The grounds set forth on obtaining the rule are—

First. The award is not final, as the 28th section of the said Act requires the Commissioners to take into their consideration (sub-section *e*) the number of acres of land possessed or occupied by any persons who have not attorned to or paid rent to the proprietor, &c., who claim adversely, &c. (Sub-section *f*.) The quitrents reserved in the original grants, and how far the payment of the same have been waived or remitted by the Crown.

Second. The award is uncertain, as it does not show for what the money is awarded,—either the number of acres, or for whose estate,—or quality thereof.

Third. The Public Trustee has, in his 14 days' notice, described, by metes and bounds, certain lands therein, which he is not authorised to do by statute.

Fourth. This is alleged a delegated authority which does not appear, and it is not known whence derived.

Fifth. The money alleged to be lodged in the Treasury is of a species not a legal tender in this province.

Before proceeding to consider these points, it will be well to notice the general objects of the Act of Assembly in question. On the face of the Act the object is expressed to be "to convert the leasehold tenures into freehold estates, upon terms just and equitable "to the tenants as well as to the proprietors." The term "proprietors" also received legislative definition, and is expressed to include and extend to any person for the time being, receiving or entitled to receive the rents, issues, or profits of any township lands (exceeding 500 acres in the aggregate) in his own right, or as trustee, guardian, or administrator for any other person, or as a husband in right of or together with his wife.

The lands to be dealt with are declared to be leased or unleased, occupied or unoccupied, cultivated or wilderness,—saving always any estate not exceeding 1,000 acres when in the proprietor's actual occupation, but not otherwise tenanted. Exception was taken by counsel for the Rule, that the "Land Purchase Act, 1875" was passed contrary to the "British North American Act, 1867"; but I am of opinion that it comes within section 92 of the last-mentioned statute, where, in sub-section 13, authority is expressly given to the Province to legislate exclusively on "property and civil rights "in the Province."

It may properly be asked, in the first instance, what estates, in point of quality, the Local Act is intended to embrace and operate upon? By sections 32 and 33 it is very plainly expressed that the estate to be conveyed to the Commissioner of Public Lands is to be an estate *in fee simple*, and *nothing* less. Whether it is intended that the Commissioners, by the uniting or compounding of *lesser* estates, in some manner represented or brought before the Court, are to convert them into a fee-simple for the purposes of the Commissioner of Public Lands, does not, by any means, appear so clear. It was urged by one of the counsel opposed to the rule that tenants for life, remainder-men, and reversioners in any one certain tract of land, if entitled together to the fee-simple estate therein, would each one be bound by the statutory notice being duly published; and that, therefore, whether appearing before the Commissioners or not, would be one and all bound by a conveyance in fee-simple executed by the Public Trustee. The total absence, however, of all special provisions or machinery in the Act to give effect to such an important power as this, is itself sufficient to warrant the conclusion that such could never have been the intention of the Legislature. The Act, in terms, it is true, provides for the dealing with estates held by husbands in right of, or together with, their wives, respectively; but this evidently means instances where the wife is the owner in fee, and it legalises the necessity of dealing with the husband as representing by his marital right the fee-simple of his wife, while he is in receipt of the rents, issues, and profits of the estate. A party coming before the Commissioners' Court as tenant for life only, although, unquestionably, in receipt of the rents, issues, and profits of the estate; yet, if the remainder-man should keep aloof, it does not appear by the Act how the fee-simple is to be transmitted to the Commissioner of Public Lands. Does the Act of Assembly intend that the Land Court Commissioners should deal with a case of this kind manifestly appearing to them, and yet award the fee-simple value of the estate, and leave the tenant-for-life and remainder-man to obtain the proportions of their money through the medium of the Supreme Court? I do not think so.

The Commissioners power, at least their compulsory power, is confined only to estates in fee-simple. My object in inquiring into and considering this point now will appear as I further proceed in my judgment; and, while remarking on it, I may here refer to the cases of *Regina* v. *London and N. West. Rail. Co.*, 22 L. T. 346, and *Brandon* v. *Brandon*, 11 L. T., (N. S.) 673, in both of which cases the Jury summoned under land