TYSER, C.J.: The words in the Turkish text do not seem to bear the sense suggested by the King's Advocate. It is sufficient to say that where a person is accused of a crime the prosecution does not fail because the Crown proves circumstances of greater aggravation than those charged.

The other members of the Court concurred.

Sentence: Three years hard labour.

[TYSER, C.J. AND BERTRAM, J.]

K. DIANELLO AND ANOTHER, *Plaintiffs*,

v.

THE KING'S ADVOCATE, *Defendant*.

INTERPRETATION OF STATUTES—ENACTMENT IMPOSING TAXATION—LIMITATION OF ENACTMENT BY GENERAL SCOPE OF STATUTE—EXERCISE OF STATUTORY DISCRETION—LAW OF 29 SAFER, 1292, ART. 35—TOBACCO LAW, 1897 (No. 18 OF 1897), SEC. 8—TOBACCO REGULATIONS, 1898.

By Art. 35 of the Law of 29 Safer, 1292, it was declared that licenses to establish manufactories of tobacco would be granted to persons complying with the conditions of the article.

By Sec. 8 of a temporary law entitled "A Law to facilitate the Cultivation of Tobacco in Cyprus" (the Tobacco Law, 1897, No. 18 of 1897) the High Commissioner was authorised to revoke all existing tobacco licenses and on the issue or re-issue of licenses to make conditions for the cutting of native tobacco by the manufacturers "and generally to vary as he may think fit the provisions of the said Tobacco Regulations governing the issue of such licenses."

By the Tobacco Regulations, 1898, issued under the authority of the Tobacco Law, 1897, it was declared that Art. 35 of the Law of 29 Safer was repealed, and that the issue of licenses was in the discretion of the High Commissioner, and subject to the payment of a license duty.

Acting under Sec. 8 of the Tobacco Law, 1897, the Government revoked the licenses of the Plaintiffs issued under the Law of 29 Safer, 1292, and declined to issue fresh licenses except on terms of the payment of license duty.

HELD: That the Government had no authority, either under the powers given to it by Sec. 8 of the Tobacco Law, 1897, or under the discretionary power vested in the High Commissioner by the Tobacco Regulations, 1898, or under its general prerogatives, to make the issue of licenses subject to the payment of a license duty.

A law will not be interpreted as conferring powers to impose taxation unless such an intention appears by express words.

Per TYSER, C.J.: The power generally to vary the provisions of the Law of 29 Safer, 1292, governing the issue of licenses conferred upon the High Commissioner by Sec. 8 of the Tobacco Law, 1897, must be confined to variations of the same character as the provisions authorised to be varied.

Per BERTRAM, J.: The power must be controlled by the general scope of the law conferring it, and must be confined to such variations as might be necessary for the purpose of imposing the particular conditions mentioned in the immediate context.

This was an appeal from a judgment of the District Court of Nicosia given on the 29th December, 1902, dismissing a claim by the Plaintiffs for the return of the sum of £385 paid by them under protest to the Government as "license duty" on certain tobacco manufactories.

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The licenses originally held by the Plaintiffs were issued to them under the Law of 29 Safer, 1292 (3 Destur, p. 329).

Under that law the right to manufacture tobacco was restricted to persons holding a Government license. A " consumption duty " (sarfiat resmi) was imposed and this was collected by a system of banderolles. Each licensed manufacturer had to buy a certain number of these, and no tobacco could be sold unless enclosed in a banderolle. For the purpose of the enforcement of the system, it was provided that a Government Supervisor should be installed in each factory.

By Art. 35 of the Law (according to the translation published in " Legislative Ottomane "), it was declared that: *L'autorisation d'installer des manufactures de tabac sera accordée aux conditions suivantes* ": The conditions referred to required the furnishing of certain particulars and the observance of certain requirements relating to the position, structural arrangements and management of the factory. The section also required all licensees to sign a declaration undertaking " *à remplir et à observer strictement tout engagement ainsi que tout devoir dérivant tant du présent règlement que des mesures, régimes et dispositions règlementaires pouvant être établies plus tard sur les manufactures et sur les taxes des tabacs.*"

In 1895 the Government claimed from each factory the payment of a sum of money as part of the cost of supervision.

The Plaintiffs refused to pay, but, as the Government threatened to close their factory, it was agreed that the Plaintiffs should pay the money to the Government under protest, and that facilities should be given for determining the right of the parties by action.

