

Their decision in *Russell vs. The Queen* has not had the effect contended for by those who support this License Act of 1883. The questions their Lordships decided were not, as the hon. member for Glengarry has said, the mere use of a billiard table after a certain hour, but they were questions of a constitutional nature. The real question was as to the power of the Ontario Legislature, and having found that power to reside within the Ontario Legislature with regard to licenses and the regulation of this traffic, independent of the general regulations of trade and commerce, they state that this power belongs to the Provincial Parliament, and therefore it does not belong to the Dominion Parliament. With regard to the *Scott Act*, it has been pointed out that their Lordships put forward that it was a regulation of trade and commerce applying to the whole Dominion, not for the internal carrying on of trade. The hon. member for Glengarry cited the case of the *Union St. Jacques* against *Belisle*, which was one of the earliest cases brought before the Privy Council. In all these cases they considered the point before them and did not go into any theoretical discussion or argument as to matters that were not before them, but confined themselves strictly to the propositions necessary for the purpose of the case before them. That makes the case in *Hodge* still stronger, because their Lordships felt it their duty in that case, in order to get at the right construction of the Statute with regard to the License Act of Ontario, to discuss these important questions with regard to the power of the Provincial Legislature, with regard to the construction put upon *Russell* against the Queen, and with regard to the full and plenary powers of Provincial Legislatures. They have so decided that. In the debate on the Address, the First Minister put forward that decision himself differently from the manner in which my hon. friends opposite have put it forward. He said the Ontario Government, first, could make by-laws and regulations for the liquor traffic. That means, they could pass Acts for the regulation of licenses; and secondly, if they could do that for themselves they could give that power to municipalities. That is the proposition put down by the First Minister himself, as the effect of that decision. It is true, Mr. Speaker, that in putting that down, the First Minister undertook to say that it was not a decision of any weight in the Privy Council. He said:

"Well, the *Hodge* case, I have no hesitation in saying, is not the last word of the question. I have no hesitation in saying that the Privy Council, for some reasons known to those behind the scenes, from the absence of some members of it who usually take up questions under the *British North America Act*, avoided a decision."

He thus says that the Privy Council gave a judgment which is not to be relied upon, because some members of it were absent. Now let us see who were the Judges present on that occasion. We find that the decision was given by Lord Fitzgerald, late Irish Lord Chancellor, and there were present besides, Sir Barnes Peacock, Sir Robert P. Collier, Sir Richard Couch and Sir Arthur Hobhouse. I find that, with one exception, which was an appeal from the Supreme Court of New Brunswick, the court was constituted of the same Judges, in hearing the different cases under the *British North America Act*. The following is a list of the cases, with the Judges sitting in each:

Case.	No. of Judges.	Remarks.
<i>L'Union St. Jacques vs. Belisle.</i>	5	Sir Barnes Peacock and Sir Robert P. Collier, two of them.
<i>Attorney - General vs. Queen Insurance Company.</i>	5	do
<i>Valin vs. Langlois</i>	5	do
<i>Unway vs. Dupry</i>	4	do
<i>Bourgeois vs. Railway</i>	4	do

Case.	No. of Judges.	Remarks.
<i>Parron vs. Citizen Insurance Company.</i>	5	Sir B. Peacock, Sir Montague E. Smith, Sir R. P. Collier, Sir Richard Couch, and Sir Arthur Hobhouse.
<i>Western Railway Company vs. Windsor Railway Company.</i>	5	Lord Blackburn, Lord Watson, Sir Barnes Peacock, Sir R. P. Collier, and Sir Arthur Hobhouse.
<i>Russell vs. The Queen</i> ...	5	Sir Barnes Peacock, Sir Montague E. Smith, Sir R. P. Collier, Sir R. Couch, and Sir Jas. Hannen.
<i>Dobie vs. Temporalities Board.</i>	Sir Barnes Peacock, Sir R. P. Collier, Sir R. Couch, Sir Arthur Hobhouse.
<i>Hodge vs. The Queen</i>	Lord Fitzgerald, Sir Barnes Peacock, Sir R. P. Collier, Sir R. Couch, and Sir Arthur Hobhouse.

When the First Minister says that the Privy Council, for some cause or other, behind the scenes, avoided its decision, I say that the cases show that the very men who have construed, since 1874, the *British North America Act*, are the very Judges who decided the principle on which the case of *Hodge* was decided. Instead of giving a decision on the billiard table question, they did not shrink from laying down the principles on which provincial rights should be maintained, and by which the autonomy of the Provinces should be preserved from Federal interference and control. The hon. member for Glengarry (Mr. Macmaster) cited the preamble of the *Liquor License Act*, 1883, and contended that because it was put forward for the purpose of having uniform legislation that therefore the object of the Federal Parliament in passing the Act was to have uniform legislation over the whole Dominion, and he inferred that to a certain extent it would draw the power into the hands of the Federal Parliament. But the first point to ascertain is, whether the Federal Parliament has power over the subject for which to secure uniform laws over the whole Dominion. The Dominion Parliament is just as restricted and confined within the limits of section 91 as Provincial Legislatures are confined within the limits of section 92, and the Federal Parliament has no more right to transcend and encroach on the powers of section 92, than the Provincial Legislatures have to encroach on the jurisdiction of the Federal Parliament. Then we find that, according to the propositions put forward, the consideration of this subject was forced on this Parliament by the decision in the case of *Russell*, because it was contended that that judgment placed the whole liquor traffic within the jurisdiction of the Dominion Parliament. That difficulty was swept away by the contrary decision given in the case of *Hodge*. I therefore argue, as I would argue before a court of law or as a Judge, that if I find the principles laid down in different judgments are analogous, I have a right to apply those principles and draw conclusions, and I maintain that by the cases cited, more particularly the case of *Hodge*, the principle is laid down that the regulation of taverns, the mode in which they shall be governed, &c., are matters entirely within the exclusive jurisdiction of the Provincial Legislature, by virtue of the section respecting municipal institutions and the other two sub-sections to which I have referred. If that is the correct, and as I maintain, the only conclusion to be drawn from the decision in the *Hodge* case, then the power must remain with the Provincial Legislatures and this Parliament has nothing to do with the matter. But, besides the constitutional question, it was said that if the law of 1883 had not been passed, there would have been unrestrained liquor selling throughout the Dominion. When the Privy Council has decided that the laws in force in the several Provinces are constitutional laws, of what use is this Federal law, except to cause a conflict of jurisdiction? As has been suggested by the hon.