accept as a whole in view of the fact that it is to be approved by another government as a basis of union. I again urge the Prime Minister to consider the effect of this provision from a constitutional point of view, and, if he feels there is any reason for concern about the restraint imposed by this provision, to take up with the government of Newfoundland an appropriate amendment which would meet the approval of both governments.

Mr. St. Laurent: With some of the premises mentioned by the hon. leader of the opposition I am in full agreement, but of course I do not agree with the conclusion that he draws. First of all I should like to call the attention of hon. members to the language of section 121. This section was drawn up by a gentleman who knew the rules of English grammar. It does not say that all articles of the growth, produce, or manufacture of any one of the provinces shall, from and after the union, be admitted "freely" into each of the other provinces. It says they shall be admitted "free" into each of the other provinces. That section has already been under consideration by the courts, and the courts have held that it meant that these articles of the growth, produce or manufacture of any one of the provinces shall, from and after the union, be admitted free of customs duties into any other province.

The other premise cited by the hon. leader of the opposition is a paraphrase by the then chief justice of the Supreme Court of Canada of language used in the decision in the case of Russell and the Queen. The hon. leader of the opposition probably remembers the late Lord Haldane, who perhaps argued more of the constitutional cases before the privy council than any other man of our generation, and who afterwards became Lord Chancellor and sat on a great many of the constitutional cases. He stated with reference to Russell and the Queen that it was a tacit convention among lawyers who appeared before the privy council that they did not refer to Russell and the Queen, although in one instance, having had to refer to it, he said that the only ground upon which the decision of the privy council in Russell and the Queen could be justified was on the assumption that must have been made by their lordships in the privy council at that time, that the evil of drunkenness was so prevalent in Canada when the legislation was passed that it could be regarded as war or pestilence.

No doubt there is a substantial difference between oleomargarine and the explosive qualities of intoxicants; but in the cases where the jurisdiction of the provinces to deal with the control of intoxicants was established, the jurisdiction was placed within the provinces to deal with everything that was local and private within their territory, everything that applied to the maintenance of peace, order and good government within their territory. I may say to the leader of the opposition that all possible arguments to support the jurisdiction of the federal parliament with respect to oleomargarine were urged and were dismissed by a majority of the judges of the supreme court; and the decision there was that it was an undue interference with property and civil rights, in a matter which was local and private within the province, for the federal parliament to attempt to prohibit the manufacture and sale of oleomargarine. So they did put it back in the same sphere, the same zone, that justified the actions of the provincial legislatures in dealing with the liquor problem; something which related to order and good government privately and locally within the confines of the province. The parliament of Canada, exercising—as was said by the chief justice—such jurisdiction as it may have in respect of the criminal law, imposed penalties against those who violated, by interprovincial operations, the prohibitions contained in provincial laws.

I think that without violating any other principle the same could be done if the provinces prohibited the manufacture and sale within their confines of oleomargarine, because since those decisions there has been the decision—I think it was in the pharmaceutical case, by the privy council—that criminal law did not involve any ethical or moral concept, and wherever the legislator, rightly or wrongly, felt that the public interest required a thing to be forbidden under penalties, he was the one to judge whether or not that was criminal. Some of us were surprised that the judgment went that far, but that was the ground upon which one of these constitutional cases was decided.

Here one might possibly have hesitated to make that kind of provision in anything but an agreement that was being subjected to both ratification by the parliament of Canada and confirmation by the parliament of the United Kingdom, and it will not come into force until it has received both ratification by this parliament and confirmation by the parliament of the United Kingdom. When it has received that, it will have force of law to the same extent and to as great solidity as the British North America Act itself, even though it might, as it does, in the procedure depart from what would otherwise be in the British North America Act. It will not come into operation until both this parliament and the parliament of the United Kingdom will have