

omission, for the reason already stated, affects the proprietor's interest in the whole subject matter, and also fails to provide him with a protection against future claims on account of quit rents to which, under the Act, he was entitled.

Description.

The third ground is that the award is uncertain, because it gives no description of the lands in respect of which compensation is awarded, and which are to be conveyed by the public trustee to the Commissioner of Public Lands. The Counsel for the Plaintiff argue, that as the award states the compensation to be given for all the lands owned by the proprietor on the townships named in the Commissioner of Public Lands, notice of intention to take it is sufficiently certain, inasmuch as the lands to be conveyed by the "Public Trustee" can be ascertained by showing what lands the proprietor owned at the time of making the award, but the notice of the Commissioner of Public Lands only states all the Proprietors Township Lands in this Island *liable to be taken under the Act*, including Lots 7, 10, 12, 30, and 47. The caption to the award is "in the matter of the Commissioner of Public Lands for the purchase of the Estate R. B. S., and the Land Act of 1875, and the award is *The sum awarded under the Act is \$76,500.*" This is the whole award, and there is, as it appears to me, nothing to show in respect of what lands the compensation is awarded, for it is consistent with the award that the Commissioners may have thought that R. B. S. had no title to Lots 10 and 47, and, therefore, they had no jurisdiction over them, or that they awarded no compensation for them. Or to put it in another way. The notice is, I will take all your lands liable, treat this as the submission, then the first question is, what lands are liable? Does an award simply saying \$76,500 is awarded answer the question, by showing what lands are liable? But assuming, for argument sake, the award may imply that compensation was awarded for his lands in all the Townships named. In considering this point, we must first see whether, looking at the general provisions of the Act, any *intention* regarding this matter of description is manifested. It is evident that when under Sec. 2, the Commissioners give notice of intention to purchase, they cannot be possessed of the information necessary to give a particular description of the land, and, therefore, a general notice of all lands liable to be taken under the Act, must of necessity be sufficient. But when the proprietor has appeared in Court, then the Act provides that, "the said Commissioners shall have full power and authority to examine on oath any person who shall appear before them, either as a *party interested* or as a witness, and to summon before them all persons whom they or any two of them may deem it expedient to examine upon the *matters submitted to their consideration, and the facts which they may require to ascertain in order to carry this Act into effect*, and to require any such person to bring with him and produce before them any book, paper, plan, instrument, document, or thing mentioned in such subpoena, and necessary for the *purposes of this Act*. And if any person so subpoenaed shall refuse or neglect to appear before them, or appearing, shall refuse to answer any lawful question put to him, or to produce any such book, paper, plan, instrument, document, or thing, whatsoever, which may be in his possession or under his control." The 24th Sec. authorises the Commissioners to enter upon all lands concerning which they shall be empowered to *adjudicate*, in order to make such examination thereof, as may be necessary, without being subjected to obstruction, with a right to command the assistance of a Justice of the Peace and others, in order to enter and make *such examination* in case of opposition. Here, then, we see the Act, by the 20th Sec., gives the Commissioners ample power (to quote the words of the Act) to ascertain all facts which they may require *in order to carry the Act into effect*. While the 24th Sec. clearly confers authority which would enable them not only to examine the quality of the land, timber, &c., but also to cause such surveys to be made as might be necessary for *carrying the Act into effect*. Surely those powers were given not only to enable them to value the land, but also to frame such an award *concerning it* as would enable all others who had to aid in working out and *giving effect to their decision* to perform their parts also. Then, when we look at the 32nd Sec., we find it provided, that when the sum awarded is paid into the Treasury, the "Public Trustee" shall "execute a conveyance of the Estate of such proprietor." What Estate and what proprietor? Why, of the Estate of a proprietor whose lands the Commissioners have adjudicated upon, and which the 20th and 24th Sections gave them ample means of accurately describing for the Public Trustees' information. But this is not all; the 32nd Sec., goes on, "which said conveyance may be in the form to this Act marked (B)." When we turn to this form after reciting the payment into the Treasury, it proceeds: Grant unto X. Y., Commissioner of Public