

The Romance of The Grocery

NO. 2

On the top of a showcase, just inside our door, you will see some little round gray crockery jars which come to us from China.

There is a touch of Oriental fatalism in the drab coloring of these containers, a hint of the Eastern ideal of service in their salidity. The contents, ginger preserved in syrup, has an elusive, haunting flavor that has escaped the western manufacturer of the spice.

Can people say that the grocery business is humdrum, when a glimpse of little things like these can carry us to a country where the wheel and progress has not appreciably moved in 60 centuries?

STORE CLOSES 5.30

Jenkins & Son

Everything That's Good to Eat

BEAUTY - HINT FOR TO-DAY

Before going out cleanse the skin with Laska cleaning cream, then apply dermo and you will have complexion as beautiful as a rose. This combination beautifies every part of the face. Over 500,000 women use it. Don't like it, take it back to us, if you don't like it, take it back to us, if you don't like it, take it back to us.

A man's tendency to give advice is in reverse ratio to his ability to mind his own business.

When a man is continually talking about his troubles his neighbors never trouble about his talk.

REDUCED BY ASTHMA. The constant strain of asthma brings the patient to a dreadful state of hopeless exhaustion. Early use should be made of Dr. J. D. Kellogg's Asthma Remedy, which acts quickly and surely on the air passages and brings blessed help and comfort. No home where asthma is present in the least degree should be without this remedy.

Important Judgement

(Continued From Page 1)

Attorney General for Manitoba to the Privy Council and reversed in 1902 (Reported 1902 A.C. 73). Lord MacNaughten, delivering the Judgment of the Board, quoted with approval from the Judgment in Attorney General for Ontario vs. Attorney General for the Dominion (1896) as follows: "It is not competent for the Provincial Legislature to pass a measure for the repression or even for the total abolition of the liquor traffic within the Province, provided the subject is dealt with as a matter of a merely local nature in the Province and the Act itself is not repugnant to any Act of the Parliament of Canada."

Two features of the Manitoba Act were especially noted—the introductory recital declaring that "It is expedient to suppress the liquor traffic in Manitoba by prohibiting Provincial transactions in liquor"; and the other, Section 11 of this Act, which is as follows: "11. While this Act is intended to prohibit, and shall prohibit, transactions in liquor which take place wholly within the Province of Manitoba, except under a License or as otherwise specially provided by this Act, and restrict the consumption of liquor within the limits of the Province of Manitoba, it shall not affect and is not intended to affect bona fide transactions in liquor between a person in the Province of Manitoba and a person in another Province or in a foreign country, and the provisions of this Act shall be construed accordingly."

Lord MacNaughten then continues: "Now, that provision is as much a part of the Act as any other section contained in it. It must have its full effect in exempting from the operation of the Act all bona fide transactions in liquor which come within its terms. It is enough to say that they are extremely stringent, more stringent probably than anything that is to be found in any legislation of a similar kind. Unless the Act becomes a dead letter, it must interfere with the revenue of the Dominion with licensed trades in the Province of Manitoba and, indirectly at least, with business operations beyond the limits of the Province."

Some expressions from the Report to Her Majesty in Attorney General for Ontario vs. Attorney General for Canada (1896) are referred to, namely: "There might be circumstances in which a Provincial Legislature might have jurisdiction to prohibit the manufacture within the Province of intoxicating liquors and the importation of such liquors into the Province."

But these dicta are thus disposed of by Lord MacNaughten in the Judgment: "For the purposes of the present question it is immaterial to enquire what those circumstances may be."

The statement from the Report above quoted is not related to any factor in the actual determination of either case, and is at most a speculation as to what rights might arise out of unknown circumstances. The decision was that the subject of The Manitoba Act was a matter of merely local or private nature in the Province and that the Act, having dealt with it as such, was therefore intra vires. This decision has been the guide of Provincial Legislatures in enacting prohibitory laws, and The Manitoba Act became the pattern which the Legislatures of the other Provinces generally followed. The case settled definitely that the jurisdiction of the Province to enact the legislation in question was founded upon Sub-section 16 of Section 92 'Matters of merely local or private nature in the Province' and not on Sub-section 13 'Property and Civil Rights in the Province'.

The latest decision of the Privy Council on the Validity of Provincial Prohibitory Legislation is Canadian Pacific Wine Company, Ltd. vs. Tuley (1921, 2 A.C. 417). The action arose out of the seizure of liquor by the police for a breach of the British Columbia Prohibition Act of 1916, C. 49, and the Amending Act of 1919, C. 69. The key question for decision—the only one relevant to this case—was the constitutional validity of the British Columbia Statutes under which the police purported to act.

