

The legislature has already made promise to test the question under this act before the Privy Council, and in any case we must shape our views, without attempting independent judgment, merely to deciding whether these convictions are within the principle laid down by the highest court of appeal.

I ought to point out that it should not be supposed that because an act is *ultra vires* the Provincial Legislature it follows that the same enactment is *intra vires* the parliament of the Dominion. It is characteristic of the federal system that an act may be so framed that neither body can give it validity.

It is because I am entirely unable to see that this enactment now before us is anything more or less than a law to make it difficult or impossible to trade in drink, and because I see that it is enacted in the interests of the temperance organizations and because it is so framed that if this class of persons so elect they may prevent the appointment of an inspector and so prevent licenses or sale of drink, that I am driven to decide under the distinct utterances of the Privy Council that it is *ultra vires*.

It becomes unnecessary, in this view, for me to offer an opinion upon the other question raised in this case, namely, whether it is within the province of the Provincial Legislature to pass an act to regulate procedure in those criminal matters which arise in violation of the penal clause provided for the enforcement of an act admittedly within the power of the province to pass. I do not think it follows, even if the license act were *intra vires*, that then the Procedure Act is so. That is, I think, a different question on which, as I say, I need offer no opinion.