Action (No. 192 of 1896) to recover the sum so paid was brought and the Plaintiffs were successful both in the District Court and the Court of Appeal.

The ground of the decision in the Court of Appeal was that the Government, even if it had a right to revoke the licenses and close the factories, had no right to do so without reasonable notice, and that reasonable notice had not been given.

In 1897 the legislature passed a law entitled " A Law to facilitate the Cultivation of Tobacco in Cyprus " (No. 18 of 1897): the Tobacco Law, 1897).

Sec. 8 of that law was as follows:—

" Licenses to cut tobacco now issued or to be issued under the provisions of the Tobacco Regulations of 29 Safer, 1292, are revocable at the pleasure of the High Commissioner; provided that not less than six months notice be given of this revocation of the license, and it shall be lawful for the High Commissioner on the issue or re-issue of licenses to cut tobacco to make conditions as to the cutting of tobacco grown under the provisions of this law at a price to be fixed by agreement with the Board of Agriculture and generally to vary, as he may think fit, the provisions of the said Tobacco Regulations governing the issue of such licenses."

By Sec. 18 the law was to remain in force for a period of five years.

Purporting to act under that law the Government on April 22nd, 1898, issued new Tobacco Regulations in substitution of Art. 35 of the Law of 29 Safer, 1292. (See *Cyprus Gazette* of 29th April, 1898). These regulations declared that henceforth the issue of all manufacturing licenses should be in the discretion of the High Commissioner and prescribed a new form of license, one of the conditions of which was as follows:—

"This license shall be in force until the of , provided that no breach of the regulations shall have been committed, and that the license duty of £55 in two instalments of £27 10*s*. each on the of and the of respectively, has been punctually paid."

In May, 1898, the Government revoked the licenses of the Plaintiffs and offered them a license in the new form. The Plaintiffs disputed the right of the Government to impose the new license duty. A correspondence took place, the money claimed was paid under protest, and finally this action was brought for the determination of the questions in dispute.

The action was for the recovery of £385 which the Plaintiffs had been compelled to pay to prevent the closing of their factories. The same sum was also claimed as damages for breach of contract.

It was admitted by the Government that the Plaintiffs were to recover the money claimed if the Government have no right to stipulate for the payment of £55 a year in the license, or if the revocation of the old licenses of the Plaintiffs was of no effect.

The District Court dismissed the claim.

The Plaintiffs appealed.

Paschales Constantinides, *Artemis* and *Theodotou* for the Appellants.

Amirayan, Assistant King's Advocate, for the Respondent.

Judgment. CHIEF JUSTICE : It would seem that the questions which this Court has to decide are:—

(*a*) Has there been an effectual revocation of the old licences.

(*b*) If there has been an effectual revocation have the Government a right to refuse a license to the Plaintiffs except in the form provided in the regulations of 1898, that is to say, except a license containing a provision that the licensee shall pay £55 license duty.

As to the first question the enactment in Sec. 8 of Law 18 of 1897 is clear. Taking into consideration the state of the law at the time when that act was passed as shewn by the decision of the Supreme Court above referred to, and the wording of the section, I think it is clear that the intention of the legislature was to empower the High Commissioner to revoke all licenses on six months' notice.

Presumably the six months' notice was given, as no objection to the revocation on account of its not being given was made by the Defendants.

Therefore in my opinion the old licenses were effectually revoked.

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As to the right to impose on the grant of a new license an obligation to pay £55 as license duty, one contention put forward by the Assistant King's Advocate is that the Crown might refuse to grant any license at all, and that therefore it might refuse to grant a license except on such payment as it thought fit to demand.

He relied on that part of the regulations of 1898 which provides that " the permission to establish factories for the cutting of tobacco is at the discretion of the High Commissioner."

His contention was that as the granting of a license was in the discretion of the High Commissioner, the High Commissioner could refuse to grant a license at all and that therefore he might impose a condition on the granting of the license that the licensee should make an annual payment.

I am of opinion that this contention is wrong.

If the regulation gives a discretion to the High Commissioner as whether or no he will grant a license, it is a discretion which must be used *bona fide* in the discharge of the duty imposed on him by the regulation and not for the purpose of compelling the licensee to make a payment of money to the treasury.

If the granting of licenses is in the discretion of the High Commissioner it would not entitle him to demand the payment of £55 license duty as a condition of the grant.

Another contention on behalf of the Crown is that, as Law 18 of 1897, Sec. 8 authorises the High Commissioner to vary as he may think fit the provisions of the Tobacco Regulations governing the issue of licenses to cut tobacco, therefore he may make a new regulation imposing a license duty of £55 a year.

