No. 26.

TEMPERANCE LEGISLATION.

The Record of the Two Political Parties.

THE LIBERALS IN OFFICE

Decline to Support Motions Looking to Prohibitory Legislation.

Conservatives the Authors of the First Temperance Laws.

It has been so frequently and widely asserted in the Opposition press and by Opposition speakers that all temperance legislation worth anything has been given to Canada by the Reform party that it might not be without advantage to investigate the whole question and see what has been done by each of the great parties in the Dominion.

The claim above referred to may be stated in the words of a Mr. McLean, of Toronto, who is thus reported in the *Globe*. "He believed in the Reform party because that party had given them everything in the way of temperance legislation that they had ever got. The Liberal Government gave them the first prohibitory act that had been proposed in any part of the British possessions. Mr. Mackenzie gave them the Northwest prohibitory liquor law, and the present Dominion Government was granting 'permits' to sell liquor in this prohibitory territory, provided they sold it moderately."

Is this claim good, and are the statements correct? Let us see.

The first prohibitory liquor law passed in British North America was that introduced and carried through the Legislature of New Brunswick by Sir Leonard Tilley.

Sir Leonard does not belong to the Reform party.

The first local option prohibitory law which had force in Ontario and Quebec was the Dunkin act passed in 1864. It was introduced and carried through by the late Judge Dunkin, who was a Liberal-Conservative.

In 1873 the House of Commons passed a resolution as follows:—"That an order be issued by the Speaker to prohibit the sale of intoxicating liquors within the precincts of the house."

This was done when the Liberal-Conservative party commanded a majority of the house.

In 1873 a committee was struck to report upon the numerous petitions which had been presented in favor of the passage of a prohibitory law, and to collect information respecting the working of prohibition. Mr. Bodwell was appointed chairman of this committee.

In 1873 the Northwest Prohibitory act was introduced into Parliament by Sir Charles Tupper, and became law on the 12th May, 1873.

This disposes of the claim that Mr. Mackenzie gave the country the Northwest Prohibitory Liquor law.

In 1875 the Northwest legislation was consolidated by Mr. Mackenzie, and consolidated with the very same "permit clause" which exists to-day. The section with reference to liquors reading as follows: "Intoxicating liquors and other intoxicants are prohibited to be manufactured or made in the said Northwest Territories except by special permission of the Governor-in-Council, or to be imported or to be brought into the same from any portion of Canada or elsewhere, or to be sold, exchanged, traded or bartered except by special permission in writing of the Lieutenant-Governor of the said territories."

This law remained unchanged until 1880, when the consolidation took place, the only change then being that a return of liquors sold under permission of the Lieutenant-Governor was to be made each year to Parliament. It will be seen, therefore, that so far from the Reform party being the authors of the Northwest prohibitory law, it was introduced by a Liberal-Conservative minister; that so far as the "permit" system is concerned it was incorporated by Mr. Mackenzie into his consolidation of 1875 exactly as it remains to-day, and there is no record that at that time, nor any time since, any member of the Reform party in Parliament made any move towards changing the law in this respect.

TEMPERANCE LEGISLATION SINCE 1874.

Let us now look for a moment at temperance legislation from 1874 up to the present day and with special reference to what the Reform party, while in power, with an overwhelming majority, did for prohibition.

In 1874, a committee, similar to that which had been appointed in 1873, was named, of which Mr. Ross was chairman. On the 9th May that committee reported in favor of appointing a commission to examine into and report upon the working of prohibitory laws in Canada, the United States and elsewhere. Mr. Ross gave his reasons for favoring the commission rather than attempting to pass a prohibitory law, as follows:—(Speaking in 1876, "I did not believe then 1874, or now 1875), that they could at this very moment sustain a prohibitory law in the Dominion."