Section 10 of the Act, 1916, prohibited in the usual terms the sale of liquor within the Province. Section 11 prohibited the keeping, having or giving of liquor in

any place other than the private dwelling house where a person resides.

Section 57 contains provisions equivalent to Section 119 of The Manitoba Act.

Section 19 of the Act of 1916 as amended by the Act of 1919 provides: "19. (1) Nothing in this Act shall prevent any person from having liquor for export sale in his liquor warehouse, provided such liquor warehouse and the business carried on therein complies with requirements in sub-section (2) mentioned, or from selling from such liquor warehouse to persons in other Provinces or in foreign Countries, or to a Vendor under this Act, (1919) but no warehouse shall be deemed to be a liquor warehouse within the meaning of this section if the person having liquor therein has failed to comply with the provisions of sub-section (3)."

(2) The liquor warehouse in this section mentioned shall be suitable for the said business, and shall be so constructed and equipped as not to facilitate any violation of this Act, and not connected by any internal way of communication with any other building or any other portion of the same building, and shall be a warehouse or building wherein no other commodity or goods than liquor for export from the Province are kept or sold to such Vendor, and wherein no liquor for export from the Province is carried on.

(3) Every person who now has or hereafter brings to or has liquor in a liquor warehouse as in this section mentioned shall forthwith furnish the Commissioner with correct written information as to the location of such warehouse, the amount and description of the liquor therein contained, the place from which and the date when such liquor was brought, and its intended destination. He shall also forthwith from time to time furnish to the Commissioner correct written information as to all removals of liquor from such liquor warehouse, including the amount, description, date of removal, and destination. The Commissioner, or his agent duly authorized in writing, shall, for the purpose of obtaining or confirming any such information, at any time have the right to enter into any and every part of any liquor warehouse and to make searches in every part thereof and of the premises connected therewith as he may think necessary for the purpose aforesaid."

The offence for which the Appellants were convicted was for selling liquor from a Wholesale Warehouse to a person in the Province, in violation of the provisions of the Law. The whole stock of liquor in the warehouse was, therefore, seized, the Magistrate holding that by virtue of the offence it was being kept there for an unlawful purpose. His decision was upheld by the Appeal Court of British Columbia and, upon Appeal to the Privy Council, the Judgment was confirmed.

The essential differences between the legislation of this Province and that of Manitoba and British Columbia upon which the above decisions were based, is that they expressly provided for the Export Trade keeping an open but guarded channel through which it was to flow, while the legislation of this Province with which we have to deal attempts to extinguish the Export Trade. Even the declaration contained in Section 119 of the Manitoba Act and Section 57 of The British Columbia Act repudiating any intention of interfering with the Export Trade is so modified in the form in which it appears in Section 162 of our Act that its meaning is carried into a circle and lost.

The three leading cases of 1896, 1902 and 1921 above quoted have settled conclusively that a Provincial Legislature is competent to enact legislation absolutely prohibiting the liquor traffic within the Province, provided the subject is dealt with as "a matter of a merely local or private nature in the Province."

The determining consideration in this case, therefore, is, does "The Prohibition Act" deal with the subject as "a matter of a merely local or private nature in the Province," or does it, by virtue of the provisions of Section 52, unduly trench upon the field of Dominion Exclusive Jurisdiction?

The answer is to be found in The British North America Act which must be interpreted in the light of the purpose which it was intended to serve, namely to evolve out of the Self-governing Colonies and unorganized territory a United Country with a Central Government having exclusive legislative control over all subjects of common interest, leaving to the provincial legislatures certain specified subjects and classes of subjects and generally all matters of a merely local or private nature in the Pro-

vince" as set out in Section 92 of the Act.

To serve a purpose of the Imperial Act, it was essential that all trade barriers between the Colonies should be swept away, so that commerce might have an uninterrupted course throughout the Dominion. This intention should be constantly kept in mind as a controlling principle in the interpretation of The British North America Act. It was in furtherance of this intention that the regulation of Trade and Commerce was assigned to the exclusive legislative jurisdiction of the Dominion Parliament. The subject of the prohibition of the liquor traffic is not expressly assigned by The British North America Act to either the Dominion or Provincial exclusive jurisdiction, but it was decided by The Queen that the Dominion Parliament had exclusive jurisdiction over the subject to enact prohibitory legislation applicable to Canada as a whole under their authority to legislate for the peace, order and good government of the Dominion; and by the Ontario, Manitoba and British Columbia Cases above cited it was determined that each Province in the absence of over-riding Dominion legislation had the exclusive right to legislate upon the subject as a matter of merely local or private nature in the Province. As there is no such Dominion legislation on the subject in effect in that respect, the conflict that does arise is between the Dominion exclusive control over the regulation of Trade and Commerce on the one hand, and of the equally essential right of the Province to legislate within the limits of its exclusive jurisdiction on the other.

