

ency of the Dominion Parliament. On the appeal of the City of Fredericton, this judgment was reversed by the Supreme Court of Canada, which held, Mr. Justice Henry dissenting, that the Act was valid. (The case is reported in the 3rd Supreme Court of Canada Reports, p. 505.) The present appeal to Her Majesty is brought, in effect, to review the last mentioned decision.

The preamble of the Act in question states that "it is very desirable to promote temperance in the Dominion, and that there should be uniform legislation in all the provinces respecting the traffic in intoxicating liquors." The Act is divided into three parts. The first relates to "proceedings for bringing the second part of this Act into force;" the second to "prohibition of traffic in intoxicating liquors;" and the third to "penalties and prosecutions for offences against the second part."

The mode of bringing the second part of the Act into force, stating it succinctly, is as follows:—On a petition to the Governor in Council, signed by not less than one-fourth in number of the electors of any county or city in the Dominion, qualified to vote at the election of a member of the House of Commons, praying that the second part of the Act should be in force and take effect in such county or city, and that the votes of all the electors be taken for or against the adoption of the petition, the Governor General, after certain prescribed notices and evidence, may issue a proclamation, embodying such petition, with a view to a poll of the electors being taken for or against its adoption. When any petition has been adopted by the electors of the county or city named in it, the Governor-General-in-Council may, after the expiration of 60 days from the day on which the petition was adopted, by Order-in-Council published in the *Gazette*, declare that the second part of the Act shall be in force and take effect in such county or city, and the same is then to become of force and take effect accordingly. Such Order-in-Council is not to be revoked for three years, and only on like petition and procedure.

The most important of the prohibitory enactments contained in the second part of the Act is section 99, which enacts that "from the day on which this part of this Act comes into force and takes effect in any county or city, and for so long thereafter as the same continues in

force therein, no person, unless it be for exclusively sacramental or medicinal purposes, or for *bona fide* use in some art, trade, or manufacture, under the regulation contained in the fourth sub-section of this section, or as hereinafter authorized by one of the four next sub-sections of this section, shall, within such county or city, by himself, his clerk, servant, or agent, expose or keep for sale, or directly or indirectly, on any pretence or upon any device, sell or barter, or in consideration of the purchase of any other property give, to any other person, any spirituous or other intoxicating liquor, or any mixed liquor, capable of being used as a beverage, and part of which is spirituous or otherwise intoxicating."

Sub-section 2 provides that "neither any license issued to any distiller or brewer" (and after enumerating other licenses), "nor yet any other description of license whatever, shall in any wise avail to render legal any act done in violation of this section."

Sub-section 3 provides for the sale of wine for sacramental purposes, and sub-section 4 for the sale of intoxicating liquors for medicinal and manufacturing purposes, these sales being made subject to prescribed conditions.

Other sub-sections provide that producers of cider, and distillers and brewers, may sell liquors of their own manufacture in certain quantities, which may be termed wholesale quantities, or for export, subject to prescribed conditions, and there are provisions of a like nature with respect to vine-growing companies and manufacturers of native wines.

The third part of the Act enacts (section 100) that whoever exposes for sale or sells intoxicating liquors in violation of the second part of the Act should be liable, on summary conviction, to a penalty of not less than fifty dollars for the first offence, and not less than one hundred dollars for the second offence, and to be imprisoned for a term not exceeding two months for the third and every subsequent offence; all intoxicating liquors in respect to which any such offence has been committed, to be forfeited.

The effect of the Act when brought into force in any county or town within the Dominion is, describing it generally, to prohibit the sale of intoxicating liquors, except in wholesale quantities, or for certain specified purposes, to regulate the traffic in the excepted