

sing those rights antecedently to the enactment of the statutes which determine their disposition, intended by the British North America Act to create other law-making bodies fashioned in that novel mould which, if we are to accept Mr. Lefroy's views, is suggested by Lord Herschel's words.

My explanation of the relation of the judgment in *Dobie v. Temporalities Board* to the doctrine which I put forward as to the real scope and limits of the so-called plenary powers of Canadian legislatures is impugned on the ground that "the creation of a corporation does not necessarily involve any proprietary rights," but "merely the creation of an entity capable of becoming vested with proprietary rights." I am afraid that, until Mr. Lefroy favours me with some explicit authorities, I must decline to accept his theory that a corporate franchise is not a right of property. Such a privilege may in many cases be of small, and even merely nominal value, but, I should apprehend that, in the eye of the law, its value always remains an appreciable quantity.

Mr. Lefroy also thinks that, as "the doctrine of inherent lawmaking powers does not, on the authorities, apply to our constitution," my argument based on the presumed right of Canadian legislatures to exercise the right of eminent domain necessarily falls to the ground. Here again, I must decline to evacuate my position until I am referred to some judicial utterance going to prove that this general principle as to the non-existence of inherent powers extends to a sovereign power like that of eminent domain. And even if I am mistaken on this point, it is quite easy to reach by another road which avoids this difficulty the conclusion which my remarks on Mr. Lefroy's observations regarding the Expropriation Acts were intended to establish. If a legislature has the capacity to authorize the building of a railway, it must have the capacity to invest its grantees with such powers as are reasonably necessary to carry out the work, and one of those powers must clearly be that of compelling individuals to part with their property. Divorced from and unaided by such a power, a grant of a franchise for execution of an extensive public work would be, in almost any conceivable case, a mere barren formality.

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