

the licensee. Whilst no distinction can be made between wholesale and retail trade in themselves as far as regards the power of a Provincial Legislature to prohibit them, in the natural course of business certain localities become centres from which trade branches out into other provinces and into foreign countries, and a statute which assumes to put an end to a large portion of such traffic, though for a local purpose, is not justified by the power to legislate upon "matters of a merely local or private nature within the Province."

4. The Legislature seems to have considered it necessary, for the purpose of rendering its enactment effective, to lay its hand upon the manufacturer as well as the export dealer and make them submit to regulations, which in some views may or may not be allowable, and in attempting to suppress the greater part of the whole trade in liquors within the Province has gone further than merely dealing with matters of a local nature in the Province and has assumed to make a law that interferes with matters of trade and commerce over which the Parliament of Canada has exclusive jurisdiction.

The following are extracts from the concluding portion of the judgment delivered by the Chief Justice: "I have endeavored in vain to put in any concise form of words which might not be subject to mis-conception, or which might not in some new aspect require to be modified, a statement of the particulars and respects in which I consider the Legislature to have exceeded its powers in enacting the legislation now in question. The only answer which I can suggest for the first question is that the Legislature of Manitoba has exceeded its powers in enacting The Liquor Act as a whole. The second and third questions proposed relate to enact special sections of the Liquor Act. When we examine these provisions we find that they are all indissolubly connected with the Act as a whole. Each of them would be wholly or partially unintelligible in itself. For this reason I would answer these two questions thus: 'Not as part of the Liquor Act.' The fourth question also relates to special provisions of the Act, many of which would be unintelligible by themselves, and for that reason my answer would be, 'Not as part of the Liquor Act.' The next five questions are of an abstract nature and relate to the power of the Provincial Legislature to enact certain suggested legislation. As abstract questions they raise points of difficulty upon which I am not able to pronounce an opinion at present. They have not been specifically discussed by counsel apart from the main question. The impossibility of answering such questions categorically, apart from circumstances and statutory surroundings, has been pointed out by the Judicial Committee of the Privy Council, and is made more apparent by what I have already said. The answer which I would propose to each of these is: 'Not as part of the Liquor Act.'"

*The Attorney General, J. A. M. Aikins, K.C., W. R. Mulock, K.C., and E. L. Taylor, for the Government of Manitoba. H. M. Howell, K.C., and F. H. Phiffen, contra.*