

THE PEOPLE vs.  
The LIQUOR TRAFFIC.  
HON. JOHN E. FINCH'S  
Great Book sent from this  
office, postage prepaid,  
for thirty cents.

# THE CANADA CITIZEN

WITH WHICH IS INCORPORATED

## THE TEMPERANCE HERALD,

A WEEKLY FAMILY JOURNAL OF SOCIAL PROGRESS AND MORAL REFORM.

"FREEDOM FOR THE RIGHT MEANS SUPPRESSION OF THE WRONG."

ON TRIAL.  
The Canada Citizen  
Will be sent on trial to  
any address six  
weeks for  
10 CENTS  
GIVE UP A CLUB.

VOLUME IX.

TORONTO, CANADA, DECEMBER 16, 1887.

NUMBER 25.

### A GREAT VICTORY.

#### THE CONSTITUTIONALITY OF PROHIBITION.

Supreme Court of the United States sustains the Prohibitory Law—The Liberty to Manufacture Liquor is not a Citizen's Right—The Compensation Fallacy Explored.

A great victory has been won by the Prohibitionists of the United States in the judgment of the Supreme Court sustaining the validity of the prohibitory laws. The appeal was brought by the State of Kansas against the decision of Judge Brewer who, it will be remembered, held on several grounds that the Kansas law was unconstitutional. The Supreme Court reversed the judgment on all the grounds, and of the eight judges only one dissented.

The chief point decided was that the manufacture, sale or barter of liquor is not one of the rights growing out of citizenship of the United States. As to the general principle of prohibition the judgment reads:—"The right to manufacture drink for one's own use is subject to the restriction that it shall not injuriously affect the public. If such manufacture does prejudicially affect the rights and interests of the community, it follows that society has the power to protect itself by legislation against the injurious consequences of that business. As was said in *Mann vs. Illinois* (94 U. S., 124), while power does not exist with the whole people to control rights that are purely and exclusively private, Government may require each citizen to so conduct himself and to use his own property as not unnecessarily to injure another." Power to determine such questions so as to bind all must exist somewhere, else society will be at the mercy of a few, who, regarding only their own appetites or passions, may be willing to imperil the peace and security of the many, provided only they are permitted to do as they please. Under our system that power is lodged with the legislative branch of the Government. It belongs to that department to exert what is known as the police powers of the State.

#### THE PEOPLE MUST RULE.

There is here no justification for holding that the State, under the guise merely of police regulations, is aiming to deprive the citizen of his constitutional rights, for we cannot shut out of view the fact, within the knowledge of all, that the public health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks, nor can we ignore the fact, established by statistics accessible to every one, that the disorder, pauperism, and crime prevalent in the country are, in large measure, directly traceable to this evil. If, therefore, a State deems the absolute prohibition of the manufacture and sale, within her limits, of intoxicating liquors, for other than medical, scientific and manufacturing purposes, to be necessary to the peace and security of society, the courts cannot, without usurping legislative functions, override the will of the people as thus expressed by their chosen representatives. So far from such a regulation being inappropriate to the general end sought to be accomplished, it is easy to see that the entire scheme of prohibition as embodied in the Constitution and laws of Kansas, might fail if the right of each citizen to manufacture intoxicating liquors for his own use as a beverage were recognized. Such a right does not inhere in citizenship. Nor can it be said that Government interferes with or impairs any one's Constitutional rights of liberty or of property when it determines that the manufacture and sale of intoxicating drinks for general or individual use as a beverage are or may become hurtful to society and to every member of it, and is therefore a business in which no one may lawfully engage.

#### THE COMPENSATION FALLACY.

Dealing with the objection that prohibition expropriates property, the Court says—The principle that no person shall be deprived of life, liberty or property without due process of law was embodied in the Constitutions of nearly all, if not all, of the several States at the time of the adoption of the 14th Amendment. It has never been regarded as incompatible with the principle, equally vital, because essential to the peace and safety of society, that all property in this country is held under the implied obligation that the owners' use of it "shall not be injurious to the equal enjoyment of others having an equal enjoyment of their property, nor injurious to the rights of the community." The present case must be governed by princi-

ples that do not involve the power of eminent domain, in the exercise of which property may not be taken for public use without compensation. A prohibition simply upon the use of property for specific purposes that are declared by valid legislation to be injurious to the health, morals or safety of the community, cannot, in any just sense, be deemed a taking of the property for public benefit. The State having the authority to prohibit the manufacture and sale of intoxicating liquors for other than medical, scientific and mechanical purposes, we do not doubt her power to declare that any place kept and maintained for the illegal manufacture and sale of such liquors shall be deemed a common nuisance and be abated, and at the same time to provide for the indictment and trial of the offender against the property used for forbidden purposes, while the other is for the punishment of the offender.

