

which is a most important matter, and which should at all times be separated from the political government—from the government which may have to appeal to that particular list.

I come now to a paragraph in the Address which, I may say, I am surprised to find there. It is the seventh clause, in which His Excellency is made to say :

I am advised that the Judgment of the Lords of the Judicial Committee of the Privy Council delivered last June on the appeal of Russell *versus* the Queen goes to show, that in order to prevent the unrestrained sale of intoxicating liquors, and for that purpose to regulate the granting of shop, saloon and tavern licences, legislation by the Dominion Parliament will be necessary. Your earnest consideration of this important subject is desired.

Now I dissent entirely from the opinion expressed in that paragraph. I have here the judgment which has been given, and I say that the inference contained in the Speech is in no degree warranted by any language in that judgment. On the contrary I think I can show to any unprejudiced mind that a different conclusion from that in the Speech was the one at which their Lordships arrived. Their Lordships set out, first, by showing the effect of the Temperance Act of 1878, under which this question arose. The effect of the Act is generally to prohibit the sale of intoxicating liquors, except in wholesale quantities; to regulate the traffic in the excepted cases, and to make the sale of liquors in violation of the prohibitory regulations contained in the Act a criminal offence, &c.; that is what their Lordships describe the effect of the Canada Temperance Act to be; it is in the direction of restraining and prohibiting the sale of intoxicating liquors. Now the appellants, the parties who are appealing against the Act, and who are endeavoring to shew that it is *ultra vires* of the Parliament of Canada, based their grounds upon three propositions. The first proposition was that it was interfering with certain functions of government which were given exclusively to the local legislatures. The first of those was the exclusive privilege of shop, saloon and tavern licenses, in order to receive a revenue for provincial and local purposes. They next contended that it was interfering with property and civil rights in the provinces; and thirdly that it affected matters which were merely of a local and

private nature. With the two latter propositions we have nothing to do, and the subject of my observations will be limited therefore, to the first proposition, that is, that this Act infringed on the exclusive privileges conferred upon the local legislatures, of legislating with regard to, shop, saloon, tavern and other licenses. Now what is the language of their Lordships' in coming to the conclusion that the Act did not interfere with that particular clause of the British North America Act which gave to the provincial legislatures the exclusive right to confer licenses on shops, saloons, and taverns? They say it appears to them that legislation of the kind referred to, although it might have been held in some measure to include all licenses, under sub-section nine, is not in itself legislation upon or within the subjects of that sub-section; that is, they declare that the Canada Temperance Act in no way legislates on clause nine, which refers to shop licenses. That is practically the effect of their Lordships' decision, that the Canada Temperance Act does not legislate on that point. (Here Mr. Scott quoted from the judgment.)

The converse, of course, of that proposition is true. The Government assume by the language of the paragraph which I am now considering, to legislate on the subject of licenses, but my opinion is that any legislation by this Parliament, on the subject of licenses, is *ultra vires*. The Parliament of Canada can do a great many things on this liquor question; they can restrain and prohibit, but it they do not restrain or prohibit, they cannot interfere with the licenses. Now I have just put on paper a few propositions which I think are incontrovertible, on that subject, as to the power of the Federal Parliament in dealing with the sale of liquor. First, you can pass a prohibitory law over a part of the Dominion, and we have done that in the North-West at the present time; you can allow the local option to prevail under the Canada Temperance Act of 1878, to bring into force a prohibitory law so far as the area therein expressed is concerned. The Parliament of Canada may enlarge the scope of the law, that is, you may say it shall be a crime or misdemeanor to sell liquor between noon on Saturday and noon on Monday, if you like, but I think you cannot say, if the license law is prevailing, that the taverns