

the tests derived from these cases to ascertain, whether, *under those tests*, the License Act were or were not valid; and concluded—and I think from that conclusion there is no escape—that, *under either of those tests*, the Act is *intra vires*. What I then stated, as to the application of the test under the holding in *Russell v. The Queen*, is as follows,—

"By what we think, as we have plainly intimated, is the absurd Privy Council test, the Act is undoubtedly good; from the fact, alone, that the several legislatures could not pass it, being an Act for the whole Dominion; which is, as we have seen, according to the Privy Council, equivalent to a declaration that Parliament can pass it; and, therefore, assuming that the Privy Council's test is a sound one, or, *adopting it as an authoritative statement of the law*, the License Act of 1883 would be *intra vires* Parliament. But, we confess that we shall be somewhat surprised if the Privy Council themselves do not abandon their rule; which, we think we have clearly shown, is utterly unsound and worthless."

I then applied the test from what I considered the wiser holding of the Supreme Court of Canada, in the *City of Fredericton v. Barker*, and found, that, *under that test*, the Act was also good.

As I learn, the Supreme Court of Canada have not "condemned," but have quite agreed with me; and are of the opinion that *Dobie v. The Temporalities' Board* and *Russell v. The Queen* are wrongly decided; and, therefore, that any test derived from these cases, is, like the cases themselves, as I claimed, "utterly unsound and worthless." And, further, that they did not test the validity of the Act under their own holding in the *City of Fredericton v. Barker*, but followed what they conceived to be the holding of the Privy Council in *Hodge v. The Queen*. So, that, not having tested, as I did, the Act under their own decision; and having, as I am advised, declined—according here, too, to what I predicted in my book must necessarily be the case—to follow the decision in *Russell v. The Queen*, they are very far, in their decision, from having "condemned" me; but, I submit, very much the reverse.