To appreciate properly the question here raised it is necessary to consider the nature of the Law of 29 Safer, 1292.

The law is referred to in Law 18 of 1897 as " Tobacco Regulations."

In 3 Destur, p. 329, the title of the law is " The Tobacco Tax Law " (Dukhan resmi haqqinda Nizamname). The law is to be enforced by the Indirect Taxes Department (Sec. 94) and it contains numerous provisions as to what taxes are to be paid and the manner of ensuring the due payment of the taxes.

Part 5 of the law is entitled " about the manner of payment of taxes on what is consumed and about factories for the manufacture of tobacco," It provides (Sec. 34) that no tobacco shall be cut in places other than those appointed through the Government by the Indirect Tax Department. Sec. 35 provides that leave to establish a manufactory will be granted on certain conditions.

Amongst other conditions it is required that " from the applicants to establish a factory a written undertaking will be taken that they will carry out without default all the requirements and duties which have been or shall be fixed by this law, and other rules of procedure and laws to be made hereafter which may be adopted in respect of these factories and the tobacco taxes."

The other provisions of this part are principally directed to the fixing of the amount of duty to be paid, the manner of payment, and methods of procedure after a factory has been established to provide for the proper supervision of the working of the factory and to prevent frauds against the Revenue.

It is contended that a power given to the High Commissioner to vary the provisions of the Tobacco Regulations governing the issue of licenses to cut tobacco, authorises the High Commissioner to impose a license duty as a condition of issuing a license.

In my opinion this is wrong. The provisions of the Law of 29 Safer, 1292, governing the issue of licenses are distinct from those provisions which fix the amount of tax to be paid. A new regulation that the licensee shall pay a new license duty is an alteration of the provisions of the law which fix the taxes to be paid. In my opinion the power given to the High Commissioner by Law 18 of 1897 does not authorise an alteration of those provisions of the law, but is confined to the provisions dealing with the requirements of the law to be complied with before a license is granted. A power to vary the provisions governing the issue of licenses does not give a power to alter the provisions of the law imposing taxes.

Some confusion is caused by the somewhat careless manner in which the Law 18 of 1897 is drafted.

Sec. 8 speaks of "*licenses to cut tobacco*" issued under the provisions of the Tobacco Regulations of 29 Safer, 1292. As a matter of fact the licenses issued under that law are licenses "to establish factories to cut tobacco."

Again in the regulations of April, 1898, it is enacted that "permission to establish factories shall be granted in the form hereinafter set out" but the form says "permission is granted to manufacture tobacco."

It is somewhat difficult to construe enactments so loosely worded but the conclusion I come to is that the legislature did not mean to enact that licenses to cut tobacco should be substituted for licenses to establish factories to cut tobacco and that what was intended to be dealt with by the law and regulation was "licenses to establish factories."

That being so, the contention of the Defendant really amounts to this that the authority given to the High Commissioner to vary the provisions of the law governing the issue of licenses to establish factories, authorised him to impose a condition that after the factory was established it should pay an annual license duty. I think that contention is wrong. As I have already said the real meaning of the law seems to me to be that the power given is to vary the provisions of the law dealing with the requirements necessary to be complied with before the building can be used as a factory, and the license issued.

Those provisions deal with the structure of the building to be used, and contain certain requirements and prohibitions to facilitate the collection of the taxes imposed by the subsequent articles in that part of the law.

They further require the applicant for a license to enter into a bond to comply with the law or any further rules of procedure or law which may be adopted in respect of tobacco factories and the tobacco tax.

A rule imposing a new tax cannot in my opinion be described as a variation of those rules.

I am further of opinion that whatever meaning may be given to Law 18 of 1897, there are no words used in the law to empower the High Commissioner to impose any fresh tax on the issue of licenses.

Such a power must be clearly given. As to this I agree with all that is said by Bertram, J.

It has been suggested that the Government are only imposing on the licensees the obligation to pay for the Government supervision of the factory. If it were so I do not know if it would make any difference but in fact it is not so.

The regulations required the payment of a " license duty " of £55 payable in two instalments at such times as the Government may choose to insert in the license.

This is an additional reason for holding that the legislature could not have intended to confer the power claimed. For if the law authorises the imposition of a license duty, the authority is unlimited, there is no reason why any sum should not be required by regulation. The regulations arbitrarily fix the sum at £55, but if such a regulation can be made there is nothing to prevent the sum being fixed at £100 or £1,000.