It has been found, and doubtless was anticipated, that the Dominion, in legislating upon one of its exclusive subjects, incidentally involved one or more subjects assigned exclusively to the Province; and conversely a Province, in legislating upon a subject assigned to its jurisdiction, incidentally affected a subject falling within the Dominion jurisdiction.

The guiding principle in such cases clearly is that neither the Dominion nor the Province may invade the legislative field of the other further than is necessary in order to legislate effectively upon the principal subject. It is a fundamental legal principle of general application that rights extra viam shall not be pushed beyond necessity. The present legislation affects inter-provincial trade in liquor to the extent that it is effectual in producing the consumption of liquors imported from the other Provinces. That is a consequence incidental to the exercise of the provincial right. But that right is co-extensive only with the need.

If it were absolutely necessary to the effective exercise of the provincial right that the export trade and the transportation of liquor through the Province from a point outside to another point outside the Province should be absolutely prohibited, a question would arise as yet undetermined by authority and which could be conclusively determined only by the Judicial Committee of the Privy Council. But the question in that extreme form has not arisen in this case.

By keeping a channel open for the export trade and transportation, no undue interference with the Trade and Commerce of Canada will result, while by properly safeguarding that channel no export liquor may escape from its proper custody to undermine and destroy the effect of the Act. The safeguards thus imposed by Manitoba and British Columbia above quoted illustrate the conception which the legislatures of those Provinces held as to the limita-

tion of provincial powers and of the means that could be employed to make those powers effective without clashing with Dominion Exclusive Legislative Authority. So far as available authorities disclose, there appears to be but one Province that has directly challenged the Dominion Authority on the same ground. The Legislature of Saskatchewan in 1917 raised the issue upon the right of a Province to prohibit the Export Trade by enacting that: "No person shall expose or keep liquor in Saskatchewan for export to other provinces or to foreign countries," but this legislation was held by their Supreme Court to be ultra vires of the provincial legislature as an undue interference with Trade and Commerce. (Hudson's Bay Co. vs. Heffernan, 10 Sask. L.R. 322.)

The operation of the Act of this Province including Section 52 would as completely sever the export trade as would the Statute of Saskatchewan, and the same conclusion was reached by that Court is inevitable in this case. Section 52 in its effect unduly trenches upon the field of Dominion Exclusive Legislative Jurisdiction and is, therefore, ultra vires of the Legislature of this Province. The Summons will be made absolute for a Writ of Certiorari. In consideration of the Proceedings having been taken under a Statute of this Province, no costs will be allowed.

STROUD TEA In 1 lb. and 1/2 lb. packages

Ends Stubborn Coughs in a Hurry For real effectiveness, this old remedy must be used. Easily and cheaply prepared. You'll never know how quickly a bad cough can be conquered, until you try this famous old home-made remedy. Anyone who has coughed all day and all night will say that the immediate relief given is almost like magic. It takes but a moment to prepare and really there is nothing better for coughs. Into a 16-oz. bottle, put 2 1/2 ounces of Pinex; then add plain granulated sugar syrup to make 10 ounces. Or you can use clarified molasses, honey, or corn syrup, instead of sugar syrup. Either way, this mixture saves about two-thirds of the money usually spent for cough preparations, and gives you a more positive, effective remedy. It keeps perfectly and tastes pleasant. You can feel this take hold instantly, soothing and healing the membranes in all the air passages. It promptly loosens dry, tight coughs, and soon you will notice the phlegm thin out, and then disappear altogether. A doctor's use will usually break up an ordinary throat or chest cold, and it is also splendid for bronchitis, croup, hoarseness, and general asthma. Pinex is a most valuable concentrated compound of certain Norway pine extract, the most reliable remedy for throat and chest ailments. To avoid disappointment ask your druggist for "Pinex," and insist on the genuine. With directions and don't accept anything else. Guaranteed to give absolute satisfaction or money refunded. The Pinex Co., Toronto, Ont.

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The nicest cathartic-laxative to physio your bowels when you have Headache, Biliousness, Colds, Indigestion, Dizziness, Sour Stomach. Tonight will empty your bowels completely by morning and you will feel splendid. They work while you sleep. Cascarets never vomit, grip, or do not give pills, Calomel, or Oil and they cost only ten cents a box. Children love Cascarets too.

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MISCELLANEOUS

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MUSSEL MUD FOR 1922 DELIVERED BY WHARF IN HILLSBORO BAY, Railway Wharf, Charlottetown, or Summerside twelve dollars per car of twenty-five thousand lbs. Order now. D. L. McKinnon, Montague.

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WANTED—Smells and eels. Give price M. E. McIsaac, Souris.

