

tion that it is in the whole unlikely that the Privy Council should have made any serious mistake as to the incident of a banking system which is modelled upon that of Scotland, and which, in respect of such a detail of administration as Mr. Ewart refers to, is probably not very dissimilar to that of England. But the thought that finally relieved me of all uneasiness was, that the "control" mentioned in Lord Haldane's judgment was something essentially different from the control which is usually exercised by a bank with regard to money which is committed to its custody. An ordinary deposit merely creates the relationship of debtor and creditor between the bank and the depositor. But the arrangement under which the bank became the custodian of the proceeds of the bonds manifestly operated so as to render it the trustee of the bondholders for a special purpose, viz., the payment of portions of this money from time to time, as it was earned by the railway company. The Edmonton branch was merely its agent in respect of this function, and, if the railway work had progressed in the manner contemplated, each particular instalment that became payable would have remained under its control until the accounts had been passed and the money ascertained to be payable. As matters stood, it is perfectly clear that the head office would have been chargeable with a breach of trust if it had allowed any part of this fund to pass out of its direct control, until the railway company was actually entitled to receive it. That it never was so entitled is conceded. Hence the situs of the fund when the Alberta statute came into force was the same as it had been from the time when it was deposited in the Royal Bank at Montreal. This is an aspect of the matter which obviously had not occurred to Mr. Ewart when he wrote the passage quoted above. Let me invite him to consider it now. I venture to think that his failure to appreciate the all-important fact that the proceeds of the bonds constituted a trust-fund, not an ordinary deposit, goes far to justify the assertion in my former article, that his original criticism of *Royal Bank v. Rex* was "merely a superstructure of unsound doctrine, erected upon a basis of misstated facts."