

The net premium income by the one report is \$61,200,16, and by the other \$78,215,37, and by a curious coincidence the Government statement, which gives the smallest income, states that the losses paid are about \$10,000 more than published, while the commissions and expenses are about \$2,000 more. Thus by the Government statement the amount paid for losses and expenses exceeded the premium income by over \$6,000, while the Company published to the world that it had made a *profit* of about \$20,000! on the year's operations.

But we need go no further. Our readers can examine the figures carefully for themselves. We confess though that they are beyond us. We know not what to think of them. How such a Company, issuing such statements, and having a paid up capital of only \$32,000, which it admits to be impaired either \$4,000 or \$9,000, at the very least, can retain the confidence of even a very small section of the public, is beyond our comprehension. If we wished to do a man an injury we might induce him to insure in the Standard of Hamilton, but we would certainly advise a friend, especially if living in the Province of Quebec, where the Company is doing business illegally, to avoid it as he would tar.

THE TAX UPON COMMERCIAL CORPORATIONS.

Ever since the passing of the celebrated Tax Act of 1882 by the Quebec Legislature, the Companies interested, and the general public, have closely followed each step taken towards its enforcement by the Government, and eagerly discussed the question as to whether the Act would be sustained by the Courts, and the various corporations forced to pay the amounts meted out to them by the stern will of the Legislature; or whether it would be declared unconstitutional, and the general public made to suffer in having to pay the enormous amount of law costs the Government have persisted in incurring, despite the unanimous protest of the people throughout the country.

Now the first repulse has been sustained, and we feel sure the judgment rendered by His Honor Mr. Justice Rainville, on the 12th instant, will be hailed with delight by every one who really has the interests of the Province and of the Dominion at heart, and who feels that the Corporations attacked were established among us to benefit the country, each in its own peculiar way, and not to serve as a means of refilling the coffers of a spendthrift Government.

The judgment itself—apart from its decision of this momentous question, and its intrinsic merit as one of the most able our Superior Court has been called upon to record, is interesting to all classes—dealing with, as it does, one of the greatest constitutional questions of the day, and laying before us at a glance the law-making powers not only of our own country, as divided between the Federal and Local Houses, but also those of our great Republican neighbors, as divided between Congress and the Legislative bodies of the different States of the Union—tracing the history of each from the time when the various States yielded a certain portion of their governing rights to a central power, which was to legislate for them all as a body, on special subjects, they retaining meanwhile their individual rights to govern themselves on the general questions not ceded, and from the time when the former Provinces of

our own country, seeing the mistaken policy of their neighbors, yielded up all their legislative powers in favor of the Federal Government, receiving in return the right to make laws for the special subjects with which the Imperial Government thought fit to entrust them.

It is not necessary for us to follow the learned arguments of the Bench in arriving at the desired conclusion, nor to comment upon the weight of authority brought to bear upon each point decided, but we would cursorily glance at the importance of the decision with regard to corporations more within our own sphere, namely the Insurance Companies. For although the Government has not been sustained in its action against the banks, the victory is not yet won, in so far as we are concerned. But, though not yet won, we feel it is not far off. To arrive at this conclusion we have to consider the grounds on which the actions against the banks were dismissed.

His Honor in doing so considered four principal questions: "*First*. Is the tax direct or indirect? *Second*. Is it imposed within the limits of the Province? *Third*. Does it interfere with the Federal Powers for the regulation of Trade and Commerce? *Fourth*. Is it an interference with Federal powers in relation to banking, and the incorporation of banks?" With reference to the first, the most important question, speaking generally, of all, the learned Judge considered the tax as one imposed upon franchise; "and not on the property of this corporation, that is to say, upon the privilege which the Province grants them of carrying on business here—the right of a corporation to *exist* and *exercise* the powers vested in it by its charter being called its franchise, according to Burroughs on Taxation." And this, according to the authorities cited, is in its essential nature the same as a *license* tax, and therefore clearly unconstitutional. For, by our constitution, the Provincial Legislatures have only the power to grant certain licenses enumerated in the British North America Act, among which licenses of this nature are not included.

As to the second point, he considered that was much as if this tax is a tax on the franchise. This franchise is not entirely situated within the limits of the Province; and even if it is on the capital, it having been admitted that a great part of it is employed in the other Provinces of the Dominion, it would still be illegal, as being beyond the powers of the Legislature to impose taxation beyond the limits of the Province.

On the third and fourth points His Honor also decided against the tax, and in summing up declared himself of opinion:

- 1st. That the tax is indirect.
- 2nd. That, if it be considered direct, it is not imposed within the Province.
- 3rd. That if it be direct and imposed within the Province it is an encroachment on the power of the Federal Government to regulate banks and incorporation of banks.

Other important points will, doubtless, be brought up with reference to the various kinds of corporations attacked, when they come up for trial; but in view of the position taken by the Courts in this first case, and the rules of law so ably pointed out, we feel justified in prophesying as we have done that though the victory, as far as we are concerned, is not yet won, it is not far off.