

authority of the Provincial Legislature, but traffic in arms or the possession of them in such circumstances as to raise a suspicion that they were to be used for seditious purposes or against a foreign State are matters which, their Lordships conceive, might be competently dealt with by the Parliament of the Dominion.

The judgment of this Board in *Russell v. The Queen* (7 App. Ca., 829) has relieved their Lordships from the difficult duty of considering whether the Canada Temperance Act, 1886, relates to the peace, order, and good government of Canada in such sense as to bring its provisions within the competency of the Canadian Parliament. In that case the controversy related to the validity of the Canada Temperance Act of 1878, and neither the Dominion nor the provinces were represented in the argument. It arose between a private prosecutor and a person who had been convicted, at his instance, of violating the provisions of the Canadian Act, within a district of New Brunswick in which the prohibitory clauses of the Act had been adopted. But the provisions of the Act of 1878 were, in all material respects, the same with those which are now embodied in the Canada Temperance Act of 1886; and the reasons which were assigned for sustaining the validity of the earlier, are, in their Lordships' opinion, equally applicable to the later Act. It therefore appears to them that the decision in *Russell v. The Queen* must be accepted as an authority to the extent to which it goes—namely, that the restrictive provisions of the Act of 1886, when they have been duly brought into operation in any provincial area within the Dominion, must receive effect as valid enactments, relating to the peace, order and good government of Canada. That point being settled by decision, it becomes necessary to consider whether the Parliament of Canada had authority to pass the Temperance Act of 1886, as being an Act for the "regulation of trade and commerce" within the meaning of no. 2 of section 91. If it were so, the Parliament of Canada would, under the exception from section 92, which has already been noticed, be at liberty to exercise its legislative authority, although, in so doing, it should interfere with the jurisdiction of the Provinces. The scope and effect of no. 2 of section 91 were discussed by this Board at some length in *Citizens Insurance Company v. Parsons* (7 App. Ca., 96), where it was decided that, in the absence of legislation upon the subject by the Canadian Parliament, the