

tax, and, therefore, not within the competence of the only legislatures in Canada which had ever dealt with it, namely, the provincial legislatures.

*Effect of Provincial Legislation Outside of the Province.*—When dealing with a Dominion temperance statute, their Lordships said that:

"matters which are of a local or private nature from a provincial point of view are not excluded from the category of matters of a merely local or private nature because legislation dealing with them, however carefully it may be framed, may or must have an effect outside the limits of the province" (a).

That statement of the law was completely reversed in a more recent decision of the Privy Council: Money was on deposit in a branch of the Bank of Montreal at Edmonton; a statute of the Province directed the transfer of the money to the Provincial Treasurer; and upon the ground that such transfer would interfere with the right of persons in England to sue the head office of the Bank of Montreal, their Lordships held that the statute was *ultra vires*. They said that the right of the bondholders

"was a civil right outside the Province, and the legislature of the Province could not legislate validly in derogation of that right" (b).

—in other words, in direct contradiction of the Manitoba case, the legislation was bad because it produced "an effect outside the limits of the Province."

*Local Option.*—First, the Dominion parliament (1868), and afterwards the Ontario legislature (1890) enacted statutes giving to municipalities the right to prohibit the sale of intoxicating liquors. The two statutes were substantially the same, with the exception that the Ontario applied only to Ontario, while the Dominion applied to all the Provinces. Questions came before the Privy Council as to the validity of these statutes. One would naturally assume that the result would be the establishment of one jurisdiction or the other. On the contrary, their Lordships held that both statutes were *intra vires*; that the municipal councils might pass bylaws under the authority of either, or both of them; but that if both were adopted, the Dominion legislation would be that which would be applicable to the locality (c).

The reasoning by which the Privy Council arrived at such an extraordinary decision is remarkable. Their Lordships held that

"The Dominion Parliament has no authority to encroach upon any class of subjects which is exclusively assigned to provincial legislatures by section 92;"

(a) *Attorney-General of Manitoba v. Manitoba Licenseholders' Assn.*, 1902, A.C. 73.

(b) *King v. The Royal Bank*, 1913, A.C. 283.

(c) *The Prohibition Case*, 1896, A.C., 348.