

**THE DELEGATION.**

(Continuation of the Correspondence.)

In answer to such applications for the appointment of a Court of Escheat, (which were based upon the non-payment of Quit Rent,) Lord Hobart, then at the head of the Colonial Office, sent out a despatch in the year 1802, containing a scale of five divisions, whereby proprietors were to be excused their arrears of Quit Rent, in proportion to the quantity of land they had settled, according to the conditions of the Grants. Proprietors whose lands were fully settled were to be released from their arrears of quit rent, except for four years; proprietors whose lands were more than half settled were to be excused their arrears for five years quit rent, and so forth; and his Lordship recommending his measures to be enforced, proceeds:

"In order to give full effect to the measures which have been adopted here, it will be necessary that you should be prepared to pursue, without loss of time, when circumstances shall render it advisable, the requisite and legal steps for effectually revesting in His Majesty all such lands as may be liable to be escheated and forfeited.

"It is highly expedient that a proper method be established, of collecting the future quit rents; I am, therefore, to signify to you his Majesty's pleasure, that you are, in the strongest manner, to recommend to the Legislature of the Island under your government, to pass an Act for these purposes.

"With respect to the measures to be adopted for the recovery of such lands as may be liable to be escheated and forfeited to the Crown, either by non-improvement, non-payment of quit rents, or non-performance of any other conditions of the Grants, the practice which has prevailed in this respect in Nova Scotia, will be sufficient precedent for your guidance."

This despatch, and the proceedings which were expected to be followed up by the Colonial Government, created great joy amongst the inhabitants, who believed their emancipation was at hand. Many of the grantees that had never been in the Island could not be supposed to understand the manœuvres in the Colonial Legislature; and they disposed of their Grants for a trifling sum—some as low as Nine pounds for 20,000 acres—to persons in the Island, amongst whom General Fanning, their Lieutenant Governor, became a great proprietor; but the yearly rent demanded of the tenantry for the same land, was from one to two shillings per acre. A Schedule was made out and sent home by the Government, to shew that Twenty-six Townships were fully settled, and Twenty other Townships were half or partially settled, when there had not been any Foreign Protestants introduced in the Island, and some of the Townships, reported to be fully settled, had not more than three or four inhabitants of any creed or country. An Act was passed at the same time concerning the quit rent; not for the recovery thereof, but to place the *chattels of the tenant* between the Proprietor and the Crown, as a stake for the quit rent.

The proprietors had demanded a rent which the tenantry could not pay, and although the proprietors did not receive half the rent, they received all that the tenantry could possibly spare, and the Act was passed for the Government to distrain for the quit rent upon the tenantry who were in arrears of rent with their landlord. This Act received the Royal assent, but has not been put in force.

The following year, 1803, an Act was passed to regulate the proceedings of a Court of Escheat in the forfeiture of lands; and it was publicly said, that after this Act had received the Royal assent, it was suppressed on its arrival in the Colony, and not suffered to appear in the Statute Book.

When the excitement proceeding from the disappointed hopes of the people had subsided, a Despatch from the Home Government was proclaimed by the Governor in the Island, in the year 1818, from which the following is selected:—

"The further pleasure of His Royal Highness is, that proprietors of Township lands shall be released from the obligation imposed by their original Grants, of settling them with Foreign Protestants; provided, that within Ten years, from December, 1816, the lands shall have been settled with other persons, in the proportions specified in their original Grants."

This Proclamation has been construed various ways, the proprietors claiming it as an indulgence equal to a new Grant, to enable them to make whatever terms they pleased with the persons who have improved the lands. But, if the conditions of the grants had imposed an obligation upon the grantees to introduce one hundred slaves from Africa, for each Township, to improve the land, which would have been a considerable expense to the grantees, it would have been very unfair to have substituted British subjects instead of slaves; and it would appear equally unfair to substitute British subjects for Foreign Protestants, who had no claim upon the British Government, and such persons could not have been introduced without an expense to the grantee; whereas British subjects had a claim on this Government, to be protected from fraud as well as from force, and they all, or nearly so, emigrated at their own expense, and remained in the Colony from a confidence in the justice of their claims that Government would settle them upon the lands they have improved.

The proprietors have said, Ministers and Governors have repeated the sayings, in Despatches and Messages, that the conditions of the grants were impracticable to be performed. Therefore, the more difficulties and expenses attending the performance of the conditions, that would reduce the value of the grants in the same proportion; and to say that the conditions of the grants were impracticable to be performed, is saying, in effect, that the Grants were not worth any thing; and, to enhance the value of such grants by proclamation, to make them worth £20,000 a grant, and that sum to be demanded from the people who improved the land, appears very unreasonable, and more especially as the proclamation was made subsequent to the declaratory Act of 1778, which declares that Government will not tax Colonies having a Colonial Legislature, except for the regulation of Trade and Navigation. And the rent, from one shilling to two shillings per acre, as demanded by the proprietors for wilderness land, cannot be viewed in any other light than a tax of from 6 to 12 per cent. upon the value of the tenants' labour. Yet this has been the construction of the Proclamation, and the practice followed in the Island, up to this present time, under the sanction of Government.

