

CANADA.

RETURN to an Address of the Honourable The House of Commons,
dated 16 August 1853;—for,

“COPIES or EXTRACTS of any REPRESENTATIONS to the Secretary of State
from Mr. *Cheshire*, or any other Parties, on behalf of the Settlers on the
Grand River, in *Upper Canada*; together with Copies or Extracts of the
REPLIES thereto, and any Correspondence on the Subject with the
Governor-General of *Canada*.”

Colonial Office, }
19 August 1853. }

FREDERICK PEEL.

(*Lord Dudley Stuart.*)

Ordered, by The House of Commons, to be Printed,
20 August 1853.

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COPIES or EXTRACTS of any REPRESENTATIONS to the Secretary of State from Mr. *Cheshire*, or any other Parties, on behalf of the Settlers on the *Grand River*, in *Upper Canada*; together with Copies or Extracts of the REPLIES thereto, and any Correspondence on the Subject with the Governor-General of *Canada*.

— No. 1. —

COPY of a LETTER from *D. Fraser, Esq.*, to the Right Honourable Sir *John S. Pakington, Bart., M. P.*

36, Bloomsbury-square, London,
28 May 1852.

Sir,

I TAKE the earliest opportunity, on my arrival here from Canada, of laying before you the case of the settlers upon Indian lands on the Grand River in that colony, and in reference to the proceedings which have been going on, in order to their removal off those lands, which they have occupied for many years, and upon which they have expended a great deal of labour and money, in the full belief, from written communications received by some of them from officers of the Government, that these lands had been surveyed and valued for the purposes of sale, and that the occupants would have the right of pre-emption. The accompanying publication,* which I have the honour to forward herewith, gives a statement of the first proceedings against the settlers, embracing also one of the memorials which I addressed, as their counsel, to the Executive of Canada, and which sets forth most of the grounds of the opposition to the proceedings by the Commissioners to dispossess them. The Indian Department, and the management of all the Indian affairs in Canada, are now chiefly controlled by these Commissioners, but they do not belong to the class of officers paid by the Imperial Government for the purpose of overlooking and providing for the distribution of presents among the Indians, voted annually by the Imperial Parliament. Their business has grown out of the surrender and sale of wild lands in Canada, said surrender being made to Her Majesty and successors, in trust, for the purposes of sale, and to apply the proceeds to the benefit of the Indians. The greater part of these lands have been disposed of, and are now mostly under high cultivation. The ostensible object of the Commissioners, in making these large reservations of wild lands, is to comply with the desire of the Indians, and to gratify them. It is a matter of public notoriety that the Indians are swayed in whatever manner their own officers, who command their purse, dictate. The Indians, or chiefs of them, never talking without money, although it should happen to be justly their own to supply their common wants; I do not hesitate to affirm that the real object of these reserves is to perpetuate the offices and salaries of these officers, indifferent to the injury done to the prosperity of their country, and the outrage upon their fellow-subjects' rights, under the high arm of the law. I have appealed to those of the executive of Canada who for years pretended to be struggling under intolerable grievances, who, when placed in power, acted worse than the most arbitrary government under the sun. The Chinese admit an appeal from imperial commissioners, but these Commissioners' acts were not to be spoken against, far less called in question. Humanity itself demanded an investigation. The facts I laid clearly before them. The weeping martyrs of liberty were deaf as adders; it did not touch their pockets; in what way could it affect their elections? Thank God, I lived to see the man at the head of the

No. 1.
D. Fraser, Esq.,
to Sir *John S.*
Pakington, Bart.,
M. P.
28 May 1852.

* This lengthy pamphlet is not reprinted with the present collection of Papers: it is entitled, "Account of the Proceedings and Doings of the Government Commissioners against the unfortunate Settlers upon the Indian Lands in the Townships of Tuscarora and Oneida, in the years of our Lord 1846 and 1847, addressed to the Settlers by one of themselves." Printed at the Gazette Office, Court-house-square, Hamilton, 1847.

the Executive Government, under his Excellency the Governor-general, spurned by his fastest friends at the next election, when every step had been taken during his administration to secure his return; he answered the supplications of the poor but industrious settlers, by a formal deed of outlawry, an act which had to be disavowed as soon as done, and only had the effect of weakening Her Majesty's Government in Canada, and in some measure bringing it into contempt. The late lamented Governor-general of Canada, Lord Metcalfe, declared, in a letter addressed to the chiefs in 1841, "That the surrender of their lands was a wise measure, and should be strictly adhered to, as the sale of these lands would place them in a state of affluence, that they could not expect that his Excellency would sanction the removal of persons placed upon them by the Indians themselves, neither justice, nor a due regard to the interest of the Indians themselves, would justify such a course;" and in a subsequent letter, in answer to a memorial by the settlers, the same highly honourable authority declared, through his secretary, that no one should be dispossessed until a fair investigation should be had of each particular case, either to their title to pre-emption or right of purchase, or at all events to the full value of their improvements; and that the Commissioners were instructed to investigate each particular case, and report thereon to his Excellency, before proceeding any further with their prosecutions under the commission which he had signed. My clients have always claimed this investigation, and nothing more. The House of Assembly, under the same impression that the settlers had been encouraged to go on the lands, reported to that effect, and recommended that they should be paid the full value of their improvements. Having failed in all my efforts for the last five years, to obtain a fair hearing, and to induce the Commissioners to act upon the instructions of the late Lord Metcalfe, and his Excellency Lord Elgin not permitting me to find fault with any of their proceedings, or to call in question the justice or legality of their acts, I have no other resource to prevent the most serious consequences than of appealing to you as the head of Her Majesty's Government for the Colonies, to interpose Her Majesty's authority to stay the prosecutions, fines, and imprisonments which are now going on against the settlers, until a fair and impartial investigation can be had, such as was promised by the late Lord Metcalfe, hereby pledging myself that no possible injury, but the reverse will be the case by such a stay. It will act more for the benefit of the Indians than the proceedings can do if carried fully out; and by calling for the whole correspondence on this question, a return of the receipts, defalcations, and expenditure, officers' salaries, and the amount paid to the Indians, whether chiefs or otherwise, Her Majesty's Government will be put in possession of information with regard to the Indian affairs in Canada, which will enable Her Majesty's Government to come to a speedy conclusion as to the advisability, for the interests of these Indians, of removing these settlers. I have the honour also to enclose herewith,* three newspapers, containing articles on the subject, and extracts for more ready reference; all of which I have the honour to submit, and hope it will meet with a favourable reply.

* See the "Toronto Daily Patriot," 8 April 1852, 17 April 1852. The "Weekly Spectator," 15 April 1852, 29 April 1852. (These lengthy articles are not reprinted with the present collection of Papers.)

I have, &c.
(signed) *Douglas Fraser.*

— No. 2. —

No. 2.
Earl of Elgin and
Kincardine to Sir
John S. Pakington,
Bart., M. P.
10 July 1853.

(No. 57.)
Copy of a DESPATCH from Governor the Right Honourable the Earl of *Elgin*
& *Kincardine* to the Right Honourable Sir *John S. Pakington*, Bart., M. P.

Government House, Quebec,
10 July 1852.
(Received, 26 July 1852.)

Sir,

I HAVE had the honour to receive your despatch No. 34, of the 4th June, covering the copy of a letter with enclosures, from Mr. Douglas Fraser, having reference to the case of squatters upon Indian lands on the Grand River, and directing me to furnish a report upon the allegations contained in those papers.

2. As the most satisfactory mode of complying with this instruction, I enclose the copy of a memorial lately addressed to the Governor-general in Council on the same subject, by a considerable number of very respectable petitioners, and of the reply to that memorial, by the Superintendent-general of Indian affairs.

That

That reply contains a very full statement of the proceedings which have taken place with reference to the lands in question since the year 1840. You will perceive that the Indian Department, honourably supported, I am bound to say, by the Government and Legislature of the province, has, throughout the transactions which are the subject of complaint, been engaged in defending the rights of property on behalf of persons who, both on the ground of former services and present dependance, have special claims on the protection of the Crown, and that the only point in which I have deviated from the course followed by my predecessors in this matter, consists in the greater extension which I have given to the principle of compensation to squatters; such compensation having been awarded under instructions from me to individuals who would have been excluded by the rule laid down by Earl Cathcart.

3. I therefore sincerely trust, sir, that on the perusal of these papers you will be satisfied that the persons on whose behalf Mr. Fraser has appealed to you, have no claim to support or countenance from Her Majesty's Imperial Government, so long as they maintain their present attitude of resistance to law and Indian rights. A distinct intimation of your judgment to this effect will have, I doubt not, considerable influence in inducing them to relieve the Government from the painful necessity of having recourse to severer measures, by retiring spontaneously from the Indian reserve; a course which, as the statement herewith enclosed shows, was adopted long ago by the large majority of the original squatters.

I have, &c.
(signed) *Elgin & Kincardine.*

Enclosure 1, in No. 2.

Encl. 1, in No. 2.

The Right Honourable *James, Earl of Elgin & Kincardine*, K. T., Governor-General of British North America, &c. &c. &c.

May it please your Excellency,

The memorial of the undersigned respectfully sheweth, that in the year 1839, an Act of the Provincial Parliament, the 2 Vict. c. 15, was passed, protecting the unsundered Indian lands from trespass and injury.

That on the 27th November 1840, an Order in Council was passed, granting pre-emption rights to the white occupiers of Indian lands on the Grand River.

That on the 18th day of January 1841, the Indians surrendered to the Crown, for the purpose of sale, all the lands on the Grand River, except a few acres near the town of Brantford, which they directed to be leased. That the Indians afterwards surrendered the latter portion also, which has since been sold, thus making the surrender of the whole tract.

That the whole of the said lands were, under instructions from the Surveyor-general's Department, directed to be surveyed, and the Government authorised their appraisal. That they were so surveyed into farm lots and appraised.

That by the surrender the said lands were taken out of the control of the Indian Department.

That by 8 Vict. c. 7, these lands were divided into and declared townships, for judicial, municipal, and all other purposes.

That under the said surrender several townships were thrown open for sale, and disposed of accordingly.

That in ignorance of the altered character of these lands by the cession to the Crown for the purpose of sale, the Indian Department, subsequently to the Government of Sir Charles Bagot, and a portion of the time of Lord Metcalfe, has not ceased to exercise control over a portion of these lands; namely, in Oneida and Tuscarora, as if the said lands were in their original unsundered wilderness state, by prosecuting, under the 2 Vict. c. 15, aforesaid, the parties in whose favour the said Orders in Council were passed, and others who took possession under assurances and directions from the officers of the Indian Department and Government, the lands having been surrendered for the purpose of sale.

That many of your memorialists, in perfect reliance in the many acts and declarations of the Government, have become the purchasers or occupants of lands in the adjoining townships, and have been long deeply injured by a tract of 65,000 or 70,000 acres so kept in a semi-wilderness state, not only depriving them of roads to valuable markets, but inflicting other injuries which have been repeatedly brought before the attention of the Government.

That in the year 1848 the Gore District Municipal Council also memorialized the Government, giving a very clear elucidation of the case; copy of which is enclosed.

That notwithstanding the Government were so repeatedly memorialized on the subject, and the illegality of the prosecutions against the settlers, no attention whatever was given to said memorials, except a reference of them to the Indian Department, which had no legal right to adjudicate on the question.

That in the year 1847 a committee of the Provincial Legislature reported upon a petition, recommending that as the settlers had been guided by representations made by the Government, they be paid a full remuneration for improvements before removal.

That the only remuneration offered is eight dollars per acre, the valuator, James Kirkpatrick, on oath, has stated that the improvements could not be made for less than 1 l. per acre more, and that he had taken no admeasurement.

That the Government, after allowing the settlers to be harassed by prosecutions, fines, and imprisonments, for the space of five or six years, came at last to the conclusion that the acts of the officers of the Indian Department were illegal, as they passed an *ex post facto* law, 12 Vict. c. 9, giving authority to the Governor-general to appoint officers to turn off the settlers, notwithstanding that many of them had been on the land for eight or ten years, and had made large improvements thereon, on the faith of the said Orders in Council, pledges of the officers of Government, and the surrender, survey, and appraisement of the said lands.

That another Act was passed with the view of giving increased authority to the said officers to effect the removal of the settlers, and that the said officers are proceeding under 14 Vict. c. 74. That no less than 17 families were turned out of house and home during the recent severe snow-storm, men, women, and children thrown out on the highway, with nearly five feet of snow on the ground, and without any shelter for their heads.

That the outrages and cruelty which the settlers on these lands have suffered, and continue to suffer, demand the most instant and searching investigation of the Government, and in order to this your memorialists earnestly pray that all further proceedings be stopped against the settlers, and an impartial inquiry made in reference to the whole question.

And your petitioners, as in duty bound, will ever pray.

(signed) Allan N. Macnab, and others.

Encl. 2, in No. 2.

Enclosure 2, in No. 2.

Sir,

Indian Department, Quebec, 10 July 1851.

I AM directed by the Governor-general to acknowledge the receipt of a numerous signed memorial, headed by you, and addressed to his Excellency, complaining of the course pursued towards the squatters on the Grand River Indian Reserve, and praying that further proceedings against them may be stayed, and an impartial inquiry made into the whole question.

Under ordinary circumstances, it might be sufficient to state, in reply, that the measures complained of were taken under the authority of Orders in Council, or of Acts of the Legislature specially passed for the protection of Indian property and rights, and that when appealed against, they have been sustained by the highest judicial and constitutional authorities; and further, that the parties on whose behalf these representations are submitted, have for a long period openly set the laws and the authorities at defiance.

