

out its lines and go through the parade of warlike demonstration; but so far as any chance of defeating the Government is concerned it might as well disband. The Bribery affair proves, at all events, the desperation to which some of its most eager adherents were reduced. A promising point of attack is indicated by the alliance between the Government and the Archbishop of Toronto, against which strong public feeling might be easily arrayed, and the eyes of the Opposition leader must often be wistfully turned in that direction; but if he were ever to give the word for an advance, the Commander-in-Chief at Ottawa would at once countermand a movement which could not fail to imperil his relations with Quebec. In the meantime the assiduous and unflinching exercise of every sort of patronage, great or small, direct or indirect, is every day consolidating the power of the Mowat Government and giving it a grasp upon the Province which nothing short of a convulsion will be sufficient to relax.

THE three Commissioners who enquired into the charges of conspiracy to change the minority in the Legislature of Ontario into a majority by means of bribery could not agree upon a common report. They did not even agree on the form of the report which it would be proper for them to make. Judge Scott thought only the evidence, protests, new charges and proceedings should be reported, as the Commissioners had no power to determine the facts or give a decision. Vice-Chancellor Proudfoot and Judge Sinclair showed their divergence from this opinion by saying what they thought the evidence proved and what it failed to prove. Judge Scott showed what a delicate position the Commissioners occupied when he pointed out that any verdict which they might give, though not binding on the Legislature for which the evidence was taken, might seriously prejudice such of the accused as would ultimately be tried in the courts. Meek and Kirkland already stood for trial; while Wilkinson, Bunting and Lynch had not, in the opinion of Judge Scott, sufficient notice to command their attendance before the Commission. And he adds: "I cannot call to mind any case in which imprisonment can be awarded as a punishment without at least such notice as I have postulated, and I think the lines of protection to personal liberty should not be drawn more closely without clear authority." Here is a loophole offered for escape from further proceedings, and after such an expression of opinion by one of the Commissioners selected by the Government, it is difficult to see how the prosecution can go on. The two Commissioners who did agree will be thought by many to have placed undue stress upon the evidence of such men as a recent trial, arising out of the alteration of the date of a note, has proved McKim to be. But when the Report was written, January 8th, that trial had not come off, and the possible value of McKim's evidence could not be so well determined as it can now. That there were conspiracy and bribery is beyond doubt; but that the parties who acted the part of detectives did not meet the conspirators half way is not at all certain. The division of the Commission foreshadows what would probably be the result of the deliberations of the jury in most if not all the cases. The exposure made is the best and practically the only punishment that could be inflicted on the offenders. We trust we have now seen the end of this miserable business.

THE Courts of Quebec, in deciding the right of the Local Legislature to tax the capital of banks and other commercial corporations, are upholding the extreme pretensions of the Province in terms as aggressive as any ever used by Benton in the advocacy of State Rights. In the Superior Court, Judges Jetté and Mathieu did not stop short at declaring the tax direct; they went so far as to say that the Local Legislatures have the right to impose indirect as well as direct taxes. Judge Rainville was alone of the opinion that the law is unconstitutional. The Court of Appeal has confirmed the decision of the majority of the Superior Court, and in its judgment the right of the Local Legislatures to levy indirect taxes is upheld. Judge Tessier assumes to have discovered in the Local Legislatures certain inherent rights which are apparently independent of the Constitution. To some words let fall by the Privy Council in the Hodge case a forced meaning is given for the purpose of lending the sanction of the highest judicial authority to this pretension. But the averment that "within the limits of its jurisdiction and the sphere of its powers the Local Legislature is supreme" does not mean that it possesses these powers inherently, or that the limits of its jurisdiction are to be found outside the Constitution. The enumeration of powers carries with it limitation; and when the Constitution gives the Local Legislatures the power to levy direct taxes, the implication is clear that the right to impose indirect taxes is withheld. The point has already been decided by the highest authority; the Privy Council had previously negated a claim identical with that now set up by the two Quebec Courts. When, as in this instance, the limitation is clear, it is useless to fall back on the provision

