

# THE WEEK.

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## CONTENTS OF CURRENT NUMBER.

CONTRIBUTED ARTICLES—	PAGE
The State of the Liquor Law .....	147
National Policy .....	M. 148
The Crisis in England .....	Goldwin Smith. 149
The Examiner .....	M. J. G. 149
CORRESPONDENCE .....	150
TOPICS OF THE WEEK—	
Commercial Union .....	152
Englishmen in the Civil Service .....	152
The Scott Act Again .....	152
Dress Reform .....	152
The German Remedy for Obstruction .....	152
Expulsion of the Poles from Prussia .....	152
The Balkan Imbrolio .....	153
Bismarck and Austro-Hungary .....	153
NOTES .....	153
POETRY—	
Justice .....	Frederic B. Hodgins 154
Sorrow's Blessing .....	Mrs. J. Oliver Smith. 154
MR. FROUDE'S "OCEANA" .....	M. J. G. 154
ENGLISH FEELING ABOUT HOME RULE (Selected) .....	155
PUBLIC OPINION .....	155
MUSIC .....	156
OUR LIBRARY TABLE .....	156
LITERARY GOSSIP .....	157

## THE STATE OF THE LIQUOR LAW.

It is surely time that an attempt should be made to put an end to the confusion which now reigns upon the Liquor Question. The Scott Act is virtually admitted by the most powerful of its advocates in the press to be a failure, and the efforts of its partisans are at a stand. Where it prevails, that is over the greater part of Ontario and some districts in the Lower Provinces, the actual state of things is free and unlicensed trade in liquors, with a practical discrimination in favour of ardent spirits against the lighter drinks, a debasement of the trade, and that increase of drunkenness which clandestine indulgence always breeds. Law is laughed at, to the great detriment of political character, and any spasmodic attempts which may be made to enforce it bear no fruit but wholesale perjury. It is in vain that magistrates who are partisans of the Scott Act break—as Mr. Justice O'Connor the other day in a judgment quashing a conviction showed—all the rules of evidence and the securities for personal liberty. This state of things, at all events, nobody can wish to continue.

To get us out of the slough in which we are floundering it is absolutely necessary, first of all, that the Dominion and Provincial Governments should, if possible, agree on their relative powers and the limits of their respective spheres of action. We say, if it is possible; and the possibility of such an agreement does not seem beyond doubt. The question cannot be settled by the distinction between civil and criminal legislation, because no clear line divides one from the other, and the same subject is capable of being regarded and treated in two ways. The constitution being a cross between Legislative Union and Federation, a conflict of jurisdiction is the natural result. Its framers were misled by American secession, which they ascribed to the weakness of the Federal Government instead of ascribing it to Slavery. They fancied that the way to make a Confederation stable was to increase the power of the Federal Government, whereas the way to make a Federation stable is to confine the powers of the Federal Government and leave to each of the Federated States its full measure of internal self-administration.

The next thing necessary is to define clearly the object at which this legislation aims and the principle on which it is based. Legislation without a definite object must clearly fail, and so must legislation respecting moral questions if it is based upon no principle which is understood and respected by the people.

The proposed modes of dealing with the subject seem to reduce themselves to these:—(1) Prohibition; (2) the Scott Act; (3) Local Option; (4) the reduction of the number of places of sale; (5) High License; (6) discrimination in favour of the lighter drinks, such as beer, light wine, and cider, against whiskey and other ardent spirits.

The second and third proposals are merely weaker forms of the first. The same may be said of the fourth, if it leaves the people fewer places of sale than they demand. The object of the first three, at all events, is to cut the people off entirely from alcoholic drinks. The principle assumed is that the sale and consumption of such drinks, even if there be no excess, are criminal, and ought therefore to be prohibited by

the State. Without going over the argument again, it may safely be affirmed that this is a principle which the vast majority of mankind in all civilized nations at present refuse to admit, while the very preachers who propound it are daily holding up to the people, as a standard of morality, a Teacher who, with His Apostles, unquestionably drank wine and consecrated the practice in a solemn ordinance for ever. If it is lawful to drink, it must, of course, be lawful to make and sell; and St. Paul, when he advised his over-ascetic friend to relax his rule and take a little wine for his stomach's sake, sanctioned the trade of the vine-grower and the vintner. This the people feel, and they refuse to obey or help to execute the law. The experience of Massachusetts, Maine, and Vermont is decisive. Alcohol may be wholesome or unwholesome; that is a question for medical science, which has certainly not yet decided that the moderate use of it is unwholesome; but to call a moderate use of it criminal is a passionate exaggeration, and legislation which has no basis but passionate exaggeration is certain to fall to the ground.

Local Option sets up opposite codes in adjoining townships, and the prohibited township is sure to be fringed with taverns set up along the borders of that which is free. We personally know of a township in the States where Prohibition under Local Option was put in force; and where some of those who had clamoured for it soon admitted that mere mischief had been done.

Reduction in the number of taverns, if the number is brought below the demand, is gradual Prohibition, and there lurks in it the assumption, common to all Prohibitory Legislation, that the sale and consumption of liquors are criminal and ought to be abolished, though prudence requires that this should be done by degrees. As soon as the number of taverns are reduced below the real demand, unlicensed places will be set up, which is of all results the worst.

It is difficult to say with certainty whether the Crooks Act is a *bona fide* measure for the regulation of the trade, or a measure of gradual Prohibition in disguise. Probably its framers did not know what line they meant to take and had no defined principle or object. If it is a measure of gradual Prohibition it is open, of course, to the objections to which Prohibition generally is open, with the addition that it tends to put the patronage of a very important trade into the hands of a Party Government, which, by the law of its nature, will in time abuse its trust.

The last two proposals, High License and discrimination in favour of the lighter drinks, proceed upon a principle opposed to that of Prohibition: they assume that the trade is not criminal but lawful, though they also assume that it requires special regulation. The purpose of High License seems likewise to have a fiscal object. It is coming into vogue in the United States, and is there approved by rational friends of temperance, to whose opinions deference is due; but there seems reason to fear that in this case, as in the case of other overtaxed trades, the taxpayer may contrive to indemnify himself at the expense of the consumer by selling him bad liquor, or in some other objectionable way.

It may be taken probably as established and admitted that light wines, beer, and cider are more wholesome than ardent spirits, especially when the spirits are taken as drams; and this being the case there is no reason why the State should not use any influence that it wields in encouraging the use of the more wholesome drinks rather than the less wholesome, just as in the use of its taxing powers it shows favour to necessities rather than to luxuries. The advocates of discrimination, of course, like those of High License and of all policies which admit the lawfulness of selling and using liquor, embrace in the programme all needful regulation of a trade which, though not criminal, is manifestly in need of special safeguards, as well as a system of inspection, on which they strongly insist, for the prevention of noxious adulterations.

The object at present, however, is not to argue for or against any particular policy, but to call attention to the necessity of having a policy with a clearly defined object and principle, as well as a clear understanding in regard to the relative powers of the Dominion and the Province. Is the liquor trade a lawful calling, for which special regulations are required, or is it a criminal trade, to be at once or gradually put down? Upon one of these principles or the other all liquor legislation must be framed, and unless the legislator distinctly chooses and firmly grasps his principle, confusion must be the result.

For our own part, while we are willing to take advantage of any help