

that, as their lordships themselves have said in a former judgment like all other powers, it may be abused. In proceeding to construe it, the Board first refers to and illustrates by the case of *The National Bolivian Navigation Company v. Wilson*, 5 App. Cas. 176, the well-established principle of the Common Law that when money has been received by one person which in justice and equity belongs to another, under circumstances which render the receipt of it a receipt by the defendant to the use of the plaintiff, the latter may recover as for money had and received to his use; and that this principle applies when money has been paid to borrowers in consideration of the undertaking of a scheme to be carried into effect subsequently to the payment, and which has become abortive. The judgment then proceeds as follows:—

“The present case appears to their lordships to fall within the broad principle on which the judgments in that case (i.e. the Bolivian case) proceeded. The lenders in London remitted their money to New York to be applied in carrying out the particular scheme which was established by the statutes of 1909 and the Orders in Council, and by the contracts and mortgage of that year. The money claimed in the action was paid to the Bank as one of those designated to act in carrying out the scheme. The Bank received the money at its branch in New York, and its general manager then gave instructions from the head office in Montreal to the manager of one of its local branches, that at Edmonton in the Province of Alberta, for the opening of the credit for the special account. The local manager was told that he was to act on instructions from the head office, which retained control. It appears to their lordships that the special account was opened solely for the purposes of the scheme, and that when the action of the Government in 1910 altered its conditions, the lenders in London were entitled to claim from the Bank at its head office in Montreal the money which they had advanced solely for a purpose which had ceased to exist. Their right was a civil right outside the province, and the legislature of the province could not legislate validly in derogation of that right. In the opinion of their lordships the effect of the statute of 1910, if validly enacted, would have been to preclude the Bank from