But having very carefully examined the several allegations of this petition, and knowing the high character and respectability of many of the memorialists, his Excellency is satisfied that they labour under an entire misconception of the history of these transactions, and he therefore considers that it is due to them, to the Government, and, above all, to the Indians, that upon the present occasion I should enter into a full explanation of the facts and merits of the case.

Before touching upon the details connected with the subject, his Excellency directs me to remark that the Government and Legislature of Canada have always been honourably distinguished for their humane and liberal policy towards the Indians. Its uniform aim has been not to expel them from the settled portions of the province, but rather by means of exceptional laws, to guard them against the arts of speculators and other interested persons. With that view, agreements with Indians involving the alienation of their lands have always been held to be void, unless expressly ratified by the Governor in Council, and in no single instance have they been compulsorily removed from the spot that they have selected as their place of residence. But apart from these considerations of general policy, it is to be observed that the Six Nation Indians have strong and peculiar claims to the protection of the Government, and that their property is not held in virtue of undefined territorial right as Indians, but upon a different and a far more solid tenure. Owing to their steadfast adherence to British rule during the revolutionary struggle, they forfeited large and valuable possessions in the United States and the Grand River tract, of which the present reserve is but a very small remnant, and which extended from the shores of Lake Erie to the neighbourhood of Galt, was conferred upon them by the Crown, not only as a merited reward for their gallant services in the field, but as a compensation for the actual losses which they had sustained in the conflict. It is manifest, therefore, that the Government is bound by every consideration of honour, as well as of justice and humanity, to secure them, to the best of its ability, in the undisturbed enjoyment of their property; and the following narrative, drawn from official records, will satisfactorily show that it has, throughout the proceedings complained of, been solely actuated by a desire to maintain their just rights.

In order that the origin of these transactions may be clearly understood, I have to state, in the first place, that the attention of Government having been repeatedly called to the number and depredations of the intruders upon the Indian lands, the chap. 15 Vict. 2 was enacted for the protection from trespass and injury. Although its provisions embraced the

lands

lands of all the Indian tribes, the Act was passed with special reference to those on the Grand River, where these disorders had risen to the greatest height. The Commissioners appointed to carry it into effect represented the state of affairs in that district to be so unsatisfactory, that Mr. Gwynne, a barrister of standing, was despatched to the spot with instructions to investigate the claims of persons in possession of lands belonging to the Six Nation Indians, and to make suggestions with reference to their future management. An Order in Council of the 27th November 1840, which was based upon this gentleman's report, recommended that the whole tract should be surveyed into farm lots, and appraised, for the double purpose of more advantageously settling the Indians and facilitating the sale of the surrendered lands; that the surrendered blocks, viz., Cayuga, Brantford and Dunn, should meanwhile be withheld from sale, but that the right of pre-emption should be accorded to persons having settled thereon prior to that date. Further, that in consideration of the injury inflicted on their interests, and of the difficulties occasioned by the dispersion of the Indians over the whole extent of the unsurrendered land, the Government should exert its influence to persuade them to settle as a concentrated body in such part of the tract as they might select for their permanent residence, and to cede the residue for sale. Lastly, it emphatically disclaimed any intention, however remote, of inducing the Indians to remove from the Grand River settlement, and negotiations were accordingly opened with the Indians, but for various reasons, and more especially from their disinclination, to adopt the views of the Government with reference to the dimension of the future reserve, no final decision was come to until October 1843. On the 4th of that month a very elaborate Order in Council, was passed, which forms the ground-work on which the subsequent proceedings in reference to the management of the land affairs have been based. While regretting that the Indians would not be satisfied with a smaller reserve, it advises that their request be acceded to, and thus describes the tract to be set apart for their use. "All the lands on the south side of Grand River, with the exception of a tier of lots on the plank road from Hamilton to Port Dover, a distance of more than 20 miles along the river." Also the church lot at Tuscarora, and certain other detailed pieces of lands. A proclamation founded on this Order in Council was issued on the 20th July 1844, prohibiting trespass on the Tuscarora and Oneida lands.

No allusion is made, in the foregoing Order in Council, to the alleged surrender of the 18th January 1841, upon which so much stress is laid by the memorialists, as having placed these lands beyond the jurisdiction of the Commissioners appointed under the 2 Vict., c. 15. This question has already been set at rest by the Court of Chancery. I may observe, however, for the information of the memorialists, that an instrument was executed at that date by a small minority of the chiefs, but of a very different purport from that ascribed to it in this petition. It confided to the Government the entire management of their lands; but stipulated "that the arrangement is to be carried out by the Government in the true meaning and intent of the chief superintendent's letters of the 5th and 15th January." These communications called upon the Indians, in very urgent and peremptory terms, to empower the Government to dispose, for their exclusive benefit and advantage, either by lease or otherwise, of all available lands, excepting a reservation of 20,000 acres, and lots then in the occupation of individual Indians, the Government coming under an obligation to protect their property from trespass and injury, and "the selection of that reservation to be deferred until after a general survey of the tract, when the position most advantageous to the general interests and peculiar wants of the Indians can be more judiciously selected." This agreement having created great dissatisfaction, and been repudiated by the large majority of the chiefs and Indians, never received the formal sanction of the Government.

The memorialists will not fail to have perceived throughout these transactions the scrupulous respect which was paid by the Government to the rights of the Indians; and that even when differing from them in opinion, with reference to the precise extent of their proposed reserve, it felt constrained to yield to their ascertained wishes; nor can the cautious avoidance of any public act upon which even any colourable claims or rights could have accrued to individuals in virtue of the pending negotiations, have escaped notice. I might also cite numerous notices warning parties not to enter into private agreement with Indians, and official letters stating that the lands were not open for sale. Even the surrendered tracts were formally withheld from sale, and the right of pre-emption was not granted to parties who settled upon them after the date of the Order in Council of 27 November 1840. Persons who had entered upon the unsurrendered lands could therefore only be regarded as trespassers; and the Order in Council, of the 4th October 1843, accordingly declared "that the proposed reservation will involve the necessity of ejecting the intruders, without regard to the means by which they acquired possession."

Formal surrenders having been executed by the Indians, of the land not included in their reserve, it now became the duty of the Indian Department to give effect to the foregoing arrangements. Mr. Thorburn, who had been appointed in September 1844 a Special Commissioner to adjust disputed claims, with a general supervision of the tract, received instructions from Lord Metcalfe, under date the 3d August 1845, to give public notice that all white persons were to retire from the reserve before the 1st of January next ensuing.

In reply to a petition addressed to his Excellency by Messrs. Cheshire and Strong, on behalf of themselves and the other squatters, he stated that the notice had been well considered, and could not therefore be withdrawn; but that the claims of the petitioners to the lands in their occupation should be thoroughly investigated, and Mr. Thorburn was thereupon directed to make a separate report on the case of each settler, recommending the amount of compensation, if any, that should be awarded. He accordingly procured the assistance of Mr. Kirk-

patrick, who had previously inspected the lands, and in order to give the petitioners the most ample opportunities of personally communicating with him, and substantiating their claims, stationed himself from time to time at different points in the reserve. He stated in his report, which was furnished in April 1846, that the complainants had failed to show that the Government had authorised the occupation of these lands by white settlers; that the only ground upon which they could demand, or the Government be justified in awarding compensation from the Indian funds, consisted in the inference which they might have drawn from the survey of the lands, and allusions contained in certain letters addressed by Mr. Jarvis, and officers of the Crown Land Department to individual applicants for land, to the possible contingency of sales being made at some future period. Under these circumstances he recommended that compensation, to be measured by the increased value which the land had acquired from the labour bestowed upon it, and for which the occupant had received no return in crops or otherwise, should be granted. I may mention that, even in surrendered lands, compensation was strictly confined by Order in Council within these limits. Each occupant had accordingly been required by him, to state the extent and nature of his improvements; the work done was then examined by Mr. Kirkpatrick, who, jointly with Mr. Thorburn, determined the amount of compensation to which the party appeared to be entitled. In Tuscarora 166 cases were reported, of which 31 only were of a date prior to 1841. In Oneida, 74, all of which were subsequent to 1840. The amount of compensation recommended was 8,602 *l.* 5 *s.*

Mr. Secretary Higginson replied, that although the squatters had no legal claim for compensation, the Governor-general was prepared to act upon the recommendation of the report with reference to parties who had settled previous to the issue of the chief superintendent's notice of the 22d January 1844, a reasonable deduction being made for rent during period of occupation. He instructed Mr. Thorburn to place the reserve forthwith at the disposal of the Indians, and to give public notice that all white persons remaining there after the 1st of September would be held to have forfeited all claim for compensation, and the law put in force to compel their removal. A large proportion of the squatters accepted the terms offered by the Government. Lists of those who expressed their willingness to retire were furnished by Mr. Thorburn to the Indian Department; cheques were transmitted to him in favour of the several parties for the amounts respectively awarded to each, and handed to them, on their making affidavit that they had retired from the reserve. On the 28th January 1847, Mr. Thorburn reported, for Earl Cathcart's information, that 127 had actually received payment.

Meanwhile, however, a number of the squatters, headed as it would appear by Mr. Cheshire, who having, by his own showing, not come into the tract until after the publication of the chief superintendent's notice of the 22d January 1844, was debarred, according to the rule laid down by Earl Cathcart, from any claim to compensation, refused to quit the reserve. It became necessary, therefore, to proceed against them as trespassers; and Messrs. Thorburn, Clench and Bain, who had been appointed Commissioners under the 2 Vict., c. 15, held a court in November 1846, for that purpose. On the application of the accused parties, the court was adjourned till the 2d December, in order that they might procure the attendance of Mr. Jarvis as a witness for the defence, and copies of certain documents from the records of the Indian and Crown Land Departments. The trials took place on that day; counsel appeared for the defence; the required documents were produced, and Mr. Jarvis examined; but his evidence was entirely unfavourable to their pretensions. He declared that it had always been intended to locate the reserve on the south side of the Grand River, and that answers to that effect were given whenever parties applied for permission to settle there; also, that such of his letters as might have been susceptible of a different interpretation, could only have reference to the opposite side of the river. Mr. Solicitor Turner watched the proceedings on the part of the Government, and the Court having decided against the defendants in every case, they were served with notices of judgment to retire in 30 days. They gave notice of appeal to the Court of Chancery, and the appeals were heard on the 3d of May 1847. All the documents and evidence on which they relied were produced, and the convictions affirmed with costs. In the year 1847 the squatters petitioned the Legislative Assembly on the subject of their claims and grievances. The report of a Committee which was appointed to investigate the circumstances of the case, declared that the "Petitioners were dispossessed by due course of law of the lands they occupied, and that such lands are in fact Indian Reserves." They also recommend, on grounds similar to those set forth in Mr. Thorburn's report, that a fair and reasonable compensation be allowed to them.

His Excellency does not consider that he is called upon to enter into a vindication of the two Acts which the Legislature has seen fit to pass since that period, for the general purpose of more effectually protecting the Indians. I have merely to state, in continuation of my narrative, that under the provisions of the 12 Vict. c. 9, and the 2 Vict. c. 15, the Commissioners proceeded anew against the squatters, and that on appeal to the remodelled Court of Chancery, their convictions were again affirmed with costs. On this occasion, the Chancellor and the Vice-Chancellor both delivered elaborate judgments in the case. The efforts to get rid of the squatters still proving unsuccessful, the 14 Vict. c. 74, was enacted, giving the Commissioners summary jurisdiction. The trespassers having been convicted under this statute, writs of ejectment were placed in the hands of the Sheriffs of Haldimand and the Gore District, in April 1851. These officers proceeded without delay to serve the writs, and ejected a few of the squatters; but on receiving positive assurances from the remainder, that they would retire after harvesting their growing crops, they suspended further operations, with the full assent of the department. Finding that this pledge remained unfulfilled, and
after

after several months delay, Sheriff Martin proceeded in the discharge of his duty, to eject the trespassers in February last, an Act which is represented in the petition, as one of unprecedented severity. Even in this instance, although the parties have held illegal possession of these lands rent-free for so many years, Mr. Thorburn was authorised to allow them the amount of compensation awarded in 1846, making only a reasonable deduction on account of legal expenses incurred by the department.

Referring to the allegations of the petition, the memorialists may judge from this simple recital of facts, whether the Indians have knowingly, or even technically denuded themselves of their right to reside within the tract, and how far the Indian Department is justly chargeable with having overstepped its authority, or having adopted harsh and oppressive measures against the squatters. Taking into consideration the express instructions, as well as the spirit of the Orders in Council, which I have cited, assuming the judicial decisions of the Court of Chancery to be sound, and that in the words of the report of the Committee of the Legislative Assembly, "these lands are, in fact, Indian reserves," it is difficult to conceive any mode of dealing with the squatters, short of a total abandonment of the lawful rights of the Indians, more considerate and forbearing than the one that has been pursued. That the average rate of compensation was not unreasonably low, may be safely inferred from the fact, that it was unhesitatingly accepted by upwards of one half of the squatters, and that a considerable number have since followed their example. Those who were returned as having settled before 1841, were, with one or two exceptions, among the first to retire from the reserve.

Finally, Lord Cathcart's instructions have been so far relaxed, that no deduction was made for rent, and that all the settlers comprehended in Mr. Thorburn's report, have received compensation on making the necessary application irrespective of the date of their occupation.

But there are other classes of squatters now on the tract still more unworthy of consideration. Of 60 self-styled settlers, who signed a petition to the Governor-general in 1849, nine had returned to the reserve after having actually received compensation, and 21, encouraged no doubt, by the examples before them, of successful resistance to the law, had entered upon the lands since the date of Mr. Thorburn's inspection, and there can be little doubt that intruders of the latter description, form a considerable proportion of the present white occupants of the reserve.

