

question of property and civil rights in the province. They desired, however, to hear counsel as to whether the act was not a matter of a merely local and private nature in the province. Then it was argued in support of the right of the Dominion to pass the act, that it was one, not of a local or private nature, but that it was one dealing with drunkenness, affecting the whole community, its character, health and efficiency. It was contended "that one test whether a matter was merely local or private was the magnitude of the interests involved, such as temperance, education, public rights, health, &c." It was also contended that the case came within the words "regulation of trade and commerce" in sec. 91, sub-section 2.

The court, Sir Montague Smith delivering the judgment, held that the subject-matter of the act did not come within any of the subjects assigned to the province, but that it was one exclusively within the power of the Dominion to pass. Eliminating his statement of the case and his recital of the argument of Mr. Benjamin, which he disposed of in detail, his reasons are comprised in a brief space. He refers to the preamble of the act in which the expressions that "it is very desirable to promote temperance" and that "there should be uniform legislation in all the provinces respecting the traffic in intoxicating liquors" are used. He says the effect of the act in any county or town where adopted is to "prohibit the sale, except in wholesale quantities, or for certain specified purposes, and to regulate the traffic in the excepted cases, and to make sales otherwise than as prescribed criminal offences."

He decides expressly that, though the effect of the act were prejudicial to the revenue otherwise derivable from licenses, "it does not follow that the Dominion Parliament might not pass it by virtue of its general authority to make laws for the peace, order and good government of Canada."

The court held that if the argument that the power given to the province to make laws respecting licenses prevents

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