

ANGERS VS. THE QUEEN INSURANCE COMPANY.

trade, profession, other than on "shop, saloon, tavern, auctioneers, and others of the same kind *ejusdem generis*, but I have not found such a power. It would not be necessary for me to add anything, for, as I have already remarked, I am of opinion, that as the power has not been given to the Local Legislatures, it comes within the legislative authority of the Federal Parliament, although, by section 91, it may not have been particularly and specially given. But I will go one step further, and taking into consideration that the respondents' company (and all similar companies) is a commercial company, and that its contracts are entirely of a commercial character. C. C. 24, 70. I find that by the Imperial Statute these companies and such companies, in express and clear terms, are subject to the legislative authority, and are under the exclusive control of the Federal Parliament. The 2 par. of the 91st section enacts, that the "Federal Parliament will have power to make laws relating to the regulation of Trade and Commerce." The Insurance Companies being commercial companies are therefore under the power of the Federal Parliament. It has not been contended by the Attorney-General of the Province of Quebec that the Federal Parliament had not legislative authority over these companies, but it was apparently urged that the Local Legislatures had a concurrent power, or rather, if I am not mistaken, it was admitted that the Local Legislatures could not regulate these companies, but that they had the power to oblige them to take out a license for the purpose of raising a revenue, and this was not to regulate them, and that in the present case it had not been the intention to regulate the trade of these companies, but the intention of the Legislature of Quebec was to raise a revenue. I am ready to admit that the intention of the legislature was to raise a revenue, but is not this legislation virtually "a regulation of trade and commerce," and in one of its most extensive and largest branches. First a duty is imposed on the companies to take out a license, and to be continually doing business under license. What is a license? It is a permit,—leave granted. What is the origin of the word? Undoubtedly *Licit licere*, to grant lease. Now, in order to grant leave you must have power to prohibit. He who can grant leave, must first of all have authority to prohibit it. Now, I am certain the Legislature of Quebec will not contend they have power to prohibit or prevent Insurance Companies from doing business in the Province. It is true this legislation does not prohibit them, but it has imposed upon them certain conditions. The law says, "Before you can do any business in our Province you must first ob-

tain our leave." Can it be said this is not regulating? The law also says, "If you do not comply with certain formalities your policies and your receipts will be null and void." Is this not regulating them, in fact is it not assuming the power to prevent them from doing business?

The defendant company has obtained from the Federal Government the license, the leave to do business in the Province of Quebec. In order to get the license they have deposited \$15,000, and they have paid, and pay jointly with other companies, an annual tax to the Dominion of \$8,000, and have complied with all the provisions of the Dominion Statute 38 Vict. c. 20. But it is contended that all this does not even give it authority to issue a single policy. The Province of Quebec steps in and says, "If under your license from Ottawa, you issue a single policy, or receipt, we enact they shall be null unless you submit to the conditions we impose upon you." They say, "We might, notwithstanding your license from Ottawa, expel you from the Province of Quebec, prevent you from carrying on your trade, but we will permit you, but on these conditions." I do not think the Province of Quebec has such powers, first, because they are not given by the 92nd section of the Imperial Statute, and consequently belong to the Federal Parliament; and secondly, because they are given specifically by the 91st section, under the words, "regulation of trade and commerce," to the central power. No doubt as it has been very properly remarked by the counsel representing the Attorney-General, a literal interpretation of these two sections would make them contradictory on some points.

The 91st section declares that the Federal Government shall have power to tax in every possible mode, and this includes direct taxation.

The 92nd section declares that the Local Legislature has exclusively the power of direct taxation. A literal interpretation of these two sections would make them contradictory. It has been stated somewhere that in order to reconcile these two sections, the word "exclusively" must be construed as referring to the Imperial power. I do not concur in this view, the word was taken in the resolutions on Confederation sent from Canada and it was certainly not the intention of referring them to the Imperial power. I prefer to admit that there is a contradiction in the letter of the Statute, and construe the sections as giving the power of direct taxation both to the central and local power, and this is in accordance with the well known rule "where a general intention is expressed in a Statute and the Act also expresses a particular in-