In conclusion, his Excellency directs me to state, that as Governor-general he is specially charged with the maintenance of the Indian rights and privileges. He can on no account give his assent to any measures which would seem to compromise the rights of property, or evince a disregard of the claims of the Indians upon the British Crown. It has, however, always been his earnest endeavour to make these claims harmonize with the general interests of the community, and to bestow as favourable a consideration as a due administration of the trust reposed in him permits, on cases in which the assertion of these claims may seem to be attended with hardship towards individuals. His Excellency entertains a confident hope, that having received this full explanation of the facts of the case, the memorialists will exert their influence to induce the squatters to submit themselves to the laws of the land, and thus relieve the Government from the painful necessity of resorting anew to compulsory measures.

I have, &c.

(signed) *R. Bruce,*
Superintendent-General.

Sir Allan N. Macnab, M. P. P.

— No. 3. —

(No. 81.)

COPY of a DESPATCH from the Right Honourable Sir *John S. Pakington*,
Bart., M. P., to the Earl of *Elgin*.

My Lord,

Downing-street, 2 November 1852.

WITH reference to your Lordship's despatch No. 57, of the 10th July last, in reply to mine of the 4th June preceding, respecting Mr. Frazer's memorial on behalf of certain squatters on lands situate on Grand River belonging to the Six Nations Indians, I transmit for your Lordship's information the copy of a letter, which I caused to be addressed to Mr. Fraser on the receipt of your Lordship's despatch, together with the copy of a letter which I have since received from that gentleman.

I am, &c.

(signed) *John S. Pakington.*

No. 3.
Sir J. S. Pakington,
Bart., M. P., to
Earl of Elgin.
2 November 1852.

Col. Office to Mr.
Fraser, 10 Sept.
1852.
Mr. Fraser to Col.
Office, 20 Oct.
1852.

Encl. 1, in No. 3.

Enclosure 1, in No. 3.

Downing-street, 10 September 1852.

Sr,
 WITH reference to the Earl of Desart's letter of the 9th of June last, I am directed by Secretary Sir John Pakington to acquaint you that he has received a Report from the Governor of Canada upon the case of certain settlers upon Indian lands on the Grand River, from which it appears that their claims have been frequently considered by the Executive Government, the judicial tribunals, and the Legislature of the Province, and that each authority has repeatedly affirmed the irregularity of their possession, and the necessity for their removal.

Under these circumstances, and after having fully considered the representations which you have submitted in behalf of these settlers, Sir John Pakington is of opinion that there is no ground on which he would be justified in interfering in this matter, with the proceedings of the Government of Canada.

Douglas Fraser, Esq.

I have, &c.
 (signed) *J. Fred* Elliot.*

Encl. 2, in No. 3.

Enclosure 2, in No. 3.

Sir,

241, Buchanan-street, Glasgow, 25 October 1852.

I HAVE the honour to acknowledge the receipt of a communication from you, of the 10th of September last, but which did not reach me for some time afterwards, in reference to the case of certain settlers on the Indian lands in Canada, in which I am informed that it appears by the report of the Governor of Canada, that the claims of the settlers have been frequently considered by the Executive Government, the judicial tribunals, and the Legislature of the Province, and that each had repeatedly affirmed the irregularity of their possession, and the necessity for their removal. If this were distinctly the case, I should not have felt it my duty to trouble you with any memorial upon the subject. I have laboured hard to put the matter in as clear a light as possible, offering the evidence to support each of my statements bearing upon the subject, and only claiming a fair and disinterested investigation. In reference to the interference of the Canadian Executive, with the exception of publishing an absurd proclamation (but fortunately harmless one), of outlawry, they have always declined interfering, and when pressed by influential persons, declared that the matter was for the consideration of the Imperial Government; and Mr. Baldwin, when Attorney-general, said he was very averse to interfere or bring the matter within the control of the Executive. Lord D. Stuart also wrote to the effect, when it was referred home, that it was understood to be a matter for the Colonial Government, referring it back to Canada. In answer to the decisions of the judicial tribunals, all my clients claim and wish for, is a fair trial by the judicial tribunals of the country; but the Act under which the Commissioners are proceeding against the settlers, takes their lands out of the usual jurisdiction of the country for settling disputed claims to lands; the first Act, however, never contemplated the removal of persons situated as my clients are, and after the most cruel injustice had been perpetrated against the settlers by imprisonment and other proceedings, such was found to be the case. In this Act there was an appeal to the Chancellor against the Commissioners, and it authorised an inquiry as to the mode in which they had got into possession, excepting those who held under Indian leases, or otherwise by authority of Government or its agents. I will not refer further to the subsequent Act on this question than merely to say, that so far as they give the Commissioners power to imprison, without trial by jury, honest industrious settlers, whose stupid attachment to their country has led them, under all difficulties and unheard of trials, and with the sanction of the agents of Government, to settle upon these lands, far too dear if had merely for the price of clearing, these acts are a disgrace to British legislation, and unequalled in any part or age of the world. And lastly, in reference to the decision of the Legislature, I have only time to say, that the Committee appointed to investigate their claims, over which Colonel Prince presided as chairman, found that the settlers had been induced to settle on these lands by letters of the Government agents, and under the impression that they would be for sale, which they in fact were at the time, and recommended that they should be paid the full value of their improvements. We have never asked more, and during an interview with his Excellency, I offered to leave the remuneration to any disinterested party whom his Excellency might appoint. I leave this morning for the city of Hamilton, Canada West, my place of residence, and I regret exceedingly that I can hold out no prospect of relief to my clients in the usual and what ought to be the only way of obtaining a fair hearing and full justice, and not by political or other agitation, unsettling the minds, and too often the reason, of mankind, I have nothing more to advance, unless you should deem it necessary to call for further inquiry.

To the Right Hon. Sir John Pakington,
 Colonial Secretary.

I have &c.
 (signed) *Douglas Fraser.*

— No. 4. —

To the Right Honourable Sir *John Pakington*, Bart., Secretary of State
for the Colonies, &c. &c.

No. 4.

The PETITION of the undersigned *Frederick John Cheshire*, of the Township of
Tuscarora, Grand River, Canada West ;

Respectfully showeth,

1. THAT Douglas Fraser, Esq., hath recently, by memorial to the Colonial Office, set forth the grievances of the settlers in the above, and township of Oneida ; lands surrendered by the Indians in 1841 to the Government for sale ; and has received in reply, over the signature "Desart," "That before taking the matter into consideration, Sir John Pakington had commanded that the same be transmitted to Lord Elgin for his report."

2. That simultaneously with the above application, the cruelties pursued towards these unfortunate settlers by the officers of that great anomaly, a petty, little, despotic, irresponsible Government, within a "responsible Government," called an "Indian Department," had roused public attention upon 18 families, during the severe snow storm of the 1st March last, when thermometer stood 26° below zero ; being placed at the instance of this honourable department, (whose paid officers were the only judges and jury at the mock trials held in an Indian council-house,) by the sheriff on the way side ; their homes, the results of some 12 or 15 years of hard toil in improvements, their growing crops, given to Indians who had surrendered as aforesaid, or to tribes from the states, holding no allegiance to the British Crown, and even to runaway States Negroes assorting with Indian squaws.

3. That so great was the outrage, that in a very short time a petition with nearly 3,000 signatures, headed by Sir Allan N. Macnab, Isaac Buchanan, Esq., and the leading merchants and most respectable inhabitants of the vicinity, and occupying 65 feet of a double column of signatures ; protesting against such cruel proceedings, was addressed to Lord Elgin, which petition, the reply of Colonel Bruce (himself the head officer of the department complained of), Mr. Little's review of the same, have been thrown into pamphlet form, a copy has already been transmitted to the Colonial Office,* and a further one is, with other documents, herewith enclosed ; and copies have been furnished Lord Elgin, his executive, and each branch of the Legislature.

* See foot note.

4. That upon Lord Elgin's "entertaining a confident hope, &c, that the memorialists would exert their influence to induce the squatters to submit," &c., see page 8, of pamphlet, Sir A. N. Macnab, Isaac Buchanan, Esq., the Mayor of the city of Hamilton, Neh. Ford, Esq., with a large number of others of the leading subscribers to the last-named petition, immediately joined in a further remonstrance to Lord Elgin, and to each branch of the Legislature.

5. That an address to Lord Elgin, for the production of papers, &c., &c., upon this very important subject, was moved in the House of Assembly by the Member for Haldimand, in which county Oneida is situate. See "Brant County Herald" (Government Paper), November 3, marked Document No. 1,† enclosed.

6. That, pending that motion, Lord Elgin prorogued the House until February next, and that, in a similar manner, the House was prorogued a few days after its unanimous adoption of petition of 1847, upon this subject, hereinafter referred to, and upon which no action has yet been taken.

7. That in the face of these facts, the absence of any communication in reference to "Lord Elgin's Report," at the very time the Legislature had taken the initiative

These newspaper articles are not reprinted with the present collection of papers.

* This lengthy pamphlet has not been reprinted with the present collection of Papers ; it is entitled, "Information for the Public. The case of the Indian Department, in reference to the Grand River Settlers, as submitted by Colonel Bruce, Chief Superintendent of India Affairs, in a Letter to Sir Allan Napier Macnab, and Three Thousand Memorialists, with their Petition to the Executive for an Inquiry, &c., and a Review of the same by James Little, Esq., of Caledonia, one of the Memorialists."—"Hamilton Spectator" Steam-Press, Corner of Court-house-square, 1852.

initiative in a movement for redress, the Indian Department, presided over by Colonel Bruce, have forced on the sheriff by the most stringent and hitherto unheard of instructions, to eject my own and nine other families from our homes; our farms, our crops of unthreshed grain, our growing crops, our winter's fodder for our cattle, in fact, from our all in this world, save our trust in God, and faith in the unsullied justice of the British Government.

8. That the atrocious nature of the proceedings was such, that the assembled Indian chiefs pitied, and cried shame! These noble-minded men, with whom we had, until seduced by their interested agents, lived upon the most friendly terms, have all along expressed a wish that the *bonâ fide* settlers should be paid a full remuneration for their improvements, or that they should be allowed to lease the lands; admitting that the sum offered, eight dollars per acre, was only a moiety; that they had so expressed themselves to their agents, but would not be listened to; and their just proposal submitted in writing, was torn up, and thrown in their faces. See Letter of James Little, in pamphlet, page 11, 2d column. These men, upon appeal to them as to what I was to do with a wife brought up to the luxuries of life, eight children, and promise of a ninth, in the depth of winter, and without a home to go to, at once assented to my occupancy until I could arrange matters, or something was done by the "big council" (Parliament) or the Queen; and they admitted before the sheriff, that the Indian to whom my farm was given, already held two; said Indian admitting I had given his wife's father, Peter Norton, five dollars for his small chopping and small shanty; that I had paid himself seven dollars for drawing the logs for my house; that four chiefs and 40 Indians were at my "Bee," raising the house; that many of the Indians had been employed by me for years past in chopping, logging, and rail splitting on my farm of 80 acres of improvements; that I had always paid them money for their work; no store pay; "never cheat Indian of a York shilling."

9. That proposition for amicable settlement of this matter, is set forth in affidavit contained in Document (A.)* enclosed; yet, in the face of that proposition, founded on "Instructions of Lord Metcalfe," in 1845, and made on the 30th September 1846, these interested Indian agents commenced their sham judicial proceedings on the 3d October 1846, the cost of which, exclusive of their pay of 18 dollars per day, have cost the funds of the poor Indians more than treble the whole claim for our improvements.

10. That the general conduct of one of the agents may be gathered from letter of petitioner to Sir A. N. Macnab, herewith enclosed, Document (B.)†

11. That by reference to a printed petition, introduced to the Canadian Legislature in 1847, which document, amongst others, Lord Elgin has been requested to transmit to Colonial Office, it will be seen by the 13th clause, the conduct of another of these Indian agents, who, upon oath, on a trial in reference to timber, had to acknowledge himself, "Collector of Indian dues on said timber; partner with plaintiff in contract for the said timber; payer of dues on the same, and witness then and there for his said partner, in fact, for himself; and admitted that Charles Bain had to pay Charles Bain said dues on said timber, and which dues had not been paid to the Indian funds, or placed to credit of defendant's lot." Comment upon such proceedings is needless, and that it should be sanctioned may not be surprising after perusal of Canadian Cabinet proceedings, to sweep away a source of provincial revenue of not less than 50,000 *l.* a year. See "The Red Pine Job," Document No. 2.‡

12. That by copy of proceedings in the Court of Queen's Bench, and tried before Chief Justice Robinson, in a case of assault, *Cheshire v. Bain*, the jury convicted the aforesaid agent, partner, witness, collector, and retainer of Indian dues, in a penalty of 15 *l.* currency, for the indecent and outrageous act of spitting in plaintiff's, the petitioner's eyes. These facts have all been laid before Lord Elgin, yet these agents, notwithstanding, are still continued in their office, in the face of these and other remonstrances from other quarters, connected with similar transactions in other townships than the two in question, until the impression has become a proverb, "Encouragement to evil doers, and punishment of those that do well."

13. That

* See Letter to Editor of the "Hamilton Spectator," 8 May 1851. (Not reprinted with the present collection of Papers.)

† Letter dated 27 November 1852, contained in "Hamilton Spectator," (Not reprinted with the present collection of Papers.)

‡ Article in the "Hamilton Gazette," of 29 November 1852. (Not reprinted with the present collection of Papers.)

13. That Mr. Little has grappled, in review of Chief Superintendent's reply, in so masterly and unanswerable (and still unnoticed) a style, exposing its assumptions, its contradictions, its sophistries, that petitioner has simply to urge a careful perusal of the same, confident that after perusal every impartial mind must exclaim—

“ Oh what a tangled web we weave,
When first we practice to deceive,”

as applicable to petitioner's opponents.

