

It should be pointed out that the law of the United States stood in this position at the time the British North America Act was passed and this may have had some influence upon the framers of the Confederation Act.

It is pertinent here to remark that the Father of Confederation, who perhaps had more precise ideas upon the subject than any other, namely, Sir Oliver Mowat, in his administration of the Ontario Companies Act would not permit of an Ontario company being authorized to carry on business outside the Province. It was not until after his resignation as Attorney-General that an amendment of the Act was made permitting the incorporation of railways carrying on business outside of Ontario (1899), 62 Vict. (2) ch. 11, sec. 21. Moreover, the Extra-Provincial Corporation legislation was not enacted until later.

These historical references are made not for the purpose of indicating either present views or future progress in Canada, but to point out a narrow system which should be avoided. Further reference to the more recent developments in the United States will also be made.

It is necessary to follow the growth of the company difficulties which were indicated at the outset.

The capacity of Provincial companies was raised by the question propounded by the Court in *Canadian Pacific Ry. v. Ottawa Fire Insurance Co.* (1907), 39 S.C.R. 405, without any definite conclusion being arrived at. It was also raised in the questions propounded to the Supreme Court of Canada by the Governor-General in Council and argued in what is known as the *Company* case (1916), A.C. 598. A specific case raised in *Bonanza Creek Gold Mining Company, Limited v. The King* (1916), A.C. 566, disposed of the subject. Although the *Company* case was discussed before the Judicial Committee of the Privy Council, the decision in this case determined the matter. There is no use criticising the decision of the Judicial Committee. Undoubtedly it was contrary to the well-defined ideas of Canadian lawyers who had given the subject great consideration, and it developed a situation which was fraught with grave dangers in the advancement of company law, either by way of legislation or decisions