LOST—In this city, neck fur. Find or return Starbuck Hotel.

LOST—Mortgage and Country Club silver handled button box. Please return to 51 Bayfield.

FOR SALE

BABY'S SLEIGH, almost new. Apply Guardian Office.

HOUSE FOR SALE—11 ROOMS, 4 rented with separate entrance, modern conveniences; large yard and barn. Apply 57 Brighton Ave.

HELP WANTED FEMALE

WANTED—An experienced waitress. Apply to Victoria Hotel.

WANTED—MAID FOR GENERAL housework. Apply Mrs. Alex. Agnew, East Regency.

WANTED—Girl for kitchen work. Apply in person to P.E.I. Hospital.

CARD OF THANKS

Mrs. Malcolm McNeill and family Long Creek, wish to thank their many friends for kindness and sympathy shown them during their recent bereavement.

Keep mind's liniment in the house

CHIEF JUSTICE'S CHARGE TO THE GRAND JURY

In his charge to the Grand Jury the Chief Justice said that the criminal list this term was unfortunately too long. Four bills of indictment will be presented, and in addition there is another case that was tried with regard to which the jury disagreed at last term, so that the full criminal docket will comprise five cases, and some of them of very considerable gravity.

The first case to which His Lordship directed the attention of the Grand Jury was that of Kenneth W. McKinnon, charged with breaking and entering Reddin's Drug Store and stealing a number of articles. He reviewed the particulars of this case which occurred on Oct. 25th. The cases against G. Furze and E. Essory, the accomplices of McKinnon in the alleged burglary, are of practically a similar nature.

The fourth indictment is a charge of indecent assault alleged to have been committed by George Moore upon Rita White, a child about five years old, at Rocky Point on the 25th of August last. In regard to this case His Lordship pointed out some points to which he desired special attention to be drawn. The direct evidence is given by the little girl herself who was examined before Magistrate Shaw, her statement being taken, but not upon oath. In this instance the magistrate exercised the powers conferred upon magistrates by the Criminal Code, to hear the evidence of children under ten years of age not upon oath, provided they understand the duty of telling the truth. But while the law allows such statements to be received in evidence it does not give to such a statement the same weight as to one made under oath and no court will ever convict upon it, but will require material corroboration of its truth. Except for the special provision of the statute no such evidence could be admitted at all. It is one of the many cases where the evidence of a single witness is not

sufficient to maintain a case and where the statute requires co-operation. In this particular case, where the accused was known to be alone with the child, the opportunity for committing the crime was favorable, and while this does not go very far, in evidence it is an essential element in a case. The condition of the child immediately following the alleged offense will be evidence of the greatest possible weight; and this joined to the other circumstances, excluding the possibility of anyone else having committed the crime, affords evidence of a stronger kind than the mere words of the witness.

After referring to the duties of the Grand Jury of visiting the Asylum and Infirmary, the Chief Justice cautioned his hearers to keep in mind the importance of making a careful examination of the institutions in which the unfortunate people are cared for. The inspection of these institutions has been so well performed by Grand Jurors in the past that people generally unhesitatingly rely upon the exercises by them of a careful supervision.

It is the duty of the Grand Jury also to look after the conditions in the jail. Unfortunately civilization cannot be carried very far without jails. When the population of the Island was only 1,600 the first Governor complained of the necessity of a jail, and declared that without such an institution the government of a community was but a shadow without substance. His Lordship would not care to go that far but there is no doubt, he said, that our jail and all that is connected with it is unfortunately necessary. But if we lean too heavily upon the enforcement of the penalties of the law for advancing our civilization it will not go very far. He feared the community is too much inclined to rely upon the agencies merely. What we must rely upon are the agencies of moral uplift. Jails and penitentiaries are protective agencies. What we must rely upon for our advance is the church, the homes, the schools and the press.

"We have only one case this term of a young boy coming up before us as a criminal," continued His Lordship. "But we have had them in numbers, and unless we make special provision for them we will have them again. The question of looking after our boys who have not been properly brought up is one that will remain in constant problem until some provision is made and I am going to ask you gentlemen as representatives of the highest intelligence of the County, to give this matter such consideration as you can at the short time at your disposal. And while you have an executive power yet coming to such a body, your recommendations will have weight, and the Court will see that they are presented to those who can most help in carrying forward improvements of this kind.

If there are matters requiring general attention relating to wide spread evils, the Grand Jury might think it well to refer to them. His Lordship had little faith, however, in general condemnations. "I have seen, and you have seen, that the world's work is done by men and women who feel their responsibilities and their own shortcomings, so much, that they have very little energy to spare in condemning others. General condemnations are usually of very little or of no value. The criticism that is valuable

(Continued on Page 6).



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