

“possibly Mr. Ewart is prepared” to contend; and he points to “a very important phase” (pp. 486-7) which “has not been discussed at all”; and he says that “one of the crucial points” was “inadequately discussed”—which is all perfectly true. I had two reasons for not discussing the meaning of the phrase “civil rights within the Province”: (1) Because whatever its meaning might be, I believed the decision of the Privy Council to be bad; and (2) because, although reasonably certain that neither Mr. Lefroy nor Mr. Labatt is right as to the meaning, I am not sure that I can declare it. I have never had to study the subject.

Discussion of the meaning was unnecessary because clause 13 of section 91 of the British North America Act giving jurisdiction to the Provinces over civil rights in the Province was not (in my view) the clause which ought to have governed the decision. The railway company had been incorporated by the Alberta Legislature; the proceeds of the sales of its bonds were in Alberta;<sup>1</sup> the statute under attack as *ultra vires*, dealt with those proceeds; the effect of that statute, if *ultra vires*, would have affected the right of bondholders in England to sue the bank at its head office in Montreal for a return of their money; and my principal argument was that ample support for the statute could be found in clause 10 of section 91—“Local works and undertakings.” The following is an extract from my article:—

“Their Lordships hold that the statute was bad because of its effect upon a civil right outside the Province. Yet their Lordships agree that Alberta could have repealed all its legislation—could have cancelled the charter of the company, and could, thus, have deprived every bondholder (irrespective of his residence) of his civil right to sue the company anywhere. But what authority, for so doing, has a local Legislature? Clearly the sub-section ‘property and civil rights in the province’ has no bearing upon the subject. Fix attention upon that clause (as their Lordships do), and the conclusion necessarily is that the legislation was without authority—for the civil right with which they were dealing, is without the Province. Base your argument upon ‘local works and undertakings’ and the result is, just as clearly, the contrary. If, under that heading, all the rights of the bondholders,

1. “to the credit of the Province of Alberta—Alberta and Great Waterways Railway special account—in the Royal Bank of Canada, Edmonton.”