

questions of law which are continually arising, and which have to be disposed of by the Courts; and under the intelligent leadership of the able head of the Supreme Court of Canada,

WILL BE MORE INTELLIGENTLY DEALT WITH

by that Dominion Court, with one of the ablest lawyers in America at its head, than by a body, incapable, as it seems, of doing any better, as far as we are concerned, than delivering such ridiculous judgments as those in *Dobie v. The Temporalities Board* and in *Russell v. The Queen*;—

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL OF ENGLAND, who, when they hear appeals from the Supreme Court of Canada, hear them not as of right, but in a kind of illegitimate way, called "*as of favor*!"

THE VALIDITY OF THE DOMINION LICENSE ACT OF 1883, UNDER THE TESTS.

And, now, in closing, we would simply apply the tests with which we are supplied by the Privy Council of England, in *Russell v. The Queen*; and by the wiser judgment of the Supreme Court of Canada, in the *City of Fredericton v. Barker*, to the Dominion License Act of 1883.

By what we think, as we have plainly intimated, is the absurd Privy Council test, the Act is undoubtedly good; from the fact, alone, that the Local Legislatures could not pass it, being an Act for the whole Dominion; which is, as we have seen, according to the Privy Council, equivalent to a declaration that Parliament can pass it. And, therefore, assuming that the Privy Council's test is a sound one; or, adopting it as an authoritative statement of the law, the License Act of 1883 would be *intra vires* Parliament. But, we confess that we shall be somewhat surprised if the Privy Council themselves do not abandon their rule, which, we think we have clearly shown, is utterly unsound and worthless.

By the wiser tests furnished by the Act, and developed by the Supreme Court of Canada in the *City of Fredericton v. Barker*, the Act is question being a general Act for the regulation of traffic in intoxicating liquors, for the "peace and order" of Canada, is an Act regulating trade, and is as valid as the Canada Temperance Act; the Fisheries Act; or the Insurance Act—which two latter Acts have been already fully considered, with the cases under them, in this treatise. As these latter two Acts contained clauses expressly reserving the rights of the Local Legislatures, so the Act under consideration has a clause, (the 2nd sub-section of