

That motion also was defeated. Now, Mr. Speaker, let us understand clearly what determination we were called upon to take, for what reason and upon what plea. We were called upon to interfere with the regulation of licensing in the various Provinces upon the plea—not that it was a politic thing for this Parliament to assume that jurisdiction, not that it was a measure of policy or expediency at all, but upon the plea of necessity—that in order to prevent the unrestrained sale by anybody who pleased of intoxicating liquors wherever he pleased, it was necessary for this Parliament to intervene; not upon argument, for argument was not resorted to in this House, to prove the necessity, but upon the plea that the necessity was proved and established by the judgment of the court of last resort, which the hon. gentleman said was the final law of the land—upon the plea that the local laws were not worth the paper they were written upon—that they were usurpations; and in order to prevent these dreadful evils over which the hon. gentleman wept, resulting from the unrestrained sale of intoxicating liquors all over the country, he said we must act at once and act decidedly, else the country would go to ruin over the quantity of liquor sold by everybody and drunk by everybody else. Well, Sir, we pointed out that the hon. gentleman's interpretation of the judgment in *Russell vs. The Queen*, was erroneous; that it did not establish the proposition he laid down; that it could not establish it, because an essential element to a conclusive decision upon that subject was that the question of Provincial powers in municipal institutions should have been brought under the consideration of the court, and adjudged upon by the court, whereas that question was not considered or adjudged upon at all. However, the hon. gentleman who answered for the Government said that they took the opinion of the First Minister, that they were willing to take his opinion on trust, and that as he wished it, not merely as an expounder of the law, but as a prophet, it was particularly unfortunate that I should have challenged his judgment. But time brings about its revenges. There were allusions in the course of the debate, and in this motion to cases then pending—to a case before the Supreme Court of Canada at that time standing for judgment, in which judgment has since been delivered, and in which three of the judges, those who expressed an opinion on the question of jurisdiction, expressed the opinion that the Local Legislatures have regulative jurisdiction. There was a case alluded to which was about to be heard in the Privy Council. It was pointed out in a late stage of the debate that it was entirely unnecessary for the hon. gentleman to proceed so hastily, for he himself proposed that his Act should not come into force until May next, at any rate so far as the licensing power was concerned, and that he might well wait until the decision of the Privy Council was rendered. But he had some purpose to serve, and he insisted on Parliament coming to a conclusion. Parliament came to the conclusion he desired, and since then judgment has been delivered; and this is the second complaint I make of omissions. Surely this judgment has more importance upon the question before us last Session than the judgment in *Russell vs. The Queen*. The question which was before us last Session was, What are the powers of the Local Legislatures with reference to the issue and regulation of licenses? That was the question. The hon. gentleman said they have no powers to regulate licenses—that they had no powers except with reference to the raising of revenue for municipal or Provincial purposes; and he said: I prove it by saying that a particular judgment goes to show it. Now, we have got a judgment which shows this precise point, which is on the point which touches it, which deals with it, and, in spite of the hon. gentleman's infallible nod, concludes the point. And as the hon. gentleman would not put this judgment, which does not go to show, but which does show, into the Speech, I do

not propose to move in amendment that it be inserted, because that would be contrary to the *bienséance* of parliamentary life, as we understand it to-day, but I will read it. After explaining, or attempting to explain, the decision in *Russell and The Queen*, and the principles on which that decision was founded, and coming down to the point in question:

"Their Lordships proceed now to consider the subject matter and Legislative character of Sections 4 and 5 of the revised Statutes of Ontario. That Act is so far confined in its operations to municipalities in the Province of Ontario, and is entirely local in its character and operation. It authorizes the appointment of License Commissioners to act in each municipality, and empowers them to pass, under the name of Resolutions, what we know as By-Laws, or rules to define the conditions and qualifications requisite for obtaining tavern or shop licenses for sale by retail of spirituous liquors within the municipality; for limiting the number of licenses; for declaring that a limited number of persons qualified to have tavern licenses may be exempted from having all the tavern accommodation required by law, and for regulating licensed taverns and shops, for defining the duties and powers of License Inspectors, and to impose penalties for infraction of their Resolutions. These seem to be all matters of merely a local nature in the Province, and to be similar to, though not identical in all respects with, the powers then belonging to municipal institutions under the previously existing laws passed by the Local Parliaments.

"Their Lordships consider that the powers intended to be conferred by the Act in question, when properly understood, are to make regulations in the nature of police or municipal regulations of a merely local character, for the good government of taverns, &c., licensed for the sale of liquors by retail, and such as are calculated to preserve in the municipality, peace and public decency, and repress drunkenness and disorderly and riotous conduct. As such they cannot be said to interfere with the general regulation of trade and commerce which belongs to the Dominion Parliament, and do not conflict with the provisions of the Canada Temperance Act, which does not appear to have as yet been locally adopted.

"The subject of Legislation in the Ontario Act of 1877, Sections 4 and 5, seem to come within the heads Nos. 8, 15 and 16, of Section 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, what the hon. gentleman averred was that it was the case according to his opinion, and that it was judged by *Russell and The Queen* that a Local Legislature could not regulate tavern licences at all, that they could not pass any law to decide who should have a license, or how many licenses should be issued, or with reference to hours, &c.—that all they could do, was to impose a license fee for Provincial and municipal purposes, and that any body who chose to pay that fee, so far as the Local Government was concerned, must be entitled to a license, and could not be restricted. That was the hon. gentleman's proposition. I say that proposition is condemned conclusively by the judgment I have just now read. As I have said before, the hon. gentleman is a centralizer. I dare say he may ask this Parliament—having passed this law under his misleading, as a question of necessity alleged by him to prevent a great calamity, which more than any one in the Dominion he is desirous should be averted; having asked Parliament to pass this law, on the plea of the absolute nullity of the local laws regulating the sale of licenses—he may now ask Parliament to say: Oh, well, after all, it is not necessary, but it is expedient; it is politic; and as a matter of policy it is better we should keep the power which, under another pretext, we took in our hands last Session. But I hope—it having been now established that that large measure of power which has been exercised by Local Governments since Confederation, is embraced in its intrinsic and essential principles, within the phrase "municipal institutions," and therefore devolves expressly, by virtue of the British North America Act, upon the Local Parliaments—the hon. gentleman will acknowledge that he did not lead Parliament correctly on a late occasion, that there was not that necessity arising from the nullity of the local legislation which he asserted, that there was not therefore any fact or cause which was alleged for that law, and that he will not seek now to draw us into conflict with the Local Legislatures on