In 1875 the commission reported strongly favoring the enactment of a prohibitory law. What was done upon this recommendation? Was any move made towards giving effect to the wishes of the people, as shown in numberless petitions presented to Parliament or to the recommendation of the commission? Mr. Ross moved the house into committee of the whole to consider the following resolution:—"That having regard to the beneficial effect arising from prohibitory liquor laws in those states of the American Union where the same are fully carried out, this house is of opinion that the most effectual remedy for the evils of intemperance would be to prohibit the manufacture, importation and sale of intoxicating liquors." This it will be soon, was a mere abstract resolution affirming an opinion, but giving no indication of any practical attempt to embody that opinion in law and even amongst members of the Reform party the mildness of the action drew forth expressions of surprise.

Mr. Dymond, among others, criticised the speech and resolution of Mr. Ross, as having an appearance of weakness, and declared that this must not be repeated, that this was the last time they must be content with empty declaration, but must test the sentiment of the house by an act of legislation.

To the resolution of Mr. Ross Dr. Schultz moved an amendment as follows: "That in opinion of this House a prohibitory liquor law is the only effectual remedy for the evils of intemperance, and that it is the duty of the Government to submit such a measure for the approval of Parliament at the earliest moment practicable." This brought matters to a point where

SOMETHING HAD TO BE DONE.

It was evidently not the purpose of the Reform party to do anything or to allow itself to be put on record. Accordingly Mr. Ross immediately moved the adjournment of the debate, and his motion having been ruled out of order by the Speaker, Mr. Mackenzie moved and at once carried the adjournment of the debate. Mr. Ross gave as his reason that he did not ask the house to cast the responsibility of such a measure upon the Government. On March 19, when Mr. Ross' resolution came up again, in order to avoid the difficulty presented in being obliged to vote upon the amendment of Dr. Schultz, Mr. Oliver, Reformer, moved in amendment to the amendment: "That the house do forthwith resolve itself into committee of the whole to consider the means best calculated to diminish the evils of intemperance." This was carried. The house went into committee, and when Mr. Ross moved his resolution, the same in substance as introduced into the house on March 18, Mr. Bowell at once moved in amendment to add: "And that it is the duty of the Government to prepare a measure at as early a day as possible to carry the principle of prohibition into effect." Whereupon Mr. Holton immediately moved that the committee rise and report progress, and ask leave to sit again.

On the 2nd April, the House again went into committee of the whole upon Mr. Ross' resolution. Having, in the meantime, considered the matter, the Reform party had made up their minds as to what should be done. Mr. Ross, in speaking, argued against Mr. Bowell's amendment, declaring that it did not add to the value of the motion, that temperance advocates desired to advance step by step, that his object this year was simply to get the opinion of the house, that the Government could then consider the expediency of introducing a measure, and that if they did not do so, it would be his duty to introduce such a measure himself. Hon. Mr. Mackenzie's contention was that the local Legislature had the power to prohibit, and that anyway the people were not ready for a prohibitory law.

Mr. Powell's amendment was lost by a decisive vote, every Liberal in the house voting against it. The committee then rose and reported, when Mr. Bowell moved: "That the resolution be referred back to the committee to add, 'that it is duty of the Government to prepare a measure at as early a day as possible to carry the principle of prohibition into effect.'"

Hon. Mr. Mackenzie at once moved the adjournment of the house, and the house was never asked to concur in the resolution reported from the committee. The reason, of course, was plain. In committee of the whole the votes are not recorded. A vote taken in the house on Mr. Bowell's amendment would have made it necessary for each member to have put himself upon record, and for this the Reform party was evidently not prepared. In 1876 the Government did not introduce a prohibition measure, nor did Mr. Ross, in pursuance of his promise, introduce such a measure. He contented himself with allowing the session to slip by until two days before prorogation, when he moved an address to His Excellency for certain correspondence between the Government and Lieutenant-governors of the provinces, together with any decisions of courts bearing on the matter, and asked that the whole question should be referred by the governor in council to the Supreme court.

