

In 1883 Parliament, largely influenced by inferences drawn from the judgment of the Privy Council in the *Russell* case, legislated respecting the sale of intoxicating liquors, and the issue of licenses therefor. This legislation was regarded with great disfavor by all the provinces; and a joint case to test its constitutionality was submitted to the Supreme Court which declared it *ultra vires* of the powers of Parliament in its general principles; and this view was confirmed by the decision of the Judicial Committee of the Privy Council rendered on the 12th day of December, 1885.

While their Lordships of the Privy Council have in these three important judgments remained strictly within the issues submitted to them they have laid down as applicable to each distinct case certain general principles of interpretation, which must always serve as determining tests in construing the powers of Parliament and legislature in dealing with the regulation of the liquor traffic.

The ruling on "The Liquor License Act of 1883" has set at rest all controversy regarding the question as to where lies, under the constitution, the licensing power. It is thus tersely expressed "that the Liquor License Act of 1883 and the Act of 1884, amending the same, are not within the legislative authority of the Parliament of Canada."

By the *Russell* case it is determined that Parliament had authority to pass "The Canada Temperance Act of 1878," and it is declared:—"Parliament does not treat the promotion of temperance as desirable in one Province more than in another, but as desirable everywhere throughout the Dominion, Parliament deals with the subject as one of general concern to the Dominion upon which uniformity of legislation is desirable, and the Parliament alone can so deal with it."

By the *Hodge* case it is decided that "The Liquor-License Act of 1877 is so far confined in its operation to municipalities in the Province of Ontario, and is entirely local in its character and operation"—that the regulations which may be adopted under it, "seem to be all matters of a merely local nature in the Province, and to be similar

"to, though not identical in all respects with, the powers then belonging to municipal institutions under the previously existing law passed by the local parliament." "Their Lordships consider that the powers intended to be conferred by the Act in question, when properly understood, are to make regulations in the nature of police or municipal regulations of a merely local character, as such they cannot be said to interfere with the general regulation of trade and commerce which belongs to the Dominion Parliament, and do not conflict with the provisions of the Canada Temperance Act, which does not appear to have as yet been locally adopted." "The subjects of legislation—seem to come within the heads Nos. 8—15 and 16 of Sec. 92 of the B. N. A. Act.

Since the rendition of these judgments, or at least of some of them, our Courts have had occasion in several instances to apply them. In the *Sulte* case, to which reference has already been made, the late Mr. Justice Ramsay in rendering the unanimous judgment of the Court of Queen's Bench Oct. 7th 1882 (5 Leg. News, p. 330) said: "It may be at once conceded that the power to pass prohibitory liquor laws is not essential to the existence of municipal institutions, and that consequently in a very restricted reading of sub. sec. 8 (sec. 92) it would not justify the local legislature in passing a prohibitory liquor law. In so far as the Province of Quebec is concerned, municipal institutions were the creation of special statutes. The general Act was passed no longer back than 1855. Among other things County Councils were given the power to make by-laws for prohibiting and preventing the sale of all spirituous, vinous, alcoholic and intoxicating liquors &c." "These Statutes were in force at the time of confederation." . . . "We hold, then, that under a proper interpretation of sub-sec. 8 the right to pass a prohibitory liquor law for the purposes of municipal institutions has been reserved to the local legislatures by the B. N. A. Act. We have suspended our judgment in this case for an unusual length of time awaiting the decision of the Privy Council in the case of *Russell v. The Queen*. It has