But, as the acts of Government are to be given their most liberal construction for the rights of the subject, there is both precept and example in the Island, to give the proclamation a more liberal construction, upon which

the House of Assembly have founded their claim to the forfeiture of the lands, and the settlement of the inhabitants.

In the year 1818, two of the Townships, namely, 15 and 55, were revested in the Crown by Escheat; and the inhabitants of those Townships received a grant from the Crown, in fee-simple, of one hundred acres to a settler, at an expense of about five pounds for each grant. And, as the Proclamation stipulates that one hundred persons were to be settled upon each Township of 20,000 acres, the House of Assembly are of opinion, that those persons were to be settlers in fee simple; which allowing 100 acres to a settler, would leave 10,000 acres to the proprietors, the value of which would be enhanced to the proprietors by the settlers improving their own land. And, as the Government stipulated for the settlement of that number of persons before the year 1827, this is considered a pledge from the Government to the people that they were to be settled within the time limited, either by the proprietors or by the Crown. On these principles, the Bill delivered at the Colonial Office was agreed to by the House of Assembly, which Bill, together with another for the regulation of the Reserves for the Fisheries, would be the means, if carried into effect, of settling the inhabitants of Prince Edward Island.

When the subscriber had the honour of an interview with the Marquis of Normanby, on the 14th July, he said, that an answer would be given in time to leave England early in September. Your Lordship is aware, that the people in the Island will be anxious to hear from their Delegate; and it is difficult to reach the Island late in the season. But if Government do not see cause to grant terms that will settle the inhabitants, the subscriber is instructed to apply to Parliament; and, in that case, it would be desirable that the people in the Island should have notice in time to forward affidavits in support of any statements that may be made; not that better terms are expected through Parliament than what the Government may previously grant, but to set the question at rest.

I have the honor to be, my Lord,  
Your Lordship's most obedient  
humble servant,  
WM. COOPER.

To the Right Hon.  
Lord John Russell, &c. &c. &c.  
Downing Street.

SAVILLE PLACE, MILE END,  
October 2nd, 1839.

GENTLEMEN;

On the 20th ult. I sent you copies of my communications to the Secretary of State for the Colonies, up to that date, and I now send you copies of the correspondence which has taken place since, between the Colonial Office and your delegate, from which you will see, that the answer to the applications of the House of Assembly is forwarded to the Governor, in the Island, and withheld from me; and, as I can do no more here, I intend to return to the Island by the first opportunity. I have applied to Counsel for advice, on behalf of the Tenantry, which advice I hope to bring with me.

(Copy.)  
SAVILLE PLACE, MILE END,  
September 21st, 1839.

MY LORD;

As delegate from the House of Assembly of P. E. Island, I had the honor to deliver at the Colonial Office, on the 15th of July last, certain petitions and documents, praying for the interference of Government to settle the Inhabitants of that Colony; and as your Lordship's appointment to the office of Secretary of State for the Colonial Department became announced, I took the first opportunity to deliver at the Colonial Office, on the 9th inst., a copy of my first communication to the Marquis of Normanby, and a brief outline or abstract of the causes which have produced so much dissatisfaction in the Island, and pointing out two Bills, containing the opinions of the House of Assembly, for redress of those grievances by the settlement of the inhabitants—all of which were respectfully submitted for your Lordship's favourable consideration; and, as the advancement of the season will soon impede navigation in the Gulph of St. Lawrence, I beg leave respectfully to solicit information, of any or what course the Government intends to pursue, to promote the settlement of the people of P. E. Island, and to offer my attendance at the Colonial Office, to give any further information that may be required.

I have the honor to be, my Lord,  
Your Lordship's most obedient  
humble servant,  
WM. COOPER.

To the Right Hon.  
Lord John Russell, &c. &c. &c.

DOWNING STREET,  
20th September, 1839.

SIR;

I am directed by Lord John Russell to inform you, that his Lordship has had under his consideration the letters addressed by you to this department on the 15th July last and 9th inst., on matters connected with the Colony of Prince Edward Island.

His Lordship desires me to acquaint you, in reply, that he is of opinion, the subjects to which your letters refer could not be properly discussed between his Lordship and a delegate from the House of Assembly of Prince Edward Island, either in written or oral communications, and that the views of Her Majesty's Government respecting them will be communicated to the Lieutenant Governor, through the regular channel of official correspondence with that officer.

His Lordship must, therefore, decline the proposed interview with you at this Office.

I am further to observe, that the propriety of addressing the proposed appeal to Parliament is a question on which your constituents must, of course, exercise their own discretion.

I have, &c.  
(Signed) JAMES STEPHEN.  
William Cooper, Esq.

(Copy.)  
15, Saville Place, Mile End,  
23d September, 1839.

My Lord;

After I had sent my letter of the 21st inst., to the post, I received one from Mr. Stephen, of the Colonial Office, to say—that the subject to which my former letter referred could not be properly discussed between your Lordship and a delegate from the House of Assembly of P. E. Island, either in written or oral communication, and that the views of Her Majesty's Government respecting them

will be communicated to the Lieutenant Governor, through the regular channel of official correspondence with that officer; and that the propriety of addressing the proposed appeal to Parliament is a question on which my constituents must exercise their own discretion.

