

Canada Temperance Act had been locally adopted in the county of York.

Now, under what circumstances was the Canada License Act of 1883 brought into existence? The decision in the case of *Russell vs. The Queen* had just been rendered by the Privy Council, and in that case their Lordships said:

"With regard to the first clause, No. 10 (that is with regard to shop licenses) it is to be observed that the power of granting licenses is not assigned to the Provincial Legislature for the purpose of regulating trade, but only for the raising of revenue for provincial, local or municipal purposes."

Now, the hon. gentlemen on this side of the House came to the conclusion, last Session of Parliament, from the statement, that it was necessary to pass an Act which would restrict and regulate the trade in intoxicating liquors. Hon. gentlemen on the other side did not say that Act was unconstitutional. The hon. leader of the Opposition referred to several decisions of the courts upon this subject, but he never ventured to state that the Act then proposed to be enacted was unconstitutional, and during the discussion upon this question at the opening of this Session, when challenged by the right hon. leader of the Government to say whether the Canada License Act of 1883 was constitutional or unconstitutional, he refused to lend the credit of his name and deservedly high reputation to a statement as to whether it was one or the other. In view of the statement of the Privy Council in the case of *Russell vs. The Queen*, this Parliament undertook to pass an Act regulating the liquor traffic throughout the whole Dominion. It did not, however, coincidentally with that legislation, endeavour to rob the Provincial Legislatures of the revenues to which they are entitled, derivable from the granting of licenses; but, on the contrary, the Dominion Act expressly provided that the tax for licenses should go, not to the Dominion Government, for Dominion purposes, as was the case under the Scott Act, passed by hon. gentlemen opposite, but that it should go to support the Exchequers of the Provinces. Now, we have to consider first whether the Canada License Act of 1883 is constitutional or not. In doing that, we can take up first the rule laid down by the Privy Council as a safe course to be followed by those upon whom rest the responsibility of determining such Statutes. In the case of *Hodge*, the Privy Council said:

"In performing the difficult duty of determining such questions, it will be a wise course for those on whom it is thrown to decide each case which arises as best they can, without entering more largely upon the interpretation of the Statute than is necessary for the decision of the particular question in hand."

In that respect, it will be observed that the Privy Council, as pointed out by the hon. member for Jacques Cartier, confined themselves strictly to the proposition they laid down, and determined the question whether it was legal or illegal in the Province of Ontario. I do not deny, because I do not wish to pass over any point in connection with this discussion—and moreover, in discussing a constitutional question, I think it would ill-become members of the legal profession, who are members of this House, to attempt to prostitute argument to political purposes—I do not deny that in the decision of *Hodge vs. The Queen*, the Privy Council went on to discuss other matters; but, following the rule laid down, which I have just cited as a criterion for their conduct, they did not decide these matters; they merely commented upon them, and seemed to say: when these cases come before us we will decide them under the circumstances under which they arise, but sufficient unto the day is the evil thereof; and, in the meantime, we only decide the question brought before us with respect to the keeping open of billiard saloons after seven o'clock. The Privy Council put down a rule in the case of *Russell vs. The Queen*, in regard to the interpretation of the Statute of 1867. It is this:

Mr. MACMASTER.

"The true nature and character of legislation, in the particular instance under discussion, must always be determined, in order to ascertain the class of subjects to which it really belongs."

Let us, under the guidance of that rule, take up the Canada License Act of 1883. What is the nature and character of that legislation? Let us look at the preamble. The preamble says:

"It is desirable to regulate the traffic in the sale of intoxicating liquors, and it is expedient that the law in respect to the same should be uniform throughout the Dominion, and that provision should be made in regard thereto for the better preservation of peace and order."

The scope and object of the enactment is uniform legislation and regulation of the traffic in intoxicating liquors throughout all the Provinces of Canada, in the general interest of the whole Dominion. This enactment is simply the complement—I was almost going to say the twin—of the Scott Act or the Temperance Act of 1878. Let us look at the preamble of the Canada Temperance Act of 1878. That states:—

"It is very desirable, to promote temperance in the Dominion, that there should be uniform legislation in all the Provinces respecting the traffic in intoxicating liquors."

These are the objects as declared by the two Acts, and I set a good deal of value on these two declarations for the reason that the Canada Temperance Act of 1878 has been declared to be constitutional; and if we find there is an affinity between the two Acts, we may conclude if the one is constitutional, the other must be constitutional, and therefore the proposition of the hon. member for Prince Edward Island (Mr. Davies) that the *Hodge* case determined the constitutionality of the Act now before the House, will completely fall to the ground. In the Canada Temperance Act of 1878, the object is to make uniform legislation in all the Provinces respecting the traffic in intoxicating liquors, in order to promote the cause of temperance. In the Canada License Act of 1883, the object is to make uniform legislation in all the Provinces throughout the Dominion—for what purpose? In order to preserve peace and good order throughout the whole of Canada. The objects are practically, therefore, the same. But I do not rest upon my own frail interpretation of what the significance of the Act of 1878 may be. The Privy Council, in the decision in which they found the Canada Temperance Act to be constitutional, declared as follows:—

"The preamble of the Act in question states that it is very desirable to promote temperance in the Dominion, and that there should be uniform legislation in all the Provinces in reference to the traffic in intoxicating liquors."

Then their Lordships go on, and state as follows:—

"The declared object of the said Act is to have uniform legislation in all the Provinces, in reference to the traffic in intoxicating liquors, with a view to promote temperance in the Dominion. Parliament does not treat the promotion of temperance as desirable in one Province more than another, but as desirable in every Province throughout the Dominion."

Then their Lordships say again:

"Parliament feels that the subject is one of general concern for the Dominion, and upon which uniformity of legislation is desirable, and the Parliament alone can so deal with it. There is no ground or pretence for saying that the evil or vice struck at by the Act in question is local, or exists only in one Province, and that Parliament, under colour of general legislation, is dealing with a Provincial matter only."

So, with regard to the Canada License Act of 1883, there is no ground or pretence for saying that it is local in its scope or in its objects. Its objects are Dominion in character. They are not of a provincial character. What it has in view is not to make uniform laws with regard to any one Province upon the subject of the traffic in intoxicating liquors, but its object is to make a uniform and general law applicable to the whole Dominion, upon the trade or traffic in intoxicating liquors. Now, it cannot be doubted that this is a subject within the purview of this Parliament. When we refer to the case of *Parsons and the Citizens' Insurance Company*—and here I am citing the opinions