

and could bestow. Within these limits of subjects and area the local Legislature is supreme, and has the same authority as the Imperial Parliament or the Parliament of the Dominion would have, under like circumstances, to confide to a municipal institution or body, of its own creation, authority to make by-laws or resolutions as to the subjects specified in the enactments, and with the object of carrying the enactment into operation and effect."

The Judicial Committee has also put down a rule or method for determining whether legislation falls under section 91 (enumerating the powers of the federal Parliament) or under section 92 (enumerating the powers of the Local Legislatures).

"The first question is whether the act impeached in the present appeal (providing that fire insurance policies in Ontario should be subject to certain statutory conditions) falls within any of the classes of subjects enumerated in section 92, and assigned exclusively to the Legislatures of the provinces; for if it does not it can be of no validity, and no other question would then arise. It is only when an act of the provincial Legislature *prima facie* falls within one of these classes of subjects that the further questions arise, viz., whether, notwithstanding this is so, the subject of the act does not also fall within one of the enumerated classes of subjects in section 91, and whether the power of the provincial Legislature is, or is not, thereby overborne." (*Citizens Insurance Co. v. Parsons*, Law Reports, 7 Appeal Cases 96 et seq.)

Let us apply that test to this case. Admitting for the moment that the subject matter of the legislation here *prima facie* falls within the sub-section of section 92, which permits the local Legislature exclusively to make laws in relation to "shop, tavern, saloon, auctioneer, and other licenses in order to the raising of a revenue for provincial, local or municipal purposes," does it also fall within one of the enumerated classes of subjects in section 91, and is the power of the provincial Legislature thereby overborne? Does the provincial enactment in this case contravene the power not merely vested in the Parliament of Canada, but declared to be vested "exclusively," notwithstanding anything in the act, to legislate in respect to "the regulation of trade and commerce?" Can the Legislature of Quebec, consistently with the existence of exclusive power in the Parliament of Canada to legislate in respect to trade and commerce, say to a trader or manufacturer, doing business in the province of Quebec, "You must pay an annual license fee of \$50 or \$100 per year on your business as a trader or manufacturer, and if you do not, you will be fined and sent to jail for one month?" If it may do so it may increase the fee, penalty or imprisonment by twenty-fold or one hundred-fold.