

With regard to the first of these classes, No. 9, it is to be observed that the power of granting licenses is not assigned to the Provincial Legislatures for the purpose of regulating trade, but "in order to the raising of a revenue for provincial, local, or municipal purposes."

The Act in question is not a fiscal law; it is not a law for raising revenue; on the contrary, the effect of it may be to destroy or diminish revenue; indeed it was a main objection to the Act that in the city of Fredericton it did in point of fact diminish the sources of municipal revenue. It is evident, therefore, that the matter of the Act is not within the class of subject No. 9, and consequently that it could not have been passed by the Provincial Legislature by virtue of any authority conferred upon it by that sub-section.

It appears that by statutes of the Province of New Brunswick, authority has been conferred upon the municipality of Fredericton to raise money for municipal purposes by granting licenses of the nature of those described in No. 9 of Section 92, and that licenses granted to taverns for the sale of intoxicating liquors were a profitable source of revenue to the municipality. It was contended by the Appellant's counsel, and it was their main argument on this part of the case, that the Temperance Act interfered prejudicially with the traffic from which this revenue was derived, and thus invaded a subject assigned exclusively to the Provincial Legislature. But, supposing the effect of the Act to be prejudicial to the revenue derived by the municipality from licenses, it does not follow that the Dominion Parliament might not pass it by virtue of its general authority to make laws for the peace, order, and good government of Canada. Assuming that the matter of the Act does not fall within the class of subject described in No. 9, that sub-section can in no way interfere with the general authority of the Parliament to deal with that matter. If the argument of the appellant that the power given to the Provincial Legislatures to raise a revenue by licenses prevents the Dominion Parliament from legislating with regard to any article or commodity which was or might be covered by such licenses were to prevail, the consequence would be that laws which might be necessary for the public good or the public safety could not be enacted at all. Suppose it were deemed

to be necessary or expedient for the national safety, or for political reasons, to prohibit the sale of arms, or the carrying of arms, it could not be contended that a Provincial Legislature would have authority, by virtue of Sub-section 9 (which alone is now under discussion), to pass any such law, nor, if the Appellant's argument were to prevail, would the Dominion Parliament be competent to pass it, since such a law would interfere prejudicially with the revenue derived from licenses granted under the authority of the Provincial Legislature for the sale or the carrying of arms. Their Lordships think that the right construction of the enactments does not lead to any such inconvenient consequence. It appears to them that legislation of the kind referred to, though it might interfere with the sale or use of an article included in a license granted under Sub-section 9, is not in itself legislation upon or within the subject of that sub-section, and consequently is not by reason of it taken out of the general power of the Parliament of the Dominion. It is to be observed that the express provision of the Act in question that no licenses shall avail to render legal any act done in violation of it, is only the expression, inserted probably from abundant caution, of what would be necessarily implied from the legislation itself, assuming it to be valid.

Next, their Lordships cannot think that the Temperance Act in question properly belongs to the class of subjects "Property and Civil Rights." It has in its legal aspect an obvious and close similarity to laws which place restrictions on the sale or custody of poisonous drugs, or of dangerously explosive substances. These things, as well as intoxicating liquors, can, of course, be held as property, but a law placing restrictions on their sale, custody, or removal, on the ground that the free sale or use of them is dangerous to public safety, and making it a criminal offence punishable by fine or imprisonment to violate these restrictions, cannot properly be deemed a law in relation to property in the sense in which those words are used in the 92nd section. What Parliament is dealing with in legislation of this kind is not a matter in relation to property and its rights, but one relating to public order and safety. That is the primary matter dealt with, and though incidentally the free use of things in which men may have