heading "Sea Coast and Inland Fisheries" in section ninety-one. Whatever proprietary rights in relation to fisheries were previously vested in private individuals or in the provinces respectively, remained untouched by that enactment. Whatever grants might previously have been lawfully made by the provinces in virtue of their proprietary rights could lawfully be made after that enactment came into force. At the same time it must be remembered that the power to legislate in relation to fisheries does necessarily to a certain extent enable the legislature so empowered to affect proprietary rights. An enactment, for example, prescribing the times of the year during which fishing is to be allowed, or the instruments which may be employed for the purpose (which was admitted the Dominion legislature was empowered to pass) might very seriously touch the exercise of proprietary rights, and the extent, character and scope of such legislation is left entirely to the Dominion legislature. The suggestion that the power might be abused so as to amount to a practical confiscation of property does not warrant the imposition by the Courts of any limit upon the absolute power of legislation conferred. The supreme legislative power in relation to any subject matter is always capable of abuse, but it is not to be assumed that it will be improperly used; if it is, the only remedy is an appeal to those by whom the legislature is elected. If, however, the legislature purports to confer upon others proprietary rights, where it possesses none itself, that in their Lordships' opinion is not an exercise of the legislative jurisdiction conferred by section ninety-one. If the contrary were held it would follow that the Dominion might practically transfer to itself property which has by the British North America Act been left to the provinces, and not vested in it.

In addition, however, to the legislative power conferred by the twelfth item of section ninety-one, the fourth item of that section confers upon the Parliament of Canada the power of raising money by any mode or system of taxation. Their Lordships think it is impossible to exclude as not within this power the provision imposing a tax by way of license as a condition of the right to fish. It is true that by virtue of s. 92 the provincial legislature may impose the obligation to obtain a license, in order to raise a revenue for provincial purposes, but this cannot in their Lordships' opinion derogate from the taxing power of the Dominion Parliament to which they have already called attention. Their Lordships are quite sensible of the possible inconveniences, to which attention was called in the course of the arguments, which might arise from the exercise of the right of imposing taxation in respect of the same subject-matter, and within the same area by different authorities. They have no doubt, however, that these would be obviated in practice by the good sense of the legislatures concerned.

It follows from what has been said that in so far as section 4 of the Revised Statutes of Canada, chapter 95, empowers the grant of fishery leases conferring an exclusive right to fish in property belonging not to the Dominion, but to the Provinces, it was not within the jurisdiction of the Dominion Parliament to pass it. This was the only section of the Act which was impeached in the course of the argument, but the subsidiary provisions in so far as they are