#### AN IMPORTANT POINT.

Conviction of a Tavern Keeper for Selling Liquor by Wholesale.

A CASE of considerable importance to Scott Act counties was recently decided in the County of Waterloo. On the 10th of November last Andrew Spahr, a licensed hotel-keeper at Linwood, County of Waterloo, was convicted by Squire Dowitt of Waterloo of selling a keg of beer without the necessary license. Another hotel-keeper at Linwood had somewhat previously been convicted of a similar offence. The day following his conviction, this defendant, in order to show his contempt of law, committed a like offence, and on being brought before Squire Dowitt was fined \$50 and costs. He appealed the case to the county judge, on the ground that in making the sale he was acting as the agent of one Huether, a brewer at Waterloo, and produced a writing from Huether appointing him as such agent. When the case came up before His Honor Judge Lacourse, on Dec 1st, at Berlin, the evidence of Spahr the appellant, Huether the brewer, and other witnesses for the appellant, was so contradictory that the judge at once dismissed the appeal with costs to the appellant without argument by counsel on either side.

It does not seem to be generally known that under the Ontario License Law tavern-keepers are limited to sales of less than one quart, and that brewers cannot sell in quantities of less than five gallons. The quantity sold in this case was a keg of four gallons, being greater than a tavern-keeper's and less than a brewer's license permitted. The magistrate held that the excess sold by the tavern-keeper was sold without license, the penalty for which is \$50. There appeared to be some doubt as to whether the liquor so sold was sold without license, as the defendant was duly licensed, or whether it was simply a breach of the License Act, for which the penalty would be only \$20, but the judgment of the Court sustaining the conviction seems to settle this point. As to the right of a brewer to appoint a tavern-keeper as his agent to wholesale his beer, the judgment decides nothing. The evidence of the appellant and the brewer was so discordant as to satisfy the judge that the plea was a bogus one, and that no such agency existed at the time the offence was committed. It is quite clear by the act, however, that if a brewer does appoint an agent in any locality other than where his beer is manufactured, that such agency cannot be in connection with any place where such malt liquors are sold by retail.

In the counties still under license a great deal may be done to assist the temperance people in enforcing the Scott Act by combining the sales therein to quantities less than one quart. As for instance—Joseph Starr, a licensed innkeeper at Dorking, in Waterloo county, a little village adjoining the Scott Act county of Wellington, was on November 27th, convicted of selling one-half gallon of whisky to a farmer in Wellington county. He was fined \$50 and costs, which was promptly paid. This man had been doing a lively trade, wholesaling his liquors to the liquor drinkers in Wellington, but as an offence of this kind is so easily detected, it is not likely to be repeated.

#### Twice in One Day

HOTEL-KEEPER. Caister, of Ingersoll, was fined \$150 and costs for first and second offence against the Scott Act at the same sitting of the court.

#### A Second Offence.

SEATON of Niagara, Middlesex Co. was lately convicted of a second offence against the Scott Act and fined \$100 and costs.

#### A Big Meeting

VICTORIA Lodge, R. T. of T., in Dundas, Wentworth County, held a crowded open meeting lately when a capital programme of songs, readings, and addresses was enjoyed.

### The Permit System.

#### EXPOSED BY THE MOUNTED POLICE.

Reports to the Government Recommending More Stringent Laws—They Do Not Ask for a License System—Large Quantities of Liquor Seized—Further Protection for the Indians.

As there is every probability that the liquor question of the North-West territories will soon be brought before the Dominion Cabinet, the reports which have been made on the subject to the Government by its own officials ought to have considerable weight in determining what the ultimate solution of the present unsatisfactory state of affairs should be. One of the duties of the Mounted Police is the enforcement of the liquor laws. They have consequently ample opportunity for noting its advantages and defects. Not one of the eight superintendents, who in their reports for 1886 to the Commissioner refer to the liquor traffic, suggest that a license system would be advisable. The reports show that considerable liquor has been seized and confiscated, and that there has been a remarkable absence of crime. They also show that permits are used to cover unlawfully obtained liquor.

#### A MORE STRINGENT LAW WANTED.

Superintendent Perry reports from Prince Albert as follows: By far the largest amount of police work arises from infractions of the North West liquor law. Fourteen convictions have been secured in the year and \$1,420 collected in fines for cases arising from dealing in liquor. If the costs be added, which reach over \$200, the total amount collected would aggregate \$1,600. In every case it is to be remarked that the information has been laid by the police or by others on compulsion, having been discovered with liquor in their possession. There has not been a single voluntary civilian informer. The profits realized by the dealers in illicit liquor far exceed the amount of law fines collected. The expenditure incurred for illicit liquor, together with that for permit liquor, which reaches a very respectable sum, forms a tremendous drain on the resources of the district. The present liquor law, as worked under the permit system, is not a success, does not decrease drunkenness to any great extent, and takes from the country a large amount of money. Permits are often used to cover unlawfully obtained liquor; they are sometimes held by dealers who for the time covered by the permit can laugh at the law, they are very frequently abused, they prevent the carrying out of the law. I am of the opinion that the regulations regarding the disposal of alcohol for medical purposes should be more stringent. Druggists should be heavily bonded not to infringe the law. They have every opportunity to take advantage of the privilege granted them, they can easily cover their tracks, and thus render conviction difficult. The law as at present is not popular with any party, and does not receive the support and approval of the people. A discriminating law cannot be upheld by the people.