14. That by reference to document C,* being copy of memorial to Lord Elgin, No. 13, and referring to former memorials, it will be seen petitioner “prayed that the various documents connected with the matter, may be transmitted for the consideration of her Majesty;” that petitioner, on the 2d of April 1847, received acknowledgment of petition and other documents, which it was promised should be laid before Earl Grey; that no action was taken in Colonial Office up to 1848; that in the meantime agents aforesaid had been most active, had effected the imprisonment of petitioner, and without trial by his peers; that Lord Dudley Coutts Stuart, on application at this time, learnt from B. Hawes, “I have caused a search to be made amongst our records, and I can now safely say, that we possess no information upon the subject,” and “it is to Lord Elgin Mr. Cheshire must apply for redress.”

* Page 16.

15. That upon receipt of the above communication, petitioner and the other settlers deputed James Little, Esq., a magistrate of the district, to proceed to Montreal, empowering him to make any one of these arrangements: first, Payment for improvements on the terms laid down by Lord Metcalfe; secondly, The submission of the whole matters at issue to an impartial commission; or, thirdly, an exchange of lands and improvements to be made for some others out of a given 20,000 acres for reservation, which would be ample for the remnants of the Six Nations for all agricultural purposes; and reply was given referring petitioners back again to the Colonial Office. Mr. Little's letter was transmitted to Lord Dudley Coutts Stuart, who again waited upon B. Hawes, receiving in reply, “that no communication had been received from the Executive of Canada on the subject; that he was still of opinion that the matter was one of colonial not imperial control.” That reply Lord Dudley Coutts Stuart transmitted back to petitioner, who re-transmitted it in respectful memorial to Lord Elgin, but has received no reply, leaving petitioner and the other settlers in a state of unenviable and most cruel suspense, and has been the means of scattering many of them disheartened and exasperated wanderers upon the world, as may be gathered, with other facts, from document D,† and the reply made to Mr. Little, as aforesaid; B. Hawes' reply, &c., will be seen in document E.‡

† Letter to the Editor of the “British Colonist,” headed, “The Settlers on Crown Lands in Tuscarora,” and dated 2 February 1852. (Not reprinted with the present collection of Papers.)

‡ Page 18.

16. That during the session following, in Toronto, motion in reference to this matter was introduced, when the Honourable Francis Hincks met it by assertion, “That the British Government were most anxious to reduce the cost and trouble of the Indian Department; any interference, therefore, of the House would bar them doing so immediately.” Motion lost. The connexion of Mr. Hincks with Indian land transactions, but upon unsundered lands, strangely contrasts with his proceedings in our surrendered land affair; but the doings of the Premier of poor Canada in the former case perfectly coincides with the doings of his agents in the latter. “Poor Indian goose, what a plucking.” See, in illustration, Letter of Angus Macdonnell, document F. §

§ See Letter to Editor of “Toronto Patriot,” 2 November 1851. (Not reprinted with the present collection of Papers.)

17. That as the Canadian Premier has in his place in Parliament so frequently thrown the blame of these proceedings on the Imperial authorities; as the protraction has been fraught with such utter ruin to so great a body of her Most Gracious Majesty's subjects, mostly strangers here, emigrants from the dear old sod, your petitioner most earnestly prays, that an immediate stay to Lord Elgin's proceedings in this matter, until Imperial authorities have opportunity of inquiry, be immediately sent out to Canada.

18. That petitioner would respectfully suggest, and that suggestion arises from 10 years' close observation of the working of this Grand River Indian land machinery, a commissioner be immediately appointed here, or sent out; one who is untrammelled by any local influence or attraction, assured that the

expense of his mission would be, in even a twelvemonth's research, productive of a very large saving to the funds of the Indians, who are robbed to a fearful amount, and in the name of our Queen, and are, at the same time, treated equally with their white brethren who may have the misfortune to be entrapped upon their land, or lands once theirs, in a most tyrannical and unconstitutional manner.

And with sentiments of deep-rooted attachment to our inimitable institutions, and unswerving loyalty to the good and glorious Queen, who watches over and has sworn to preserve them, sentiments which are also deep-rooted in the hearts of my co-sufferers, your petitioner, as in duty bound, will ever pray,

(signed) *Frederick John Cheshire.*

Tuscarora, by Seneca, Grand River, C. W.,
10 December 1852.

Encl. in No. 4.

Enclosure in No. 4.

INDIAN LANDS.

MEMORIAL of the Gore District Municipal Council to his Excellency Lord *Elgin*, Governor-General, &c. &c. on behalf of the Settlers upon the Indian Lands in the Townships of Tuscarora and Oneida.

To the Right Honourable *James* Earl of *Elgin & Kincardine* K.T., Governor-General of British North America, &c. &c. &c., in Council.

May it please your Excellency, the Memorial of the Gore District Municipal Council,

Respectfully sheweth,

THAT your memorialist have viewed with feelings of deep regret the proceedings instituted by the Indian Department against certain settlers on the Indian lands, in the townships of Tuscarora and Oneida, believing them to be of unmitigated injury in their procedure and result to the Indians, the settlers, and the district.

By these proceedings a large amount of the Indian funds, instead of yielding a profitable return for the supply of their pressing wants, has been worse applied than if thrown away, in purchasing extensive improvements, evidently for no other purpose than their restoration to their original wilderness state; while the settlers who abandoned their homes through fear of incarceration, did not in most cases receive more than half their outlay, and those who remained have been constantly harassed by prosecutions of more than doubtful legality, and are now about to suffer by incarceration with felons in the common gaol, the ultimate penalty of a law which they, their legal advisers, and others who had examined the question, believe does not apply to their case, and the district is called on to be a party to carry out these extraordinary proceedings, by providing the necessary place of confinement, and burdening its revenues for their support during their incarceration.

Your memorialists feeling a deep interest in all that concerns the happiness and prosperity, the peace and well-being of the inhabitants collectively and individually, of the district, believe that it will not be considered impertinent or out of place, by bringing under your Excellency's notice, the proceedings that have from time to time been adopted on this subject by the Government of your Excellency's predecessors; and offering an opinion of the course which your memorialists believe would most conduce to a satisfactory settlement of this important question, on just and equitable principles, and for the best interests of both the Indians and the settlers.

On referring to the Provincial Statutes, it will be found that an Act was passed in the second year of Her Majesty's Reign, cap. 15, for the protection from trespass and injury, lands appropriated for the residence of certain Indian tribes in the Province, as well as the unsurveyed lands, and lands of the Crown ungranted, and not under location, &c. By the first clause in is enacted, "that it shall be lawful for the Lieutenant-governor from time to time, to appoint two or more commissioners under the great seal of the province, to receive information, and inquire into any complaint that may be made to them against any person illegally possessing himself of any of the aforesaid lands, for the cession of which to Her Majesty no agreement hath been made with the tribes occupying the same, and who may claim title thereto," &c. After the promulgation of the above Act, his Excellency Sir George Arthur, who was then Lieutenant-governor of the Upper Province, appointed a commission to carry out and enforce its provisions, but after the imprisonment of one individual, and others were proceeded against, he was doubtless convinced of the propriety of adopting a totally different course, for your memorialists find, that in August 1840, M. Gwynne, associated with Major Winniett, one of the Commissioners, was directed to proceed

to

to the Grand River, and report to his Excellency the nature of the claims of the settlers, with the extent of the improvements made by them on these lands, and on the receipt of their report, his Excellency in Council, adopted on the 27th November 1840, the following order. "That all persons reported as resident settlers up to the date of the present Order in Council, be considered the first applicants, and entitled to the right of pre-emption for the space of six calendar months thereafter, at the rate fixed upon the land, without paying for the value of improvements."

Your memorialists next find, that on the 18th day of January in the following year, Sir George directed Mr. Jarvis, the chief superintendent of Indian affairs, and Messrs. Gwynne & Winniett, aforesaid, to assemble the Indians in council, and submit to them propositions for a cession of their lands to the Crown for sale, which was agreed to by the tribes, reserving only a few hundred acres near Brantford, called the Johnson Settlement, which were subsequently brought into market and disposed of. The surrender then made is in the following words: "The chiefs and warriors of the Six Nation Indians, upon the Grand River, in full council assembled, at Onondago Council-house, the 18th day of January 1841, having maturely considered the proposal made to them by Samuel P. Jarvis, Esq., chief superintendent of Indian affairs, contained in the annexed documents, dated the 5th and 15th day of January 1841, in full reliance and confidence in Her Majesty's Government, that they will dispose of the property of the Six Nation Indians for the sole benefit of them and their posterity for ever, according to the true intent and meaning of the said annexed documents, and for no other purpose whatever, to the best of their judgment; and also, in full confidence and reliance on Her Majesty's Government, that they will not sell or dispose of in fee-simple, any portion of that tract called the Johnson Settlement, unless what is available to be sold as town lots in the immediate neighbourhood of Brantford, without the assent of those Indians for whom the same was formerly reserved, first being obtained: have, and hereby do assent to Her Majesty's Government disposing of the lands belonging and formerly reserved upon the Grand River for the Six Nations Indians, for the sole benefit of the said Six Nations, and for the full and valuable consideration, according to the best of their judgment, so as to preserve the benefit thereof for the said Six Nations and their posterity, according to the intent and meaning of the said annexed documents, dated the 5th and 15th January 1841. In testimony whereof, we, Moses Walker, John Smoke Johnson, J. Kanawate, Kanakariatic Peter Green, John Whitecoat, and Jacob Fishcarrier, being deputed by the said Six Nations, in full council assembled, to assent to the same, in their behalf, have hereunto set our hands and seals, this 18th day of January 1841."

The foregoing document is witnessed by J. Martin, Indian interpreter, Jas. Winniett, superintendent Indian affairs, and John W. Gwynne; and it appears to your memorialists that if words are to be taken in their plain and obvious signification, they can have no other meaning here than a cession of the lands occupied by the Indians, for sale, "and for no other purpose," and consequently do not come under the provision of the Act, the 2 Vict. c. 15, in part above recited, and indeed this seems to have been the view taken by Sir George Arthur's Government, for on obtaining this instrument of surrender, the commission at once ceased; the individual imprisoned was immediately liberated, and all prosecutions under the Act forthwith abandoned, and were never again revived until the appointment of the present commission, and the proceedings now enforced by them. Besides, so soon as the necessary plans were completed by the surveyor-general's department, a survey of the whole tract into lots, and an appraisement of each, were directed to be made, and after these were completed, the lands in the townships of Cayuga and Dunn which remained unsold; those in Seneca, Brantford, and Onondaga, and subsequently about three-fourths of those in the township of Oneida, were declared by the Government open for sale, giving the right of pre-emption to the parties in occupation; thus so far establishing the validity of that instrument by the sale of the greater portion of the lands in question. It also appears by the 8 Vict. c. 7, that the whole Indian reservation no longer retained that character, but was divided into and declared townships, for judicial, municipal, and all other purposes.

Your memorialists again find that on the 14th of November 1843, Mr. Jarvis directed the publication of the following letter, addressed to Edward M. Stewart, Esq.

"Sir,

"Indian Office, Kingston, 14 November 1843.

"In regard to those persons who have taken possession of lots of land and made extensive improvements, the right of pre-emption will be extended to them in all cases where practicable, and in no case will a stranger be permitted to purchase a lot in the possession of another person, but on the express condition of paying the occupants the full value of their improvements thereon. You will confer a favour by making this generally known to the settlers, for I have received information from several quarters that there are individuals along the river who have circulated reports with respect to the sale of these lands, calculated to alarm the people, and indeed to induce them to suppose the Government, at the instigation of the Indian Department, was disposed to deal harshly with them.

(signed) "Samuel P. Jarvis."

From this letter, which the gentleman to whom it was addressed was directed to make generally known, it is evident to your memorialists that strong inducement was held out by the chief officer of the Indian Department to those in possession of these lands to prosecute their improvements under the pledge that pre-emption right, and peaceable possession, would be assured to them,—but in bad faith to these unfortunate settlers it has now turned

out that they are made the victims of the very policy from which that document was designed to exculpate both Mr. Jarvis and the Government, of which, as regarded the Indian lands, he was the acknowledged organ. Your memorialists also find that, in 1841 and 1842, several letters passed from the Commissioner of Crown Lands to the parties now prosecuted for trespass, all tending in the highest degree to encourage them in the belief that they would be permitted to purchase the lots improved by them; but your memorialists do not think it necessary to adduce further evidence to enable your Excellency to arrive at the conclusion that the Government and the Indian Department were much more blameable in the matter than the unfortunate settlers, who put faith in their acts and promises, and are now suffering for their misplaced credulity.

From a view of the whole case here presented, you memorialists are indeed unable to reconcile the present harsh and ruinous proceedings against the settlers with strict justice, and that impartiality which it should ever be the character of a Government to maintain; for it is evident to your memorialists that those who took unauthorised possession of Indian lands before they were surrendered to the Crown, surveyed and appraised, and for the removal of whom the 2 Vict. c. 15, as is stated in the preamble, was passed, have not only retained peaceable and uninterrupted possession of their improvements, but also had pre-emption rights secured to them by Orders in Council, and ultimately were allowed to purchase the lands they occupied, while others availing themselves of the altered character of these lands, the encouragement held out to them by the parties having control, as well as the course adopted to others as already set forth, with other supporting circumstances, to provide homes for themselves and families have either been driven therefrom through fear of incarceration, without adequate compensation for their outlay, or are now suffering, or about to suffer the extreme penalty of a law generally considered inapplicable, and of no force in their case, by the cession of the lands to the Crown for the purpose of sale.

