

resort to the Courts of the Province in which his company was incorporated?

3. Criticisms of other writers upon *Royal Bank of Canada v. Rex*.—

When I wrote the article which appeared in the February number of this journal I was not aware that the subject with which it dealt had previously been discussed by Mr. Lefroy, both in the *Law Quarterly Review* and in his treatise on Canada's Federal System, and by Mr. Ewart in the *Canadian Law Times*. Both of these learned authors have, I find, expressed the opinion that the decision of the Privy Council in the case of *Royal Bank of Canada v. Rex* was unsound. But their animadversions have been made from different points of view, and reflect entirely diverse sentiments regarding the tribunal whose judgment they condemn.

Mr. Lefroy's attitude is that of a critic who, having carefully studied all the reported decisions "upon questions arising out of the provisions of the British North America Act, 1867, relating to the distribution of legislative power between the Dominion Parliament and the Provincial Legislatures, has never seen the smallest loophole for criticism, or for doubt, as to the correctness of any one of them before this last judgment." (a) The spirit in which his censures have been uttered is, therefore, that of an unwilling witness who is compelled to give testimony unfavourable to the party whom he wishes to succeed. On the other hand, the feelings with which Mr. Ewart has undertaken his attack upon the judgment are those of a person in whose view it constitutes merely a striking illustration of his theory, that the Privy Council is incompetent to handle appeals from Canadian Courts. (b) He does not, like Mr. Lefroy, regard the case as a single aberration from the straight road of sound juristic doctrine, but treats it as a flagrant addition to a long list of errors by which litigants from the Dominion have in his opinion been seriously prejudiced. Mr. Lefroy pronounces his condemnation with reluctance and regret. Mr. Ewart's criticisms are

(a) *Law Quarterly Review*, vol. 29, p. 288.

(b) See the series of articles contributed by him to the *Canadian Law Times* during 1913.