#### IMPORTATION OF LIQUOR.

From the above it will be seen that the issue of permits prevent the carrying out of the law. At Calgary another difficulty is experienced, for Superintendent Andrews writes:—"Branches of the liquor law have, I regret to say, increased during the past year, notwithstanding the heavy fines imposed and the great quantity of liquor that has been destroyed. This increase is attributable to the fact that now liquor can be brought into the territories from the west as well as from the east and south, whereas formerly it was brought in from only the two last named directions."

Superintendent Gagnon reports from Regina that "large quantities of intoxicants have been destroyed during the year and every infraction to the liquor law diligently prosecuted. With reference to the present system of preventing intoxicants from coming into the country, I would respectfully suggest that the North-West Territories Act be amended to the effect that no part of the fine imposed be given the informant, as this system brings into the force a great amount of discredit."

#### PROTECT THE INDIANS.

Superintendent Neale of the Macleod District recommends more stringent measures for the protection of the Indians. He says:—"I would strongly recommend that the Indian Act be amended as soon as possible, and that magistrates be given power to inflict a more severe punishment on those who give or sell intoxicants to Indians. Since the introduction of hop beer a great deal of the money paid to Indians is spent therefor, and although the beer itself may not be intoxicating, the Indians render it so by boiling tobacco with it, and the sale should be prohibited to them." Instances are given by inspecting Superintendent Herchmer where large quantities of liquor have been seized

and he adds:—"There is no doubt that there has been collusion on the part of railway employes, or else this system of smuggling liquor could not be carried on. Throughout all the reports it is noticeable that every suggestion points to a fuller curtailment of the liquor traffic. The system of issuing permits is condemned and not the prohibitory part of the law."

#### ANOTHER OUTRAGE.

A Constable Fearfully Maltreated While Serving Papers.

THE absolute necessity of the establishment of a force of Provincial Police is being demonstrated more and more every day. A correspondent has forwarded intelligence of another attack upon a constable engaged in the enforcement of the Scott Act. He states that Dennis Connor of Uptergrove a small village in the township of Mara near Orillia was recently charged before Police Magistrate Horn with violation of the Scott Act and failed to put in an appearance. To give him another chance they gave constable McLean the papers and he went to serve them. When he arrived at the place he went direct to the house which is only a few rods from the station. He entered a kind of bar room and finding no one he rapped on the door which was opened by Connor's wife. He asked her if her husband was in. She said he was in Toronto. He said he had some papers for him and he would leave them with her. Mrs. Connor refused to take them and ordered the constable out of the house. She seized a broom and while he was guarding off a blow Connor's wife from some place of concealment. He dealt the constable a heavy blow on the head and felled him to the ground unconscious. They then pounded the constable's face unmercifully until his features could hardly be recognized. Two of his teeth were knocked out. A charge of assault was trumped up against constable McLean and he was arrested. The Justice of the Peace before whom the case was heard released the prisoner. Constables shortly afterwards arrested the tavern-keeper Connor but the magistrate preferred that action should be taken through the County Crown Attorney. The facts of the case have been laid before this official and it remains to be seen what steps the government will take to vindicate the law.

#### A Momentous Question.

THERE is a question that comes down to all of us, through the centuries, from the very birthplace of mankind, full of momentous interest to every one upon the footsteps of God. It is that question which Cain asked of the Almighty, not as a question, but as a defence against the arraignment of his crime to his brother. It was, "Am I my brother's keeper?"

In every civilized nation and state, and community, the answer comes back to that question, "You are your brother's keeper." It is a responsibility that none of you can deny or evade. Every statute that you find in your statute-book for the punishment of crime and fraud is the question, "Am I my brother's keeper?" Every jail and prison that casts its gloomy shadows over the land, every sheriff and police officer, in the answer that the community makes to the question, as mankind itself, and besides this, and better than this, every reformatory and amelioratory institution that blesses this land, joins in the answer that we give to the question that comes to us almost from the Garden of Eden itself.