Your memorialists would now respectfully beg leave to venture an opinion for your Excellency's consideration, of the best means under the circumstances already detailed, of reaching a just and satisfactory settlement of the question. It is ascertained that the lands from which proceedings are now in force to remove the settlers amount to upwards of 50,000 acres, which are chiefly situated in the townships of Tuscarora and Oneida, of these a block of 25,000 acres in the township of Tuscarora, where the Indians are chiefly, and the least number of whites located, should be reserved for the exclusive residence of the Indians, and when it is known that 5,000 acres is the extent of their partial improvements, it is believed it will be seen the quantity proposed to be reserved will be ample for all the purposes of agriculture for the Indian tribes, who number about 2,500 souls, would be able to set off 50 acres to each family of five. They should in the meantime be allowed to retain their present locations, not covered by the 25,000 acres, until they sold out or exchanged with the white settlers residing within that block; and the latter should be allowed to hold, under lease at a rental, until such arrangement was effected, which your memorialists are satisfied would be speedily brought about. The remainder of the land should be sold, giving the parties who have been removed pre-emption right to re-purchase their improvements, by which means they would be able to proceed to raise bread for themselves and the thousands of their famishing brethren at home. The Indian funds would be augmented by the sale of lands which are of no manner of use to them, and reimbursed in the sum of some 10,000 *l.* or 12,000 *l.*, paid out for the large number of improved farms which are scattered over the tract waste and useless; a monument of folly, and a disgrace to the intelligence and civilization of the age.

Failing to convince your Excellency of the propriety of adopting the course now proposed for a final adjustment of the question, your memorialists would respectfully, but earnestly, entreat your Excellency would be graciously pleased to take the matter into consideration, and adopt such other mode of relief as your Excellency may deem meet, and your memorialists, as in duty bound, will ever pray.

Respectfully submitted,
(signed) *James Little*, Chairman.
John White.
John Miller.
John O'Hatt.
Robert Holt.

Encl. in No. 4.

Enclosure in No. 4.

[From the "Hamilton Spectator," 4 October 1848.]

No. 13.

[COPY.]

To his Excellency the Right Honourable *James Bruce* Earl of *Elgin & Kincardine*,
Governor-General of British North America, &c. &c. &c.

My Lord,

In the memorials I have had the honour of addressing to your Lordship, the painful duty has been forced upon me of detailing the hardships, sufferings, and deep distress in which a
very

very numerous body of Her Most Gracious Majesty's dutiful, loyal, and industrious subjects have been involved, by the mistakes, blunders, or something worse, of the officers connected with the Crown Lands Department.

My last one handed your Lordship, by that devoted friend of the poor emigrant, the Hon. Adam Ferrie, in which was set forth the further hardship of illegal incarceration in the common gaol of this place, together with a prayer for liberation from such cruel incarceration, under my then peculiar position, has met with no reply.

I should not have deemed it necessary to trouble your Lordship at present any further in the matter, but the following will be by apology:—

Learning, on my last visit to Montreal, that this matter of dispute regarding the Indians and their lands was an Imperial question, and could not be disposed of by any authority here; and having, in former memorials, prayed that the various documents connected with the matter may be transmitted for the consideration of Her Majesty, I should have been disposed to await the issue of such application.

My incarceration of last January for 30 days, at the very time my wife was expecting in a few weeks to become a mother, called forth a letter to her friends in London, and directing attention to the documents and promise in the following:

[No. 1.]

“London, 2 April 1847.

“THE petition from Mr. Cheshire, with all other documents, have been sent to the Colonial Office, one of the clerks promised they should be placed before Lord Grey. The clerk said, Mr. C.'s petition was too long, but that he would put it into proper form for Lord Grey. He also said, that whatever was done, would be by instructions sent out to Canada.

(signed) “*R. P. Bickerton.*”

[No. 2.]

“Sir,

“34, St. James's-place, 6 June 1848.

“ENCLOSED is the answer I have received from Mr. Hawes, to the inquiry I addressed to the Colonial Office at your request. I may mention, that previous to writing, I spoke to Mr. Hawes, and showed him the passages you pointed out to me in the pamphlet, relating to the case of Mr. Cheshire.

“I am, &c.

(signed) “*Dudley Coutts Stuart.*”

“R. P. Bickerton, Esq.”

[No. 3.]

“Dear Lord Dudley,

“Colonial Office, 5 June 1848.

“I BEG to acknowledge the receipt of your note of the 31st ult., in which you have called my attention to the ejection of Mr. Cheshire from certain lands in Canada. I have caused a search to be made among our records, and I can now safely say, that we possess no information upon the subject.

“It is possible that Mr. Cheshire, owing to imperfect survey of lands, has had lots assigned to him which in reality belonged to the Indians, and from which, when the fact was ascertained, he has been ejected.

“Questions of this kind being entirely under the control of the local government, it is to Lord Elgin that Mr. Cheshire must apply for redress.

“Believe me, &c.

(signed) “*B. Hawes.*”

“To Lord Dudley Stuart.”

I have therefore, my Lord, thought it a duty I owe to myself, fellow-settlers whom I represent, and to others taking a deep interest in this matter, thus publicly to lay the matter before your Lordship; at the same time, calling attention to the proceedings now going on here in the Court of Queen's Bench; as also other presentiments for riot on the part of the Indians, the particulars of which, I presume, will come more fully under the attention of your Lordship, through other and more important channels than, my Lord,

Yours, &c.

(signed) “*F. J. Cheshire.*”

City of Hamilton, 3 October 1848.

Enclosure in No. 4.

Encl. in No. 4.

Gentlemen,

Caledonia, 17 April 1849.

I HAVE the honour to inform you, that I submitted your claims to the lands you occupy in Tuscarora and Oneida, to the Honourable W. Merritt, President of the Executive Council, and the Honourable Mr. Baldwin, Attorney-general, West, who, notwithstanding Mr. Hawes' letter to Lord Dudley Stuart, “that the question of your claims was a colonial one, and under the jurisdiction and control of the Local Government,” would not take any

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action

action upon it, insisting that all matters relating to Indian property were under the management of the Home Government. It appears to me, therefore, that you should refer your case again to the authorities in England, stating the views entertained by the Government here.

Messrs. F. J. Cheshire and others.

I am, &c.
(signed) *James Little.*

Dear Lord Dudley Stuart, Colonial Office, 14 January 1850.
I OUGHT to have returned you before, the letter you gave me from Mr. Cheshire. I have, I am sorry to say, nothing to add to my former letter. We have heard nothing from the Government of Canada upon the subject; and I still remain of the same opinion I expressed before, viz. that the Local not the Home Government must be appealed to for redress by Mr. Cheshire.

To Lord Dudley Stuart, &c. &c.

I am, &c.
(signed) *B. Hawes.*

— No. 5. —

No. 5.

To his Grace the Duke of *Newcastle*, Secretary of State for the Colonies.

The Petition of the undersigned *Frederick John Cheshire*, of the Township of *Tuscarora*, County of *Brant*, Grand River, Canada West.

Showeth,

1. THAT petitioner hath been deputed by the settlers in the above, and township of *Oneida*, though at great pecuniary sacrifice to proceed to Great Britain with the view of laying their deep grievances before Her Majesty's Government, to whom and from whom, for the past five years, they have been referred backwards and forwards across the Atlantic, but hitherto without obtaining redress. A reference to petition No. 13,* to Lord Elgin, and correspondence with Lord Dudley Coutts Stuart, and the late Under Secretary, B. Hawes,* commencing in 1848, and continuing up to 1850, with other memorials to Lord Elgin, will fully prove the pains taken by the settlers and their friends to have the matters brought to a satisfactory issue; and the pains taken on the other hand by their opponents, to keep matters in such a state of suspense as to cause utter ruin to the settlers, little benefit to the Indians, and great benefit to some parties who will be found to figure not very creditably in these long protracted transactions.

* Pages 16 and 17.

2. That, carrying out the arrangement laid down when Lord Dudley Coutts Stuart kindly waited upon your Grace in reference to this matter, petitioner waited upon Mr. Merivale the following day; engagements, however, preventing Mr. Merivale's entering upon the matter; but petitioner was most promptly placed in communication with Mr. Elliot, to whom a verbal outline of the case was given.

3. That Mr. Little's review of Colonel Bruce's reply to petition of Sir A. N. M'Nab and others to Lord Elgin, has so clearly set forth the true position of the affair, that a simple reference thereto will suffice, and petitioner begs to enclose your Grace copy of said pamphlet,† in addition to one already enclosed from Canada with petition of the 10th ultimo, to Sir John Pakington.

† The title, &c. of this pamphlet will be found given at page 11.

4. That it was the intention of petitioner to hand in to Colonial Office copies of various documents, not included in pamphlet aforesaid, all tending to confirm the fact contended for, that these lands have been taken completely from the control of the Indian Department; but upon reflection that many of such documents have been alluded to or transcribed in the numerous memorials to Lord Elgin, and which both petitioner, acting on behalf of the settlers, and Douglas Fraser, Esq., for each, have very frequently requested may be transmitted for consideration of her Majesty's Government. Petitioner, to save time and toil, for the present confines himself to mere description of the same, holding himself in readiness to furnish copies of any which, upon reference, may be required.

5. That

5. That such documents are now described as follows :

No. 1. Census of townships of Tuscarora and Oneida, taken by petitioner in December 1844, and transmitted Government, and showing the date of occupation of each settler from 1836 up to date aforesaid.

No. 2. Petition to Sir C. T. Metcalfe, founded upon said census.

No. 3. Petition to the same, from the inhabitants of the adjoining township of Townsend, on behalf of the settlers.

No. 4. Certificate of Assistant Secretary Hopkirk, that no reply to such petitions had been furnished up to 27th October 1845.—*See* page 3 of printed petition of 1847, left with Mr. Elliot.*

No. 5. Memorial of aforesaid date, of F. J. Cheshire and Geo. Strong, deputed to wait on Lord Metcalfe, in Montreal.

No. 6. Reply of his Lordship.

No. 7. Letters to David Thorburne, Commissioner, to whom deputation had been referred in reply aforesaid, but which letters are unanswered.

No. 8. Instructions from clerk of peace of Gore District, for assessment of township of Tuscarora, and certificate of said assessment—(*see* page 24 of printed petition, No. 20).†

No. 9. Petition of F. J. Cheshire, of 11 February 1846, upon being elected district councillor for Tuscarora.

No. 10. Reply to aforesaid, from Dominic Daly, Provincial Secretary, “that the petition was transferred to Commissioner of Crown Lands.”—*See* Letter No. 2, in document (A.) herewith.‡

No. 10½. Requisition from the settlers in 1847, for petitioner to proceed to Montreal, “acting in the matter as to his judgment seemed best.”

No. 10¾. Statements and correspondence in reference to audience of petitioner and Sir A. N. Macnab with Lord Elgin at this time.

No. 10 a. Statements of Major Campbell, Private Secretary, and Chief Superintendent of Indian Affairs, and refusal of further audience with Lord Elgin, on account of some, then as now, undefined charge of violence.

No. 10 b. Letter of petitioner to sheriff of district, and reply “on the part of the officers entrusted with the execution of the writs, that there was evinced on your part and theirs, every disposition quietly and peaceably to submit to the fiat of the law.”

No. 10 c. “Montreal Pilot,” edited by Honourable F. Hincks, containing editorial article, charging F. J. Cheshire with meeting the sheriff armed with a rifle, and threatening his death, denying that there was any such letter as aforesaid from the sheriff in existence.

No. 11. Petition of the settlers, presented to the Provincial Legislature by Honourable Robert Baldwin.

No. 12. List of witnesses and documents required, and submitted to Committee appointed upon aforesaid petition.

No. 13. Reply of Colonel Prince, Chairman of said Committee.

No. 13 a. A statement of petitioners to the said Committee.

No. 14. Report of said Committee, or of said “John Prince,” and two members thereof, and in the absence of the required and very essential witnesses and documents.

No. 15. (Legislative No. 88.) Third session, 2d Parliament, 11th Victoria 1847. Bill—An Act to incorporate the British North American Mining Company. Mr. Prince. Printed by Lovell & Gibson, Montreal.” In this Bill certain parties are incorporated, including “John Prince.”

No. 16. Discussion in the House upon second reading of said Bill. “No Government survey had been made of the lands.”—Hon. Mr. Aylwin. “He (Mr. Sherwood) had invested 1,000*l.* in the speculation, in common with Mr. Hincks, Lemoine, and Mills.”

No. 17. Letters from Angus Macdonnell, Esq., showing that speculators aforesaid had entered upon or truly “squatted” upon lands of the Indians, neither surrendered by them, or surveyed by the Government.

No. 18. Expenses attending the sending up of 100 of the Rifle Corps to Lake Superior, when the Indians, after years of protest by petition and deputation to her Majesty’s Canadian Government (the speculators or “squatters” aforesaid) assembled in force, determined to hold to their own.

No. 19. Account of trial of the two noble old warriors, Chinguaconcy and Nebanigoshing,

* The Petition of F. J. Cheshire to the Legislative Assembly of Canada. Printed by order of the Assembly, 3d Session, 2d Parliament, 11 Vict., 1847. (This voluminous Document is not reprinted with the present collection).

† See above.

‡ See Letter to Editor of “Hamilton Spectator,” 6 November 1852. (Not reprinted with the present collection).

Nebanigoshing, Messrs. Macnold and Wharton Metcalfe, when it shall take place; said trial having been traversed from time to time by said Honourables Francis Hincks and Lewis T. Drummond, her Majesty's Canadian advisers, themselves trespassers on the unsundered lands of the "poor Indians," and the prosecutors, or persecutors of the settlers aforesaid on surrendered Grand River lands, ostensibly for the benefit of the "poor Indians."

