and civil rights all over the Dominion; because my hon. friend's argument might be carried to this extent, because this Legislature had the right by virtue of its power to regulate bankruptcy and insolvency, to interfere with property and civil rights, that, while Local Legislatures could exercise within their jurisdictions the power over property and civil rights granted to them in section 92, yet, if this Parliament chose to exercise its power over property and civil rights over the whole Dominion, at once the powers of the Local Legislatures would be absorbed in the powers of the Dominion. I contend that the proposition that, in another aspect and for another purpose, this may be, shows that their Lordships never contemplated that, for the same purpose and the same objects, subjects should come under the jurisdiction both of the local and Federal legislation. The case of Hodge against the Queen clearly lays down the principle that the power to regulate belongs to the Ontario Parliament. My hon. friend from Queen's, P.E.I., has already called attention to the 4th and 5th sections of the Ontario License Act. It is not, as put forward by the hon. member for Glengarry, merely the subject of a billiard room, but it is a question as to the powers granted by those 4th and 5th sections of the Ontario Act, whether, in the first instance, the Ontario Legislature had the power to make those regulations, and secondly, whether they had the power to delegate that power to Commissioners. What are these powers:

"For defining the condition and qualifications requisite to obtain tavern licenses for the retail, within the municipality, of spirituous, fermented or other manufactured liquors, and also shop licenses for the sale by retail, within the municipality, of such liquors in shops or places other than taverns, inns, ale-houses, beer-houses or places of public entertainment; for limiting the number of taverns and shop licenses respectively, and for defining the respective time and localities within which, and the persons to whom such limited number may be issued; for declaring that in cities a number not exceeding ten persons, and in towns a number not exceeding four persons, qualified to have a tavern license, may be exempted from the necessity of having all the tavern accommodation required by law; for regulating the taverns and shops to be licensed; for fixing and defining the duties, powers and privileges of the inspector of licenses of their district."

Then Section 5 is as follows:—

"In and by any such resolution of a Board of License Commissioners the said Board may impose penalties for the infraction thereof."

Now, there are, in section 4, five different powers claimed to be exercised by the Ontario Legislature, which also, by that, they transfer to the License Commissioners, and the 5th section gives them the power to inflict penalties. Now, my hon. friend from Glengarry puts forward that the question of the right to regulate these licenses arose from subsection 9 of section 92, "shop, saloon, and other licenses for the purposes of raising a revenue," and if their Lordships had decided upon that sub-section and that these powers referred to that, there might be some force in the argument put forward. He said: what was their decision, what was the question they decided? That Mr. Hodge permitted a "billiard table to be used as such within the period prohibited by the resolution of the License Commissioners, and it was for that infraction of their rules he was prosecuted and convicted." My hon. and learned friend put it forward that that was the decision of their Lordships. Why, if he looked, he would see that that is a conclusion of the fact set forward as admitted and proved upon the trial of the case, and not the decision or the conclusion which their Lordships came to. We find that followed by the remark:

"The preceding statement of the facts is sufficient to enable their Lordships to determine the questions raised on the appeal."

Then, they say they are requested by the counsel to ascertain as to the Act being *ultra vires* of the Ontario Legislature, and then what do we find they decide:

"The subjects of legislation in the Ontario Act of 1877, sections 4 and 5, seem to come within the heads Nos. 8, 15 and 16 of sections 92 of British North America Statute, 1867. Their Lordships are, therefore, of opinion that, in relation to sections 4 and 5 of the Act in question, the Legislature of Ontario acted within the powers conferred on it by the Imperial Act of 1867, and that in this respect there is no conflict with the powers of the Dominion Parliament."

Now, I want to see under what sections they say this power is granted to the Ontario Legislature. Sub-section 8 is "municipal institutions;" sub section 15 provides for "the imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section;" and sub-section 16 is "generally all matter of a merely local or private nature in the Province." Then, sub-section 9 is excluded, for they decided, under sub sections 8, 15 and 16, that that power remains in the Provincial Legislature, and, if that power is vested in them, how can concurrent power remain, or even come under section 91, within the Federal Legislature. Now, in this case, the Prime Minister last year said, in referring to Russell against the Queen:

"It is quite clear to every lawyer; and any man who is not a lawyer who reads that judgment, will see that the very reasons on which the Privy Council decided that this Parliament had the right to deal with the Scott Act are the reasons showing that the Provincial Legislature of Ontario had not a right to deal with that subject, except as a matter of revenue for municipal or provincial purposes."

That was the statement made by the First Minister in discussing this Act last year. That was the ground upon which he put it that Regina and Russell simply decided, and the only ground on which it could be held that the Provinces had any right to deal with the subject was for the purposes of a revenue for municipal or provincial purposes. And yet we find, since then, that it is not under that section at all, but by virtue of municipal institutions, by virtue of being of a local nature, and by the power to impose penalties, that sections 4 and 5 are within the competency of the Ontario Legislature. Then I see by the principle laid down in the Parsons case and that of the Citizens' Insurance Company, that that power is vested for that purpose in the Provincial Legislatures, and therefore cannot be in this. There can be no conflict of jurisdiction. If once it is found to be with that 92 section, it is taken entirely out of 91 section. Now, the case of the Queen against Russell my hon. friend from Glengarry referred to, but he did not follow up the observations made by their Lordships upon that case, and I wish that the language used by the First Minister in the debate last year should be borne in mind when I read the language of their Lordships in the case. The argument put forward then is dealt with by their Lordships and showed to be untenable. They say:

"The appellants contended that the Legislature of Ontario had no power to pass any Act to regulate the liquor traffic; that the whole power to pass such an Act was conferred on the Dominion Parliament, and consequently taken from the Provincial Legislature by section 91 of the British North America Act, 1867; and that it did not come within any of the classes of subjects assigned exclusively to the Provincial Legislatures by section 92. The clause in section 91, which the Liquor License Act, 1877, was said to infringe, was No. 2, 'the regulation of trade and commerce,' and it was urged that the decision of this board in Russell *vs.* Regina was conclusive—that the whole subject of the liquor traffic was given to the Dominion Parliament, and consequently taken away from the Provincial Legislature. It appears to their Lordships, however, that the decision of this tribunal in that case was not the effect supposed, and that when properly considered, it should be taken rather as an authority in support of the judgment of the Court of Appeal."

The hon. member for Queen's, P. E. I., (Mr. Davies) has referred to that judgment, and he has also cited the language of Chief Justice Spragge and Justice Burton, whose judgment was confirmed by the Privy Council. But they have pointed out that the decision in Russell and the Queen is authority for that decision, and they follow that up and reiterate it to show clearly their opinion on that point:

"It appears to their Lordships that Russell *vs.* The Queen, when properly understood, is not an authority in support of the appellant's contention, and their Lordships do not intend to vary or depart from the reasons expressed for their judgments in that case."