My Lord; I beg leave to solicit only such information in answer to my former applications, as it would be proper to grant, to enable me to see whether the views of Government will be likely to set the question at rest in Prince Edward Island, or whether it may be necessary to appeal to the Imperial Parliament; and I respectfully submit the following as my reasons, for this earnest application:—

The question at issue is a case between the proprietors of the grants of land who have not performed the conditions of their grants, and persons who have improved the Colony, and believe they are entitled to have the value of their labour secured to them.

That the evils have been growing for many years, and are still growing, without a Court of Escheat or any other tribunal in the Colony, that will take cognizance of the case.

That the Colonial Government, for many years, were interested parties, as proprietors, and, at this present time, a majority of both Councils are proprietors of grants, or persons employed as Land Agents, and, being interested parties, are unsuitable to advise the Governor in such case, if judgment is left to their decision.

It is highly necessary, that questions of such importance (for which a remedy may be found at Law) should be submitted to the decision of disinterested parties, and every facility afforded for a speedy decision, or an appeal to a superior tribunal.

That in cases of injustice in the Colonies, where the aggrieved parties perceive it possible for a Colonial Government, or a Minister, to be influenced by an interested party, to give them an undue advantage, so as to enable them to oppress and harass others, it has been the usual practice to submit such cases to the Imperial Parliament.

But, if the Government is disposed to recommend an adjustment of the matters in dispute, to settle the inhabitants, it would be highly proper for all parties to unite to carry out such views of government; but unless I had some information, I would be precluded from rendering any assistance in such adjustment, and prevented from bringing the matter before the Imperial Parliament.

I have the honor to be, my Lord,  
Your Lordship's most obedient,  
humble servant,  
WM. COOPER.

The Right Hon.  
Lord John Russell.

(Copy.)  
Downing Street, 27th September, 1839.

SIR;

I am directed by Lord John Russell to acknowledge the receipt of your letter of the 21st inst., relative to the affairs of the Colony of Prince Edward Island.

I am, in reply, to acquaint you, that his Lordship regrets his inability to return to your application any other answer than that which was contained in the letter addressed to you, by his Lordship's desire, on the 21st inst.

I am, Sir,  
Your most obedient servant,  
B. VERNON SMITH.

William Cooper, Esquire.

I shall not make any comment, nor attempt to guess at the import of the communications sent to the Lieutenant Governor; but they cannot be worse than what we have had heretofore; but I have done every thing in my power that I thought right, and have only to add, that

I am, Gentlemen,  
Your most obedient humble servant,  
WM. COOPER.

John Arbuckle,  
William Clark,  
John Le Lacheur,  
Alexander Rae,  
Donald Macdonald, } Esquires.

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POLICIES will be issued by the Subscriber, in either of the above departments, on the most reasonable terms.  
CHARLES YOUNG,  
Agent of the  
"ETNA" and "ALLIANCE" Insurance Companies.  
Charlottetown, Dec. 11, 1838.

**PRINCE EDWARD ISLAND.**  
**TO BE SOLD,** by private Contract, an extensive and valuable  
**FREEHOLD ESTATE,**  
consisting of nearly  
**18,000 Acres of Land,**  
situate in the preferable part of KING'S COUNTY, being contiguous to GEORGETOWN, late the property of HENRY WINCHESTER, deceased, a Bankrupt, and now belonging to his Assignees. Vessels of any burden may go up and down Cardigan River, by which it is bounded on the Southern extremity.  
The Estate is delineated on the Plan of the Island, kept in the Plantation Office, Whitehall, and the Surveyor General's Office of the said Island, as Lot or Township (54).  
For printed Plans of the Estate, and further particulars, apply at the Offices of Mr. Briggs, 55 Lincoln's Inn Fields, and Mr. Belcher, Official Assignee, King's Arms Yard, London; the Hon. Samuel Curran, Halifax, Nova Scotia; and James H. Peters, Esq., Charlotetown, in the said Island—to either of whom terms in writing, for the purchase, may be made on or before the 1st of September next.

**CAUTION.**  
To the Editor of the Colonial Herald.

SIR;—Having seen in the *Colonial Herald* of the 20th inst. the Advertisement of the Assignees of the late Henry Winchester, Esq., offering for Sale 18,000 Acres of Land, on Lot or Township No. 54, allow me, through the medium of your paper, to say, that the late Henry Winchester, Esq., had no property on Township No. 54, nor had he ever any actual possession. Actions of Trespass and Ejectment were brought against me, it is true, but what was done in those actions, have not been able to ascertain.—Suffice it to say that, many years' prosecution, I was not able to get one witness brought forward—this is a case of real grievance, and ought to be looked into.  
I find on referring to the provision of the Statute of 32 Henry 8, cap. 9, that, unless the vendor hath received the profits for one whole year, or of the reversion or remainder, upon pain that both the Buyer and vendor shall each forfeit the value of such land to the Buyer and the prosecutor.

Township No. 54, July 27th, 1839. ROBERT MEARNS.

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