The legislature has not expressly given such power and it is unlikely that it intended to give such power by an enactment which makes no mention whatever of a power to impose any duty or payment.

There was one other contention on the part of the Crown which I mention only to show that it has not escaped my notice.

It was contended that as a person authorised to establish a tobacco factory under the Law of 29 Safer, 1292, was compelled under Art. 35, par. 6, to perform all the requirements and duties which should be imposed by any other rules of procedure or laws made subsequent to that law which might be adopted in respect of tobacco factories or the tobacco tax, and that therefore he must perform all the requirements of the new regulations including the payment of a license duty.

Assuming that new rules of procedure could be made by the High Commissioner without any fresh legislation I am of opinion that the imposition of a license duty is something more than a rule of procedure.

I have moreover been unable to find any power given to vary the law and the procedure thereunder and as at present I am inclined to think that no one has power to alter without legislation.

But it is unnecessary to decide the point as it seems to me that whether power to alter rules of procedure exists or not there is no power under Law of 29 Safer, 1292, to impose a license duty.

To give shortly the result of my judgment the power to vary the provisions of the Tobacco Law of 1292, governing the issue of licenses, given to the High Commissioner by the Law 18 of 1897 does not extend beyond those provisions of the law which required conformity with certain rules as a condition of a grant of license, that is to say, the regulations as to the building to be used, its occupants, and the tobacco to be used, and the regulations dealing with similar matters.

A provision imposing a license duty payable by the licensee, would be a provision different in kind and quite unconnected with the provisions which the High Commissioner is authorised to vary.

Law 18 of 1897 does not give authority to impose any new duty or tax.

Under the Law of 29 Safer, 1292, the Plaintiffs would be entitled to a license to open a factory on compliance with the requirements of that law, and they are now entitled to such license on complying with any requirements lawfully required by the new regulations of 29th April, 1898.

A requirement to pay the license duty is not a lawful requirement and the Government have no right to stipulate for the payment of £55 a year in the license.

Therefore the point submitted by the Assistant King's Advocate for decision is in my opinion to be decided against the Crown and the Plaintiffs are entitled to judgment for the amount claimed.

For the sake of brevity and clearness I have not previously taken notice of the change of the parties in this action. One of the Plaintiffs had died since action brought and his heirs have been substituted for him.

The appeal will be allowed and judgment entered for the Plaintiffs for the amount claimed.

BERTRAM, J.: The determination of this case depends upon the proper interpretation of Sec. 8 of the Tobacco Law, 1897. There are, so far as I know, no general canons for the interpretation of statutes in Ottoman law. I shall therefore, in considering this question be guided by the principles of English law, and for this purpose shall consider myself justified in citing English authorities.

As to what is the general scope of the Tobacco Law, 1897, there is no question. It is a temporary law of an experimental character designed to encourage the growth of tobacco in Cyprus. The provisions of the Law of 29 Safer which govern the culture of tobacco were suspended. A limited number of licenses for the cultivation of tobacco in Cyprus were to be issued by the High Commissioner. The area to be licensed was to be limited by a calculation based upon the amount realised by an additional import duty imposed upon certain foreign tobacco known as tumbeki. All tobacco grown under the law was to be acquired by the Board of Agriculture, and the proceeds of the sale of this tobacco, as well as the proceeds of the additional tumbeki duty, were to be paid into an "Agricultural Fund." Out of this fund were to be paid (1) a duty of 4½*cp.* per oke on all tobacco grown under the law, (2) the cost of the supervision of the licensed area, and apparently, (3) the sums necessary to purchase the tobacco acquired by the Board. In order apparently to ensure that the native tobacco so grown should be taken and manufactured by the local factories, power was given to the High Commissioner to revoke all the existing manufacturing licenses and to issue fresh licenses embodying conditions for this purpose.

It is obvious that the general scheme of this law has nothing whatever to do with the question discussed in the previous litigation between the Plaintiffs and the Government. The question of the right of the Government to impose the cost of supervision of a factory upon the manufacturer is a question entirely outside the scope of the law. It is however contended by the King's Advocate that the legislature took advantage of the enactment of this law to deal with the questions discussed in that litigation, and, having

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these questions in view, gave the High Commissioner an unlimited power to vary the provisions of the Law of 1292 governing the issue of manufacturing licenses. In other words, it declared that the conditions of such licenses should no longer be governed by the law, but by the pleasure of the High Commissioner. This is said to be the result of the general words used at the end of Sec. 8 " and generally to vary, as he may think fit, the provisions of the said Tobacco Regulations governing the issue of such licenses."

