Hazard's Gazette

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

IN THE HOUSE OF ASSEMBLY.

Wednesday, 20th February, 1856.

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

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

Also, the Papers marked Nos. 1 and 2, viz:—

Extract from Minutes of the Executive Council, dated 27th August, 1855; and

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

JOHN M'NEILL, C. H. A.

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

Copy of a letter from Mr. R. B. Stewart to Lord John Russell, praying that the Royal Assent may be withheld from certain Bills passed last Session of the Legislature, dated the 19th May, 1855.

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

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

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

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

Government House, 20th February, 1856.

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

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

"'An Act to impose a Rate or Duty on the Rent Rolls of the Proprietors of certain Township Lands in Prince Edward Island, in order to defray the expenses of any Armed Force which may be required on account of the withdrawal of the troops, and for the further encouragement of Education;' and 'An Act to secure Compensation to Tenants in Prince Edward Island, and thereby to promote the improvement of the Soil;' both of which Acts contain suspending clauses reserving them for the assent of the Crown and; also transmit representations from various parties interested in the subject of these Acts.

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

"I regret to be obliged to inform you that Her Majesty's Government find themselves unable to advise Her Majesty to give Her assent to either the one or the other of these Acts.

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

"The measure intituled 'an Act to secure compensation [illegible] to which Her Majesty's sanction must be [illegible] is one to transfer [illegible] from the landowner to the tenant. [illegible] provides that where a tenant is unable or unwilling to fulfil the contract between him and the landowner, by which the tenant has agreed to pay to the landowner a fixed annual rent, usually very small in amount, for the land which he holds, the landlord must either forego the rent, and thus let the land pass practically to the tenant, or he must pay to the tenant a sum equal to twenty years purchase of what is termed the annual profit to the landlord, created by the tenant or lessee's improvements on the soil,—the amount of which payment would in many cases be equal to the marketable value of the fee simple of the land. In the one case he would make over to the tenant the land itself; in the other case, he would make over to the tenant a sum which might even go beyond the value of the land.

"It is needless to enumerate all the objections which apply to this measure, and the more so as they are ably stated in the Memorial presented against it by some of the owners of land, and transmitted with your Despatch of the 24 July last. But I cannot refrain from remarking that those lands in Prince Edward Island, on which any great improvements have been made by tenants, were let in a state of wilderness, at the almost nominal rent of ninepence or a shilling an acre, on the expressed understanding that they were to be brought into cultivation by the tenant; that to secure to the tenant the *enjoyment* and profit of his improvements, leases of extraordinary length were given; and that a tenant who, by misfortune or other cause, is unable to pay that insignificant rent, is always at liberty to sell his lease to the best bidder, and thus to realize in the market the value of the improvements he may have made."

A true Extract,

M. B. DALY, Private Secretary.

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

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

MY LORD—

As the Proprietor of about 80,000 acres of land in this Colony, I beg to be permitted to address your Lordship, on the purport and objects of certain Acts recently passed by the Colonial Legislature, and about to be transmitted for the Royal Assent. I am but too well aware of the amount of self-government conceded to the inhabitants of this Colony, and exercised by them in unlimited or universal suffrage, still I cannot willingly believe that Her Majesty's Government intend to delude themselves of their just right and prerogative as a Court of Appeal in extreme cases of injustice, such as those intended here, and to which I now entreat your Lordship's attention.

1. "An Act to impose a Rate or Duty on the Rent Rolls of the Proprietors of certain rented Townships Lands in Prince Edward Island, in order to defray the expenses of any Armed Force which may be required on account of the withdrawal of the Troops, and for the further encouragement of Education."

