

late in all imaginable ways in respect to the liquor trade and all other of the internal affairs of the Dominion, resides either in Parliament or in the Provincial Legislatures, for decisions of the Privy Council have long since established that the Federation Act exhausts the whole range of legislative power, and that whatever is not thereby given to the Provincial Legislatures, rests with the Parliament;¹ and in this is found an important point of divergence between our constitution and that of the United States. The question, however, as to which has the power to prohibit the wholesale trade in intoxicating liquors seems only to have come up fairly and squarely in one reported case prior to the late Privy Council decision, namely, *Lepine v. Laurent*.² In the Canada Temperance Act, 1878, which was held to be intra vires in *Russell v. The Queen*,³ trade in wholesale quantities as there defined, and for the purposes there mentioned was excepted from the prohibitory clauses. The Act, however, which came in question in *Lepine v. Laurent*, was an Act of the Province of Quebec, and authorized a municipal council to pass by-laws to restrain, regulate, and prohibit the sale of any spirituous, vinous, alcoholic or intoxicating liquors by retail or wholesale; and Lynch, J., entirely in accordance with what the Privy Council have now decided, as will presently be seen, held that the enactment was intra vires.

It will be convenient, however, first to deal with the question of prohibition of the retail trade. The right to prohibit that had come before the Courts in several cases, and until the cases of in *Re Local Option Act*,⁴ in the Ontario Court of Appeal, and the case of *Village of Huntingdon v. Moir*,⁵ it had been held to be outside the powers of the Provincial Legislatures. In most of the cases the ground on which this was put was that it would infringe upon the exclusive power of

¹*Dow v. Black*, L.R., 6 P.C. at p. 280, 1 Cart at p. 105, (1875); *Valin v. Langlois*, 5 App. Cas. at p. 120, 1 Cart. at p. 163, (1879); *Russell v. The Queen*, 7 App. Cas. at p. 836, 2 Cart. at p. 19, (1882); *Bank of Toronto v. Lambe*, 12 App. Cas. at p. 588, 4 Cart. at pp. 23-4, (1887).

²17 Q.L.R. 226, (1891).

³7 App. Cas. 829, 2 Cart. 12, (1882).

⁴18 A.R. 372, (1891).

⁵M.L.R. 7 Q.B., 281.