"sums" of money may be "due or payable" by private persons? Surely not; yet, my lords, the Respondents quote the case of *Dyke* vs. *Walford* (5 Moore, p. 434) to support that proposition, for they say royalties here, means the same thing as *jura regalia*, there.

The Ontario Court of Appeal, though arriving at the same conclusion as to the jurisdiction, would not base their judgment on the word "royalties," as the Quebec Court had done, but discovered an intention to transfer—I will not say, to *sell*—the prerogative to the Local Legislature, in the words "all lands." But they overlook, or do not attempt to construe, the proviso at the end of section 109. The grant of "all lands," etc., is subject expressly to "any trusts existing in respect thereof, and to any *interest*"—that of the Sovereign, by virtue of her prerogative, as well as any—"other than that of the province in the same." This proviso qualifies the whole section. Private as well as public rights had to be considered in handing over the administration of the public lands to Local Legislatures. Sales had been made and rights acquired, which it became necessary to protect against unjust treatment by an arbitrary majority in legislatures which did not then exist. That proviso was intended to give a legal remedy against these new powers if they attempted to take away, or affect injuriously, the existing rights of any of Her Majesty's subjects in the old provinces. I trust this Court will not ignore the proviso.

The next point urged by the Respondent, and recognized by the Ontario Court as a correct inference in law, from the word "lands," is, 1st, that the estate, or interest of the Crown in escheats in Canada, is a "reversion," and, 2nd, that a grant of lands without more, in an Act of Parliament, conveys this reversion. I have tried in vain to find any authority for this doctrine as applied to lands in a colony. The Respondent, in his reasons against appeal, mentions no cases. Remembering the commendation of my legal preceptor in favour of an old book, which he said was the great storehouse of cases on the law of real property in England, especially concerning tenures, I resorted to *Touchstone*, and this is what I find there:—

"Grant of an estate in being by the king must recite the previous estate or else the grant of the new estate will be void."—*Shep. Touchstone, p. 76.*

"Misrecital of previous estate in a deed may pass the reversion in the case of a private person, but will be void in case of grant by the king."—*Ib. 77 and 245.*

"By grant of land in possession reversion may pass, but by grant of reversion land in possession will not pass." But this applies to private persons.—*Ib. 91 and supra.*

In Cruise's digest, vol. 5, p. 422, 423, I find it laid down that "where a reversion is vested in the Crown it could not be barred by common recovery, which barred reversions and estates tail," and again, "the Crown could not be deprived of any part of its property by ordinary conveyances which would divest subjects. An Act of Parliament expressly declaring that the reversion shall be divested out of the Crown is necessary." It is clear from all the authorities that nothing will be inferred or implied against the rights of the Crown. The reigning sovereign cannot even abandon a prerogative unless authorized by statute to do so.—(*Queen vs. Alloo Paroo*, 5 Moore, P.C. 303).