

reason that the money in question was still in the hands of trustees for the bondholders when the controversy with respect to its disposition arose. If the construction placed by the Privy Council upon the facts in *Royal Bank v. Rex* is accepted as correct, there is plainly no distinction between the cases, so far as the element adverted to is concerned.

From the foregoing remarks it will be apparent I regard the portion of Mr. Ewart's criticism to which they relate as being merely a superstructure of unsound doctrines erected upon a basis of misstated facts. The remainder of that criticism is founded upon a misstatement of another description. There is no warrant whatever for his assertion that the decision in *Royal Bank of Canada v. Rex* "proceeds upon the ground that the Province had no power to deal with 'property and civil rights in the Province' in such a way as to affect a civil right outside the Province." The judgment does not contain a single word that indicates an intention on the part of the Privy Council to take the position thus imputed to it. What Mr. Ewart should really have said was, that, if his reading of the evidence is adopted as correct, the decision may be regarded as a precedent for the doctrine suggested by him. That is manifestly a proposition quite different from the one which he formulates. Yet the greater part of his article is devoted to the task of elaborating various "points" which in his opinion prove conclusively that the doctrine which he ascribes to the Privy Council is erroneous. As that doctrine is simply a figment of his own imagination, it would be a work of supererogation to analyse in detail all the arguments which he has marshalled against it. But a few passing remarks may be made with regard to one of them which raises a matter of general interest to students of Canadian constitutional law, and which was evidently regarded by Mr. Ewart as particularly conclusive.

After having referred to the fundamental doctrine that the British North America Act "makes an elaborate distribution of the whole field of legislative authority between two legislative bodies,"(e) he proceeds thus (p. 276):—

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(e) *Bank of Toronto v. Lambe*, 12 App. Cas., pp. 287, 298.