

judgment it was possible to take the forms and procedure of the Liquor License Act, 1883. But that is not what is wished, that is not what was contemplated. The procedure with respect to the Canada Temperance Act has been fought out in the courts from 1879 to 1883, and the different points have been very fully gone over, and have been, in the main, settled. To go from that to the procedure under the Liquor License Act, 1883, which is new, would make it necessary to fight over those technical points again, and that is not a good thing to do, and therefore it is of very great moment to the different counties and cities which have adopted the Canada Temperance Act, and those which may adopt it hereafter that this matter should be made clear, and that there should be no doubt as to the procedure or the penalties of the Canada Temperance Act holding good. It was not the intention of the framers of the Liquor License Act of 1873, and not at all the intention of Parliament, that the Canada Temperance Act should be impaired in any of its provisions. In fact that was implicitly stated in a section which preceded this. But section 145 has been held by the Supreme Court to have done that, and it is to remedy that state of things that I propose this amendment.

Mr. WELDON. Of course there is no doubt that a great conflict has taken place between the Canada Temperance Act and the Liquor License Act of 1883. I do not propose to oppose the amendment, but I think it should not apply to cases which have been before the court. There are a number of cases which are considered to be settled, and if this clause is repealed without any proviso those cases might be brought up again. That would be contrary to the spirit of justice, and contrary to the principle that cases once having been decided there should be an end of the matter.

Sir JOHN A. MACDONALD. I think the hon. gentleman (Mr. Foster) must see from his own statement that we cannot well proceed with the second reading to-night, because he says this Bill as laid before the House is insufficient without an amendment. Now that amendment we have only just heard for the first time, and it states that the true intent and meaning of the Act of 1883 was so and so—and in the face of the decision of a court of competent jurisdiction that the true intent and meaning is otherwise. Therefore, I think we cannot without fully considering the effect in the first place of the judgment—which we will be able to see—and of his amendment, proceed with this Bill. It is a very strong thing for the House to do, in the face of a judgment given by a court, to say that the true intent and meaning of a statute is otherwise than a court has decided. We may come to the conclusion that the court is right, and that therefore the Act should be amended instead of having a declaratory Act providing otherwise than as the court has decided. Perhaps when the matter is fully considered the House may come to the conclusion that the Act is right, that it should be amended as not carrying out the intent of the Legislature. For that reason I think the debate should stand over, that the amendment should be printed on the face of the Votes and Proceedings, and that we should have before us a copy of the judgment of the court, which I suppose we can obtain. With these before us we can do one or two things, either declare that the true intent and meaning of the Act is as the hon. gentleman contends, or that the court is right, and that as the language of the Act failed to carry out the intention of Parliament it should be amended.

Mr. MILLS. I understand that the Supreme Court of Prince Edward Island has taken a different view from the Supreme Court of New Brunswick, so that though the declaration proposed to be made by the hon. gentleman may differ from the judgment of the court in New Brunswick it would be in accord with the decision of the court in Prince

Edward Island. The matter does not therefore exactly stand in the same position as if it were a positive and unsupported declaration by the House that the court was entirely wrong.

Sir JOHN A. MACDONALD. I had not heard of the Prince Edward Island decision, but it only gives greater reason for our seeing both judgments and dealing with the whole question.

Mr. MILLS. Yes; but as to what is really necessary in the way of legislation it is for the House and not for the courts to decide, and it may be proper to proceed in some other way than the hon. gentleman proposes. It is very clear it is not desirable to allow a law to remain in a position in which it is not operative. Parliament has an opinion on the subject, and the country has an opinion on the subject, and it would be well, if there is any doubt as to what the meaning of the law is, that it should be made perfectly clear and workable, and it may be so made by a declaratory section such as the hon. gentleman proposes or in some other way; but it would be very undesirable that we should postpone all action until action should become impossible.

Sir JOHN A. MACDONALD. Oh, no; it would have to be one way or the other.

Mr. ORTON. I am not going into the legal points which have been raised with regard to this Bill, but I think what has come up is an important reason why the House should show some hesitation in aiding any legislation on this subject. I think we must all feel that notwithstanding the apparent feeling of the people of this country in favor of the continuance of the Scott Act, the fact that hardly in any county in this country—I think I may say without fear of contradiction in no county or municipality in Canada—in which the Scott Act has been submitted to the people, have a majority of those entitled to vote declared themselves in favor of the Act,—when we recollect that fact, and the other fact that the operation of this Act is bringing ruin and disaster on a large portion of our people who have a right to claim the protection of the Government of Canada simply from the fact that they have been carrying on a legitimate and honorable trade, a trade legalised and authorised, not only by the consent of the people of Canada, but by the whole people of this country, I think we should hesitate before proceeding with legislation in that direction, and we should enquire whether the Act is calculated to carry out the very desirable object which is sought by hon. gentlemen who are such earnest and serious advocates of that Act. I think the time has arrived when it should be demanded and ascertained by the people who are going to suffer financially from the operation of that Act, whether it is really calculated to be a temperance Act or the contrary. If it is calculated to be an Act which will demoralise our people, which will increase intemperance among our people, which will lead to evils which do not exist now, I think the hon. gentleman who is so anxious to agitate for the passage of this Act, if he only found that he was acting in the wrong, would be willing to stop in the further pursuance of that object. I think that is another reason why the amendment tending to increase the operation of the Act should be fully and carefully considered by the House.

Mr. ROBERTSON (Shelburne). I trust the promise which has been made by the Premier will be carried out, and that we will have a chance to consider these various amendments to the Canada Temperance Act. This Act has been adopted in a large number of constituencies of the Dominion, and notwithstanding the objections made by the hon. member for Centre Wellington (Mr. Orton), I think a large section of the people of this country are favorable to the Canada Temperance Act. I rise simply to ask the Premier if he will permit these Bills amending the Canada