

burnt, and there is some doubt as to its being set on fire. In view of these difficulties, and the inconvenience of drawing a distinction between the Tower and other buildings, the right course appears to be to indict for high treason. The blowing-up of buildings with the object of influencing the Government is an act of war, and amounts to high treason. This was decided in June, 1883, by the Lord Chief Justice, the Master of the Rolls, and Mr. Justice Grove, at the Central Criminal Court, in *Regina v. Gallagher*."

#### THE ATTORNEY-GENERAL OF QUEBEC & REED.

Lord Selborne's opinions have one great merit—that of being clear. Whether one agrees with the conclusion at which he arrives or not, there is no confusion as to what that conclusion is, or the process of reasoning he has followed. In the case before us the Privy Council has decided three things:—1. That the ten cent tax is an indirect tax; 2. That it is not specifically imposed for the maintenance of the courts of justice; and 3. That it is not the exercise of any power under Section 65 of the B. N. A. Act. It is therefore *ultra vires*.

On the first point, which is called "the main point," there is really no room for doubt "within the meaning of the 2nd sub-section of the 92nd clause of the Act in question." But Lord Selborne thought it necessary to explain the "divergence of view" among the writers, whom Mr. Justice Taschereau once thought were all of one mind with him on the point.

The second point, according to Lord Selborne's view of the case, is that the 14th sub-section of section 92 affected the question. I am not aware that any one in the Court of Queen's Bench put forth the pretension that sub-section 14, taken by itself, authorised the tax. Here is what was said on this matter:—"Sub-sections 14 and "16 give the right to the Legislature of the Province to pass the law in question. In "proceeding to explain this proposition, it is "proper to make two preliminary remarks: "First, that the power of the local govern- "ments to tax is nowhere confined to licenses "and to direct taxation, as has been assumed.

"They are specially permitted to impose "these taxes, that is all; but this differs "essentially from a prohibition to impose "any other taxes. Secondly, the sub-sections "of section 92 must be read with the general "heading to avoid misconception."

From this starting point four questions were put:—

"(1) Is not the law impugned a law for "the maintenance of justice in the Province; "nay, more, a law modelled on the law exist- "ing at Confederation for its maintenance?"

"(2) Is this tax for the performance of "a duty by a local functionary not a matter "of a merely local nature in this Province?"

"(3) Does it conflict with any Dominion "power?"

"(4) Can it be contended for an instant that "the power to raise money by any mode or "system of taxation can be held to signify "that the Dominion Parliament could raise "money on the duties to be performed by "local officers?"

Only the first of these questions is met by the report of the Privy Council. Their Lordships decline to say that the local legislatures may not impose a tax by a law which declares that the proceeds of the tax shall be applied to defray the expenses of maintaining the courts of justice; but they say the proceeds cannot be "made part of the general consolidated revenue of the Province;" for they add, "If it should greatly exceed "the cost of the administration of justice, "still it is to be raised and applied to general "provincial purposes, and it is not more "specially applicable for the administration "of justice than any other part of the general "provincial revenue."

Is this answer, limited as it is, maintainable? In other words, if we assume for the sake of argument, as their Lordships have done, that the local Legislature can tax indirectly to raise means for the maintenance of the courts of justice, can it be seriously maintained that they cannot legislate for this purpose, without declaring into what account the proceeds are to go? There is not a syllable in the whole act to support this pretention. If it be sustainable, it must be as matter of doctrine; and if true as such, no tax could be levied by a local Legislature