

regulate the disposition of property and substantive rights appertaining thereto is not in all cases a necessary consequence of its power to regulate the merely "adjective right" of instituting an action, or to use his own words, "invoking and setting in operation the machinery of the Civil Courts." His failure to appreciate the distinction between the two categories of civil rights, or at all events to perceive its decisive significance in any discussion of the Alberta statute, is all the more remarkable, as that distinction is constantly recognized and acted upon in ordinary judicial proceedings. Both of the parties to such proceedings are assumed in every instance to possess the "adjective" right of submitting their claims or defences to the arbitrament of the court. But manifestly it is only the successful party who can be said to possess a "substantive" right in respect of the subject-matter of the litigation.

In the general language of the two statements in which Mr. Lefroy had expounded his doctrine prior to the time when I first undertook to criticise it (see CANADA LAW JOURNAL, Sept., 1914, pp. 480, 481), I do not find any words which indicate that he then appreciated the difficulty created by the fact that the Alberta statute dealt not merely with the "adjective" right of instituting an action in the Province, but also with the "substantive" right of the English bondholders to recover the trust-fund in question. I surmise, however, that since the time when he wrote these earlier statements, it may have occurred to him that the difficulty raised by the considerations to which I have been adverting must be provided for, if his theory of "civil rights" is to be sustained; for in the paragraph of his letter which follows the passage already quoted from his letter he says:—

"My position, therefore, is simply this: The lenders in London, so far as they had a right to sue the Royal Bank in Alberta, had a civil right in Alberta, and in like manner, so far as the Attorney-General of Alberta had a right to press his action against the Royal Bank in Alberta, he had a civil right in Alberta."

The latter clause of the sentence is no wise open to objection; but it is submitted that the theory propounded in the former is