

ANGERS VS. THE QUEEN INSURANCE COMPANY.

the resolutions with the Imperial Statutes, I find that the clauses having reference to the distribution of legislative powers between the Parliament of the Dominion and the Local Legislatures, were not materially altered. So that what was said in the Canadian Parliament on these clauses may be considered as applicable to the sections of the Imperial Act now under consideration.

At page 94 of the Debates on Confederation, one of the speakers, after having spoken in reference to the subsidy to be given by the Federal Government to the Local Governments, adds: "If this, from any cause does not suffice, the Local Governments must supply all deficiencies from direct tax on their own localities." And at pp. 384, 385 another speaker seems also to be clearly of opinion that the sources of revenue for the Province of Quebec were to be under Confederation those which existed at that time, and previously, and that the only mode of increasing the revenues would be by direct taxation. At pp. 67, 68, 69, a third speaker, is very clear and unambiguous language on this point, the fact that this person was at the time Minister of Finance for Canada adds very much weight to his remarks, when the question under consideration was to provide for the financial position of the Provinces under the proposed scheme. I will give the following extracts:

"I now propose, sir, to refer to the means which will be at the disposal of the several Local Governments to enable them to administer the various matters of public policy which it is proposed to entrust to them.

"It will be observed that in the plan proposed there are certain sources of local revenue reserved to the Local Governments, arising from territorial domain, lands, mines, &c., &c. In the case of Canada, a large sum will be received from these resources; but it may be that some of them, such as the Municipal Loan Fund, will become exhausted in the course of time. We may, however, place just confidence in the development of our resources, and repose in the belief that we shall find in our territorial domain, our valuable mines, and our fertile lands, additional sources of revenue far beyond the requirements of public service. If, nevertheless, the local revenues become inadequate, it will be necessary for the Local Government to have resort to direct taxation." It is evident the speaker was not of opinion that Local Legislatures would be able to dispense with direct taxation by means of license duties. Further on he says, "The House must now, sir, consider the means whereby these local expenditures have to be met. I have already explained that in the case of Canada, and also in that of the Lower Provinces, certain sources of revenue are set aside as being of a purely

local character, and available to meet the local expenditure, but I have been obliged in my explanations with regard to Canada, to advert to the fact that it is contemplated to give a subsidy of eighty cents per head to each of the Provinces. In transferring to the General Government all the large sources of revenue, and in placing in their hands, with a single exception, that of direct taxation, all the means whereby the industry of the people may be made to contribute to the wants of the state, it must be evident to every one that some portion of the resources thus placed at the disposal of the General Government must, in some form or other, be available to supply the hiatus that would otherwise take place between the sources of local revenue and the demands of local expenditure."

By stating that "all the large sources of revenue, with the exception of direct taxation, were to be transferred to the General Government," the speaker could not have had the intention of giving to the Local Legislatures the large powers of licensing which the Quebec Legislature claims to have in the present case.

No doubt, the Imperial Statute must, as any other statute, be construed by itself, and the opinions I have referred to are not legal authorities. But can we not look at them in order to interpret this statute? And it is to be borne in mind, in referring to the history of our Constitution, that these persons whose opinions I have cited formed part of the preliminary conference where the resolutions on Confederation were framed. Can it be said that a commentary of a law by the author of that law should have no weight?

In France, do we not continually see commentators and text writers, in order to construe the text of the Code Napoleon, refer to the speeches made by Cambaceres, Freiluard, Bigot de Preameneu, Comte de Portales and others made during the discussion of the subject in the Council of State, at the Tribune, and in the Legislative Assembly.

I, therefore, come to the conclusion that the Local Legislatures, under the Imperial Statute, have only authority and power to impose licenses on "shop, saloon, tavern, auctioneer and other licenses *ejusdem generis*, and that Insurance Companies, not being *ejusdem generis*, as shop, &c., cannot be subjected to an indirect tax imposed by Local Legislatures.

So far I have not taken into account the commercial character of Insurance Companies. I have tried to find in the Imperial Act a power given to the Local Legislatures, by way of exception, to impose *indirect taxes* by license duties on any industry, (commercial or non-commercial) occupation,