The words relied upon are certainly of an extremely general character. They are indeed so general that they at once suggest the question whether they are to be read in their full apparent significance, or whether they ought not rather to be construed in the light of the general scope of the statute.

It is an acknowledged principle that in the interpretation of a statute words of an apparently unrestricted character may in some cases be controlled and limited by the general scope of the statute. " On a sound construction of every Act of Parliament," says Lord Tenterden in *Holton* v. *Cove* (1830) 1 B. and A., 558, " I take it the words in the enacting part must be confined to that which is the plan object and general intention of the legislature in passing the act." The authorities on this subject are collected in Maxwell, on the Interpretation of Statutes, Chapter III. I take it to be established that where a statute uses words of so general a character that they suggest a doubt as to whether they were intended to bear so general a sense as they seem to convey (more especially where these general words immediately follow words of a more specific and limited character), it is permissible, with a view to their interpretation to look at the whole scope and intention of the act, and to construe the general words in the light of that scope and intention.

Bearing this principle in mind, it seems to me that the most natural meaning of the words under consideration is this—that the High Commissioner on the issue or re-issue of manufacturing licenses is to have power to insert conditions as to the cutting by the manufacturers of native grown tobacco, and *for the purpose of these conditions* to vary *so far as may be necessary*, the provisions of the Law of 29 Safer, 1292, governing the issue of such licenses.

It must be remembered that what we have to determine is not what was the intention of the Government in proposing the law but what must be taken to be the intention of the legislature in passing it. That intention has to be determined by a study of the words of the law itself. Two considerations seem to be very strongly in favour of the limited interpretation above suggested.

The first consideration is this: The law is a temporary law—and the provision which confers these powers of variation upon the High Commissioner is temporary also. Should the law lapse, these powers lapse with it. It is surely therefore reasonable to suppose that the powers conferred are intended to be co-extensive with the scope of the law. It would be singular if during the continuation of the experiment inaugurated by the law the High Commissioner were to have an absolutely unrestricted power as to the conditions on which tobacco licenses may be granted, but that on the law lapsing he is to be remitted to the regulations of the Law of 1292.

The second consideration is this: If the words are intended to have an absolutely general scope—so that the High Commissioner is to have power to make the issue of licenses subject to any condition he may see fit to impose, what is the object of giving him the special power to insert conditions as to the cutting of native-grown tobacco? If the construction contended for on behalf of the King's Advocate is correct, the words from " to make conditions " as far as " Board of Agriculture " are mere surplusage.

Assuming however that the intention of the legislature was to confer upon the High Commissioner general powers outside the scope of the law, I think that there is another ground on which the case of the Respondent must fail.

The imposition of this license duty is in effect the imposition of a fresh tax and the question naturally suggests itself whether the powers committed to the High Commissioner are wide enough to embrace the power to impose taxation.

These regulations are an instance of what is known as " subordinate legislation," that is to say, the system by which the legislature deputes to some administrative authority the power to make regulations which shall have the force of law. The object of this system seems to be that the legislature in the statute itself should lay down the general principles of the law, while the administrative authority should be left to work out those details which cannot conveniently be embodied in a statute and which may from time to time require to be modified according to the circumstances of the moment. Now it is not of course impossible that the legislature should depute to the Executive the power to impose financial burdens on the subject. An instance of such subordinate legislation is the Customs and Excise Amendment Ordinance, 1879 (which is expressly entitled " An Ordinance for making Customs and Import Duties matters of Regulation.") But as a general rule, where it is intended to depute to the Executive the power to impose financial burdens on the subject—whether these burdens take the form of taxes, or fees of office, or penalties—it is usual for that power to be conferred by express words.

