

renewals and receipts with a provision for avoiding the policy, renewal or receipt, in a Court of law, if the stamp is not affixed—is or is not direct taxation? Here we find words used which have either a technical meaning, or a general, or as it is sometimes called, a popular meaning. One or other meaning the words must have, and in trying to find out their meaning, we must have recourse to the usual sources of information whether regarded as technical words, words of art, or words used in popular language. We may consider their meaning either as words used in the sense of political economy, or as words used in jurisprudence in the Courts of law. Taken in either way, there is a multitude of authorities to show that such a stamp imposed by the Legislature is not direct taxation. As regards judicial interpretation, there are some English decisions and several American decisions on the subject, they all treat stamps either as indirect taxation, or as not being direct taxation. As regards the popular use of the words, two cyclopedias, at least have been produced showing that the popular use of the word is entirely the same in this respect, as the technical use of the word. That being so it is not necessary, as it appears to their Lordships for them to consider the scientific definition of direct or indirect taxation. All that is necessary for them to say is, that finding these words in an Act of Parliament, and finding that all of the then known definitions, whether technical or general, would exclude this kind of taxation from the category of direct taxation, they must consider that it was not the intention of the Legislature of England to include it in the term "direct taxation," and therefore that the imposition of the stamp duty is not warranted by the terms of the 2nd Subsection of section 92 of the Dominion Act.

In the case of *Lambe vs the Bank of Toronto*, the meaning of the words "direct taxation" was also considered by the Privy Council, and the definition of these words as given by John Stuart Mill was accepted as being one which is sufficiently accurate to define the difference between these two classes of taxes, and as one which was likely to have been present in the minds of those who passed the Confederation Act. This definition is quoted as follows:—

"A direct tax is one which is demanded from the very persons who it is intended or desired should pay it. Indirect taxes are those which are demanded from one person in the expectation and intention that he shall indemnify himself at the expense of another. Such are the excise or customs. The producer or importer of a commodity is called upon to pay a tax on it, not with the intention to levy a contribution upon him, but to tax through him the consumers of the commodity, from whom it is supposed he will recover the amount by means of an advance in price."

Taking this definition of direct and indirect taxation, and the Act which is now under consideration with its provisions for collecting the tax by means of stamps affixed to the contracts, or other written evidences of the transfers of stocks, bonds, etc., is it a direct or indirect tax?

The Stamp Acts under the authorities which I have cited, may be regarded as Acts providing for the raising of money by indirect taxation.

The entire section provides that the Stamps shall be supplied and fixed by the vendor, transferror or assignor, or by a broker who is entitled to recover the costs from the vendor, transferror, etc. I cannot think that this provision alone changes the character of the Act so as to make it a direct tax.

It is not a tax upon companies whose stock or bonds are being transferred. It is not a tax or a license fee payable by brokers or those who deal in stocks or bonds, but it is a tax nominally imposed upon the vendor upon each contract of sale of security, and which is based upon the par value of the securities sold, and which is to be paid by means of stamps affixed to the contract or other written evidence of the transaction.

By the Act which imposes this tax, the provisions of the general law relating to the issue and sale of stamps, are made applicable to it, and the very fact that the law requires that this tax shall be paid in stamps, which may be purchased by anyone and affixed by the purchaser of the securities, as well as by the vendor, demonstrates its indirect character.

It seems to me, that it was a matter of indifference to the Legislature who paid for the stamps which are affixed to these transactions, and that it must have been contemplated that the vendor of a security would take the fact of the payment of the tax into consideration in fixing the price at which he would sell, and that, therefore, it would enter into the price and become payable, not by the vendor, but by the purchaser. It must, I think, have been the expectation and intention that the vendor would indemnify himself at the expense of the purchaser, and that, therefore, it would be an indirect tax, quite as much as customs or excise duty, which though paid by the original importer, or manufacturer, would be taken into consideration by him in fixing the price at which the imported or manufactured article would be sold.

The fact that in certain cases the vendors might be willing to pay the tax themselves, and the fact that the amount of the tax is relatively very small does not, I think, affect the application of the general principle. In certain cases, an importer might be himself the consumer, the import duties or customs would be none the less an indirect tax.

If a tax were imposed by the Provincial Legislature upon the sale of any article of commerce—say boots and shoes—payable in the shape of a stamp to be affixed to the article, I think it would be considered that in practice this would be a tax which would be added immediately to the price of the article sold, and would come within the definition of an indirect tax, and I cannot see any distinction between such a tax as applied to com-