

expressed in cases that have passed under review; I am not citing the decision of cases in which the final decree of the court is yet to be made, but I am citing the final decisions of the highest court in the Empire. We find their Lordships said:

"Construing, therefore, the words 'regulation of trade and commerce' upon the various aids to their interpretation above suggested, they would include political arrangements in regard to trade requiring the sanction of Parliament, regulation of trade in matters of interprovincial concern, and it may be that they would include the general regulation of trade affecting the whole Dominion."

I ask you, Mr. Speaker, whether the making of a uniform law upon the subject of the traffic in intoxicating liquors is not a regulation of trade affecting the whole Dominion. I do not see how the contrary can be for a moment successfully maintained. That the liquor traffic is a trade, that it is a trade existing throughout the Dominion, that it is an influential trade, an extensive trade, cannot be denied; and I believe that this Legislature has as much right to regulate that trade as it has to regulate any other trade in which the Parliament of this country has jurisdiction. When we see that the scope and objects of the Canada License Act of 1883 are practically co-extensive with those of the Scott Act, and that the constitutionality of the Scott Act has been affirmed by the Privy Council of England, it is easy to come to the conclusion that the Canada License Act of 1883, whether it be advisable or whether it be inadvisable, is constitutional within the meaning of the Constitution of this country. My hon. friend who, with so much ability, moved this resolution, did not contend that it was constitutional or that it was not. His argument was entirely addressed to the question as to whether it was advisable to put that Act in force, or rather to continue it in force. But he has been exceeded in the race. My hon. friend from Bellechasse (Mr. Amyot), my hon. friend from Quebec East (Mr. Laurier), and my hon. friend from Prince Edward Island (Mr. Davies), have far outstripped him, and have gone far beyond the constitutional position taken up by him, and have come to the conclusion that the Act of 1883 is unconstitutional, on the authority of the Hodge case recently decided in the Privy Council.

Now, I will address myself for a moment or two to the Hodge case. As I stated before, the decision there is not germane to the decision of the question which is now before the House. Their Lordships state what their decision is. These are their words:

"He (Hodge) did permit this billiard table to be used as such within the period prohibited by the resolution of the License Commissioners, and it was for that infraction of their rules he was prosecuted and convicted."

These are the words of the Judicial Committee of the Privy Council. Now, when we turn to their Lordships' remarks, what do we find? After setting out what the case is about, their Lordships do not proceed to lay down any general dictum upon the regulation of trade and commerce; they do not proceed to state that the Act that is now before the House or any Act equivalent in terms is unconstitutional; they proceed to discuss the contents of sections 4 and 5 of the License Act of Ontario, of 1877, in the following words:—

"Their Lordships proceed now to consider the subject matter and legislative character of sections 4 and 5 of the Liquor License Act of 1877, cap. 181, Revised Statutes of Ontario. That Act is so far confined in its operation to municipalities in the Province of Ontario, and is entirely local in its character and operation."

Now, these words may have a special signification when the constitutionality of this Act is brought into juxtaposition with that of an Act having reference to the whole Dominion:

"It authorizes the appointment of License Commissioners to act in each municipality, and empowers them to pass, under the name of resolutions, what we know as by-laws, or rules, to denote the conditions and qualifications requisite for obtaining tavern or shop licenses for sale by retail of spirituous liquors within the municipality; for limiting the

number of licenses; for declaring that a limited number of persons qualified to have tavern licenses may be exempted from having all the tavern accommodation required by law, and for regulating licensed taverns and shops; for defining the duties and powers of License Inspectors, and to impose penalties for infraction of their resolutions."

These words are descriptive of the contents of sections 4 and 5 of that License Act. Then their Lordships proceed:

"These seem to be all matters of a merely local nature in the Province and to be similar to, though not identical in all respects with, the powers then belonging to municipal institutions under the previously existing laws passed by the Local Parliaments. Their Lordships consider that the powers intended to be conferred by the Act in question, when properly understood, are to make regulations in the nature of police or municipal regulations, of a merely local character, for the good government of taverns, &c., licensed for the sale of liquors by retail, and such as are calculated to preserve, in the municipality, peace and public decency, and repress drunkenness and disorderly and riotous conduct."

"As such they cannot be said to interfere with the general regulation of trade and commerce which belong to the Dominion Parliament, and do not conflict with the provisions of the Canada Temperance Act, which does not appear as yet to have been locally adopted."

Here we find that their Lordships have made an express reference to the powers of the Dominion Parliament to regulate trade and commerce. They say that these powers conferred by the Local Act do not interfere with our right to regulate trade and commerce, and that they "do not conflict with the provisions of the Canada Temperance Act, 1878, which does not appear to have been locally adopted."

Sir, have these words any signification? Is there any meaning to be attached to the fact that their Lordships, while adjudicating upon the Hodge case, with regard to playing a game of billiards after seven o'clock in the evening, have pointed out that the Canada Temperance Act did not appear to have been locally adopted? Now, I put it to you, and to every member of this House, whether their Lordships might not have meant to convey by these words that had the Canada Temperance Act, 1878 been "locally adopted," had it been in force in York County at that time, then the provisions of the License Commissioners, made in virtue of the Local Act of the Province of Ontario, would have been submerged and over-borne, and that the provisions of the Canada Temperance Act would have prevailed in their stead? Sir, if the Parliament of Canada has the power to enact the Canada Temperance Act of 1878, if it has power to provide that local prohibition may take place, if this Parliament has the power to enact a Dominion prohibitory liquor law—and no hon. member will doubt that it has that power—who can doubt that the greater power includes the less, and that if we have power to say that liquor shall not be sold at all, we have not also the power, as the supreme Legislature of the country, to say how that trade shall be regulated; to say that it shall be restricted; that it may be restricted to a certain number of licenses in each municipality. I do not say at this time that it may be so, because, as I stated at the outset, I wish to give a correct interpretation to the Constitution. That question has yet to be determined, and that is one reason why the Minister of Public Works has moved to refer this question beyond the whirlpool of partizanship and strife to which it is subjected here, and submit it to the cool judicial decision of the Supreme Court of this country, and, if necessary, to the highest court of the Empire. Now, Sir, if we refer to another portion of the Hodge case, we find a statement that in my humble view, is pregnant with meaning. When their Lordships referred to the misapprehension under which counsel seemed to have laboured, with regard to the true intent and meaning of the case of Russell and the Queen, they said:

"The principle which that case and the case of the Citizens' Insurance Company illustrates, is that subjects, which in one aspect, and for one purpose, fall within section 92, may, in another aspect, and for another purpose, fall within section 91."

Mr. Speaker, I think within these words we will find in time the true solution to the question of jurisdiction between the Local Legislatures and the Parliament of Can-