of entailed lands, observe the formalities required by law in the alienation of the property of the persons whose rights shall be represented by them; but persons holding in mortmain and corporations shall not be required to observe any other formality in or before the redemption of any such *rente constituée* than those prescribed by this Act.

XXV. And it shall be lawful for the several religious or ecclesiastical communities, holding in mortmain Fiefs or Seigniories in Lower Canada, to invest from time to time, as they shall see fit, in any lands or tenements in this Province, or in any public or private securities in this Province, which they shall deem the most advisable or advantageous to their respective communities, any sums of money that may accrue to them from the redemption of any *rente constituée* created under this Act, or out of the Special Fund appropriated by this Act.

Destination and Legal Character of Properties and Rights Hereafter to Represent Seigniories.

XXVI. In respect of all rights acquired in, to or upon, any Seigniority before the publication in the *Canada Gazette* of the notice of the Receiver General of the deposit of the Schedule of any Seigniority in his hands, and for the preservation whereof an opposition shall have been filed within six months from the date of the said publication, all lands and real rights which at and immediately before the passing of this Act were held by the Seignior as part of his Seigniority, all rights secured to him under the Schedule thereof, all *rentes* under this Act to be created, all moneys to arise from the redemption of any such *rentes*, or to be received by the Seignior out of the aid granted by this Act to the *Censitaires* towards the redemption of Seigniorial rights, duties and dues, and all properties and rights so by such Seignior acquired as to represent such moneys, shall be held and taken as though attached to the domaine of such Seigniority, and as representing such Seigniority; but in respect of all rights thereafter to accrue, or for the preservation whereof no opposition shall have been filed within the delay aforesaid, all such lands, rights, *rentes* and moneys shall be held and taken to be, and shall be to all intents separate and independent properties and rights; and it shall not be requisite that any person, in order to the holding, recovery or enforcement of any thereof, should qualify himself as being, or as ever having been, a Seignior.

XXVII. All *rentes constituées* to be created under this Act., shall have the same privileges *ex causâ* as the right of the *bailleur de fonds*, and the like preference over all other hypothecary claims affecting the land, as any Seigniorial dues upon or arising out of such land would have had previous to the redemption of the said dues, without any registration in any Registry office to that end; but the Creditor shall not have the right to recover more than five years' arrears of any such rent; and in default of moveables out of which the amount of any judgment for such arrears, though amounting to less than Ten Pounds currency, may be levied, execution may issue against such land after a delay of one year from the date of such Judgment, and not sooner.

XXVIII. Every established by virtue of this Act, shall always be redeemable by consent of the owner of the land and of the Seignior, in cases where the Seignior has the right to the capital thereof for his own use, and not otherwise; but if the Seigniority be entailed (*substituée*) or held by a tutor, curator or usufructuary proprietor (*usufruitier*), and an opposition be filed and then in force, the *rente* and arrears only shall be received, subject always to the exception in the next following section, which shall apply to all cases of redemption of such *rentes*.

XXIX. Provided always, that it shall not be lawful to redeem any such *rente constituée* except by the consent of the Seignior having the right to the capital thereof for his own use, at any other time in any year than the day on which such *rente* is payable; But provided also, that at any time,

and whether the Seignior have or have not the right to the capital of the *rentes constituées* under this Act, for his own use, it shall be lawful for the *Censitaires* in any Seignior to redeem by one payment all the said *rentes constituées* then remaining in the Seignior, and in such case the redemption money shall be paid to the Seignior, if there be then no opposition filed as aforesaid and in force; and if there be such opposition, then it shall be paid to the Receiver General, and shall be dealt with in all respects as money coming to the Seignior out of the Special Fund appropriated in aid of the *Censitaires*; and the paying of such redemption money shall always be one of the purposes for which money may be raised on the credit of the Consolidated Municipal Loan Fund for Lower Canada, under any law in force for raising money on the credit of such Fund: and the redemption money under this Section shall always be the capital sum of which the *rentes* redeemed shall be equal to the legal interest, unless another rate be agreed upon by the *Censitaires* and a Seignior having the right to such redemption money, for his own use.

Miscellaneous Provisions.

XXX. No sale under Writ of Execution (*par décret*) shall have the effect of liberating any immovable property then or theretofore held *à titre de cens*, and so sold, from any of the rights, charges, conditions or reservations established in respect of such immovable property in favor of the Seignior, due before the completion of the Schedule of the Seignior in which such property lies, or from any *rente constituée* payable thereon under such Schedule, but every such immovable property shall be considered as having been sold subject thereafter to all such rights, charges, conditions or reservations, without its being necessary for the Seignior to make an opposition for the said purpose before the sale.

XXXI. If notwithstanding the provisions of this Act, any opposition *afin de charge* be made hereafter for the preservation of any of the rights, charges, conditions or reservations mentioned in the next preceding section of this Act, such opposition shall not have the effect of staying the sale, and the Opposant shall not be entitled to any costs thereon, but it shall be returned into Court by the Sheriff after the sale, to be dealt with as to law may appertain.

XXXII. The Seignior of whom any land the tenure of which shall be commuted under this Act, was held, shall be maintained, in his privileges and hypothecs on the land, for the payment of all arrears of Seigniorial rights lawfully due at the time of such commutation.

