

vested in the heirs, assigns, devisees or other legal representatives of such deceased person according to the laws of the province in which the land is situate, as if the patent had issued to the deceased person during life." The plaintiff claimed title to the lots in question, now part of the city of St. Boniface, under a patent from the Crown issued in 1906 in the name of Charles Larence, his grandfather, who died in February, 1870, before the creation of the Province of Manitoba. The patent recited the above Act and also contained the following recitals: "And whereas the legal representatives (within the meaning of the above enactment) of the late Charles Larence etc., are entitled to a grant of said lands, and application has been made by or on behalf of them or some of them for such patent." "And whereas, having in view the provisions of the above enactment, we deem it expedient for good and sufficient reasons to issue such grant to or in the name of the said late Charles Larence," and the habendum was "To have and to hold the same unto the said Charles Larence his heirs and assigns forever."

*Held*, that, as the lands in question were not in any province at the date of the death of Charles Larence, the above statute did not cover the case, or avail to validate a patent issued in the name of a deceased person which, without the support of some statute was a nullity and that, as the plaintiff was unable to establish a title to the lands independently of the patent, his action must be dismissed.

Although satisfied that there must have been some error or oversight in drafting a statute, the Court cannot correct the error or supply the omission, for that would be to legislate and not to interpret the Act. *Commissioners of Income Tax v. Pemsel* (1891), A.C., per Halsbury, L.C., at p. 543, and *In re Sepulchre's*, 33 L.J. Chy. p. 375 followed.

*Coyne and A. C. Campbell*, for plaintiff. *Laird, Jamieson and Nason*, for defendants.

Mathers, C.J.]

[March 21.

IN RE BYERLEY AND CITY OF WINNIPEG.

*Expropriation of land by municipality—Assessment by arbitrators of value of land taken—Value at time of making award or at date of by-law to expropriate—Winnipeg Charter, ss. 823-823.*

Under s. 825 of the Winnipeg Charter: 1 & 2 Edw. VII. c. 77, when the city has passed a by-law for the expropriation of