No. 20 (herewith).* Petition of F. J. Cheshire, printed by order of the Legislative Assembly, 3d Session, 2d Parliament, 1847, a few days prior to prorogation of the House by Lord Elgin.

No. 21. Petition of the same to Lord Elgin, on his arrival in Hamilton, within an hour's drive of the disputed lands, in October 1847.

No. 22. Remonstrance of Douglas Fraser, Esq., and others, upon incarceration of petitioner in Hamilton gaol in January 1848, at the opening of Provincial Parliament, at the very time Honourable Robert Baldwin, who presented petition No. 20, had told petitioner to attend in Montreal, and a Committee should be appointed, and he would bring up the said petition.†

No. 22*a*. Memorial of Gore District Council to Lord Elgin, in reference to aforesaid incarceration, and the general proceedings. Copy herewith.‡

No. 23. Lord Elgin's only reply to aforesaid.—See letter of Honourable Adam Ferrie to D. Fraser, Esq., document (B.),§ herewith; a contrast here of assertion upon gross misrepresentation to Lord Elgin, and fact, as sworn to in affidavit.

No. 24. F. J. Cheshire's petition, No. 11, from Hamilton Gaol to Lord Elgin, in reply to foregoing misrepresentation to Adam Ferrie.

No. 25. Old District of Gore: Ancaster, Brantford, Binbrooke, Barton, Glandford, Onondaga, Saltfleet, Tuscarora, Seneca, Oneida, and the city of Hamilton (Wentworth); Beverley, Esquessing, East Flamborough, West Flamborough, Nassagaweya, Nelson, Trafalgar, and Dumfries (Halton); as appears by 8 Vict. c. 7, dividing these lands into townships for municipal purposes.

No. 26. Precept of two magistrates of the district to F. J. Cheshire, as township clerk of the township of Tuscarora, to assemble the inhabitants thereof for election of the usual municipal officers.

No. 27. Notice issued in accordance therewith.

No. 28. Letter of James Durand, district clerk, to F. J. Cheshire, stating that the council of the district of Gore had appointed him enumerator for the township of Tuscarora.

No. 29. Letter from the same to the same as town clerk of the said township, with instructions that Tuscarora had been added by the district council to the township of Onondaga, as junior township.

No. 30. Assessment roll for 1849 for Tuscarora, amount of assessment, 2,111*l.* 8*s.*; the amount for 1846, 6,382*l.* 8*s.*—See 24th page, document No. 20.

No. 31. "A list of township officers for united townships of Onondaga and Tuscarora. Mr. Hassard, and the other assessors have to return their assessment rolls complete before the 2d Monday in May, or pay a penalty." (signed) Robt. Wade, Township Clerk. The penalty under municipal Act for non-performance of the appointments is 20*l.* The penalty imposed upon Mr. Hassard and others, "dealt with according to law," 2 Vict. c. 15, and the subsequent *ex post facto* Acts, were 30 days incarceration in Hamilton gaol.

No. 32. Map of Canada, by Blackwood, showing "Reserve for the Six Nations Indians," on the Crown lands bordering on Lake Huron.

No. 33. Copy of map of township Tuscarora, now lying in the office of the united counties of Wentworth, Halton and Brant, and duly certified by "Thomas Parke, Surveyor-general," in 1845, and upon which there is no mention of "reservation," or any other "double purpose" for the Indians.

No. 34. Map of Canada, by Canada Company, with similar reservation marked as in Map 32.

No. 35. Map of Upper Canada, published in 1852, showing the position of Tuscarora assigned to the new county of Brant, and immediately joining the progressing Buffalo and Brantford Railroad.

Petitioner feels confident that a perusal of even a title of the foregoing documents, together with Mr. Little's withering exposure, must convince your Grace, and every impartial mind, that the carrying on of this case against petitioner and the other settlers, has been a series of almost inexplicable blunders, "a compound jumble of fictions, assumptions and miserable contradictions," which

* See note respecting this Paper at previous page.

† Petitioner was the only one of the settlers incarcerated, though all had returned to their homes after ejection.

‡ Page 14.

§ See Letter to the Editor of the "Hamilton Spectator," 8 May 1851. (Not reprinted with the present collection.)

which have been alike unwarrantable as they have been cruel and tyrannical; and, reflecting upon the known business habits of your Grace, trusting to the righteousness of the cause; emboldened by the consciousness that no matter in what part of the world a British subject may be injured, his case needs only to be known in the proper quarter to gain him ample redress; petitioner has the hope (and hope has borne him up through years of continued, and aggravated, and crushing wrongs), your Grace will cause such action to be taken in the matters complained of, as will render that justice to the persecuted settlers which is so much their due, and which they have so long, and so patiently, and so peaceably waited for, and with petitioner now struggle for.

And your petitioner, as in duty bound, will ever pray.

On behalf of the Settlers,

(signed) *Frederick John Cheshire,*
Cambridge Villa, 13, Norfolk-road,
St. John's Wood, Regent's Park.

20 January 1853.

— No. 6. —

COPY of a LETTER from *F. Peel*, Esq., M. P. to *F. J. Cheshire*, Esq.

Sir,

Downing-street, 26 February 1853.

I AM directed by the Duke of Newcastle to acquaint you that his Grace has had before him your petition of the 20th ultimo, together with the previous one which you addressed to Sir John Pakington on the 10th of December last, and that his Grace has carefully considered the statements made by you in these petitions, together with the contents of the former papers and reports which are on record in this department, respecting the case of the settlers on the Indian reserve on the Grand River, in Canada.

I am desired to inform you, that the Duke of Newcastle finds that this case has been repeatedly before all the constituted authorities in Canada; that it has been considered by the judicial tribunals, by Committees of the House of Assembly, by the whole Legislature, which made it the subject of legal enactments, and by different Governors-general.

If you and the others interested in the case duly submitted to these various authorities the considerations which existed in your favour, the Duke of Newcastle cannot doubt that they were weighed with justice; if, on the contrary, there are any material facts or arguments which have not yet been brought by you before the provincial authorities, it is to them that you should address yourself, for your case is one which it would be impossible to investigate and judge of satisfactorily anywhere else than in Canada; and the Duke of Newcastle cannot consent to interfere in it with the repeated conclusions which have been adopted by all branches of the Provincial Government.

I am, &c.
(signed) *F. Peel.*

— No. 7. —

(No. 15.)

COPY of a DESPATCH from his Grace the Duke of Newcastle to Governor the Earl of *Elgin*.

My Lord,

Downing-street, 25 February 1853.

WITH reference to my predecessor's despatch to you, No. 81,* of the 2d of November 1852, enclosing the copy of a letter which he had caused to be addressed to Mr. Douglas Fraser, respecting the complaints of certain settlers on the Indian lands situated on the Grand River, I have the honour to inform your Lordship that I have received from Mr. Cheshire, who has repaired to this country, a letter and various documents on the same subject; and I enclose for your information the copy of the answer which I have desired to be addressed to Mr. Cheshire.

I have, &c.
(signed) *Newcastle.*

No. 6.
F. Peel, Esq. M. P. to
F. J. Cheshire, Esq.
26 February 1853.

No. 7. .
Duke of Newcastle
to Earl of *Elgin*.
25 February 1853.

* Page 9.

26 February 1853.

— No. 8. —

No. 8.
F. J. Cheshire,
Esq., to F. Peel,
Esq., M. P.
7 March 1853.

COPY of a LETTER from *F. J. Cheshire*, Esq. to *F. Peel*, Esq., M. P.

Cambridge Villa, St. John's Wood,
7 March 1853.

Sir,

ON my arrival in Great Britain, deputed by the settlers on surrendered, surveyed, and valued lands, on the Grand River, C. W., to lay their deep wrongs before the imperial authorities, to whom we had been referred again, and again, and again, by the statements of the Canadian Executive, privately to deputations, and publicly in their places in Parliament, as hereinafter set forth in this, as it has already been in former communications, Lord Dudley Coutts Stuart, on our behalf, and in continuance of that kind interest which for years he has taken in this question, waited upon his Grace of Newcastle, and afterwards wrote me, "His Grace desires me to say he wishes you to call upon Mr. Merivale (who is joint Under Secretary of State with Mr. F. Peel) and state your case to that gentleman; the Duke will afterwards be happy to see you himself." On the following day (11 January) I waited upon Mr. Merivale at the Colonial Office; he had not expected me so soon, and being engaged, placed me in communication with Mr. Elliot, to whom subsequently, *i. e.*, the 20th of January's date, I handed in a brief epitome of our case, at the same time intimating that I held myself in readiness, upon notice to my address, to produce before his Grace, to substantiate the correctness of our position, the various documents held by me and referred to as above.

I have now the honour to acknowledge yours of the 26th ultimo, which has crossed mine of the 23d, with enclosures to his Grace. You inform me "his Grace has carefully considered the statements made by you in these petitions, together with the contents of the former papers." In reply to this I have to remark, that a "careful consideration" can only be come to upon examination of documents still in my possession, "with the contents of the former papers," acknowledged by the Colonial Office in 1847, but of which the Under Secretary writes to Lord Dudley Coutts Stuart on the 5th of June 1848. "I have caused a search to be made amongst our records, and I can now safely say that we possess no information upon the subject (signed) *B. Hawes*."

I am fully aware that if such documents so transmitted to, and acknowledged by, the Colonial Office in 1847, together with such documents as I may be able to lay before his Grace, and such other documents which the Canadian authorities have been from time to time notified to produce, but which they have either ignorantly, negligently, or wilfully failed to do, were before his Grace, the conclusion now under consideration would not have been arrived at as "respecting the case of the settlers on the Indian reserve on the Grand River in Canada." And as to its being an Indian reservation, your letter, sir, I must be allowed to say, sets out with an untenable assumption, which could only have been arrived at in the absence of required documents, which, had they been produced, as so long desired, and if they shall be so produced, will fully prove that the lands in question are not an "Indian reserve." And such first false premise broken down, the whole superstructure of subsequent assumptions will naturally fail. And I now proceed to call attention very briefly to a few facts (those stubborn chieftains) which, to every impartial mind, will fully prove my position. And,

1st. As to imperial proclamation of Geo. 3, in reference to Indian lands, (*see page 19, J. Little's pamphlet.*) "The surrender of January 1841 (page 10, of document 20) being the only authority giving the Government jurisdiction over these lands as distinguished from these imperial instructions. "We do therefore, with the advice of our Privy Council, declare it to be our Royal will and pleasure, that no Governor-general in any of our colonies do presume upon any pretence whatever to grant warrants of survey, &c. &c."

2d. Instructions from the Surveyor-general's department, and the field notes of the townships of Seneca, Oneida, Onondaga, and Tuscarora, completed in the spring of 1842.—*See pamphlet of J. Little, page 20, line 100.*

3d. Indorsement

3d. Indorsement of Surveyor-general upon map of Tuscarora now lying in the lands office of the district, *i. e.*, "Tuscarora, surveyed by William Walker, D. P. S., 1842. Surveyor-general's Office, Montreal, March 1845, (a true copy) signed, Thomas Parker, Surveyor-general." "I certify that the above is the description of a map of Tuscarora, one of the townships of the united counties of Wentworth, Halton and Brant, now lying in this office." (signed) C. O. Counsell, 13 August 1852.

4th. Letters from reported occupants of these lands, seeking direction thereupon from the Government, and replies thereto. "Upon return of the inspection and valuation, the lands will be for sale to the first applicant."—Pamphlet, J. Little, pages 21 and 22.

5th. The Act 8 Victoria, cap. 7, setting forth Tuscarora, not as an "Indian reserve," but as belonging to the then old district of Gore (and by the Act setting forth the new territorial division, Tuscarora is also added to the new county of Brant) for judicial, municipal, and all other purposes.

6th. Instructions by precept from magistrates of district, in accordance with above, to F. J. Cheshire, to assemble inhabitants of Tuscarora for election of municipal officers.

7th. Further instructions to same as township clerk of Tuscarora, from the warden and municipality of the united counties.

8th. Instructions from clerk of peace of old district of Gore for assessment of the township of Tuscarora, and certificate from assessment roll, that amount of assessment was 6,382 *l.* 8 *s.*—See Document 20, page 24, with my first petition of January 20.

9th. Further assessment roll for Tuscarora, now with petitioner.

10th. A list of township officers for the united townships of Onondaga and Tuscarora, appointed by municipality of said townships, and ending with these instructions, "Mr. Hassard and the other assessors have to return their assessment rolls before second Monday in May, or pay a penalty," (which penalty is 20 *l.*) (signed) R. Wade, township clerk, and with the seal of the municipality.

It is evident, sir, that the officers connected with an "Indian reserve" are imperial appointments, and it is equally evident from the aforesaid ten plain facts, that these lands in dispute are part and parcel of the public domain, and the *bond fide* occupiers thereof not only are entitled to the pre-emption of purchase, but to ample compensation for the very heavy losses which they have been put to by the blunders, or something worse, of the agents of the Government.

