

Correspondence

THE ONTARIO TEMPERANCE ACT—IS IT IN FORCE. *To the Editor CANADA LAW JOURNAL.*

DEAR SIR:—The Ontario Temperance Act, which came into effect on the 16th day of September, 1916, provides that on the first Monday in the month of June, 1919, there should be a vote of the electors of the Province of Ontario on the following question: "Are you in-favour of the repeal of The Ontario Temperance Act?" and this was not done.

In 1919 an Act was passed, to be cited as, "The Temperance Referendum Act, 1919," providing that 4 questions should be submitted to the electors, and the said questions were duly submitted in the month of November, and by means of a trick ballot the Province remained "Dry."

The Legislature of the Province of Ontario had no legal existence in 1919. It was elected in 1914, and under section 85 of the British North America Act came to an end in 1918. This section provides that "Every Legislative Assembly of Ontario . . . shall continue for 4 years from the day of the return of the Writs for Choosing the same . . . and no longer."

Therefore in 1918 the Ontario Legislature came to a legal end, and could not by any act of its own continue its own existence, and "The Temperance Referendum Act, 1919" is not valid because the Legislative Assembly in 1919 was legally defunct in pursuance of the B.N.A. Act, and had no right to pass it, or any other Act.

The vote of the electors, plebiscite or referendum, whatever you like to call it, was not held in June, 1919, but in November, in pursuance of an Act which was passed by a Legislative Assembly in 1919 having become defunct in 1918.

The Ontario Temperance Act was to remain in force for 3 years from 1916, and was illegally kept in force in 1919 by an illegal Act of the Legislature and a trick ballot.

Yours truly, E. J. B.

[The foregoing letter is based on the assumption that the Legislative Assembly has not under its power to amend the Constitution of the Province (see B.N.A. Act, s. 92, 1), the right or the power to amend it in regard to the duration of the Legislative Assembly. This is an assumption in the absence of authority which we are not prepared to admit. We do not agree with the writer that the ballot to which he refers can be rightly called a "trick ballot." It is true the vote was not asked on the question in the original Act, but the Legislature had power to alter the question.—Ed. C. L. J.]