

show the names and quantity held by squatters, who have held for less than 20 years, and whether anything (I don't say how much) has been deducted on their account. There should also be a schedule showing the amount of arrears due from each tenant and how much of these arrears has been allowed to the proprietor in each case. I think this last necessary. There are two lines in the 20th sec. which I think have been very much overlooked. They are these, "*and the facts which they may require to ascertain in order to carry this Act into effect.*" The meaning of these I take to be, is facts which it is their duty to ascertain in order to give full effect to this Act. This goes far beyond what they themselves have to perform; it points to all that has to be afterwards done by others to carry out what they have begun. To what the Public Trustee has to do, and to what this Court has to do in making distribution, I see it stated that in our case the arrears are assigned to Cardinal Manning. If the award finds a lump sum, and the Cardinal's claim comes in to participate in the distribution, how could we ascertain how much of the lump sum was awarded in respect of the land, and how much in respect of arrears of rent? We could make no distribution in such a case, and the same thing may happen in other cases, where arrears are due to a deceased proprietor, and the present proprietor is not his personal representative; we would be compelled to hold the award void in such case: because the Commissioners had not made it so that the Court could "*carry it into effect.*"

Whatever may be thought of the character of this Act, I think it very unfortunate that such important and expensive proceedings should be rendered nugatory for want of proper care in conducting them, and I have made these last observations in the hope that they may assist in preventing these yet to be made from running on the rocks on which their predecessors have suffered shipwreck.

I have only stated some matters which at present strike me as essential to the validity of the award; there may be many other things which circumstances may render necessary, but the direction that the Commissioners are to do and find every thing necessary *to carry the Act into effect*, if carefully borne in mind, will enable any draughtsman to avoid the omission of anything that is necessary.

*Mr. Justice Hensley.*—In giving my decision upon the present occasion, I shall follow the course pursued by the Chief Justice, in alluding only in the first instance to the estate of R. B. Stewart (the award in respect of which is not sought to be set aside), which involves two points only, which, although taken in the two other cases of the estate of Charlotte Antonia Sullivan and the Hon. Spencer Cecil Brabazon Ponsonby Fane, may not require to be decided upon in them, in arriving at a judgment. The application in this case of R. B. Stewart is simply for the purpose of restraining the Public Trustee from conveying upon two grounds: (1.) That the Public Trustee has included in his notice, given under the 32d section of "*The Land Purchase Act, 1875,*" to Mr. Stewart of his intention to convey his estate more land than belonged to Mr. Stewart, or more than under the circumstances of the case as detailed in several affidavits filed, the said Public Trustee had a right to convey to the Commissioner of Public Lands as belonging to the estate, under the provisions of the Act in question. (2nd.) Because the money paid by the Government into the Colonial Treasury to the credit of this estate, under the 30th section of the Act, as certified to by the Colonial Treasurer under the 31st section, was not so paid in legal tender money, and therefore, in fact, has never yet been legally paid in. As regards the first ground this again resolves itself into three divisions: 1st, Lands *bond fide* conveyed by Mr. Stewart before the original initiatory notice, given to him under the 2nd section of "*The Land Purchase Act, 1875,*" by the Commissioner of Public Lands, to the effect that the Government of this Province intended to purchase his Township Lands under its provisions. On this division I may at once state that it appears to me no difference of opinion can exist, and that of course the Public Trustee's deed must not include any such lands as those just described. The description of the lands to which this division relates, can be settled on reference to the affidavits, and need not here be further referred to. (2nd.) Excess in the statement in Trustee's notice of the actual area of the land to which Mr. Stewart was entitled. This, involving no attempt to except any particular farm or piece of land but merely to correct an over estimate of area (which, from the affidavits filed on behalf of the Public Trustee, would seem to have arisen from his having estimated each Township in accordance with the original grants to contain 20,000 acres, whereas the actual area in some cases, according to the boundaries, has turned out to be less) involves no legal point requiring consideration; and being simply a matter of detail, can also be settled in accordance with the facts ascertainable on reference to the affidavits. (3rd.) Lands conveyed or attempted to be conveyed by Mr. Stewart to several of his