

argument as to some of the other Sections would depend on whether the Licensing Board was held to be validly created; because if there is a Licensing Board, then quite apart from the general power to grant licenses for the various districts—

The LORD CHANCELLOR: That is what I was rather pointing to. Would it be convenient to hand in on a piece of paper those Sections which you allege to be valid, notwithstanding the other Sections might be decided against you?

Sir FARRER HERSCHELL: If your Lordship would allow me to point out this, that some of them would depend on the view taken by your Lordships on that point, which, as I say, has been decided in favour of the Act by the Court below, namely, the existence of the Licensing Board for some purposes being legitimate; because when once you get it, some of the sections might be valid which would not be valid if you do not get it at all; but I will point out, if your Lordship will allow me, those which I say depend on that question and those which I should say in my view would be valid.

There is one matter, which I am obliged to my learned friend for reminding me of, that I ought to have called attention to, and that is that undoubtedly powers were exercised by some of the municipalities and some of the provinces before this Act of 1867, which I think it is beyond dispute could not be exercised by them now, and which are now matters coming within one or other of the subjects distinctly given to the Dominion Parliament. For example, some have dealt with weights and measures, which would not be competent to them now by reason of the legislation of 1867. Therefore what I mean is that Municipal Institutions cannot be taken to mean all those things which Municipal Institutions had done or could do prior to the passing of the Act of 1867, because undoubtedly some of them are clearly excluded from their functions by the operation of Section 91.

The LORD CHANCELLOR: Excluding those, the regulation is specially dealt with.

Sir FARRER HERSCHELL: Yes, a number; all those Acts are printed in the collection which your Lordship has, showing matters that now come clearly within the powers of Section 91.

The LORD CHANCELLOR: Their Lordships will consider the matter. There will be no judgment delivered here, but their Lordships will report to Her Majesty.