Statutes imposing burdens on the subject, both in England and in Cyprus are on a special and peculiar footing, and according to English law statutes which (whether for the benefit of the Crown or of some corporation or person subject to the Crown), are alleged to impose a tax on the public, are submitted to a very strict construction. " It must be observed," says Lord Brougham in *The Stockton Railway Company* v. *Barrett*, 11 Cl. and F., 590, " that *in dubio* you are always to lean against the construction which imposes a burden on the subject. The intention of the legislature to impose a tax must be clear." " These rates," says Lord Tenterden in *The Hull Dock Company* v. *Browne*, 2 B. and Ad., 58, " are a tax upon the subject, and it is a sound general rule that a tax shall not be considered to be imposed (or at least not for the benefit of the subject) without a plain declaration of the intent of the legislature to impose it." The words above quoted were used with reference to taxes imposed for the benefit of private corporations and not of the Crown itself, but in *The Oriental Bank Corporation* v. *Wright* (1880) 5 A.C., 841, the same

principle was applied by the Privy Council to taxes imposed for the benefit of the Government. "The intention to impose a charge upon the subject must be shown by clear and unambiguous language."

And if this is the principle which is to be applied to the construction of statutes which are alleged to impose taxation directly, how much more strongly is it applicable to statutes which are alleged to impose taxation by the method of subordinate legislation. It would certainly be singular, if a law which conferred upon the Executive power to regulate an industry—as for example that of hackney carriages—were held without express words to confer power to tax it, as for example by the imposition of a license duty.

Now what is the power which is deputed to the High Commissioner in this case—it is the power to vary the provisions of the Law of 29 Safer, 1292, *governing the issue of licenses* to cut tobacco. The provisions of the Law of 29 Safer, 1292, which govern the issue of such licenses are easily identified. They are contained in one article of the law—Art. 35. That article imposes certain conditions with regard to the structural arrangements, situation and management of the factory and requires the licensee to give a written undertaking to comply with the law for the time being. Reading the power conferred upon the High Commissioner in the light of that article and in the light of the general principle above referred to, it does not seem to me that the words conferring the power are wide enough to include a power to impose a fresh duty upon the manufacture in question.

It is however contended by Mr. Amirayan that quite apart from the Law of 1897, the Government is entitled to make the payment of this "license duty" a condition of a grant of a license. He contends that this power resides in the Government both by virtue of certain provisions of the Law of 29 Safer, 1292, and also by virtue of its general prerogatives: The provisions of the law on which he relies are certain words in Art. 35, which require the applicant for a license to enter into a written undertaking (according to the translation published in "Legislation Ottomane") "*à remplir et à observer strictement tout engagement ainsi que tout devoir dérivant tant du présent règlement que des mesures, régimes et dispositions réglementaires pouvant être établies plus tard sur les manufactures et sur les taxes des tabacs.*" He contends that these words read in conjunction with Art. 94 ("*L'Administration Générale des Contributions indirectes est chargée d'executer et de faire respecter le présent règlement*), impliedly confer upon the Government power from time to time to issue fresh regulations and if necessary to impose fresh taxes. I confess that I do not read the words in this sense. The "*mesures, régimes et dispositions réglementaires*" referred to seem to me to be "*mesures, régimes et dispositions réglementaires,*" that may be imposed either by statute, or by virtue of statutory authority. The words of themselves do not confer any such authority. As to Art. 94 it is simply the common form of article which is customary in legislation, based upon the French model, by which the administration of a law is committed to its appropriate department.

Nor do I think that there is any general right in the Government to refuse the grant of a license unless the licensee consents to pay this duty. I am not aware that until the Laws of 1290 and 1292 the Sultan had any special prerogatives with regard to tobacco, or that there was anything to prevent any one of his subjects from setting up a tobacco manufactory. In 1290 he reserved to himself the monopoly of the manufacture of tobacco in the Constantinople district. By the Law of 1292, Art. 34, he prohibited his subjects (presumably outside that area) from engaging in the manufacture of tobacco, without the authorisation of the Government—but in the next article he declares, "*L'autorisation d'installer des manufactures de tabac sera accordée aux conditions suivantes*"—referring to the conditions set out in the article. I confess that I do not see how a license could be refused to any person who complied with the conditions enumerated or how the grant of the license could be made subject to the applicant complying with an additional condition not imposed by the law.

It is true that the regulations issued under the Tobacco Law, 1897, purport to repeal Art. 35 altogether and to subject the issue of manufacturing licenses to the discretion of the High Commissioner. But it is impossible to suggest that he may exercise his discretion by making the issue of licenses dependent on the payment of an unauthorised tax. The exercise of a discretion on this principle would it seems to me to be as much *ultra vires* as the imposition of the tax by a regulation.

I have however already expressed the view that the powers conferred upon the High Commissioner by the Law of 1897 are restricted by the general scope of that law and of course if this view is correct the last point does not arise.

I concur in the judgment of the Chief Justice that the appeal must be allowed with costs here and below.

Appeal allowed.