The proposed rate or duty is to be 5 per cent upon the annual rental of each proprietor of more than 500 acres of land, whether the rent be paid or unpaid. An exclusive tax to be solely levied upon one kind of income, may well be deemed unjust and oppressive. A penal tax upon the ownership of wilderness land, in the form of that Land Assessment to which I am already subjected, is now intended to be seconded by a penal tax upon the rental of leased land; a penal tax, I ought to say, upon our bad debts; for at least 50 per cent of the rents due to me under lease, may well be termed bad debts, and not recoverable without an outlay of time, money and trouble, which may demand the sympathy of British noblemen and gentlemen, unused to such evils and annoyances in the recovery of their just dues from tenants on their lands. By one existing local law of this Colony, the landlord is debarred from the remedy open to all other classes of Her Majesty's subjects—the small Debt Court; by another existing local law, the process of distraint for rent is rendered so difficult as to be almost impossible, especially on property managed by Agents. By means of my own active personal agency on my own land, and by the aid of two or three active, honest, and resolute followers, I am able occasionally to effect a distraint by way of making example of some more than ordinarily knavish or insolent renant; but this cannot be done without employing two or three men, and those actuated by attachment and good feeling towards myself, instead of like one man for whom the law allows me to charge expenses; and by maintaining and supporting, as it were, a garrison in the enemy's stronghold during the injuriously long period to which the law has extended the time for holding possession of the distrained goods, before sale. The preamble of the Act against which I address your Lordship recites that the proprietors, by certain covenants in their leases, contrive to evade the payment of the Land Assessment, and to saddle the tenant with it. The tenants indeed are generally bound by their leases to pay the Land Assessment, as well as their rent, much as tenants in England are bound to pay tithes and rates, but many of our Tenants here pay neither Land Assessment nor rent; and if the proprietor in such case do not pay the Land Assessment, his freehold is proclaimed and sold by the Sheriff. Besides this, and much more than this, is the oppressive penal tax on wilderness or unoccupied land on which there is neither lease nor tenant; the proprietor cannot even attempt to evade the tax from this portion of his property; in my case it amounts to nearly as much as all the rents which I receive from my leased land. The preamble of this Act, and its consecutive sections, cannot but strike any impartial reader as breathing the strongest spirit of hostility to the landlords, speaking of "Proprietors, factors trustees, receivers, or owners of more than 500 acres of land," much in the same tone as some old Acts of Parliament use in denouncing rogues, thieves and vagalonds, to be suppressed and put down for the benefit of the community. With regard to any armed force which may be required on account of the removal of the troops, our local Legislature are not likely to deem such force necessary for any purpose, and most assuredly not for the benefit of the proprietors, in enabling them to recover their rents in the face of open and violent resistance to the Sheriff, as I myself can testify from experience. Nor was the case different under the old or exclusive regime. The late Col. Lane, when acting as administrator of the Government after the decease of Sir Donald Campbell, assured me that he had instructions, forbidding any such employment of the military force. This was in reply to my application to him on the circumstance of one of my tenants having stabbed a [illegible] officer, who, [illegible] brought arrested at my suit, he was rescued from the hands of the bailiff's officer by a mounted body of armed ruffians, who were accompanied, and seconded by, a member of the Legislative Assembly. The proprietor can look for no benefit from any armed force, and surely he at present contributes, under the Land Assessment Act, more than a fair or just proportion of his means for the encouragement of public Education.

2. "An Act to secure compensation to Tenants in Prince Edward Island, and thereby to promote the improvement of the soil." By this Act it is intended that when a tenant is in arrear of rent, and the landlord would proceed by the usual mode of distraint, followed, when nothing can be found upon which to distrain, by an action of ejectment, the tenant shall compel his landlord in the first place to compensate him, the tenant, for whatever improvements may have been made upon the land, since the commencement of the term, the value of such improvements to be ascertained by arbitration. Until within the last nine years, the period during which I have been a resident proprietor in this Colony, I was intimately acquainted with the practice and theory of the management of landed estates in Great Britain. The present Act does certainly seem to me a monstrous innovation upon all those principles which I had been accustomed to consider fixed and established by justice and usage, in regard to such property. But the evil of such an Act as this would be less extreme in Great Britain than in this Colony, wherein ninety nine persons out of every hundred have a direct fellow feeling and personal interest on behalf of the tenant, and quite the reverse towards a landlord. I do not hesitate to say that justice is quite out of the question, and could not be hoped for, under such arbitration. The Act would have, and is intended to have, in connexion with other Acts, the effect of depriving the landlord of every remedy, other than the expensive one of an action at law in the Supreme Court of Judicature,—the rent being no more than one shilling per acre per annum, the defendant being generally destitute alike of property and of principle, the jury being unavoidably composed of tenants, or persons interested for tenants, or hoping themselves to become freeholders, without purchasing their land, and the sanctity of an oath being but little regarded when a proprietor is to be injured by its infraction. Under all these adverse influences or circumstances, the landlord has but little chance of succeeding, and still less chance of benefitting by his success, if he should gain his suit. Direct intimidation and threats then are brought to bear against any person daring to take, or to treat with the landlord for taking the vacant farm—intimidation and threats of injury both to property and person. It is evident that for the most part, the improvements of the outgoing tenant can be of no value to the landlord, beyond the amount which an incoming tenant would pay for them, when fairly and without undue haste, brought to sale by public auction in the usual way. The value of clearing the land of trees, and bringing it under cultivation, is very generally reduced and destroyed by the tenants improvidently cropping and exhausting the soil, so that many of those very persons who, as arbitrators, would be likely to go to the utmost extent against the landlord, would be equally likely to say, in case of the farm being offered to themselves, that they would much rather take a green wood or wilderness farm at once, and "have all the good out of it to themselves" to say nothing of the timber trees, which the tenant invariably cuts from every part of his farm, and (if not closely watched), from the proprietor's vacant land also, long before more than a very small part of the said farm be brought into cultivation. In common fairness, an Act ought to be passed to give compensation to the landlord for delapidations and theft by the out-going tenant. I have had a tenant greatly in arrears, who never paid any rent, and who actually removed and sold from the premises a good part of the farm buildings, before making his exit.