As regards the various other premises of your letter, it will, I think, be conceded on all hands that, after "a careful consideration" of the aforesaid facts, it would be unnecessary to enter upon them, the more especially as such letter is a nearly verbatim copy of assumptions of various officers of the Indian Department, which have very frequently been most fully shown to have no foundation in fact; and the documents set forth in my first petition to his Grace, and which for so many weeks I have held myself in readiness to produce, will most fully prove the utter recklessness of those assertions, which, as one of Her Majesty's Imperial Government, you have so very unwittingly been induced to indorse. I must, however, shortly refer to these matters "considered by judicial tribunals," and assert, without fear of contradiction, that they have not been heard before that dearest tribunal, the pride and boast of Britons, a jury. And I need not remind you, sir, that there is a compact between Queen and people that "no subject should be exiled, or in any shape whatever molested, either in his person or effects, otherwise than by judgment of his peers and according to the law of the land." And this is what I—all of us contend for—will bow to; but to Indian agents assuming the jurisdiction over lands long removed as aforesaid from their control, and further assuming the judicial functions in matters and lands (even if Indian lands) in which they are each so deeply interested, and have been proved to be speculators in, as judges, and the only jury over us, we will not bow to—no, never.

The "Committee of the House of Assembly," had the matter referred to it, and petitioner furnished a list of documents and witnesses required, as will be seen, and also that they were not called for or examined, *see* letter of Colonel

John Prince, the chairman of that committee referred to, Document No. 13, with petition No. 1, to his Grace; and also J. L. page 17.

"House of Assembly, Friday evening at 8½, p.m., Colonel Prince presents his compliments to Mr. Cheshire, he has received Mr. Cheshire's letter, and as the special committee meets at 11 o'clock to-morrow (at least it has been summoned for that hour), he then will take the sense of such Committee, whether the distant witnesses named in the letter, ought to be summoned or not." Those witnesses were not sent for, as the House was prorogued a few days after; and upon that Committee, one of the unprincipled Indian agents, declared that the names to the petition, upon which they were sitting (signed by the settlers), were all forgeries. When the present supplicant to the British throne for simple justice, drew up on behalf of the settlers Document No. 20, the House received it, dispensed with its usual forms, in order to afford an early hearing; ordered it printed, but before this could be done, Lord Elgin prorogued the House, and Document No. 24, with second petition to his Grace, will prove that before its re-assembling in January 1848, care had been taken that petitioner and his documents should not come before "the whole Legislature," he being illegally incarcerated by Indian agent warrants.

And as to "legal (?) enactments." Failing in the application of 2 Vict. c. 15, to these matters and lands, which 8 Vict. c. 7, with the various other facts 1 to 10 aforesaid, had proved inapplicable; these Indian agents, aided by a few of their speculating abettors, finding the difficulty and danger of their position, and fearing actions for false ejections and imprisonments, have, under very suspicious circumstances, endeavoured to obtain indemnification by an *ex post facto* law "smuggled through the Legislature on the morning succeeding the evening of the festivities provided for the entertainment of the guests of the city of Toronto from Buffalo, when a quorum could scarcely be counted, certainly not of sober men; and when the members, in the exuberance of their feelings, were pelting each other with paper Acts of Parliament; and poor Malloch, smarting under the effects of a well-directed one from the hand of the Knight of Dundurn, vowed he would shy the inkstand at his head, even if for the feat he should run the risk of being expelled the House on the morrow.

These, sir, are matters of history; you and myself, and our proceedings, will add a somewhat to that history. Our Canadian, and your English papers (and Jonathan joined in the fun) made merry at the time upon the subject: but I had not expected that such a smuggle, under such circumstances, would ever obtain the endorsement of a member of the Imperial Government as a "legal enactment," and the more especially as the President of the Council denied all knowledge of the introduction of such a measure. No notice had been given. And even if these lands were "Indian reserve" the measure of "legal enactment" must emanate from Her Majesty's Government or the Imperial Legislature. And here, sir, I would ask, why all this looseness and carelessness in reference to "Indian reserves;" and, on the other hand (though appreciated), care and precaution as to "clergy reserves?"

And as to "different Governors-general," the opinion of Lord Metcalfe is set forth already, Document 20, p. 10. "Neither justice or a due regard to the Indian interests required, or would justify such a proceeding." "That the surrender to the Crown in 1841, was a wise measure, and should be strictly adhered to by the Indians, as the sale of these lands would place them in a state of affluence;" and further set forth in printed document, being affidavit, with second petition to his Grace. And the manner in which another Governor-general has treated the subject, may also be gathered by reference to Documents No. 21 and 24, with petition aforesaid.

Again; "if you, and the others interested in the case, duly submitted to these various authorities, the considerations, &c." is fully met by 14th, and following clause of Document No. 20, p. 4, which show the absence of the necessary documents upon the trial, and the forcing on of the trials by the Indian agents, *ex parte*, and in the face of applications for said documents from the Government, and the conviction obtained on *ex parte* evidence during the time such documents were "laid before the Governor-general for his con-si-der-ation."

Upon a careful consideration of these and other facts I can adduce, I can assure you, sir, that the Duke of Newcastle will find that this case has not "been repeatedly before all the constituted authorities of Canada," and he will at the same time perceive the heartless and cruel treatment the settlers have received from those authorities before whom it has been so referred, but in vain.

The

The Duke of Newcastle appears of opinion—"case is one which it would be impossible to investigate and judge of satisfactorily anywhere else than in Canada," and this would seem to support my suggestion in 18th clause of petition of 10th December last, to Sir John S. Pakington: "That a commissioner be immediately appointed, one who is untrammelled by any local influence or attraction, and all present proceedings be at once stayed.

Lastly, "the Duke of Newcastle cannot consent to interfere in it with the repeated conclusions which have been adopted by all branches of the provincial Government." I beg to say, in reply, that upon its last introduction to the provincial Government, upon motion for address to his Excellency for a return of all papers and correspondence upon this subject, Honourable F. Hincks as premier of Canada, rose in his place and stated, "The British Government were very anxious to get rid of the trouble and cost of the Indian Department, and any interference of that House would bar them doing so immediately." And as to again crossing the Atlantic, without some definite arrangement; the instructions which have brought me to England on behalf of the settlers, backed by the protest against their persecution, both by the municipality of the district, and by more than 3,000 of the most respectable merchants, magistrates, and inhabitants of the vicinity, and obtained in a very few days, preclude my doing so, and in the face of the further fact, as Lord Dudley Coutts Stuart can testify, equally with the documents already before the British Government, the matter has already, since April 1847, been referred backwards and forwards five times across the Atlantic, and I feel sir, that this sixth and last application on British soil, to the servants of that most Gracious Sovereign, whose high prerogative it is to afford justice and succour to the oppressed, cannot any longer be neglected or disregarded without bringing us all to one very painful conclusion—that neither before a jury of our country, or its Parliament, or the representative of the Sovereign in Canada, or Her servants the Imperial Government at home, have we been able to obtain redress for our deep and crying wrongs. In fact, that in Canada we have not a transcript of the British constitution, nor from Great Britain the assurance of that boasted constitution, being our shield from the oppressors.

I am, Sir,
(signed) *Frederick John Cheshire.*

— No. 9. —

COPY of a LETTER from *F. Peel*, Esq. M.P., to *F. J. Cheshire*, Esq.

Sir,

Downing-street, 21 March 1853.

I AM directed by the Duke of Newcastle to acknowledge your letter of the 7th instant.

I am desired to acquaint you in answer, that the Duke of Newcastle can only regret that you should not believe that you are likely to receive justice in Canada; but with reference to the unwillingness you express yourself to feel again to cross the Atlantic without obtaining the decision of your case which you desire, I am to point out to you that you came to England without any communication on that step, with either the Provincial or with Her Majesty's Government in this country; and I am to state that his Grace feels it due to yourself to apprise you, that he must definitively refuse to interfere in this matter with the decision of the Provincial Government, by which alone it can be properly investigated, and to which it would have been your proper course to make your application, instead of repairing to this country.

I am, &c.
(signed) *F. Peel.*

No. 9.
F. Peel, Esq., M.P.,
to *F. J. Cheshire*,
Esq.
21 March 1853.

— No. 10. —

No. 10.
F. J. Cheshire, Esq.
to F. Peel, Esq.
28 March 1853.

COPY of a LETTER from *F. J. Cheshire, Esq.* to *Frederick Peel, Esq., M.P.*

Cambridge Villa, Norfolk-road, St. John's Wood,
28 March 1853.

Sir,

* Page 22.
† Page 30.

I BEG to call your attention to mine of the 7th,* and also 18th† instant, to which I am without reply, nor am I aware if such letters have been laid before the Duke of Newcastle, and if not, may I request you will do so immediately. When the documents and other facts therein referred to shall be examined, as they must be, a consideration of the importance of the subject will be arrived at, and a conclusion very different to the one communicated in yours of the 26th ultimo, will be the result of that consideration; and it will then be fully proved whose "case is without foundation," who has been guilty of "an imposition;" and that such men as Sir A. N. Macnab, the Honourable J. H. Cameron, and David Duncombe, Messrs. Isaac Buchanan, Archibald Kerr, Daniel Macnab, Jusone, &c. &c., included in the 3,000, who signed our petition to Lord Elgin and his Executive; and last, though not least, the kind and long-continued interest of Lord Dudley Stuart, have not been given, name or fame to "an imposition," or to the support of "an impostor."

Believing myself to be entitled to know the nature of the report of Lord Elgin, as referred to first clause of my petition, of 10th December last, to Sir John Pakington, and also if any reply founded upon that report has been furnished to Mr. D. Fraser on behalf of myself and fellow settlers; I have again to request that I may be informed if such report has been made, if such reply, and what has been given, and if not, why not?

I take the opportunity of embodying in this communication the "Extract of a letter from Canada," in reference to the proceedings of the Indians towards the settlers, as referred to in mine of 18th, as having been handed the Duke of Newcastle by Lord Dudley Stuart.

"The Indians, and old David Thorburne, have been playing a few more pranks; in the first place, Peter Smith arrested George Anderson, in the latter part of last month, to take him to goal, on the old warrant, for 30 days; one of the children was very ill at the time, and Mrs. Anderson said she would sooner leave the place than he should go to goal. Peter said that would do as well, and if he would consent to do so, he would see if he could get an Indian house for him to go into, until he could make arrangements and go somewhere else. Anderson agreed to do so on condition that he should be allowed to feed his cattle there for the winter, and to cut his wheat next fall. Peter said he might, so Anderson moved out into an old house of Green's (Indian), and the Indian moved into his house. A few days after, Newhouse made a "bee" of Indians, and drew away Strongs' hay, two stacks, about six tons, and shared it amongst them, before the Strongs discovered there was any gone. They went to Dr. Digby for a warrant to arrest the Indians for stealing the hay, but Digby told them that he had received orders from the Government not to interfere in any difficulty that might occur between the Indians and the Whites. In the next place, Peter Smith and Huffman were in the bush, seizing goods for that fine of 5*l.*; they have taken "Eagles" waggon, cutter, and hay, and three of poor Sam. Todd's cows, and a colt of Jno. Todd's, and a yoke of oxen of Watson's; they took them over to Bayard's, and have advertised them to be sold on this day week, if the fine is not paid. I have now told you all the troubles, and hope you will not meet with much in England."

I beg to direct the particular attention of Her Majesty's Government to the relative position in which these Indian tribes stand, as described in various Imperial proclamations, "the faithful friends and allies of us and our Royal progenitors;" and to protest for myself, for the persecuted men whom I represent, and for the noblemen and "highly respectable" gentlemen, who, by their signatures and countenance have supported us against the employment of Indians (semi-savages) for such purposes, by Her Majesty's representative in Canada, who, by such proclamations aforesaid, is designated as trustee of these tribes, they being minors in law.

There cannot be a question as to the impropriety of such employment, nor of the consequences which will naturally arise, if emigrants, upon arriving in
Canada,

Canada, are first directed by one branch of the Government to locate themselves upon the "surveyed lands of the Crown," and 15 years afterwards required to abandon their improvements upon the fiat of speculating Indian commissioners, (and not for the benefit of the Indians, for Lord Metcalfe has said in 1844, "the sale of these lands would place the Indians in a state of affluence"), or to be hunted out from those homes by a band of semi-savages, nor can there be a question as to the illegality of such employment.

Herewith I beg to furnish copy of proceedings taken in 1841 against the Wm. Strong above referred to, and it will be seen that from that charge of trespass he was discharged, and told by the commissioner to proceed with his improvements; yet in 1851, the Indians burnt down his house and buildings, and escaped unpunished. Embolden by the Indian Department protection, they in 1853 band themselves together to steal this poor man's hay, and they take away two stacks of six tons, and divide it amongst them. Strong applies to a magistrate for a warrant against the robbers, and he is told, the Government, *i. e.*, the Indian Department, presided over by Lord Elgin, has passed its ukase to suppress the privileges of protection to British subjects against the marauding, hay-stealing, cattle-driving, house-breaking, house-burning attacks of "Her Majesty's faithful friends and allies;" that he, Digby (magistrate), "had received orders from the Government not to interfere in any difficulty that might occur between the Indians and the Whites."

I have to remark in conclusion, that the days of Arcadia are gone by, that British subjects will not, cannot be crushed, as were the poor Acadians; that the importance of this subject demands the earliest and most imperative attention of Her Majesty's Government, and very anxiously awaiting your reply,

I remain, &c.
(signed) *F. J. Cheshire.*

Enclosure in No. 10.

Encl. in :

Document in reference to William Strong, previously referred to.

PROVINCE OF UPPER CANADA:

To William Strong,

WHEREAS information and complaint hath been made to me, James Winniett, Esq., one of the Commissioners, duly appointed under the Great Seal of the said Province, in pursuance of an Act of the Parliament of the said Province, passed in the second year of the reign of her present Majesty, intituled "An Act for the protection of the lands of the Crown in this Province from trespass and injury;" that a large quantity of timber, and timber trees have been unlawfully cut down upon said land in the Gore District, by said William Strong, and also that the said William Strong has lately entered upon and possessed himself of a certain portion of the said Crown land in said district, and also for other trespasses committed on said Crown lands by said William Strong. These are therefore to require you, the said William Strong, to appear before me at the office of John R. McDonald, in Brantford, in the Gore District, of our said province, on Tuesday, the 23d day of November next ensuing the date hereof at the hour of 12 o'clock, noon, of the same day, to answer the said information and complaint and to be further dealt with according to law.

