

rights, apart from the operation of the statute, are admittedly superior to those of the person authorized to institute the action. The fundamental flaw which such a doctrine involves is so obvious that Mr. Lefroy's failure to perceive it is somewhat surprising. A statute which, either by its express terms, or by necessary implication therefrom, provides both that a certain person may institute an action, and also that it shall be determined in his favour, manifestly deals with two entirely distinct rights, viz., an "adjective" and a "substantive" right. Under the B.N.A. Act, a Provincial Legislature undoubtedly possess what may for the purposes of the present discussion be assumed to be an unlimited power in respect of authorizing the institution of actions in the Provincial courts. A statute by means of which this power is exercised has relation to a merely "adjective" right, the situs of which cannot possibly be in dispute. But if the Legislature undertakes to go further, and to declare that the person authorized to institute the action shall be successful therein to the extent of recovering the property which is the subject-matter of the proposed litigation, the statute is one which relates to a substantive right, and, if the property, or an interest therein, is claimed by a third person, its validity will obviously depend upon the situs of the property in question and of the right of the rival claimant. The conclusion seems to be unavoidable, that a theory of "civil rights" which ignores this aspect of the matter and its controlling importance must be unsound. Indeed, I cannot resist the temptation of suggesting that such a theory and the deductions drawn from it with respect to the decision of the Privy Council cannot be more aptly characterized than by the elegantly classical phrase, "fine flower of confused thinking," which Mr. Lefroy deems to be an appropriate description of portions of my own reasoning.

"I thank thee, Jew, for teaching me that word."

Assuredly it is only a very pronounced access of the malady of "confused thinking" that could have incapacitated my critic from realizing that the power of a Provincial Legislature to