

5. If a Provincial Legislature has not jurisdiction to prohibit sales of such liquors, irrespective of quantity, has such Legislature jurisdiction to prohibit the sale, by retail, according to the definition of a sale by retail, either in statutes in force in the province at the time of Confederation, or any other definition thereof?

6. If a Provincial Legislature has a limited jurisdiction only, as regards the prohibition of sales, has the Legislature jurisdiction to prohibit sales subject to the limits provided by the several sub-sections of the 99th Section of "The Canada Temperance Act," or any of them? (R.S.O., c. 109, s. 99.)

7. Had the Ontario Legislature jurisdiction to enact the 18th section of the Act passed by the Legislature of Ontario in the 53rd year of Her Majesty's reign, and entitled, "An Act to improve the Liquor License Acts," as the said section is explained by the Act passed by the said Legislature in the 54th year of Her Majesty's reign, and entitled, "An Act Respecting Local Option in the matter of Liquor Selling?"

The court agreed unanimously to answering the third and fourth questions in the negative. The first, second, fifth, sixth and seventh were answered negatively by Judges Gwynne, Sedgewick and King. Chief Justice Strong and Judge Fournier answered them affirmatively, so that the negative judgment is by a vote of three to two.

At the same time the court gave judgment upon an appeal case involving the question of the constitutionality of a Local Option by-law passed by the township of South Norwich. This prohibitory by-law had been enacted by the municipality under authority conferred by the Ontario Legislature. In this case the Local Option by-law was sustained, this decision being practically the opposite of the decision given by the same court in reply to the 7th question submitted.

The explanation of this contradiction is to be found in the fact that the five judges who acted in the South Norwich case are not the five judges who answered the questions. There are six judges in the Supreme Court. The judgment sustaining Local Option was also a judgment