Given under my hand and seal, this 10th day of November 1841.

(signed) *James Winniett,* (l. s.)
Commissioner.

I certify that the above is a true copy of the original summons, signed "James Winniett," and also copy of the affidavit of service made by Joseph Gardener, although not sworn to, but which was written in part, and partly printed, and which appears to have been intended by the said Joseph Gardiner to make affidavit of service to said summons.

I also certify that said cause was tried on said 23d day of November 1841, and the complaint made by David Thomas, an Indian, was discharged for want of sufficient proof, and at the same time that said complaint was discharged, I believe that said Commissioner advised said William Strong to go on and make improvements on the land then complained of.

(signed) *John R. McDonald.*

I certify that the foregoing is a true copy of one sworn to before me by John R. McDonald, Esq., at Newport, in the township of Brantford, in the Gore District, this 28th January 1846.

(signed) *D. Thorburn.*

— No. 11. —

No. 11.
F. Peel, Esq., M.P.,
 to *F. J. Cheshire,*
Esq.
 5 April 1853.

COPY of a LETTER from *F. Peel, Esq., M.P.* to *F. J. Cheshire, Esq.*

Sir,

Downing-street, 5 April 1853.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 28th ultimo, drawing attention to some previous communications from you, to which you state that you have not yet received an answer.

I am desired to acquaint you in reply that an answer was returned to your letter of the 7th ultimo on the 21st ultimo, and as it may be inferred from your present inquiry that this answer has, by some accident, not reached your hands, I am directed to enclose a duplicate copy of it, and to acquaint you that this communication contains the Duke of Newcastle's decision on your application.

I am, &c.
 (signed) *F. Peel.*

— No. 12. —

No. 12.
F. J. Cheshire, Esq.
 to *F. Peel, Esq.,*
M. P.
 8 April 1853.

COPY of a LETTER from *F. J. Cheshire, Esq.* to *F. Peel, Esq., M.P.*

Cambridge Villa, Norfolk-road, St. John's Wood,
 8 April 1853.

Sir,

I HAVE to acknowledge receipt of yours of 5th instant, wherein your refer to a document of 21st ultimo, of which you enclose duplicate. I beg to remark that both myself and friends have been most anxiously waiting for such reply, and also for your Government, that the only documents received by me or them from the Colonial Office since my application here and arrangements through Lord D. C. Stuart on 10th January last, are yours of 26th February last, to which mine of 7th ultimo was reply. Lord D. C. Stuart subsequently waited a second time upon the Duke of Newcastle; an audience was appointed for 21st ultimo, *see* letter of Mr. Roberts, private secretary to his Grace.

Mine of 18th ultimo contained a request for certain documents essential upon that audience, *i. e.*, "the Report of Lord Elgin," as commanded by Sir John Pakington, in a reply to application of D. Fraser, Esq. on our behalf in May last. "The reply to Mr. Fraser, founded upon that report," if given (and it had not been given up to my leaving Canada), and if not given, I have now only to repeat that in the position I stand connected with this question, and backed by the numerous and highly respectable bodies who have come forward protesting against the cruel proceedings carried out against myself and fellow settlers, in the face of the reply of Premier of Canada, Hon. F. Hincks, on 2d August, in his place in Parliament, as referred to 1st clause of my petition of 10th December last to Sir John Pakington. I have not to enter upon any of the averments of your duplicate aforesaid, but simply to direct attention to the fact that Sir John Pakington, on the part of Her Majesty's Government, must, upon the representations of Mr. Fraser, have been fully convinced that a case was made out for the interference of the British Government, or he would not have commanded such "Report." And I have now merely to direct attention to the required documents, a reference to which are essential to all parties interested or implicated in these most inexplicable and cruel transactions. And waiting your early reply,

I am, &c.
 (signed) *Fredk. J. Cheshire.*

— No. 13. —

No. 13.
F. Peel, Esq., M.P.,
 to *F. J. Cheshire,*
Esq.
 15 April 1853.

COPY of a LETTER from *F. Peel, Esq., M.P.* to *F. J. Cheshire, Esq.*

Sir,

Downing-street, 15 April 1853.

I AM directed by the Duke of Newcastle to acknowledge your letter of the 8th instant alluding to certain documents, for which you say that you applied in a letter dated the 18th ultimo, and repeating the expression of your dissatisfaction with the proceedings in your case.

I am

I am desired to acquaint you that no such communication as the previous letter from you of the 18th of March,* to which you refer, is on record as having been received at this department. I am to state that this, however, is immaterial, since, for the reasons already communicated to you, the Duke of Newcastle has come definitively to the conclusion that your case is one which can only be properly considered by the Provincial Government, and I am directed to inform you that his Grace must therefore wholly decline to enter into any further discussion of it with you in this country.

• Page 30.

I am, &c.
(signed) *F. Peel.*

— No. 14. —

COPY of a LETTER from *F. J. Cheshire, Esq.* to *Frederick Peel, Esq., M.P.*

No. 14.
F. J. Cheshire,
Esq., to F. Peel,
Esq., M. P.
18 April 1853.

Sir,

Cambridge Villa, Norfolk-road,
18 April 1853.

I HAVE to acknowledge yours of 15th, in reply to mine of 8th, referring to unanswered letter of 18th ultimo, with the request to be furnished with certain documents preparatory to an audience fixed for 21st ultimo. You are "desired to acquaint me that no such communication is on record as having been received at this department;" and you further say, "I am to state, however, that this is immaterial, &c.," and that "case is one which can only be properly considered by the Provincial Legislature."

I am of opinion that it is "material" for inquiry, as to such letter safely delivered at the Colonial Office not being recorded, the more especially as the original one of 21st ultimo, sent in duplicate with yours of 5th instant, I am well assured was not delivered to this address.

As to the "case being one for the consideration of the Provincial Government," need I, sir, again refer Her Majesty's Government to the decision of the President of the Executive Council, the Hon. Mr. Merritt and the Hon. Mr. Baldwin, Attorney-general, West, given to a deputation from the settlers in Montreal in 1849, that the case was one "under the management of the Home Government." Should that document be "on record," it will be sufficient reply to this point. And if not on record, why not. It was acknowledged by B. Hawes to Lord Dudley Stuart on the 14th January 1850; and further, sir, have you not on "record" the proceedings of the Provincial Legislature for 2d August 1851, when Hon. Francis Hincks, the Premier of Canada, resisted any interference of the "Provincial Legislature," on the ground that all matters connected with Indians or Indian lands, were under the control of the Imperial Government.

Are these lands Crown lands? or are they Indian lands? If the former, I grant that they are under the control of the "Provincial Legislature." But, says Messrs. Merritt, Baldwin, and Hincks, they are Indian lands, and so say Lord Elgin and Colonel Bruce. Your letters of 26th February also fixes these lands as "on the Indian reserve," and it must be quite needless for me to argue that department, whose interests are all watched over, whose officers are all Imperial appointments, cannot be under control of the Provincial Legislature no more than the troops and commissariat department. Under these circumstances I have to direct your particular attention to the subjoined duplicate of my still unanswered communication of 18th March last,* and deprecating, as I think I have just cause to do, the serious detention I have experienced since 10th of January last, when certain very clear and distinct arrangements were entered into with Lord Dudley Stuart, none of which have been carried out, excepting my own action thereupon.

• Page 29.

I remain, &c.
(signed) *Frederick John Cheshire.*

Encl. in No. 14.

Enclosure in No. 14.

(Duplicate.)

Cambridge Villa, Norfolk-road,
18 March 1853.

Sir,

I HAVE to call attention to mine of 7th instant, and also to petitions Nos. 1 and 2 to his Grace of Newcastle, with reference to various documents emanating from the Canadian Government (Indian Department), and also very important ones in reference to the settlers on Crown lands, from the municipalities of the district, counties, and townships in which these lands are situate.

Finding from a letter of Mr. Roberts, private secretary to his Grace of Newcastle, dated the 16th, that an audience is at length granted in reference to these important matters, for 3 P.M. on Monday next, I beg also to direct attention to a communication on our behalf made to the Colonial Office, in May last, by Douglas Fraser, Esq., to which Sir John Pakington made reply at the time, that "before taking the matter into consideration, he had commanded that the same be transmitted to Lord Elgin for his report."

I have to observe, that no communication upon that report, or upon any decision Sir John Pakington may have come to, has been made to Mr. Fraser or to myself, now deputed to England on behalf of the settlers. May I therefore request that such decision or reply, if any, may be made known to me preparatory to that audience.

I would further beg to direct attention to the extract from a letter I have just received from Canada on the subject of the Indians, who are treated as minors in law, being employed as officers of the law in still harassing the settlers, and this in the face of proclamation of 9th November 1848, wherein they are designated as "faithful friends and allies of us and our Royal progenitors."

I am, &c.
(signed) *F. J. Cheshire.*

"P. S.—The extract was handed to his Grace by Lord Dudley C. Stuart," and it is subsequently embodied in mine of 28th ultimo.

— No. 15. —

No. 15.
F. Peel, Esq., M.P.,
to *F. J. Cheshire,*
Esq.
26 April 1853.

COPY of a LETTER from *F. Peel, Esq., M.P.* to *F. J. Cheshire, Esq.*

Sir,

Downing-street, 26 April 1853.

I AM directed by the Duke of Newcastle, to acknowledge your letter of the 18th instant, accompanied by the copy of a previous one from you, dated the 18th ultimo, and I am to acquaint you that his Grace finds nothing in this communication to alter his previous views. I am to refer you to the decision already more than once intimated to you, that your case is one with which Her Majesty's Government must decline to deal.

With regard to the inconvenience to which you allude of your detention in England, I am directed to remark to you that you came here, and that you remain, entirely on your own risk and responsibility, and without any previous communication with the authorities in Canada to whom you ought to have addressed yourself, and that the Government can in no way be answerable for the consequences of that step.

But having already conveyed to you repeatedly the conclusions adopted on your application, I am to state, that the Duke of Newcastle considers that no good would result from prolonging the discussion with you, and that he must decline any further correspondence on the subject.

I am, &c.
(signed) *F. Peel.*

— No. 16. —

No. 16.
F. J. Cheshire,
Esq., to *F. Peel,*
Esq., M.P.
28 April 1853.

COPY of a LETTER from *F. J. Cheshire, Esq.,* to *F. Peel, Esq., M.P.*

Sir,

Manchester, 28 April 1853.

I HAVE to acknowledge yours of the 26th instant, to my address here, in reference to my letters of the 18th ultimo and instant, you say, "His Grace finds nothing in these communications to alter his previous views; and I am to refer you to the decisions already more than once intimated to you, that your case is one with which Her Majesty's Government must decline to deal."

I do

I do not at present deem it incumbent upon me to prolong the correspondence, as another course will be shortly taken. Your communication of 26th February last, referred this matter a sixth time across the Atlantic; it was so sent.

A Quebec "Gazette," of 25th March, just to hand, gives me account of its introduction to the Legislative Assembly on 23d, by a motion "for papers connected with disputes connected with the Indian claims on the Grand River," when the Honourable F. Hincks, reiterating his assertion of 2d August 1851, said, "As to the Indian question, it was entirely under the control of the Imperial Government." And "Mr. Merritt also contended that the Indian affairs were out of the control of the Provincial Parliament." Thus confirming his own and Mr. Baldwin's views, as given to deputation in 1849.

Now, sir, this is the seventh reference of the case across the Atlantic, from the Colonial to the Imperial Authorities, and *vice versa*; and as I have been kept from 1843 in such an unenviable state of suspense—as a family of twelve are not kept, even in Canada, on air—as most of the poor fellows I represent, some of them occupying the lands from 1826 to 1832, have been almost ruined whilst this see-saw, Imperial, colonial, irresponsible, Indian Department policy has been carried on; and as yours of 26th instant informs me of an eighth reference back, viz. "case is one with which Her Majesty's Government must decline to deal." I should feel obliged if you, sir, or any other member of Her Majesty's Government could inform me who is to deal with the case? where the shuttlecock is likely to fix itself, or be fixed, terrestrially, territorially, or otherwise, on this side the year of Grace 1863?

I am, &c.
(signed) *Frederick John Cheshire.*

— No. 17. —

(No 26.)

COPY of a DESPATCH from his Grace the Duke of *Newcastle* to Governor the Earl of *Elgin*.

My Lord,

Downing-street, 25 April 1853.

WITH reference to my despatch No. 15, of the 25th February last, transmitting to you a letter which had been addressed to Mr. Cheshire respecting the complaints of certain settlers on the Grand River, I enclose, for your information, the copies of four further letters, which it has been necessary to address to Mr. Cheshire. It is not requisite to forward the applications by which these letters were elicited, as the tenor of them will be sufficiently apparent from the replies.

I have, &c.
(signed) *Newcastle.*

No. 17.
The Duke of Newcastle to Earl of Elgin.
25 April 1853.

~~21 March 1853.~~
~~5 April 1853.~~
~~15 April 1853.~~
~~26 April 1853.~~

CANADA.

COPIES or EXTRACTS of Representations to the Secretary of State, on behalf of the Settlers on the *Grand River*, in *Upper Canada*; together with COPIES or EXTRACTS of the Replies thereto, and CORRESPONDENCE on the Subject with the Governor-General of *Canada*.

(*Lord Dudley Stuart.*)

Ordered, by The House of Commons, to be Printed,
20 August 1853.

1003.

Under 8 oz.