

to pass a statute "disposing of the fund in the same manner" as by the impeached Alberta statute—that is to say, that the Quebec legislature could have declared that the proceeds of the bonds should form part of the general revenue fund of the Province of Alberta, free and clear of any claim by the railway company; that the amount of the deposit should be paid over to the Treasurer of the Province; and that the Province should be primarily liable upon the bonds. Probably that is the only alternative to the assertion that the Province of Alberta could so enact. It has not a very attractive appearance.

If Mr. Labatt be correct in asserting that the decision of the Privy Council really was influenced in determining the *situs* of the fund by "the circumstance that the special account . . . was retained under the control of the head-office," he has furnished us with another example of "the handicaps" under which their Lordships labour in applying their attention to Canadian cases. Every court in Canada knows that there is *no* part of the work of a bank agency which is *not* under the control of the head-office. And no court, therefore, would hold that the *situs* of a fund could depend upon whether cheques were to be honoured under general instructions, or only upon special instructions, from the head-office. If, according to the memorandum given by the bank to the government (in the present case), the fund was in Edmonton, what possible effect upon its *situs* could the nature of the general or special instructions from the head-office to the local manager have as between the bank and the government?

The real reason for the decision of the Privy Council is not hard to find. The statute interfered with the contractual position of the bank in a way hard to justify—unless by the use which was intended to be made of it; and the Privy Council was, probably, influenced by feelings which Mr. Labatt himself entertains.

"Being strongly impressed with the desirability of placing, wherever it is possible, upon the British North America Act a construction which will preclude the Provincial Legislature from exercising their plenary powers in such a manner as to impair the obligation of contracts and confiscate property, I own that I should like to find some satisfactory ground upon which such a theory as is here set forth could be sustained."