

the Dominion Parliament to regulate trade and commerce,¹ but this ground of objection the Judicial Committee have entirely nullified in their late judgment² by holding in accordance with their recent decision in *City of Toronto v. Virgo*,³ that "there is marked distinction to be drawn between the prohibition or prevention of a trade, and the regulation or governance of it, and indeed a power to regulate and govern seems to imply the continued existence of that which is to be regulated or governed." But in *Regina v. Justices of Kings*,¹ and in one or two other cases, further ground of objection to the possession of such a power by the provinces was found in the fact that it would be an interference with the Dominion control of inland revenue and excise. This point was also argued before the Judicial Committee on the recent appeal,⁴ but was ineffectual, as indeed might have been anticipated from the principle laid down by their lordships in *Bank of Toronto v. Lambe*,⁵ namely, that if it be found that "on the due construction of the British North America Act a legislative power falls within section 92, it would be quite wrong to deny its existence, because by some possibility it may be abused, or may limit the range which otherwise would be open to the Dominion Parliament." It must always be remembered, as pointed out by their lordships in that case, that the British North America Act "provides for the federated provinces a carefully balanced constitution, under which no one of the parts can pass laws for itself, except under the control of the whole, acting through the Governor-General,"—another point in which our constitution is distinguishable from that of the United States. The proper view to take of this matter of prohibition of the liquor trade, as is now authoritatively established by the Privy

¹And so in *Regina v. Justices of Kings*, 2 Pugs. 535, 2 Cart. 499, (1875); *Hart v The Corporation of the County of Missisquoi*, 3 Q.L.R. 170, 2 Cart. 382, (1876); *Cooley v. The Municipality of the County of Brome*, 21 L.C.J. 182, 2 Cart. 385, (1877); *De St. Aubyn v. LaFranc*, 8 Q.L.R. 190, 2 Cart. 392, (1882); *ex parte Foley*, 29 N.B. 113, (1889).

¹¹T.L.R., at p. 391.

¹²[1896] A.C. 88.

⁴See transcript from Marten & Meredith's shorthand notes of the argument, 2nd day at p. 27, 3rd day at p. 96 et seq.

¹²App. Cas. at p. 587, 4 Cart. at pp. 22-3.