

cise. The Chancellor substantially says it springs from the other powers conferred—practically that it is implied from those powers, but the above quotation from Chitty shows it is “incommunicable” except from special grant from the crown and therefore it cannot be implied.

But there is a further answer which arises from an indisputable proposition that the prerogatives of the crown cannot be taken away except by express words (*vide Cushing v. Dupuy*, Cartwright 252); and to this proposition, it will be seen that that part of the first section of the Act which we have quoted above, declaring that it is “subject always to the Royal prerogative, as heretofore,” gives an unqualified support. But how is the expressed intention of that part of the section, so inconsistent with the other parts of the document, to be carried out? Mr. Mowat virtually says in one place, that the Royal prerogative of mercy is not to be extended towards the thousands of saloon-keepers who obtain their licenses from him, and therefore love him and keep his political commandments, but who nevertheless violate his criminal laws, yet that it is to be exercised. Was it intended that the latter part of the first section should only receive the distinguished consideration of saloon-keepers and not that of the court? To try and make the holders of Provincial licenses, in a sort of Masonic signal kind of way, understand—and a nod is as good as a wink to a Grit—that if they did not support him, he could not stoop to advise the exercise of the Royal clemency in his favor; but that, if they did, he might.

While giving Mr. Mowat time to answer this latter question, which he might find it difficult to do without “consideration,” let us ask him how he can make the first and second sections of the Act harmonize? One section says the Act is to be subject to the Royal prerogative, another says that it is *not*; that, on the contrary, the Royal prerogative is to be exercised. How is that? Are they not contradictory? Is harmony, therefore, between them not quite impossible? Does not the question suggest that the statute attacked is a fair specimen of Mr. Mowat’s usual and brilliant way of expressing himself in the Acts of his Legislature, and which make the laws of that body such light and entertaining literature for the young men of the profession?

But how is it that the learned Chancellor did not try to reconcile the last clause of this first section with the second section? Why did he not attempt an explanation of the paradox, or even say something about it? Was it not because, in view of the avowed objects of the Act, he considered it nonsense?

The court had less reason to avoid another limb or twig of the Act attempting to confer the powers in question upon the Lieutenant-Governor, viz.: that part which says, “over which the legislative authority of the Province extends.” We venture to think the court had less reason to avoid that portion of the Act, because it is consistent with the purpose of the Act itself, and because at all events, Mr. Justice Ferguson, on the argument, thought it created formidable difficulty, and it was due to his dialectic wrestling with it that it should have been considered in the court.

There are, however, other parts of the Union Act which escaped the eagle eye of the learned Chancellor, and from which a strong argument against the