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THE KING v. THE ROYAL BANK.

The strictures of Mr. J. S. Ewart, K.C., on the decision of the Judicial Committee of the Privy Council in the above case which appeared in a recent number of a legal contemporary do not appear to be well founded.

Where a critic of the decisions of the Highest Court of the Empire feels compelled to confine his criticism to a mere technical view of the case, one may rest assured that it is because he can find no fault with the substantial justice of the decision—such we think is the result of Mr. Ewart's criticism. Technically and as a matter of law he thinks the decision is at fault, but as a matter of substantial justice there is no fault to be found with it. We entirely agree with Mr. Ewart in so far as he finds no fault in the justice of the decision, and as regards his legal and technical objections, we are inclined to think his arguments have the singular merit of shewing that they are without any reasonable foundation.

Looking at the matter from the point of view of abstract justice and right, the merits of the decision are manifest. It is merely the giving effect to a well established principle of the Common Law which we cannot express better than in the Lord Chancellor's own words, viz. :—

“That where money has been received by one person which in justice and equity belongs to another, under circumstances which render the receipt of it a receipt by the defendant to the use of the plaintiff, the latter may recover as for money had and received to his use.”

Let us recall the facts. A company was empowered by the Provincial Legislature of Alberta to build a railway within the province, and, for the purpose of providing funds for the under-