

hibiting the sale of spirituous liquors in shops and places other than houses of public entertainment, and limiting the number of tavern licenses to nine : held valid as being within the power of the corporation under 32, Vic., ch. 32, "O" ; and that it was within the authority of the provincial legislature to confer such power, under the exclusive legislative authority given to them with regard to 'municipal institutions,' and to 'matters of a merely local or private nature' in the province ; and was not an interference with 'the regulation of trade and commerce,' assigned exclusively to the Dominion Parliament."

I shall not trouble the House with reading the decision, but that is the head note. It will be observed that the court held—that the local legislature had the right to deal with it, because it was a municipal and local matter.

In the case of *Russell vs. the Queen*, the municipal right to deal with licenses never came up at all—was not brought to the notice of the court.

Last year there was a case decided in which this matter was fully argued, in the Ontario Court of Appeal : except the Supreme Court of Canada there is no higher court in the Dominion. That court held on this same question about licensing places for the sale of liquor and similar purposes :—

"By clause 8 of the 92nd section of the British North America Act, exclusive power is given to the Provincial Legislatures to make laws in relation to municipal institutions in the Provinces, and clause 9 gives similar power in relation to shop, saloon, tavern, auctioneer and other licenses, in order to the raising of a revenue for Provincial Local or Municipal purposes."

I have given two, decisions of the highest Court in the Province of Ontario : now I shall take the liberty of calling the attention of the House to a very recent decision of the highest Court in the Province of Quebec in the case of the corporation of *Three-Rivers vs. Sulte*. The Queen's Bench of Quebec unanimously decided to this effect—I read one of the head notes :—

"That at the time of confederation the right to prohibit the sale of intoxicating drinks existed as a municipal institution in the Provinces of Canada and in Nova

Scotia, and consequently that it is to be deemed a municipal institution' within the meaning of sub-section 8, section 92, British North America act of 1867."

Now I call attention to this fact that while the Minister speaks of a consensus of opinion amongst lawyers, we have the highest Court in the Province of Quebec giving a decision directly in point after the decision in *Russell vs. Queen*, because the Court say at the end of their decision :—

"We have suspended our judgement in this case for an unusual length of time awaiting the decision of the Privy Council in the case of *Russell vs. The Queen* in the hope that we might find some rule authoritatively laid down which might help us in adjudicating on this case and in that of *Hamilton and the Township of Kingsey*. In this we have been, to some extent, disappointed. Their lordships have remained strictly within the issues submitted to them, and have held that the Canada Temperance Act of 1878 does not interfere with sub-sections 9, 13, and 16 of section 92 British North America Act ; but that it is an act dealing with public wrongs rather than with civil rights, that it is a matter of general and not merely of a local or a private nature in the Province, and that if it affects the revenue of a province it is only incidentally. We need hardly say that this is only a very brief summary of their lordships' argument, but their reasoning will command general assent, not only owing to the source from which it comes, but also from its cogency. The Judicial Committee then lays down that the Dominion can pass a general prohibitory liquor law ; it has specially declined to lay down any rule as to the other sub-sections than those submitted and the one alluded to by Chief Justice Ritchie ; and therefore it has not either expressly or by implication maintained that the Dominion Parliament can alone pass a prohibitory liquor law, or rather a liquor law which is prohibitory except under certain conditions, as, for instance, subject to a license for the purposes of the revenue." And that court unanimously held after the decision of *Russell and the Queen* that the Legislature of the Province of Quebec had the right to deal with this matter. Now there is nothing in the decision in the case of *Russell vs. The Queen* which says otherwise. The decision in that case was that