Mr. Blake, as minister of justice, refused to submit the question to the Supreme court, saying that such questions should come judicially before the Superior court. This ended the matter for that session, the house proroguing on April 12. The session of 1877 came, and had nearly passed, and there was

NO PROHIBITION MEASURE FORTHCOMING

on the part of the Government, or of Mr. Ross, when, on April 4, Dr. Schultz moved, "That in the opinion of this house a prohibitory liquor law is the only effectual remedy for the evils of intemperance and that it is the duty of the Government to submit such a measure at the earliest moment practicable." Mr. Ross had been asked to move the resolution, and had also been asked to second it, but declined doing either, saying he did not think it would be in the interests of temperance at the present juncture. To Dr. Schultz's motion Mr. Ross moved in amendment "That this house, while not receding from any previous declaration as to the importance of a prohibitory liquor law, deems it inexpedient at present to express any opinion as to the action to be taken by the Government in dealing with this question." Mr. Mackenzie held that public opinion was not ripe for the passage of the law, and that a serious difficulty was presented with reference to the revenue. Mr. Ross' amendment was carried by 104 to 89, the Liberal members in a body voting against Dr. Schultz's motion. In 1877 pressure was brought to bear upon Mr. Mackenzie's Government to pass a prohibitory law. He compromised by promising a local option measure. When the Dominion alliance met at the opening of the session of 1878 the promised measure was not ready. The whole power of the alliance was, however, brought to bear in a way which, as it was hinted, would seriously affect the party at the coming elections. Yielding to the pressure Mr. Mackenzie had

THE CANADA TEMPERANCE ACT

drafted. It was introduced and passed, the only serious opposition to it coming from Mr. Anglin (Reform), who was at that time Speaker of the House, and who left the chair and delivered a violent speech against the proposed legislation. Whatever credit may be attached to Mr. Mackenzie and his party for that act must be estimated in the light of preceding facts. This act was defective in that it provided no machinery for its enforcement, and looked up all funds derived from its enforcement in the hands of the Receiver General. It was an act which simply relegated the power of prohibiting to counties and cities, and was free from all the knotty difficulties surrounding the passage of an absolute prohibitory law.

The next important temperance legislation was the General Licensing act introduced in 1883, the purpose of which was to replace provincial license laws, which were supposed to be *ultra vires* of the local Legislatures, by a Dominion license law which was supposed within the power of the Federal Legislature. This assumption was based upon a decision of the Privy council in the case of Russell vs. the Queen, from which decision the deduction seemed plain that the licensing power did not belong to local legislatures. It is true that later a decision of the Privy council in the case of Hodge vs. the Queen put the matter in a different and most contradictory light. These two decisions with their inconsistencies were not reconciled by the Privy council in their later decision on the constitutionality of the Dominion License act. Indeed it was admitted that they could not be reconciled. To the Dominion License act of 1883 the Reform party objected solely on the ground of provincial rights. They co-operated with the Liberal-Conservatives in making the act as perfect as possible. The act in itself was far in advance of the previous provincial legislation and was admitted to be one of the strongest license acts ever adopted by any great country. It struck off at one blow about one-fifth of the licensed houses in Canada. It instituted strong machinery for its proper enforcement, interfered with no rights guaranteed under the Canada Temperance act, but went even farther in the line of local option and delegation of power to the people by making it possible for any parish or municipality less than a county or city to vote the issuing of licenses by direct vote, and gave to any community less than a municipality the power by petition to rid itself of any or all obnoxious licenses. There was added to this act a special clause giving machinery for the enforcement of the Canada Temperance act, wherever this had been or should be adopted, and this machinery was of an effective and non-partisan character, consisting of the judge of the county court, the mayor or warden responsible to the people, and one appointee on behalf of the Government. This board had the absolute right of appointing its inspectors and absolute control of all fines and fees resulting from the act.

THIS MACHINERY IS IN MARKED CONTRAST

to that provided by the Ontario Government, which is partisan throughout, the Government having the appointment: first, of its commissioners and, second, of the inspectors and sub-inspectors, who shall act under those commissioners. In 1884 a prohibition resolution prepared by the Dominion alliance was introduced into Parliament by Mr. Foster, which read as follows: "That this house is of the opinion that the right and most effectual legislative remedy for the evils of intemperance is to be found in the enactment and enforcement of a law prohibiting the importation, manufacture and sale of intoxicating liquors for beverage purposes."

