

is the primary matter dealt with, and though incidentally the free use of things in which men may have property is interfered with, that incidental interference does not alter the character of the law.'

"And their Lordships reasons on that part of the case are thus concluded:—'The true nature and character of the legislation in the particular instance under discussion must always be determined, in order to ascertain the class of subject to which it really belongs. In the present case it appears to their Lordships, for the reasons already given, that the matter of the Act in question does not properly belong to the class of subjects, 'Property and Civil Rights' within the meaning of subsection 13.'"

From these extracts it will be seen that the only point urged as against the constitutionality of the Canada Temperance Act, 1878, was, that the subject dealt with came under the heading "Property and Civil Rights in the Province." It was held that it did not.

*The Queen v. Hodge* turned upon entirely different parts of the statutes. The Provincial jurisdiction was upheld because the subjects dealt with by the Ontario License Act were included under the headings:—(8) "Municipal Institutions in the Province," (15) "The impositions of punishment," &c., and (16) "generally all matters of merely a local or private nature in the Province;" and because they were not included under the heading "(2) The Regulation of Trade and Commerce."

Their Lordships said:—"The clause in sec. 91, which the Liquor License Act, 1877, was said to infringe, was No. 2, "The Regulation of Trade and Commerce," and it was urged that the decision of this Board in *Russell v. Regina* was conclusive—that the whole subject of the liquor traffic was given to the Dominion Parliament, and consequently taken away from the Provincial Legislature. It appears to their Lordships, however, that the decision of this tribunal in that case has not the effect supposed, and that when properly considered, it should be taken rather as an authority in support of the judgment of the Court of Appeal."