right. In the Province of New Brunswick the Supreme Court of that province so decided in the cases of Ex parte Owen (1) in 1881, and in Ackman v. The Town of Moncton (2) in 1884. When the case now in appeal came before that learned tribunal, the Chief Justice, speaking for the full court, held that its previous decision had been practically overruled by the Judicial Committee of the Privy Council in Webb v. Outrim (1), and that, as they could not distinguish that case from the one then before it, they were bound to reverse their previous decisions and uphold the constitutionality of provincial legislation imposing income taxation upon Dominion Government officials which they held that Act in dispute did.

On the argument before us it was contended that the radical and underlying differences in the constitutions of the Dominion and the Commonwealth were so great that little weight ought to have been given to a decision upon any one of them when sought to be applied to the other. Speaking generally, there is no doubt weight in the contention and care has to be taken, of course, so as to avoid necessarily applying observations alike apt and applicable to one constitution when the proper construction of the other is under consideration. In every case, it is a question as to the proper construction of the language of the constitutional Acts and, in reaching such construction, due weight must, necessarily, be given to the general scheme involved in the construction so far as that is apparent. But with this general and probably trite observation in every case the meaning of any clause is a simple question of the construction of the language used. Chief Justice Barker in his judgment correctly summarizes, in my opinion, the cardinal distinction between the two constitutions when he says:

"In the case of Australia, general powers which the provinces had previous to federation, and given to the federal parliament, the residuum of power remaining in the provinces. In Canada, specific powers of legislation were given to the provinces and the residuum of power was given to the Dominion."

And so it has been laid down by the Judicial Committee as a canon of construction for the British North America Act, 1867, that, in order to ascertain whether any claimed power of legislation belongs to the provincial legislature you must seek and find it in some one of the various sub-sections of section 92. If you cannot find it there, then it must be held not to exist. But, even if you have found it there, you must go further and see whether the same or an equivalent power is not given to the Dominion Parliament under section 91. If it is not, then, of course, provincial legislation on the subject is constitutional. But, if it is found in section 91 also, then, at any rate in cases where the Dominion Parliament has legislated and to the extent it has legislated, the local legislature is incompetent to legislate.

Now, it seems to me the questions before us are, First—Whether the power to legislate upon the subject given to the provinces are wide and broad enough to cover the cases of