

## REVIEW OF THE ARGUMENTS.

The preceding statement of the facts is sufficient to enable their Lordships to determine the questions raised on the appeal.

Mr. Kerr, Q.C., and Mr. Jeune, in their full and very able argument for the appellant, informed their Lordships that the first and principal question in the cause was whether "The Liquor License Act of 1877," in its fourth and fifth sections, was *ultra vires* of the Ontario Legislature, and properly said that it was a matter of importance as between the Dominion Parliament and the Legislature of the Province.

Their Lordships do not think it necessary in the present case to lay down any general rule or rules for the construction of the British North America Act. They are impressed with the justice of an observation by *Hailey, C. J.*, "that in all these questions of *ultra vires* it is the wisest course not to widen the discussion by considerations not necessarily involved in the decision of the point in controversy." They do not forget that in a previous decision on this same statute (*Parsons v. The Citizens Company*) their Lordships recommended that, "in performing the difficult duty of determining such questions, it will be a wise course for those on whom it is thrown to decide each case which arises as best they can, without entering more largely upon the interpretation of the statute than is necessary for the decision of the particular question in hand."

## RUSSELL V. REGINA.

The appellant contended that the Legislature of Ontario had no power to pass any Act to regulate the liquor traffic; that the whole power to pass such an Act was conferred on the Dominion Parliament, and consequently taken from the Provincial Legislature, by sec. 91 of the British North America Act, 1867; and that it did not come within any of the classes of subjects assigned exclusively to the Provincial Legislatures by sec. 92. The clause in sec. 91 which the Liquor License Act, 1877, was said to infringe was No. 2, "The Regulation of Trade and Commerce," and it was urged that the decision of this Board in *Russell v. Regina* was conclusive—that the whole subject of the liquor traffic was given to the Dominion Parliament, and consequently taken away from the Provincial Legislature. It appears to their Lordships, however, that the decision of this tribunal in that case has not the effect supposed, and that when properly considered, it should be taken rather as an authority in support of the judgment of the Court of Appeal.