

said that no court has yet decided that this law is *ultra vires*. Well, perhaps not in the technical and literal sense, because the law has not yet been brought before the courts. But the courts have decided that there is not a concurrent right to legislate on this subject in both Legislatures; that the exclusive power to legislate is vested in the Local Legislatures, and that being the case, it follows that the power does not rest here, and the decision *in re Hodge* is, practically, a decision that this House has not power to pass a similar law. So the case has been decided. The hon. gentleman has hinted that a Bill is to be introduced, declaring that the penalties imposed by this License Law are not to be executed; yet he thinks it desirable that the opinion of the courts should be taken as to the constitutionality of the Act. I think the House is entitled to an explanation from the hon. gentleman, how the opinion of the Judicial Committee of the Privy Council is to be obtained. If the penalties imposed by the Act are not to be executed; if a law is to be brought in declaring that these penalties are not to be enforced, how is the hon. gentleman going to have a test suit tried? He cannot do it. I can understand that he has power to refer a case to the Supreme Court of Canada, but he cannot refer one to the Judicial Committee, unless upon some agreement. That ought, at any rate, to be explained. But, Sir, what would be the effect, I would like to ask, of repealing these penalties. By the contention of hon. gentlemen opposite, the Act will be in force while the local Acts will not be in force, and the penalties will be repealed. Therefore, it will be open to any man in the Dominion to sell liquor without being liable to any penalty. If the hon. gentleman's constitutional position is good, that the local laws are not worth the paper on which they are written, then there will exist no law, with penalties attached, against the sale of liquors, and the unrestrained and indiscriminate sale of liquors from one end of this Dominion to the other will be the result. Does the hon. member for King's, N. B. (Mr. Foster), and other hon. gentlemen engaged in the promulgation of temperance principles, desire to see that result? If the penalties are repealed, no man can be punished for selling liquor. Therefore, the hon. gentleman is going to bring about a state of confusion worse than has ever existed, worse than the Prime Minister stated last year, though erroneously, existed in this Dominion. If these penalties are repealed, how will the indiscriminate sale of liquors, whether retail or wholesale, be prevented?

Sir JOHN A. MACDONALD. By the Provincial law

Mr. DAVIES. The Provincial law, the hon. gentleman says, is not good.

Sir JOHN A. MACDONALD. I do not say so now.

Mr. DAVIES. Then, do I understand the hon. gentleman to say that the provincial law is good? If it is good, what does he insist on this law for? If the provincial law is good, then the hon. gentleman who moved this resolution is correct in the statement that this is a deliberate attempt to usurp the rights which the Local Legislatures possess and which they have exercised for sixteen years. There are two horns to the dilemma, and the hon. gentleman can take either, but he is in pain no matter which he takes. For my part, I am of opinion that it is better, in the interest of peace, good government, and good temperance legislation, that the power to legislate on this subject should remain where the British North America Act placed it, where it was intended it should remain, and where the hon. gentleman now says it does exist; and I am opposed to this attempt to over-ride the powers which the Local Legislatures possess, and which, in my humble judgment, they ought to continue to exercise.

Mr. MACMASTER. The hon. member who last addressed the House told us in explicit language that the decision *in re Hodge* is practically a decision that we have not the power to enact this law. The law to which the hon. gentleman was referring, and which is now occupying the attention of this House, is the Canada License Act of 1883. We have therefore the hon. gentleman committed to the explicit statement that the decision in the *Hodge* case is a decision that this Parliament had not the power to enact the License Law of 1883. That statement is quite in keeping with the statement of my hon. friend from Bellechasse who, in the able argument he addressed to this House, took the ground that we had already had a decision on this question in the case of *Hodge*, and that it was therefore a mere subterfuge to appeal a second time to the courts. So, my hon. friend from Bellechasse and my hon. friend from Prince Edward Island are in perfect accord that the *Hodge* case should be taken as deciding the constitutionality of the legislation on this subject. Now, the statements of both hon. gentlemen, I submit, are entirely untenable. In the first place, as the hon. Minister of Public Works pointed out, we have had no direct decision on the constitutionality of the Canada License Act of 1883, and it is only inferentially that they come to the conclusion that the *Hodge* case affords a binding decision on that subject. The hon. member for Bellechasse also took the ground that we were robbing the Local Legislatures of their powers. Sir, we can do nothing of the kind. We cannot take away from the powers of the Local Legislatures, neither can the Local Legislatures take away from the powers of the Federal Parliament. The last court of resort in the Empire, the Privy Council, will be the final arbiter between the Provinces and the Dominion upon the question of their powers. It is not for us to take away or to give, or, as my hon. friend from Prince Edward Island said, to have hopes or fears; but it is our duty here to give a correct interpretation to the laws under which we live, and if we cannot do this, we must refer it, as the hon. Minister desires to refer it, first to the highest court we have in our own country, and after that, to the highest court in the Empire, for supreme and final determination. Now my hon. friend from Quebec East said that the Federal system was the best system under which we could live; he said he preferred it to the legislative system. But it is not a matter of preference to us at this time. The fathers of Confederation, among whom are the right hon. the First Minister, the late Hon. George Brown and many other hon. gentlemen known to public life in this country, on both sides of politics, settled the Constitution of this country, and secured the fiat of the Imperial Legislature to its final enactment in England. So that it is not left to us now to express our preference for a legislative or a federal union. We have a Federal union, and we must endeavour to interpret it and to so work it as to subserve the best interest of the people of this country. I endeavoured to follow closely the argument of the hon. member for Prince Edward Island (Mr. Davies) and I did so with that pleasure with which hon. members of this House, in common with myself, always follow his arguments. But I must say, I regret exceedingly that he relied very much on the case of *Sulte vs. Three Rivers*, decided by the Court of Queen's Bench of Quebec, and in citing this case, he omitted to state two things: first, that this case is now under appeal in the Supreme Court of Canada, where it runs the chance, not always very uncertain, of being reversed; and secondly, that the hon. gentleman, while putting forth the view of the Court of the Province of Quebec, that prohibition might exist as an incident of municipal institutions, unfairly omitted to inform hon. gentlemen that in a case in the same category, the case of *Hodge vs. The Queen*, the Privy Council in England, a higher Court than the Court of Queen's Bench of Quebec, seemed to indicate that the *Crooks* Act of Ontario would have been inoperative if the