

that the legislation concerning lotteries belonged to the local legislatures, re-amended said chapter 95, and took away in favor of the construction of chapels, churches, the establishment of colonization, etc., the restriction applicable to bazaars, which limited the value of lots to \$50 each. The Federal Government on its side also thought fit to amend the same chapter by chapter 36 of 46 Victoria, extending the dispositions in favor of bazaars to societies established for the encouragement of objects of art, namely, paintings, drawings, etc., and when the revision of the Federal statutes took place in 1886, said chapter 95, as amended before Confederation, was incorporated therein leaving aside, consequently not recognizing, the local act of the province of Quebec, chapter 36 of 32 Victoria. The Federal-Act is under the chapter 159, under which the present actions are taken.

When the provincial statutes were consolidated in 1888 the Legislature of the province of Quebec inserted therein also the same chapter 95 under articles 2911 to 2923, leaving aside in its turn the amendment of the Federal Parliament in favor of the societies established for the encouragement of art, as above mentioned. Lastly, by chap. 36 of 53 Victoria, that provincial act was again amended so as to extend the grant of the lotteries authorized by article 2920, "to establishments of public interest, and to education, and by subordination to hold a permanent lottery, by the sanction of Governor-in-council, with the obligation to make reports if demanded or required." This is as nearly as possible the history of that legislation, as we have it to-day in the Statutes of the Federal and provincial governments.

Naturally enough the defendants, who are the organizers of lotteries or vendors of tickets, refuse to recognize the constitutionality of the federal law. Their efforts are directed to demonstrating that this law is but a police law or of simple infraction, because, first, the offence is not declared to be either a felony or a misdemeanor by the act which creates it; second, that lotteries, not being *mala in se* or an offence under the common law, cannot be considered as a criminal act properly speaking. Article 91 of the B. N. A. act is instanced as declaring amongst other things "that the exclusive legislative authority of Parliament of Canada extends to all matters falling under the category of subjects therein enumerated," and more particularly section 27, which reads "the criminal law, except the constitution of Courts of criminal jurisdiction, etc.," and from this it is argued that this category of this