

become matter of dispute the controversy cannot be settled by the action either of the Dominion or of the Provincial Legislature, but must be submitted to the judicial tribunals of the country. In their Lordships' opinion the express repeal of the old Provincial Act of 1864 by the Canada Temperance Act, 1886, was not within the authority of the Parliament of Canada. It is true that the Upper Canada Act of 1864 was continued in force within Ontario by section 129 of the British North America Act "until repealed, abolished, or altered by the Parliament of Canada or by the Provincial Legislature" according to the authority of Parliament "or of that Legislature." It appears to their Lordships that neither the Parliament of Canada nor the Provincial Legislatures have authority to repeal statutes which they could not directly enact. Their Lordships had occasion in *Dobie v. The Temporalities Board* (7 App. Ca., 136) to consider the power of repeal competent to the Legislature of a Province. In that case the Legislature of Quebec had repealed a statute continued in force after the Union by section 129, which had this peculiarity, that its provisions applied both to Quebec and to Ontario, and were incapable of being severed so as to make them applicable to one of these Provinces only. Their Lordships held (7 App. Ca., 147) that the powers conferred "upon the Provincial Legislatures of Ontario and Quebec to repeal and alter the statutes of the old Parliament of the Province of Canada are made precisely co-extensive with the powers of direct legislation with which these bodies are invested by the other clauses of the Act of 1867," and that it was beyond the authority of the Legislature of Quebec to repeal statutory enactments which affected both Quebec and Ontario. The same principle ought, in the opinion of their Lordships, to be applied to the present case. The old Temperance Act of 1864 was passed for Upper Canada, or, in other words, for the Province of Ontario; and its provisions being confined to that Province only, could not have been directly enacted by the Parliament of Canada. In the present case, the Parliament of Canada would have no power to pass a prohibitory law for the Province of Ontario; and, could, therefore, have no authority to repeal, in express terms, an Act which is limited in its operation to that Province. In like manner, the express repeal, in the Canada Temperance Act of 1886, of liquor prohibitions adopted by a municipality in the Province of Ontario under the sanction of Provincial legislation does not appear to