

The EARL OF DUFFERIN to the EARL OF CARNARVON.

Ottawa, February 24, 1876.

(Received March 9.)

MY LORD,

I HAVE the honour to enclose herewith for your Lordship's information a report signed by the Attorney-General, the Solicitor-General, and the Solicitor for the Commissioner of Public Lands of Prince Edward Island, detailing the proceedings before the Commissioners under the "Land Purchase Act, 1875," and the subsequent action in the matter before the Supreme Court of that Province.

January 27.

2. Your Lordship will perceive from this Report that the cases adjudicated upon while Mr. Childers acted as Commissioner were those of the proprietors whose names are here noted in the margin.

William Cundall, Eliza M. Cundall, Charlotte A. Sullivan, Robert B. Stewart, Sir Graham Montgomery, The Hon. S. P. Fane, Lord Melville, James F. Montgomery, Colonel Cumberland, Miss Fanning.

3. That of these proprietors Miss Sullivan and Mr. Fane, having applied to the Supreme Court of Prince Edward Island for a rule setting aside the award made to them, obtained on the 17th of November last a rule nisi, which rule the Court on the 17th of January following made absolute, declaring the award in toto void; and that an appeal has been entered from this decision to the Supreme Court at Ottawa.

4. That Mr. R. B. Stewart's counsel, having applied first to the Court for a rule setting aside his award, withdrew the application, and pressed only for the continuance of an injunction restraining the Public Trustee from executing a conveyance of the property; and that finally the court having directed the awarded money to be paid into the Treasury in gold to the credit of the estate, Mr. Stewart was on January 27th served, pursuant to the Act, with a notice that within 14 days a conveyance of his estate would be executed by the Public Trustee to the Commissioner of Public Lands.

5. It was upon the consideration of these three cases, as your Lordship will remark, set forth in paragraphs 11 to 16 of the Report, that the Supreme Court discovered the most radical defects of the disputed awards.

6. The Report further shows that Lord Melville, Sir G. Montgomery, William Cundall, and Eliza M. Cundall applied to the Court on December 7th for an order for the payment of their awards, the deeds conveying away their estates having been executed on November 27th; that an order nisi was given, and that subsequently no cause against it having been shown, the Court ordered the awards in these four cases to be paid on the 1st of April, unless cause should be shown on or before that day.

7. That Mr. James Montgomery finally obtained a rule absolute referring back his award to the Commission on the ground of mistake committed by the Commissioners, and that it is probable, in the view of the absence from the Commission of Mr. Childers, the Chairman at the making of the award, fresh legislation will be required to authorise the re-hearing of the case.

8. That the cases of Lieut.-Colonel Cumberland and Miss Fanning were deferred until the decision of the Court was made known in those of Mr. Fane and Miss Sullivan.

9. At paragraph 19 the Report commences to notice the condition of the cases which came before the Commission after the appointment of Mr. Wilmot in the place of Mr. Childers, and your Lordship will learn that in these cases the Commissioners, awaiting probably the judgment of the Supreme Court on the applications before it, have filed no awards.

10. The Report mentions further some legal difficulties which appear likely to impede the settlement of more than one case that will come before the Commission when it re-assembles on the 26th of July, the day to which it now stands adjourned.

I have, &c.

(Signed) DUFFERIN.

The Right Hon. the Earl of Carnarvon,

&c. &c. &c.