

Laws of Her Majesty's Province of United Canada, passed in the year 1856. Quebec: Stewart Derbyshire and George Desbarts, 1856.

20 Victoria – Chapter 53

The Seigniorial Amendment Act of 1856. Assented to 19th June, 1856.

Whereas it is expedient to amend the Seigniorial Act of 1854, and the Seigniorial Amendment Act of 1855, in order to facilitate the operation of the same: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. Whenever the rule prescribed by the second sub-section of the sixth section of the Seigniorial Act of 1854, for determining the yearly value of any casual rights cannot be applied in any Seigniority, the Commissioner shall himself adopt some other equitable mode of estimating such yearly value.

II. The seventh sub-section of the sixth section of the said Seigniorial Act of 1854, is hereby repealed.

III. In estimating the casual rights of the Crown in the several Seigniories in Lower Canada, the Commissioners shall establish the average yearly revenue of the Crown arising from these lights throughout Lower Canada, and such average yearly revenue shall be taken as representing the interest at six per cent, of a capital sum to be apportioned among all the Seigniories liable to the payment of *Quint*, in proportion to their value; the amount apportioned to each Seigniority shall represent the rights of the Crown therein, and shall be deducted from the amount to be paid by the *Censitaires* for the redemption of the casual rights of the Seignior.

IV. From and after the passing of this Act, all the provisions relative to the appointment of *Experts*, contained in the tenth Section of the Seigniorial Act of 1854, or in any other Section of the said Act, shall be repealed; and in all Seigniories in which there shall have been requisitions for or appointments of *Experts*, the Commissioners shall act in every respect as though there had been no such requisition for or appointment of *Experts*.

V. All the words after the words "following the said notice," in the first paragraph of the eleventh section of the said Seigniorial Act of 1854, (including both the sub-sections,) are repealed, and in lieu thereof the following are substituted, "in some convenient place in the Seigniority, in charge of some fit and proper person, and the name of such person and the place of deposit shall be indicated in such notice; and any person interested in the Schedule may point out in writing, addressed to the Commissioner and left with the person in charge of the Schedule, any error or omission therein, and require that the same be corrected or supplied; and at the expiration of the said thirty days it shall be the duty of the Commissioner to be present at the place indicated in such Notice, and to examine into and decide upon the objections made in writing as aforesaid."

VI. The fourth sub-section of the twelfth section of the said Seigniorial Act of 1854, shall apply only to the Commissioner who shall have finally completed the Schedule in question, and not to the Commissioner or Commissioners who shall have taken any of the proceedings preliminary to the completion of the Schedule.

VII. The fifth and sixth sub-sections of the twelfth section of the said Seigniorial Act of 1854, are hereby repealed.

VIII. No revision of any Schedule shall be allowed, unless application be made for the same within fifteen days after the Commissioner shall have given his decision, as provided for by the eleventh section of the Seigniorial Act of 1854, as amended by this Act; and every such application shall be made by a petition presented on behalf of the party interested, to the Revising Commissioners or any one of them, specifying the objections made to such Schedule.

Upon the receipt of any such petition, it shall be the duty of the Revising Commissioners, after having given eight days' notice to the parties interested, in the manner prescribed by the seventh section of the said Seigniorial Act of 1854, to proceed to revise the Schedule therein mentioned, and for that purpose, to hear, try and determine the matters alleged in the said petition. The proceedings upon such revision shall be kept of record, and if the Commissioners find any error, they shall correct the same.

IX. The Commissioners selected to form a Court for the revision of the Schedules, shall sit at Montreal for the Seigniories in the Districts of Montreal and Ottawa; at Three-Rivers for those in the District of Three-Rivers; at Quebec for those in the District of Quebec; at Kamouraska for those in the District of Kamouraska; and at New Carlisle for those in the District of Gaspé; but any petition for the revision of a Schedule may be presented to the Revising Commissioners, or any one of them, in any District.