3. In an Act relative to Highways there is the following clause. When land held by a tenant or lessee, under lease, or agreement, or a part thereof, shall be laid off or taken for a line of highway or road, the tenant or lessee shall be discharged from any further or future payment to the lessor or landlord, in respect of the said land, or of a part or proportion thereof, according to the extent or area of the land taken for the highway or line of road.

I believe this enactment to be an unprecedented novelty in legislation, and quite unjust in principle. The Land Assessment is levied upon the entire area of each Township, *road and all*. The Act of which the above extract forms a part, or some other Act, was passed by the House of Assembly with a provision, that in case a road-way should ever be opened up, as not being required, the fee simple of the area which had been occupied by the said road-way should go to the tenant and not to the landlord. This enactment was not passed by the Legislative Council. I may also state that an Act was passed by the House of Assembly during its recent Session, requiring proprietors to put their titles on record, before recovering rents from their tenants under lease, agreement, or otherwise. I need scarcely point out to your Lordship how directly such an enactment would strike at the root of a great principle hitherto recognised in the letting of real property, that the tenant cannot question his landlord's title. The Legislative Council have not passed this Act, but it was brought forward as a Government measure. As such it was passed by the House of Assembly, and thus been published as having been passed by the Legislative Council, so as to lead the country constituency to believe it to be the law of the land, and thus to be strengthened in their obstinate resistance to the landlord. These facts are proofs of the animus entertained towards the proprietors. As further proofs of such animus, I beg to submit to your Lordship some extracts from a speech made by the Colonial Secretary, the Hon. George Coles, in the House of Assembly, on March 29th last, in the course of a debate on the old subject of Escheat. Your Lordship will see that these extracts are not mere expressions of feeling, uttered during the heat of debate; but that they are deliberate avowals of the past policy and present views of the speaker:—"Believing that Escheat was impracticable, I have introduced and carried other measures for the benefit of the people, at the expense of the proprietors. This course I promised my constituents at my first election that I would pursue. They approved of it, and they returned me, and I have been returned to the House at every subsequent election, and I have followed the same policy of dealing with the Land Question morately, but to some practical effect. Under these circumstances, I consider myself at perfect liberty to oppose the resolution of the honorable member, and in doing so, I shall endeavour, as the common saying is, to give it a black eye."

"I am satisfied that this House has it in its power to mitigate the hardships on the tenantry, arising from the original grants; that remedy is by taxing the lands of the proprietors. Under that system, the proprietors will soon be glad to [illegible] and other their lands to the Government under the Land Purchase Bill."

"I think the Bill I proposed to bring in compelling landlords to record their titles, will be a substantial boon to the people."

The following is an extract from the speech of another member of the Government, the Hon. Joseph Wightman, in the same debate:—

"Before long I have no doubt that the proprietors will be glad to sell their lands to the Government, the land tax they will find to be a somewhat heavy burden, which is not without its influence upon them now. The contemplated tax upon their Rent Rolls, is another step in the same progression."

I am no party man. The two opposing parties who divide our little state, abusing each other under the names of Tory and Liberal, or in Colonial phrase, "Starler and Snatcher," differ solely upon the division of the spoil, and are, as it were, constantly bidding against each other for popularity, by promising their constituents, and so far as they are able, performing their promise, to keep up an incessant and sweeping attack upon all the rights of property and laws of justice. It is to Her Majesty's Home Government alone that I can look for either protection or redress against whatsoever party may, by such promises and performances as I have mentioned, happen to be in possession, for the time being, of the reins of local rule in this Colony. If an impartial view were taken of almost every Act sent home from this Colony, during many past sessions of our Legislature, they would appear like guns in a long line of battery, converging upon one devoted point or mark, the Proprietary interests. I beg to assure your Lordship that I can confidently and safely challenge the most searching enquiry into the lenity of my ot[illegible]antry; and further, that during [illegible] been in this Colony, there has n[illegible] the part of any Proprietor, of [illegible] with which we are charged by the [illegible] bread by asserting falsehoods.

