

The next question with which their Lordships will have to deal will no doubt be the constitutionality of the McCarthy Act. Upon a question which has evoked so much contrary opinion among the ablest men in the Dominion, and which has become so much entangled with party politics, it would not be useful for us to offer a confident opinion. We may, however, indicate the arguments which occur to us pro and con. Against the Act will be urged the following :—

1. The Privy Council has decided that the subjects dealt with by the Ontario License Act are of a municipal, local and private nature, and by the B. N. A. Act the Legislatures have exclusive jurisdiction in respect of such matters.
2. The Privy Council has decided that the subjects dealt with do not relate to trade and commerce.
3. The only ground, therefore, upon which the Dominion jurisdiction can be supported is, that the law is one for the "peace, order and good government of Canada." But Parliament has not power to enact all laws for these purposes, but only such as may be in relation to all matters *not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.*" It has already been shewn that the subject of this Act is a matter "assigned exclusively to the Legislatures."
4. It cannot be that the same power is vested in both legislative bodies. It has been held to be vested in the local Legislatures. The Dominion Parliament can have no jurisdiction.
5. The *Citizens Ins. Co. v. Parsons* is a parallel case. It was there said that the Dominion Parliament might have power to require all insurance companies to take out a license before engaging in business, and yet it was decided that the local Legislature had power to regulate contracts between the companies and individuals. So here the Dominion Parliament has power to prohibit the traffic altogether, but the local Legislature have the power of regulation in the absence of prohibition.