

dard. It has adopted its own measure, either of that which it is just the banks should pay, or of that which they have means to pay, and these things it ascertains by reference to facts which can be verified without doubt or delay. The banks are to pay so much, not according to their capital, but according to their paid-up capital, and so much on their places of business. Whether this method of assessing a tax is sound or unsound, wise or unwise, is a point on which their Lordships have no opinion, and are not called on to form one, for as it does not carry the taxation out of the province, it is for the Legislature, and not for Courts of law, to judge of its expediency.

Then, is there anything in Section 91 which operates to restrict the meaning above ascribed to Section 92? Class 3 certainly is in literal conflict with it. It is impossible to give exclusively to the Dominion the whole subject of raising money by any mode of taxation, and at the same time to give to the Provincial Legislatures, exclusively or at all, the power of direct taxation for provincial or any other purposes. This very conflict between the two Sections was noticed by way of illustration in the case of *Parsons*, 9 L. R. App. Ca. Their Lordships there said (page 108):—"So 'the raising of money by any 'mode or system of taxation' is enumerated 'among the classes of subjects in Section '91; but, though the description is sufficiently large and general to include 'direct taxation within the Province, in order to 'the raising of a revenue for provincial 'purposes,' assigned to the Provincial Legislatures by Section 92, it obviously could not 'have been intended that, in this instance 'also, the general power should override the 'particular one.'" Their Lordships adhere to that view, and hold that, as regards direct taxation within the province to raise revenue for provincial purposes, that subject falls wholly within the jurisdiction of the Provincial Legislatures.

It has been earnestly contended that the taxation of banks would unduly cut down the powers of the Parliament in relation to matters falling within Class 2, viz. the regulation of trade and commerce; and within Class 15, viz. banking, and the incorporation

of banks. Their Lordships think that this contention gives far too wide an extent to the classes in question. They cannot see how the power of making banks contribute to the public objects of the provinces where they carry on business can interfere at all with the power of making laws on the subject of banking, or with the power of incorporating banks. The words "regulation of trade and commerce" are indeed very wide, and in *Severn's* case it was the view of the Supreme Court that they operated to invalidate the license duty which was there in question. But since that case was decided, the question has been more completely sifted before the Committee in *Parsons' case*, 7 App. Ca., and it was found absolutely necessary that the literal meaning of the words should be restricted, in order to afford scope for powers which are given exclusively to the Provincial Legislatures. It was there thrown out that the power of regulation given to the Parliament meant some general or inter-provincial regulations. No further attempt to define the subject need now be made, because their Lordships are clear that if they were to hold that this power of regulation prohibited any provincial taxation on the persons or things regulated, so far from restricting the expressions, as was found necessary in *Parsons' case*, they would be straining them to their widest conceivable extent.

Then it is suggested that the Legislature may lay on taxes so heavy as to crush a bank out of existence, and so to nullify the power of Parliament to erect banks. But their Lordships cannot conceive that when the Imperial Parliament conferred wide powers of local self-government on great countries such as Quebec, it intended to limit them on the speculation that they would be used in an injurious manner. People who are trusted with the great power of making laws for property and civil rights may well be trusted to levy taxes. There are obvious reasons for confining their power to direct taxes and licenses, because the power of indirect taxation would be felt all over the Dominion. But whatever power falls within the legitimate meaning of Classes 2 and 9, is, in their Lordships' judgment, what the Imperial Parliament intended to give; and to place a limit