which had been purchased on the faith of existing laws, and long enjoyed in the fancied security that in this Province it would be as safe as property has heretofore been considered to be in other parts of the British Dominions. There is no doubt that although the preamble of an Act is said to be the key to its intention, its grasp may, by the enacting clauses, be extended to subjects not within the preamble. But still, in considering the question of public necessity which was so much discussed on both sides at the Bar, we may look with much confidence at the preamble; and if we do, and apply the maxim, *expressio unius est exlusio alterius*, instead of finding in the Act evidence of necessity, the implication rather is, that the Legislature felt it could not say that there was any. But putting that aside, if, as contended for, the Imperial Act does act restrictively on the power of the Provincial Legislature, then it would be the duty of this Court, in the same way as it is the duty of Courts in the United States, on similar questions, to decide whether such a public emergency existed as would justify Legislative interference under the right of Eminent Domain. Now, to put a strong case, but one which might occur, suppose A. and B. had come to this Island two years ago, and that A. had purchased 1,000 acres of wild land, and B. had purchased 2,000 of cultivated land, that A. did not occupy his, but that B. was in actual use and occupation of his 2,000 acres. The Act authorizes the Government to take 500 acres from A. and 1,000 acres from B. There can be no doubt of this, the words are too plain to admit a doubt.

The first Sect. is, "the word Proprietor shall extend to and include any person "receiving or entitled to receive the rents, issues, and profits of any township lands in "this Island (exceeding 500 acres in the aggregate), whether such lands are leased or "unleased, occupied or unoccupied, cultivated or wilderness, provided that nothing "herein contained shall be construed to affect any proprietor, whose lands in his actual "use and occupation, and untenanted, do not exceed 1,000 acres." And what is the Government to do with the unleased lands when it gets them? Simply sell them to others. In every case that I am aware of, either English or American, the property was taken for the purpose of being used by or for the convenience or benefit of the public, or of such considerable numbers of persons, as with respect to some certain locality, might be called the public, and not for the purpose of being afterwards appropriated exclusively to the use of one or a limited number of such public, whether such exclusive appropria- "tion took place through sale, gift, or otherwise. Ch. Kent, Vol. 2, 340, says, it un- "doubtedly res's, as a general rule, in the wisdom of the Legislature to determine when "public uses require the assumption of private property, but if they should take it for a "purpose not of a public nature, as if the Legislature should take the property of A. and "give it to B., or if they should vacate a grant of property, or of a franchise, under the "pretext of some public use or service, such cases would be gross abuses of their discre- "tion and fraudulent attacks on private right, and the law would clearly be unconsti- "tutional and void." It must be remembered that no amount of compensation can condone the impropriety of taking private property when no such public necessity exists, for the right to take is founded on public necessity alone, but the right to compensation rests on very different grounds, in the words of Ch. Kent. "It is a necessary attendant "on the *due and constitutional* exercise of the power of the law, given to deprive an "individual of his property without his consent, and is founded in *natural* equity, and "is laid down by jurists as an acknowledged principle of *universal* law." Now, could any Court hold that any public necessity existed for giving the Government of this Island such a power over private property, in the case I have supposed, as this Act gives. When I put the case, the Attorney-General replied, that whatever the effect of the words might be it was not intended by the Legislature that the Act should apply to such a case. Perhaps it was not, it is possible that the policy stated in the preamble so exclusively occupied its attention, that it served as a veil to conceal the real effect of some of its enactments. It may be said I have put an extreme case, but *Lord Denman in Reg.* v. *Arkwright*, 13 Jur. 303, when supposing an equally strong case to test the construction of an Act, says, "that a case so extreme is not likely to happen, in fact is "no answer to the argument against the construction which makes it possible. Without "supposing any ill-intention in the Commissioners and scarcely any negligence, they "may be deceived, and at all events the rights of others ought not to be left unpro- "tected." So here, without supposing the Government would apply the powers of the Act to such a case, where was the necessity for subjecting the rights of all owners of property to such interference, besides, it must be recollected that when a constitutional question regarding the validity of an Act of this description is raised, the Court are bound to decide on what it finds within the four corners of the Act, not importing anything that is not there, and not excluding anything that is. The Imperial Act has bone and sinew, but like the dry bones of the valley, it has yet to be clothed by many a