X. And inasmuch as the following Fiefs and Seigniories, namely: Perthuis, Hubert, Mille Vaches, Mingan and the Island of Anticosti, are not settled, the tenure under which the said Seigniories are now held by the present proprietors of the same respectively, shall be and is hereby changed into the tenure of *franc alev roturier*: The difference in value between each of the said Seigniories as heretofore held and the same Seigniority when held in franc aim roturier, and also the value of the casual and other rights of the Crown in the said Seigniories, shall be ascertained and entered in the Schedule of the Seigniority, and the amount of the whole shall, upon the filing of the said Schedule, become due and payable by the Seignior to the Crown, and shall form part of the fund appropriated in aid of the *Censitaires*; And whenever the Governor in Council shall have been satisfied that any other Fief or Seigniority is wholly unconceded, it shall be lawful for the Governor to issue a Proclamation declaring that such Fief or Seigniority shall thenceforth be subject to the operation of this Section of the present Act: and from and after the date of the publication of any such Proclamation in the *Canada Gazette*, the tenure under which the Fief or Seigniority or Fiefs and Seigniories therein mentioned are now held, shall be changed into the tenure of *franc alev roturier*; and in making the Schedules thereof, the Commissioners shall deal with such Fiefs or Seigniories in every respect as if they had been specially mentioned in this Section.

XI. And whereas the third section of the Seigniorial Amendment Act of 1855 does not apply to Seigniories held by the Crown in Lower Canada, whether such Seigniories form part of the Domain of the Crown, or are so held under any title or from any other cause, and it is expedient to grant to the *Censitaires* in the said Seigniories advantages similar to those granted to the *Censitaires* in other Seigniories by the said Section; Therefore, it is enacted, That —

1. No *Lods et Ventés* shall be demanded from purchasers in the said Seigniories held by the Crown, upon purchases made since the thirtieth day of May, one thousand eight hundred and fifty-five;

2. The Crown Agents for the said Seigniories shall, in the collection of the revenue of the Crown therefrom, and in regard of all other rights of the Crown as Seignior of such Seigniories, take notice of and be guided by the answers and decisions of the Special Court under the Seigniorial Act of 1854, upon the questions of Her Majesty's Attorney General for Lower Canada, except in so far as such rights may have been reduced or modified by any order or orders of the Governor in Council;

3. All unconceded lands and waters in the said Seigniories shall be held by the Crown in absolute property, and may be sold or otherwise disposed of accordingly, and -when granted, shall be granted in *franc aleu roturier*.

XII. And in amendment of the third section of the said Seigniorial Amendment Act of 1855, it is enacted, That the Commissioners or any one or more of them, shall forthwith make a separate statement for each Seignior, shewing, as nearly as can then be ascertained, and subject to correction thereafter:

1. The average yearly revenue from *lods et ventes*, —

2. The average yearly revenue from *Quint*, —

3. The average yearly revenue from *relief* — and

4. The average yearly revenue from other casual rights (if any) which, under the said section, ceased to be payable after the passing of the said Act;

5. Such statement shall be made separately for each Seignior, and so soon as the Commissioners are able to make it, and shall be sent to the Receiver General; and instead of the interest mentioned in the said amended third section, (which shall accumulate as part of the Provincial aid to the *Censitaires*,) the amount of such yearly revenue in each Seignior as shewn by such statement, from the thirtieth day of May, one thousand eight hundred and fifty-five, (the day of the passing of the said Act,) up to the first day of January or July last past at the time the statement shall come to the Receiver General, shall be then paid by the Receiver General to the Seignior or Seignior *dominant* of such Seignior; and thereafter one half of the average yearly revenue mentioned in each such statement respectively shall be paid to the Seignior or Seignior *dominant* entitled to it, on the first day of January and the first day of July, until the Schedules are finally

deposited; and the amount so paid to each Seignior shall be debited to him, as so much received by him on account of the portion of the Provincial appropriation for the relief of *Censitaires* payable to him and of the interest on such portion; but in computing the amount to be deducted on account of the said Provincial aid, from the total value, of the Seigniorial rights in any Seignior as shewn by the Schedule thereof, in order to ascertain the amount remaining chargeable upon the *Censitaires*, the correct value of such casual rights (as finally ascertained by the Schedule) from the said thirtieth of May, one thousand eight hundred and fifty-five, to the publication of the notice of deposit of the Schedule (and not the approximate value first above mentioned) shall (as representing the average sum saved by the *Censitaires* during the same period, by the nonpayment of the said casual rights or any compensation therefor,) be deducted from the total amount of principal and interest payable to the Seignior from the said Provincial Aid, and the remainder shall be the sum to be deducted from the total value of the Seigniorial Rights as shewn by the Schedule, in order to ascertain the amount payable by the *Censitaires*: Provided always, first, that the whole sum to be paid by the Receiver General to any Seignior *dominant*, shall be also deducted from that which would be otherwise payable by the *Censitaires* of the Seignior *servant*; and secondly, that if the approximate sum paid to any Seignior *dominant* under this section by the Receiver General, shall be more or less than the true value of his rights for the time, the difference shall be deducted or added (as the case may require) from or to the sum to be paid by the Receiver General to such Seignior *dominant*, under the sixth sub-section of section six of the said Seigniorial Act of 1854.