Earnestly hoping that the r[illegible] given to these continued and u[illegible] Proprietary body,

I have &c.,

(Signed) ROBER[illegible]

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

Memorial and Petition of Mr. Charles Wright [illegible] against the Rent Roll [illegible] tion Acts, dated 4th Ju[illegible]

THE MEMORIAL AND PETITION O[illegible]
OWNERS OF LAND IN PRINCE

That in addition to any furth[illegible] your Memorialists may become [illegible] measures affecting their interest[illegible] beg leave respectfully to submit t[illegible] statements.

That certain local enactment[illegible] sessions of the Legislature, have [illegible] strances on the part of owners [illegible] Colony, respectfully urging th[illegible] Minister to the serious conseq[illegible] affecting the value and security [illegible] Island; the object of the Leg[illegible] into the market, with a view t[illegible] Colonial Government, under an[illegible] and thereby affect its re-invest[illegible] the working of oppressive stat[illegible] tioned, will be fatfamount to [illegible] situated.

That the titles to the lands [illegible] Crown in the years 1769 an[illegible] Ministers have on repeated occ[illegible] be neither just nor politic to int[illegible] for the non-fulfilment of condit[illegible] grants, as such conditions were [illegible] been regarded by parties maki[illegible] the Island as an all-sufficient g[illegible] Government would not permit [illegible] the interests of proprietors, ho[illegible] the foregoing assertion as rega[illegible] future, will be fully borne out b[illegible] a speech delivered by the Lead[illegible] Assembly on the 29th March la[illegible] was impracticable, I have i[illegible] measures for the benefit of the [illegible] Proprietors. * * * * [illegible] has it in its power to mitigate t[illegible] arising from the original grants [illegible] lands of the proprietors. Und[illegible] will soon be glad to come in an[illegible] vernment under the Land Pur[illegible] The Home Government has [illegible] the subject of Escheat, that it [illegible] further. * * * And the [illegible] ucation Act, and the proposed [illegible] *of Proprietors*, would have th[illegible] ble and equitable settlement of

As regards what the leader [illegible] esteem "a reasonable and equ[illegible] proper to refer to the opinic[illegible] State, repeatedly expressed on

When Responsible Governm[illegible] land in 1851, the Right Hono[illegible] head of the Colonial Departmen[illegible] Street, 12th of February, 185[illegible] on his assuming the Governm[illegible] lature the necessity of abstai[illegible] bearing unjustly on the owne[illegible] far from recommending any r[illegible] depreciate its value, his Lords[illegible]

"It is obvious that an infl[illegible] tending to raise the value of [illegible] ficial to the Colony and to t[illegible] Prince Edward Island, possess[illegible] vantages, which are becoming [illegible] than formerly, is likely at no[illegible] emigrants and capital, if the [illegible] lature is not such as to discou[illegible] tend more to this unfortunat[illegible] security which must inevitabl[illegible] the Legislature to pass laws b[illegible] landed property, even to [illegible] refusal of Her Majesty's [illegible] the duty of the Government t[illegible] a case."

To the same despatch Sir [illegible] to "the correspondence bet[illegible] State and Lieutenant Govern[illegible] for his guidance in carrying [illegible] your Petitioners beg leave [illegible] Lord Goderich's Despatch to [illegible] January, 1833, and Lord J[illegible] Fitzroy, dated 24th June, [illegible] bearing on the same subject.

That the lands in Prince [illegible] part leased at from one to tw[illegible] the larger portion of them at [illegible] last statistical returns; and t[illegible] ceptions, reserved in sterling [illegible] payable at the same rate, suc[illegible] safe standard in a Colony w[illegible] fluctuate. But by a recent [illegible] prohibited from recovering ren[illegible] value; the provisions of the [illegible] one-ninth in the pound adva[illegible] rate of the Currency shall not [illegible] sterling money and Bills of [illegible] bear a much higher premium [illegible] owners of land so leased are th[illegible] fire per cent.

That urgent remonstrance [illegible] concerned against the allowan[illegible] ground of its interfering w[illegible] tered into, and considered bi[illegible]