which vests the Local Legislatures with authority over "all matters of a purely local or private nature within the Province." Nothing can be clearer than that this general grant of power is intended to cover non-enumerated cases and that it does not embrace those of which specific mention is made. The *Minerve* puts the local claim of sovereignty as strongly as a like claim was ever put by the most advanced States Rights partisan. According to that journal the matter is definitely settled; "the Privy Council has already decided that the Provincial Government is sovereign." What this tribunal has decided is that the powers confided to the Local Government are, within its prescribed sphere, supreme. Nor is it to the purpose to say, as Judge Tessier does, that the Provinces ought to have the power to raise the revenue necessary for their support; for though the reasonableness of the statement as to what ought to be done need not be denied, its iteration does not help us to discover what powers have actually been given.

BUT that this is a direct tax the judges are not all agreed. The nature of the tax would be of no moment if the limitation to direct taxes, which had always hitherto been assumed, is only imaginary and the taxing powers of the Local Legislatures are unlimited. But that this will be a final decision is very improbable. Mill is quoted by Judge Tessier to the effect that "a direct tax is one which is demanded from the very person who it is intended or desired shall pay it." But though this is true, as far as it goes, it is not sufficient that there should be an intention or desire that the tax should fall upon the person from whom it is collected: the tax itself must be of such a nature that the person who advances it cannot recover it from some one else. The intention or desire of the Legislature will be futile unless it be so expressed in the law as to insure the result aimed at. A tax on land will fall on the landlord, because he cannot recover it from any one else; but a tax on insurance policies is part of the cost paid for insurance, and though advanced by the insurer is paid by the insured. Is it certain that a bank cannot recover from its clients a tax on its capital; that in loaning that capital it cannot add the amount of the tax to the rate of discount? The most serious part of the judgment of Judge Tessier is that it opens the way to every municipality where a bank has an agency to tax not only the capital employed there but the whole capital of the bank: "A bank or an incorporated company transfers all its capital to every one of the places where it carries on business." If all the capital of the Canadian Bank of Commerce, which was the one in question, can be taxed in Montreal and in every other place in the Province of Quebec where it has an agency, all that would have to be done to make it possible to tax any bank to death would be to re-enact the Quebec law in the other Provinces. We have here a glimpse of the direction in which the Provinces would probably exert their taxing powers if the range of those powers were unlimited. In some of the neighbouring States the tendency to raise a large proportion of the revenue from incorporated companies is marked. The Governor of Pennsylvania recommends the Legislature to raise all the revenue of the State from this source. Though he goes to the opposite of the extreme on which Henry George has taken his stand, and would exempt land at the expense of mercantile corporations, confiscation is the point at which they both meet. And the State of New York taxes the capital of incorporated companies, when they earn no dividend, $1\frac{1}{2}$ mills on the dollar, and $\frac{1}{2}$ mill on the dividend when a dividend is earned. The capital of an incorporated company once confiscated would cease to exist; and if all the capital of a company may be taxed twenty mills in twenty different places in two and a half years, not a dollar would remain to respond to the call of the tax-collector, or for any other purposes. But capital under a menace of confiscation would emigrate before the deed could be done.

THE Toronto deputation which waited on the Ontario Government to urge the abolition of exemptions was probably convinced as a result of the interview that a mistake was made in opening an attack on the whole line at once. Mr. Mowat replied that there is not a county in Ontario which would consent to allow the county town to tax the county property. As little would the representatives of the different constituencies permit Toronto to tax the legislative and executive buildings. But Mr. Mowat gave the deputation a crumb of encouragement when he said that the Government might possibly consider whether a certain sum in lieu of taxes might not be granted. He did not indicate positively what he was prepared to do in respect of any single exemption; but he gave the deputation the assurance that he "would not stand in the way of a considerable reduction in the number of exemptions." The deputation was not specially well equipped for the fray, and for want of a better knowledge of the subject its members lost the opportunity which the discussion afforded of