In the institutions of which we are so justly proud, where the mind is restored to those whose reason has been dethroned, in the asylum for the insane, in those institutions where the blind are almost made to see, the dumb to speak, and the deaf to hear, in every institution for the relief of the poor and distressed we have the answer of society to the question, "Am I my brother's keeper?"

In this great world of ours, springing as we all do from the hand of a common Creator, believing as we do in the fatherhood and the brotherhood of man, every one whom you meet on your pathway is your brother. He may be poor, he may be rich, he may be penniless, he may be humble, but they are brethren of the same dust, pilgrims of the same family, travellers to the same tomb. If God has blessed you with strength of will, that you have been enabled to fortify yourselves, it is for you to lift him up from that depth to which he has fallen, and put him upon his feet, and to redeem him, if possible, from a living death, worse even than the death of the tomb. It is the large-hearted, the social man, who cannot resist the temptation of the social glass the genial man, the generous man, whom the tempter finds his victims. It assails all classes alike, you can find it crouching at the hearthstones of the poor, and it casts its gloomy shadow over the marble mantels of the rich.

I tell you, my friends, there is only one way in which you can resist the temptation. There is only one talisman, and that is touch not, taste not, handle not the unclean thing.—Schuyler Colfax.

### WHISKY MEN FIGHT

#### SCOTT ACT DETECTIVES ASSAILED

A Whisky Bar-Tender Shot in a Row at Myrtle—Enraged Liquor Men Seek Revenge—An arrest in Connection with the Orangeville Dynamite Outrage—The Sioux City Murder Case.

Two Scott Act detectives were attacked on Wednesday evening last at Myrtle, a station on the C.P.R. about forty miles east of Toronto, by a gang of whisky desperadoes, and in a hand-to-hand struggle one of the aggressors was shot. The two detectives are James Dennis and W. O. McRae of Toronto. They are very efficient officers and for some time past had been working up cases in the County of Ontario. They had instituted thirty-one prosecutions at Whitley, Port Perry and Brooklyn. On Wednesday last they secured six convictions at Brooklyn and the liquor men were greatly enraged. They lusted the detectives in the court room and even threatened violence there. After the trial both the detectives had determined to take the train from Port Perry to Whitley. They learned, however, that the liquor men were awaiting them at the station for the purpose of mobbing them. In order to avoid a row Dennis and McRae made a cut across the country to Myrtle. The foiled whisky avengers hired conveyances in Port Perry and started in pursuit. They arrived at Myrtle in time to meet the detectives at the station before the C.P.R. train arrived. They made a dash for the two men with a shout of "Do for them." George Brown, bartender of the Lancaster Hotel, Whitley, clinched with Dennis, who called for assistance. McRae came to the rescue. Brown drew a revolver and fired at McRae without effect. Dennis took the revolver from Brown and shots were fired on both sides. The result was that bartender Brown was shot in five places and nobody else was hurt. The remainder of the cowardly whisky gang fled from the scene. The detectives took the next train to Toronto and gave themselves voluntarily up to the police. At last accounts Brown was not dead.

#### DYNAMITE IN ORANGEVILLE

An arrest was made on Tuesday last in connection with the dynamite outrage at the house of License Inspector Anderson in Orangeville last November. Detective Rogers who has had the case in charge, arrested George Robinson at Hillsburgh and had him lodged in the Orangeville jail. The prisoner lived in Orangeville for several months, but removed to Hillsburgh about the time of the outrage and has since been leading a somewhat reckless life. It is expected that other arrests will shortly be made, and startling developments may soon come to the surface.

#### ACQUITTED OF MURDER

John Arendorf, the Sioux City brewer accused of the murder of Rev. Geo. C. Haddock, was acquitted last week. The verdict disposed for the present of the possibility that the murder of Haddock will be avenged by the punishment of the principal for the case of the prosecution rested entirely upon the assumption that Arendorf fired the fatal shot. Munchath, one of the conspirators, is now serving a term in jail, having been convicted of manslaughter, and Leavitt and other conspirators are still to be tried.

#### A New Paper.

In Saturday Night the Shepard Publishing Company has given to the Toronto reading public a journal evidencing in its total "get up" remarkable enterprise, literary ability and perception of what is likely to be appreciated. It is unfortunately to be regretted that there is danger that the influence of the new journal is likely to be exerted on the wrong side in the movement that is at present on foot, to secure better municipal government and a speedy solution of the great liquor question. Last week's issue "pitched" into Alderman Rogers in vigorous style. We do not object to vigor, but we do object to the outrageous misrepresentation in which this vigor manifests itself in the present instance. The brilliant editorial ability seems to take badly to the mud throwing work to which it has been degraded; and the whole discussion of the mayoralty question in the Saturday Night is characterized by a weakness that amounts to "pallidness" and an inconsistency that is so palpable as to make it absolutely certain that no harm can come of the absurd fabrications in which our clever contemporary so freely indulges.