27 & 28 Vic. cap. 5, do not belong to the Government of the Province, or, as I understand it, that the Government of Quebec may not apply the proceeds of these duties to its general purposes, but the duties so fixed prior to Confederation, cannot be altered, or at all events cannot be extended.

A rule producing results so obviously inconvenient, naturally challenges scrutiny. It is difficult to realize the idea that the Legislature should have intended to charge the local governments with the support of the administration of justice, and at the same time to deprive them of the power to extend the means then recognized by law of providing therefor. The argument, however, is this: the local governments have only two means of raising money by taxation; one is, not by licenses, (as I have already observed in the case of *Sulte* v. *The Corporation of Three Rivers*),* but by legislation with relation to matters coming within the class of shop, saloon, tavern, auctioneer, and other licenses, in order to the raising a revenue for provincial, local, or municipal purposes, and by "direct taxation within the Province" for a like purpose.

Now, it is said that this ten cents stamp is not a license, and it is not direct taxation.

It is not pretended that it is a licence,—and even if it were admitted that it was not direct taxation, I do not think the judgment sustainable.

There is, however, a case of *Angers* v. *The Queen Insurance Co.*,† which it is contended implies that a duty being subject to collection by means of a stamp, makes it necessarily indirect taxation. It has been said that to reverse the judgment of the Court below was to over-rule the ruling of the Privy Council in *Angers* v. *The Queen Insurance Co.* I am not prepared to carry the authority of precedent so far as to say, that I should be governed by a single decision of a higher Court, which appeared to me to be clearly against principle, even if that Court drew its inspiration from the same sources that we do. Still less should I be bound by a single *arrêt* of the Privy Council, which clearly misinterpreted our law. This does not seem to be a revolutionary or turbulent mode of performing one's duty.

To this I may add that so soon as the Privy Council lays down as a proposition of law, the issue being clearly before them, that the local Governments have no power to tax otherwise than by licenses and direct taxation, and that direct taxation means certain taxes, and no more, then I shall accept the decision as conclusive and conform my judgments to it, although I know that its effect must be to break up Confederation. But I am not going to discuss anew, or to question what was there decided, but critically to examine what really was decided, and not what, in the gross, may seem to have been said. It appears to me that the report thus examined, does not support the view taken by the learned Chief Justice, but only that the duty sought to be collected in that case by a so-called license was in reality an ordinary stamp act, and indirect taxation. Their Lordships say: "The single point to be decided upon is whether a Stamp Act—an Act imposing a stamp on policies, renewals and receipts, with provisions for avoiding the policy, renewal or receipt, in a Court of law, if the stamp is not affixed—is or is not direct taxation." It is true they say afterwards, in referring to the English and American decisions mentioned by Mr. Justice Taschereau, "They (the decisions) all treat stamps either as indirect taxation, or as not being direct taxation." That is, these cases decide that the particular stamp Act referred to in each case was indirect taxation, else these are *obiter dicta*, precisely as the case of *Angers* v. *The Queen Insurance Co.* would be an *obiter dictum* if it decided what it is contended it did. No one can seriously contend as an abstract question, I should think, that the *form* of collection, the evidence of payment, can determine as to the nature of the impost. If there was a poll-tax on each elector, and the law said that each elector should take a receipt therefor on paper bearing a penny stamp, it would hardly be said that the penny stamp was a different kind of taxation from the poll-tax.

So far as my recollections carry me, there is not the unanimity of opinion attributed to the economists as to the definitions of direct and indirect taxation. It seems to me they are generally dealt with as relative rather than as positive terms. They are used to express economic results. One of the best known rules is that taxation is direct when it is paid by the party who is impoverished by it. Thus a duty on imports is regarded as indirect taxation, because

*5 Legal News, 330.

†1 Legal News, 410; 22 L.C.J., 307.