Certain Lands Declared to Be and to Have Been Holden in *Franc-Aleu Roturier*

XXXIII. All lands which any Seignior has, by any Act (*Acte*) or Deed in writing heretofore executed, released or agreed to release from all Seigniorial rights in consideration of the payment of any sum of money or of any annual rent, are hereby declared to be and to have been from the day of the date of every such Act (*Acte*) or Deed, free from all such Seigniorial rights and holden in *franc-aleu roturier*; but the Commissioners, for the purpose of making the Schedules of Seigniories in which any such lands are situate, shall deal with ail such lands as if they were now held *en roture*, and when the same are liable to an annual rent, shall establish and specify in the Schedule the capital

of every such rent, in order that the same may be redeemed by the person liable therefor, in the same manner as any *rente constituée* established by this Act.

XXXIV. All lands upon which mortmain dues (*des droits d'indemnité*) have been paid to any Seigneur, and which have not been sold or conceded since such payment to parties holding otherwise than in mortmain, are hereby declared to be and to have been from the day of the date of such payment or of any Act (*Acte*) or Deed in writing, binding the owner to pay the same, released from all Seigniorial dues and duties, and held *en franc-aleu roturier*, but subject to the payment of a *rente constituée* equal to the *cens* and rent legally due thereon.

Interpretation and Extent of this Act.

XXXV. And, for the interpretation of this Act — Be it enacted, That none of the provisions of this Act shall extend to the wild and unconceded lands in Seigniories held by the Crown in trust for the Indians, nor to the Seigniories held by the Ecclesiastics of the Seminary of St. Sulpice of Montreal, nor to either of the Fiefs Nazareth, Saint Augustin, Saint Joseph, Closse and Lagauchetière, in the City and County of Montreal, nor to any other *arrière-fief* depending upon (*relevant de*) any of the said Seigniories, nor to the Seigniories of the late Order of Jesuits or other Seigniories held by the Crown and not above mentioned, nor to the Seigniories held by the Principal Officers of Her Majesty's Ordnance, nor 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 limits of the Township of Sherrington*: Provided always, that the Governor in Council may if he shall see fit, grant to the *Censitaires* of the Crown Seigniories the Revenues whereof belong to the Province, (including the Seigniories of the late order of Jesuits), upon commutation of their lands, equal advantages and relief as are hereby granted to the *Censitaires* of Seigniories not excepted from the operation of this Act.

XXXVI. Nothing herein contained shall affect the right to, or the recovery of, any arrears of Seigniorial dues accrued before the passing of this Act, or shall give any person whomsoever any right of action for the recovery of money or other value paid by him or his predecessors in the form of rents or other Seigniorial dues, or for the recovery of damages which he may pretend to claim for the privation of any right of which he may deem that he has been illegally deprived by his Seigneur, unless he would have had such right of action if this Act had not been passed; nor shall any thing in this Act be construed to weaken or to support any claim of any Seigneur or of any *Censitaires* to any right claimed by or for them respectively, at the hearing on the questions and propositions to be submitted under this Act to the Judges for their decision, but the same shall be decided by the law as it stood immediately before the passing of this Act.

XXXVII. The word "Seignior," wherever it occurs in this Act, shall be construed as meaning any part of a *Fief*, *arrière-fief* or Seignior held by a single individual, or by a Corporation, or held by several persons in common (*par indivis*) as well as the whole of a *fief*, *arrière-fief*, or Seignior, except in such parts of this Act in which the words "*arrière-fief*" and "Seignior" are made use of to

distinguish the *Fief dominant* from the *fief servant*; and the word "Seignior" shall be construed as meaning any Corporation, or any sole proprietor, and all persons who are proprietors in common (*par indivis*) of any part of a *Fief, arrière-fief* or Seignior, as well as any person or Corporation, being sole proprietor, and all persons, proprietors jointly and *par indivis* of the whole of any such *Fief, arrière-fief*, or Seignior: the words "Seignior" and "*Censitaire*" shall apply to the owner of any *rente constituée* created under this Act, and the person charged therewith, respectively, as well as to the owner of and person charged with the rights and duties represented by such *Rente*; the words "Seigniorial Rights," whenever they occur in this Act, shall include and be construed as including all rights, duties, charges, obligations, and Seigniorial or feudal dues whatsoever; the word "Land" shall mean any lot, piece or parcel of land, and shall include the buildings thereon constructed, and all its appurtenances.

XXXVIII. The Legislature reserves the right of making any provision, declaratory or otherwise which may be found necessary for the purpose of fully carrying out the intent of this Act; which intent is declared to be, — to abolish as soon as practicable, all feudal or Seigniorial rights, duties and dues, substituting therefor *rentes constituées* of equal value, — to grant to the Seignior a fair indemnity, and no more, for all the lucrative rights which the law gives him, and which this Act will abolish, — to preserve the rights of third parties, unless such rights be lost by their own neglect or laches; — and to aid the *Censitaire* out of the Provincial Funds in the redemption of those Seigniorial charges which interfere most injuriously with his independence, industry and enterprise; and every enactment and provision of this Act shall receive the most liberal construction possible with a view to ensure the accomplishment of the intention of the Legislature, as hereby declared.

XXXIX. The "Interpretation Act" shall apply to this Act.

XL. This Act shall be known, cited and referred to as "The Seigniorial Act of 1854."

XLI. This Act shall apply to Lower Canada only.

Form A.

Public notice is hereby given that the Schedule (of the *fief, arrière-fief* or of the *Seignior*) of (name of *fief arrière-fief* or *Seignior*) shewing the *rentes constituées* into which the feudal and Seigniorial rights, dues, charges, obligations and rents due and payable upon each land in such (*fief arrière-fief* or *Seignior*) are converted, is completed, and that a triplicate thereof has been deposited in the office of the Receiver General, and another in the office of the Superior Court in the District of and that the third remains in the possession of the undersigned, (Here give the name of the locality in which the Commissioner is sitting, and the date.)

A. B. } Commissioner under
the Seigniorial Act of
1854.