

pendency of this action and its effect if valid is to usurp the functions of the Courts and to declare the rights of individuals in property in derogation of the ordinary law of the Province.

But the subject matter of the enactment falls clearly within the category of property and civil rights. The right claimed by the plaintiffs is, if anything, a right in property within the Province. So the right to bring an action is a civil right. And both have by sec. 92 of the B. N. A. Act been made subject to the legislative authority of the Provincial Legislature.

And where there is jurisdiction over the subject matter, arguments founded on alleged hardship or injustice can have no weight. As said by Lord Herschell in the *Attorney-General of Canada v. the Attorney-General of the Provinces* (1898) A. C. 700, when discussing the question of the relative legislative powers and authority of the Parliament of Canada and the Legislatures of the Provinces under the B. N. A. Act (p. 713) "The suggestion that the power might be abused so as to amount to a practical confiscation of property does not warrant the imposition by the Courts of any limits upon the absolute power of legislation conferred. The supreme legislative power in relation to any subject matter is always capable of abuse, but it is not to be assumed that it will be improperly used, if it is, the only remedy is an appeal to those by whom the Legislature is elected."

Lord Herschell added, "If, however, the Legislature purports to confer upon others proprietary rights where it possesses none itself, that in their Lordships' opinion is not an exercise of the legislative jurisdiction conferred by section 91."