To which was added in the amendment of Mr. White:

"That this house is prepared so soon as public opinion will effectually sustain stringent measures to promote such legislation as far as the same is within the competency of the Parliament of Canada."

This amendment was agreed to by the leaders of the temperance party on both sides of the house, and the resolution as amended, passed by a majority of 122 to 40. This large vote shows the position of the late Parliament on the question of prohibition, and although Mr. Blake was not present in the house to cast his vote (though in the city at the time), it will be found on reading his late address on the question of prohibition, that the resolution coincides exactly with his opinion as therein expressed. It affirms, as Mr. Blake affirms, a belief in the efficiency of prohibition, and it declares, as Mr. Blake declares, that prohibition should be embodied in law so soon as public opinion will effectually sustain it.

Mr. Robertson, of Shelburne, moved as an amendment to the resolution, "That this house is of opinion that the public sentiment of the people of Canada calls for immediate legislation to that end."

This received but a small vote, the general opinion of Parliament being that the sentiment of the people of Canada was not sufficiently strong or at least had not given sufficiently strong expression to warrant the house in passing immediate prohibition. In 1888 the Dominion Government passed a bill for the disposal of fines in certain cases. The fines levied under the Canada Temperance act came under the provision of this act, and by order-in-council they have been placed at the disposal of the municipal authorities of counties, cities and incorporated villages, to be used for the purposes of the act. Some reference has been made as to

THE ACTION OF CERTAIN TEMPERANCE MEN

in Parliament with regard to a motion made by Mr. Blake on the 12th May, 1890. It is claimed that they voted against a motion which, if carried, would have had the effect of amending the Canada Temperance act. The facts of the case are these: The Government had decided to place a British Columbia bill on the list of Government orders. The Minister of Justice moved that the bill be so placed. To this Mr. Blake moved as an amendment that the Canada Temperance Act Amendment bill be added to this. That is, Mr. Blake, as leader of the Opposition, moved to amend a Government motion, which, of course, must be opposed by the Government, as no government would allow its order of business to be interfered with, or one of its motions to be superseded or amended by the Opposition. Against Mr. Blake's motion several well known temperance men and supporters of the Government voted. The motion was simply a catch motion. Mr. Jamieson had the Canadian Temperance Act amendment bill in his charge. It had been placed in his charge by the Dominion alliance. He was in the House that day and sitting not far from Mr. Blake for some time before the latter's motion was made. Mr. Blake, without consulting with Mr. Jamieson, took the bill out of his hands, and moved it as an amendment to a Government order, well knowing that the Government would be obliged to vote it down, and his friends endeavor to make capital in his favor, and against the Liberal-Conservatives in consequence. If Mr. Blake had really wished to advance the bill, he could have moved at any time that it should take precedence, and he would then have had a vote entirely outside of party lines and entirely in the interests of the bill. This he did not choose to do.

It has been urged against the Liberal-Conservative Government that they have refused to amend the Canada Temperance act. It is true that they have not, as a Government measure, proposed to amend the act. They have left that to the Parliament itself, and have always been divided upon the vote when it came up. It will be well, however, to examine as to

WHAT THE PROPOSED AMENDMENTS WERE,

as to whether they were of paramount importance, and essential to the proper working of the act. Take, for instance, the bill introduced last year.

Section 1 provides that in any county where there is more than one registry of deeds office, it shall be sufficient to deposit the notice that the petition is on view in either one of them.

Sections 2, 3 and 4 interpret the word "county," and define the electoral districts in British Columbia, and the provisional electoral districts of Ontario.

Section 5 provides that druggists may sell, on medical certificates, less than one pint at a time.

Sections 6 and 7 make unimportant amendments with reference to penalties.

Sections 8 and 9 eliminate clerical errors in the 108, 109, and 119 sections of the act.

Section 10 provides for a schedule of forms.

Section 12 provides that a penalty, recovered under the act, shall be in part paid to the prosecutor or complainant.

It will be noticed, from a careful examination of the above, that the amendments considered necessary and embodied in the bill presented last year are all of a trivial character, and the lack of them does not, to any appreciable extent, hinder the enforcement of the act where adopted in the older provinces.