

Temperance Act to be placed at the head of the Order Paper, so that they may be reached at an early day. Perhaps they might be referred to a special committee. I think it is due to the temperance people of this country that prominence should be given to these measures, and I ask the Premier, on behalf of the temperance men on this side of the House, to use his influence to have these Bills placed at the head of the Order paper. To-day an hon. member asked that a day should be fixed for the discussion of an important Bill with reference to the Factory Act, and I think it would be well that the Premier should, in deference to the temperance men in the House and in the country, give prominence to these measures in order that they may be all discussed.

Sir JOHN A. MACDONALD. All I have to say is, if the hon. gentleman desires that my hon. friend's Bill should be thrown over, until all the Bills, relating to the whole question—to the Scott Act and the McCarthy Act—can be discussed, my hon. friend behind me may perhaps lose his Bill. He brings down a Bill with a specific object, and I think, in the interest the hon. gentleman speaks for, he had better speak on this Bill, and not let any extraneous matters come in; otherwise the whole thing may be lost.

Mr. ROBERTSON (Shelburne). The most important Bill relating to the Canada Temperance Act, is that containing the amendments asked for by the Dominion Alliance, in the hands of the hon. member for North Lanark (Mr. Jamieson); and I wish to have discussed not only the Bill of the hon. member for King's (Mr. Foster), but also that of the hon. member for North Lanark.

Sir JOHN A. MACDONALD. It will be time enough to discuss the Bill when we arrive at it.

Mr. McCARTHY. I only rise to say that if the Liquor Act of 1883 has the effect which one of the superior courts of one of the Provinces says it has, it was certainly not the intention of the framers of the Bill; and I think it right to say that the way in which this double or second section crept in was that the anxiety of the hon. member for King's (Mr. Foster), which I then concurred in, was that the legislation then proposed should not in any way affect the Scott Act. The clause as it was would, perhaps, have been sufficient to have that effect; but the hon. gentleman was very anxious, and the House will remember that it was at the close of the Session that the matter was proposed, and in that way the second clause was put in. I do not make this explanation on my own behalf so much as on behalf of the hon. member for King's, who, I believe, has been assailed for allowing it to slip in designedly or without proper attention.

Sir HECTOR LANGEVIN moved the adjournment of the debate.

Motion agreed to, and debate adjourned.

#### PATENT ACT AMENDMENT.

Mr. McCARTHY moved second reading of Bill (No. 64) to further amend the Patent Act of 1872. He said: The Bill, as I explained when I had the honor of introducing it to the House, is for the purpose of amending one provision of the Patent Act, namely, that particular section which gives to the Minister who has charge of patents jurisdiction to set aside a patent on the grounds mentioned in this section. The Bill provides, as the House will know, the machinery for an appeal, and also makes provision for the examination of witnesses under oath, and for a proper examination by the Minister who is to try and determine the question as to the validity of the patent. Attention has been drawn to the extraordinary provision in the law by a recent case of very great importance, known as the Bell Telephone case. In that case, on complaint being made to

Mr. ROBERTSON (Shelburne).

the Minister, he felt himself compelled—and I do not know but that he was doing quite rightly, if the law is a proper law—to hear the complaint that was made against the Bell Telephone Company, and after hearing evidence to adjudicate and determine upon it; and the result was that he held that the patent was void. Now, that is an extraordinary procedure, and one which I think had better perhaps be swept away from the Statute Book altogether. I am not at all quarrelling with the provisions of the law, or saying that it is not a proper law; but when we have properly constituted courts, with judges who are above suspicion, to hear matters of this kind, I do not think it is necessary that a Minister should retain a jurisdiction such as this section gives him. He is an executive officer, and is necessarily a politician; and for many reasons which are sufficiently obvious, it is evident that this particular kind of jurisdiction should not be in the hands of a Minister or his deputy, but if it is to be in the hands of a Minister, I do not suppose any hon. member will say that there ought not to be an appeal. In the case I mentioned, one man has had the power to determine absolutely that a property valued, as I am told by the proprietors, at something like half a million dollars, is forfeited, and at one stroke of his pen, to sweep it away. Now, whether it be half a million or a quarter of a million dollars, or whatever the value may be, it does appear to me an extraordinary thing that the right of determining the question of property should be vested in one man without the right of appeal. Moreover—and in this I have no doubt I shall receive the support of my hon. friends who stand up for provincial rights, and who are very anxious that no legislation should be had that trenches on the rights of the Provinces—I think it is a very serious question whether the clause to which I refer is not unconstitutional. When a patent is granted under the authority of this Parliament, or by a Department created by this Parliament, that patent becomes a matter of property, and if the property in that patent is taken away, I submit, it can only, and ought only to be taken away according to the law of the Province in which the holder of the patent may reside. Now, this particular clause gives to a Minister, and also to the deputy of that Minister, jurisdiction to try the question as to the validity of the patent. I think the two things can be very easily separated. The one part of the clause which states the terms and conditions on which a patent shall be held is clearly within the competence of this Parliament; but the manner in which the question of the breach of the conditions is to be tried is a matter which appears to be wholly and exclusively within the competence of the Legislatures of the Provinces. To illustrate my meaning: suppose that the patent, instead of being a patent of the kind I mentioned, was a patent of land in the North-West, where we have power to grant patents; I do not suppose any person would contend that in granting a patent of land in the North-West this Parliament could annex to it the condition that in case any dispute arose as to its validity it should be tried in any particular way or before any particular tribunal. I can see no distinction in that respect between a patent of land and a patent of this kind. What I am saying now has no reference to the question as to whether the law should be swept away; but if it is to remain, I do not think anyone will have any objection to the Bill. The first clause provides power to summon witnesses; the fifth clause provides for the power of examining witnesses under oath; the sixth clause gives the power to the Minister to issue a commission to examine witnesses who may not be within his jurisdiction, so as to be summoned by subpoena—and so on. I will not weary the House with details. Objection may be taken to one word in the ninth clause and I am not at all certain that it should not be eliminated: "There shall be an appeal to the Supreme Court of Canada from any present or future decision of the Minister." The