

could, in their Lordships' opinion, more conclusively negative the limitation to a tenancy-at-will.

Their Lordships have thought it right to enumerate these sections so as to shew that, in their view, the reference in sec. 68 to a tenancy-at-will from the Crown must be taken in conjunction with the whole of the other provisions of the Statute, and that on a full view of these no substantial doubt can remain that the interest of a mining claimant in an unpatented claim falls, in the language of the Execution Act of Ontario, within the category of "lands," subject, as in the *Glenwood Case* and the *Temiskaming Case*, to restrictions, to possible forfeitures, but also capable of transfer and of becoming vested in successors after death.

As to the point that no transfer in writing executed by the claimant himself has been made, and that therefore no record could take place, their Lordships would be slow to hold—if the true nature of the execution debtor's rights be what has been above described—that the lack or refusal of his signature should render ineffective against his property the course of law in execution for debt. Reference, in the opinion of the Board, may be usefully made to the powers conferred upon the Commissioner by sec. 123, providing for claims, rights and disputes being settled by him. The section goes on to say that "in the exercise of the power" he "may make such order and give such direction as he may deem necessary for making effectual and enforcing compliance with his decision." The section particularly refers to questions and disputes in respect to unpatented mining claims, including this, namely, whether such an unpatented claim "has before patent been transferred to or become vested in any other person."

Even apart from the statute, the Ontario officials and Courts might well have been considered vested with a power to restore against such a defeat of the law as would have been occasioned by the want, or, say, by the refusal, of the signature of an execution debtor. But under sec. 123 of the Mining Act such a power appears to be conferred in sufficiently wide terms. The writ of execution, in short, should have been treated as the equivalent of a transfer and recorded as such.

Their Lordships will humbly advise His Majesty that the judgments of the Courts below should be reversed and