

That is, as I understand, the principal clause of the Bill. It provides that, if there has been any irregularity in the issuing of the proclamation, the proclamation shall not be void. I presume it is on that very question that the action before the courts has been taken. I think that a proviso should be added at the end of the clause, declaring that this section should have no effect on matters now before the courts, in order that we may not in any way interfere with those questions. There could be drafted along those lines a proviso which would give the Government the benefit of what they desire with regard to the taking of the referendum, but we should certainly protect the interests of the parties who are now before the courts.

Hon. Sir JAMES LOUGHEED: I might as well freely confess that the object of the Bill is to cover pending litigation. I am not advocating the policy of always curing litigation by remedial statutes of this kind; but the present situation is one which the Government considers warrants the bringing in of the measure we are now considering. If the Government is committed to the policy of maintaining the Act, so far as it can consistently do so, against any attack which may be made upon alleged defects, it renders nugatory the litigation at present pending, which would simply mean that the question would have to be again submitted in a referendum and the country would be put to the enormous expense involved in that re-submission. Where would there be any particular advantage in doing that. Furthermore, if the law were left in a state of uncertainty between the present time and the re-submission of the question, it would profit no one. So, if no good purpose would be served, why not cure the defect at once?

Hon. Mr. FOWLER: Whose fault was it that the last legislation was defective?

Hon. Mr. BOSTOCK: The legislation was not defective.

Hon. Mr. FOWLER: Or was some official derelict in his duty in attempting to carry it out? Let us know who is to blame.

Hon. Sir JAMES LOUGHEED: My honourable friend has been practising at the bar for a great number of years, and I fancy he would not be prepared to admit that anyone who takes a different view of a subject from what a court might take is therefore wrong. That is precisely the situation that has arisen in this case. The

Hon. Mr. BOSTOCK.

law officers of the Crown contended, and hold to-day that, by reason of the language employed in the statute, they were warranted in omitting the date upon which the Act would come into force. It was considered difficult to say—in fact, it is difficult for anyone to think—how the date could be filled in. As I understand it, the Act was to come into force within a certain time after the returns were made. One therefore had to anticipate when the last return would be made, in order to fix the date. The law officers of the Crown thought it would be better to await the last return, and then to fix the date as prescribed by the statute. But apparently the view is entertained, although no judicial decision has been given upon the question up to the present time, that the proclamation should have mentioned a specific date upon which the Act should come into force. Now, that is just a difference of opinion, and both parties maintain their point up to the present time.

Hon. Mr. FOWLER: It is generally considered unsafe to pass legislation concerning a matter that is at the time sub judice.

Hon. Sir JAMES LOUGHEED: I quite agree.

Hon. Mr. FOWLER: This is what we are trying to do in this case. I understand the matter is on appeal in the Supreme Court of Canada. The Supreme Court has not given its decision. It would seem to me that there should be very strong reason, what we might call paramount reason, put forward for violating so good a rule as that, in passing legislation regarding matters that are sub judice. I do not think that we have heard that reason yet. The law officers of the Crown are presumed to know the law; otherwise they would not be the law officers of the Crown. They are supposed to be masters of their profession, and know as much as the Supreme Court. Until the Supreme Court has given its decision, how do we know but what all this may be a tempest in a teapot? The Supreme Court may hold that the proclamation was all right, that the Prohibition Act is safe, and that Ontario shall remain bone-dry. That is the consideration that is desired. I do not see why we should pass this legislation now. I think we had better let it stand over until next Session, so as not to violate so wholesome and wise a rule as that which I have mentioned, for the sake of a contingency which may not happen.