whether it amounted to direct taxation or not; but as will presently appear, the authorities, as they now stand, no longer support the view that the regulation of the trade of a brewer, or other wholesale dealer, stands on any different footing in respect to being within No. 2 of sec. 91, than the regulation of any other trade or business. The view of the Judges in *Severn* v. *The Queen*, says Osler, J.A., in *Regina* v. *Halliday*,[1] appears to be "no longer sustainable in the face of *Hodge* v. *The Queen*,[2] which confirms the power of the Legislatures to regulate the sale and disposal of intoxicating liquors."

Leaving this for the present, however, in the recently reported case of *Fortier* v. *Lambe*,[3] the Judges of the Supreme Court have unanimously held that a license fee imposed upon the business of traders, whether wholesale or retail, is direct taxation,[4] and it may be remarked that in the Court below, Tait, J., cites a very apposite passage from Cooley on Taxation, where that author states: "Taxes are said to be direct, under which designation would be included those which are assessed upon the property, person, business, income, etc., of those who are to pay them, and indirect are those which are levied on commodities before they reach the consumer and are paid by those upon whom they ultimately fall, not as taxes, but as part of the market prices of the commodity."

And now, in conclusion, as to the distinction made in the cases between wholesale trade and retail trade, and the observation of Osler, J.A., cited above from *Regina* v. *Halliday*, it will be remembered that in the matter of the Dominion License Acts,[5] whereas the Supreme Court of Canada held those Acts to be intra vires as to wholesale and vessel

[1] 21 A.R. at p. 47.

[2] 9 App. Cas. 117, 3 Cart 144, (1885).

[3] 25 S.C.R 422, (1895).

[4] To follow the line of authorities along which this result has been reached, see *Bank of Toronto* v. *Lambe*, 13 App. Cas. at p. 584, 4 Cart at pp 18-9 (1887); per Weatherbe, J., in *Queen* v *McDougall*, 22 N.S at p. 478, (1889); per Townshend, J., S.C at p. 499; per Strong, J., in *Pigeon* v. *The Recorders Court and City of Montreal*, 17 S.C.R at pp. 503-4, 4 Cart at pp. 447 8 (1890); per Osler, J.A., in *Regina* v. *Halliday*, 21 .A.R. at p. 47, (1893); and the decisions in *Fortier* v. *Lambe*, in the Courts below, 5 R.J Q. 5 S.C. 47. 355.

[5] Cas. Dig. S.C. 509; 4 Cart. 342, n.e.