

DRUGGISTS' LICENSES.

As temperance workers simply, we do not need to discuss the question of any dispute between the Dominion and Provincial Governments in regard to the issue of licenses; we are only anxious to have the law administered by whatever authority will enforce it most effectually, and with the least danger of subsequent objection, appeal and tedious and expensive litigation. We are also anxious to see the Scott Act—for the enactment of which we worked so hard, and for the adoption of which we are working so hard,—carried out in its entirety. The intention of the Scott Act was that the retail sale of liquor for medicinal, sacramental and scientific purposes, should be placed exclusively in the hands of a few licensed druggists. The clause providing for such sale reads as follows:—

99. Provided, also, that the sale of intoxicating liquor for exclusively medicinal purposes or for *bona fide* use in some art, trade or manufacture, shall be lawful only by such druggists and other vendors as may be thereto specially licensed by the Lieutenant-Governor in each Province, the number not to exceed one in each township or parish, nor two in each town; and in cities not exceeding one for every four thousand inhabitants.

The intention of this evidently was to permit the sale by "other vendors" only in places where druggists, who are the regular vendors, cannot be secured.

Now, in utter defiance of the spirit of the law *the License Commissioners under the McCarthy Act* have, in some counties, passed by conveniently-situated druggists and given the licenses provided for in the clause quoted to men who before were engaged in the business of keeping taverns and saloons. Of course, it is entirely unlikely that such persons will be as careful in the exercise of their privileges as those in whose hands it was originally intended that this power should be placed in the interests of order and law. We are therefore driven to enquire whether or not these Dominion License Commissioners have any right to undertake the issue of the said licenses at all.

We have already quoted the clause of the Scott Act providing for the issue of these licenses by the Lieutenant-Governor. The clause of the Act subsequently passed by the Dominion Parliament, taking away this power from the Lieutenant-Governor, reads as follows:—

24. [Amending Act]. The licenses to be issued under the provisions of section 99, of "The Canada Temperance Act, 1878," shall be issued by the Board of Dominion License Commissioners, subject to the limitations provided in the said Act; and so much of the said Section as authorizes the Lieutenant-Governor to grant or issue such licenses is hereby repealed.

It is claimed by the Dominion authorities that this clause of the McCarthy Act was not set aside or declared *ultra vires* by the decision of the Supreme Court, the text of which is as follows:—

"The Liquor License Act, 1883," and "An Act to amend the Liquor License Act, 1883," are, and each of them is *ultra vires* of the legislative authority of the Parliament of Canada excepting in so far as the said Acts respectively purport to legislate respecting those licenses mentioned in Section 7 of the said "Liquor License Act, 1883" which are there denominated vessel licenses and wholesale license, except also in so far as the said Acts respectively relate to the carrying into effect of the provisions of "The Canada Temperance Act, 1878."

1. The Supreme Court assigned to Provincial authority the issuing of locality fixed retail licenses. The issuing of wholesale and vessel licenses was left to Dominion authority, these licenses being for business that has frequently a national or inter-provincial character.

The points to which we wish to call special attention are these: 2. The licenses issued under the provisions of the Scott Act are really and technically locality-fixed retail licenses. 3. The clause above quoted placing the power to issue them in the hands of the Dominion License Commissioners is not a clause "relating to the carrying into effect of the provisions of 'The Canada Temperance Act, 1878,'" but is a clause actually framed to prevent the carrying out of the provisions of the said Act for having druggists' licenses issued by the Lieutenant-Governors of the different provinces.

The clause of the Dominion License Act above quoted is in violation of the first part of the decision of the Supreme Court and is not excepted by the latter part of that decision. It must be

borne in mind that clauses 142 and 143 of the original McCarthy Act are framed to provide for the enforcement of the Canada Temperance Act and are altogether different in principle and object from the illegal clause above quoted.

Further, the judges of the Supreme Court evidently meant to affirm that the retail sale of liquor should be controlled by Provincial authority. Indirectly they affirmed the soundness of the Scott Act and asserted that it should be enforced. Clearly, their decision sets aside the legislation that attempts to take such power away from the provincial authorities, and to interfere with the carrying out of the provisions of the Scott Act.

We trust that this common sense view of the state of affairs will be unhesitatingly agreed to by our friends and the Provincial authorities in every part of the Dominion, and that they will at once proceed against these ex-tavern-keeping vendors so as to prevent their illegally selling liquor under licenses "not worth the paper upon which they are written."

THE SENATE AND THE SCOTT ACT.

The Scott Act amendment bill is now before the Senate. Its second reading was moved by Hon. Mr. Vidal, in an unusually able speech, in which he concisely explained the provisions of the bill, demonstrated unanswerably the soundness of the principles upon which the Act is based, and showed, conclusively by an overwhelming array of statistics that the people of Canada have never spoken out in favor of any other measure, and never in favor of any men, so emphatically as they have spoken in favor of this law.

If all the speeches made in the Senate were such as that made by Hon. Mr. Vidal on this occasion, there could be no excuse for the many sneers at our Senators that are made by those opposed to a second legislative chamber. We regret, however, to see from the Hansard reports that in the same debate there has already been talked some of the most unmitigated balderdash to which sensible men have been compelled to listen. Hon. Mr. Almon (of lager beer and light wine notoriety) actually assailed the Scott Act in the following pathetic fashion:—

"My objection to this Act, and one reason why it is imperative is, as I said before, that it is legislation for the rich and not for the poor. * * * I will mention a case where the big fly gets through the web, and the small fly gets caught in it. Say a horse worth \$400 is attacked by colic, and the owner sends for a veterinary surgeon, who prescribes gin. He asks, 'Have you any gin in the house?' The owner replies, 'Yes; the Scott Act is in force here, but I sent to the next county and got ten gallons of liquor.' He procures a bottle of it, and pours some of it down the horse's throat, and in ten minutes the pain ceases, and the danger is over. Now, take the case of a poor truck man, who owns a horse worth \$50. The horse is taken with colic in the same way, and the veterinary surgeon says the animal can be cured by the same means. But where is the poor man to get a bottle of gin? He says, 'the temperance people have adopted the Scott Act here, and I cannot get the gin.' There is no means of relieving the animal; the colic runs into inflammation; the horse dies, and the man loses his means of earning a livelihood; he is reduced to poverty, and all through the operation of the Canada Temperance Act, in which we are warned to make no amendment."

A little further on the same *honorable gentleman*, with a most reckless inconsistency, after abusing the law because it does not allow the general sale of small quantities of liquor, abuses the same law because it permits druggists to sell these small quantities. He does so in the subjoined *sensible* and *gentlemanly* terms:—

"If you were on your bed sick, and a messenger went to have a prescription made up which was wanted immediately, he might find the druggist engaged in supplying liquor to applicants, and have to wait until they were served. Bear in mind that the man who fills your prescription is the man who sells the liquor, and who, it is quite possible, may be inclined to indulge in the article he sells. In some of those prescriptions the slightest error might be attended with fatal results. Take for instance morphia, strychnia and other drugs; yet the druggist is the man who is deputed under this Act to sell liquor. I had not the making of that law, but if the hon. member who framed it and my hon. friend from Sarnia, [Hon. Mr. Vidal], who knows how decidedly I am in favor of temperance, had consulted me I should have advised them not to place this traffic in the hands of the druggist. If my hon. friend was not so strongly in favor of the Temperance Act I think he would see that in this respect, at all events, it should be amended; but of course this bantling of his has no faults; it has always a clean face and never a dirty nose."