

regarded. Laws of this nature designed for the promotion of public order, safety, or morals, and which subject those who contravene them to criminal procedure and punishment, belong to the subject of public wrongs, rather than to that of civil rights. They are of a nature which fall within the general authority of Parliament to make laws for the order and good government of Canada, and have direct relation to criminal law, which is one of the enumerated classes of subjects assigned exclusively to the Parliament of Canada."

In *Regina v. Mason*, 17 Ont. App. 221, a provincial statute prohibiting under a penalty any person from selling adulterated milk to owners of a cheese or butter factory was held to be *intra vires*. But Street, J., whose opinion was upheld in the Court of Appeal, said: "Is it an Act constituting a new crime for the purpose of punishing that crime in the interests of public morality, or is it an Act for the regulation of the dealings and rights of cheese makers and their patrons with punishments imposed for the protection of the former? If it is found to come under the former head, I think it is bad as dealing with criminal law. If under the latter, I think it is good as an exercise of rights conferred on the province by sec. 92 of the B. N. A. Act." This observation was approved of in the Court of Appeal.

Testing this section by it I think it falls within the criminal law. Possibly the Provincial Legislature might approach it by enacting a law about masters and servants, and another about winners and losers in gambling, giving the one as against the other a rest on one day in the week, and so on, and thus bring the legislation under the head of civil rights, as the statute about vendors and vendees of milk was brought. But this provision is not passed about such rights at all: it is dealing with things which the legislature regarded as injurious to the public—not the rights of individuals *inter se*, but the right of the community not to have its citizens demoralized, whether they are those who engage in shooting, gambling, sporting, tippling, or working on Sunday, or those who are obliged to witness these things. One private citizen has no more interest than another in seeing it enforced. It is aiming at something analogous to public nuisances, and concerns the public.

There is another head to be looked at. If this provision was passed in the interest of the public no reason has been suggested why it is not as suitable or as applicable to the condition of things in other provinces as in Nova Scotia. It would not, therefore, be considered a "matter of a merely local or private nature in the province." The field has been occupied, if this is criminal law in so far as this Province is concerned, and there is no reason for applying provincial Legislation as a temporary expedient, because of any particular local iniquity under the recent doctrine of the Judicial Committee of the Privy Council.

Coming to the amendments, I suppose the Province might pass legislation in regard to this matter, and perhaps secure the same end under the head "property and civil rights" or some other head. But it appears to me that the Act, 1891, c. 32, is not an attempt to do this. It is a *bona fide* attempt to amend by adding sections to an Act which I have just endeavored to show is a part of the criminal law. The first section expressly says so. Moreover the person who offends by employing, hiring or procuring his employee to