

Moss, C.J.O.—The exceptions taken to the validity of the Act may be shortly stated as follows: (1) The coming into effect of any part of the Act is made dependent upon the result of the vote directed to be taken. (2) In any event the coming into force of the second part of the Act is made dependent upon the result of the vote, and in both or either of these cases there has been an improper delegation by the Legislature of its power of enacting laws, to a body incapable of exercising the functions of proclaiming a law on its behalf; and, finally, the Legislature does not possess the power assumed to be exercised in sec. 91 of the Act of 1902 of appointing a tribunal to exercise the jurisdiction of a Court or of delegating to the President to the High Court the power to designate such a tribunal.

The Act received the assent of the Lieutenant-Governor on the 17th March, 1902. That the subject-matter is one with regard to which the Legislature is competent to enact a law or laws, must be taken to be definitely settled by the judgment of the Judicial Committee in *Attorney-General for Ontario v. Attorney-General for the Dominion*, [1896] A. C. 348, and *Attorney-General for Manitoba v. Manitoba Licenseholders' Association*, [1902] A. C. 73. The question is, did the Legislature in enacting the Act in its present form exceed, or fail to properly exercise, its powers?

The Act is in two parts. In part I. it is enacted that "there shall be submitted to the vote of the electors herein-after declared entitled to vote thereon the following question: 'Are you in favour of bringing into force the Liquor Act, 1902?'" (2) The voting shall take place upon the said question in all the electoral districts in the Province on the 4th day of December in the year 1902, being the first Thursday in the said month."

Then follow elaborate provisions concerning the qualification of voters, the appointment of returning officers, the opening and holding of the polls and the taking of the vote, the preservation of peace, the maintenance of secrecy, the prevention of corrupt practices, the return of results, and the final summing up of the votes. Then it is enacted (sec. 104) that in case it appears from the summary that a majority of the votes on the said question are in the affirmative and that the number of votes on the question in the affirmative exceeds one-half of the number of votes to be ascertained as specified, the Lieutenant-Governor shall issue his proclamation declaring part II. of the Act to be in force on, from, and after the 1st day of May, 1904, and part II. shall come into force and take effect on, from, and after the said date accordingly.