

not within the exclusive power of the Provincial Legislatures, but rather whether the Act so requiring a license does or does not come within one of the classes of subjects enumerated in section 92. "Constitutional limitations," says Palmer, J., in *Ex parte Danaher*, "look only to results and not to the means by which results are reached."<sup>1</sup>

And now as to the power to tax the liquor trade, the somewhat disputed point of whether *Severn v. The Queen*,<sup>2</sup> in spite of the various aspects in which it has been assailed,<sup>3</sup> still remains a binding decision<sup>4</sup> as to the main point passed upon by the Judges, namely, that the rule of *ejusdem generis* applies to No. 9 of sec. 92 of the British North America Act, whereby Provincial Legislatures have power to make laws in relation to "shop, saloon, tavern, auctioneer and other licenses," and that a license fee imposed upon a person carrying on the trade of a brewer does not come within that class, is now matter of indifference to persons concerned in the liquor business, inasmuch as although all the Judges in *Severn v. The Queen* agreed that such a license fee was indirect taxation, it has now been clearly decided that a tax upon a trade or business, whether imposed by license or not, is direct taxation. The holding that it was indirect taxation was not necessary to the decision of *Severn v. The Queen* in the view that the Judges took in that case, inasmuch as they all agreed that such a tax as was there in question fell within what is meant by "the regulation of trade and commerce," in No. 2 of sec. 91. If this was the case, in accordance with the principle which, as we have already mentioned, is so clearly expressed by the Privy Council in their recent judgment, the matter would be exclusively for the Dominion Parliament

<sup>1</sup>Cf. Story on the Constitution of the United States, 5th ed., vol. 2, at p. 14, 27 N.B. at p. 590.

<sup>2</sup>2 S.C.R. 70, 1 Cart. 414, (1878).

<sup>3</sup>See *Bank of Toronto v. Lambe*, 12 App. Cas. at p. 584, 4 Cart. at pp. 18-9; per Ramsay, J., in *Molson v. Lambe*, M.L.R., 2 Q.B. at pp. 397-8, 4 Cart. at pp. 363-4; per Osler, J.A., in *Regina v. Halliday*, 21 A.R. at pp. 46-7.

<sup>4</sup>As stated per Gwynne, J., in *Molson v. Lambe*, 15 S.C.R. at p. 288, 4 Cart. at p. 438, (1888); per Cross, J., S.C., M.L.R. 2 Q.B. at p. 394, 4 Cart. at p. 360; per McDonald, C.J., in *Queen v. McDougall*, 22 N.S. at p. 468, (1889); per Ritchie, J., S.C. at p. 486; per Strong, C.J., in *Fortier v. Lambe*, 25 S.C.R. at p. 427, (1895); per Gwynne, J.S.C. at p. 433.