XIII. In the event of any Seignior or Seignior *dominant* being indebted to the Crown in any sum of money for any right arising from any Seignior held by such Seignior or Seignior *dominant*, the Receiver General shall retain the amount so due to the Crown from the amount payable to such Seignior or Seignior *dominant* under the provisions of this Act or of the Acts hereby amended; and the amount (if any) due to the Crown by each Seignior, shall be ascertained by the Commissioner making the Schedule of each Seignior and certified by him to the Receiver General.

XIV. In any case in which, by reason of an equal division, no judgment has been rendered by the Judges of the Court of Queen's Bench and Superior Court for Lower Canada, on any of the questions to them submitted by the Attorney General for Lower Canada under the provisions of the sixteenth section of the said Seigniorial Act of 1854, the Commissioner making the Schedule shall, in any case to which such question refers, decide it in such manner as he shall think most equitable under the circumstances, saving the right of the Court for the revision of Schedules, to be appointed under the twelfth section of the said Seigniorial Act of 1854, to pronounce a final decision on such question or questions, and to amend such Schedule according to such decision, if need shall be.

XV. The Commissioner making the Schedule of any Seignior shall have full power either by himself or by any person authorized by him, to inspect the Repertory of any Notary, whenever he shall think such inspection desirable for obtaining information to ensure the greater correctness of the Schedule, such inspection being demanded and made at reasonable hours and on juridical days; and any Notary refusing to allow such inspection shall thereby incur a penalty of one hundred pounds; and for each such inspection the Notary shall be entitled to five shillings for each

hour it shall continue; Provided that whenever any such inspection shall be demanded by any Seigneur, it shall be made at his expense.

XVI. For the purpose of making the Schedule of any Seignior, the boundaries thereof shall be deemed to be those actually possessed by the Seigneur, although all or any part thereof may be in dispute.

XVII. And whereas the provision in the Seigniorial Act of 1854, prohibiting any Seigneur from conceding or alienating the unconceded lands in his Seignior until after the deposit of the Schedule thereof, retards settlement, it is therefore enacted, that from and after the passing of this Act, all unconceded lands in any Seignior the tenure of which has not been theretofore commuted, shall be held by the Seigneur *en franc aleu roturier*, and may be dealt with by him in like manner as lands held by other persons under the same tenure may be dealt with; except that if the Seignior be entailed (*substituée*) or held by any party otherwise than as absolute owner thereof, then the price of such lands shall form the capital of a *rente constituée*, which capital shall not be paid except to some party holding the Seignior as absolute owner thereof; but any party whose title would, before the passing of the Seigniorial Act of 1854, have authorized him to concede such unconceded lands, may after the passing of this Act, sell the same for such *rente constituée* as aforesaid, and not otherwise.

XVIII. No lands, held in Free and Common Soccage or *en franc aleu roturier*, shall be charged with any perpetual irredeemable rent; and whenever any such rent shall be so stipulated, the capital thereof may be at any time redeemed at the option of the holder of the land charged therewith, on payment of the capital of such rent calculated at the legal rate of interest; and any stipulation in any deed of conveyance (*translatif de propriété*) of any such land, tending to charge the same with any mutation fine or any payment in labor, or tending to entail upon the holder of any such land, the duty of carrying his grain to any particular mill, or any other feudal duty, servitude or burthen whatsoever, shall be null and void.

XIX. And whereas the notice of the deposit of the Schedule of any Seignior, which the provisions of thirteenth Section of the Seigniorial Act of 1854, should be given by the Commissioner who shall have made such Schedule, is erroneously referred to in the twenty-second and twenty-sixth Sections of the same Act, as a notice to be given by the Receiver General, — it is hereby declared and enacted, that the said twenty-second Section should, and the same shall henceforth be read and interpreted as if the words “by the Receiver General” in the second and third lines, of the said twenty-second Section had never been inserted therein, — and that the said twenty-sixth Section should, and the same shall henceforth be read and interpreted as if the words “of the Receiver General” in the third line of the said twenty-sixth Section, and as if the words, “in his hands” in the fourth line of the same Section, had never been inserted therein.

XX. This Act shall be called and known as “The Seigniorial Amendment Act of 1856.”