

Local Option History

Some surprise has been expressed at the fact that the Ontario Local Option legislation was allowed to remain comparatively unutilized up till a few years ago. The history of this legislation is very interesting, and makes clear the reason for the seeming neglect of it just mentioned.

Before Confederation the control of the liquor traffic was left in the hands of the municipal councils to a much greater extent than it is at present. Municipal councils in what is now the Province of Ontario had authority to pass by-laws prohibiting the retail sale of liquor, such by-laws being subject to ratification by vote of the municipal electors. This legislation does not seem to have been used to any extent.

In 1864 the Parliament of Canada passed the Temperance Act of 1864, more generally known as the Dunkin Act, because it was introduced into the legislature by the Hon. Christopher Dunkin. This law provided new machinery under which local municipalities or counties, could secure the prohibition of the sale of liquor in less than five-gallon quantities. It was put into operation in a number of municipalities and counties in Ontario. It was repealed in all the counties which adopted it, but it is still operative in four townships and one incorporated village.

When Confederation took place there remained in Ontario the old municipal law, and the Dunkin Act, under either of which, municipalities could secure a measure of local prohibition.

Very shortly after Confederation there grew up a strong agitation, hav-

ing for its object the securing of a general prohibitory law for the whole Dominion of Canada. There were several debates in Parliament upon the question, and ultimately that body, as a compromise, in 1878, passed the Canada Temperance Act, giving counties and cities the right to prohibit the retail sale of liquor within their territorial limits. This measure was more comprehensive than the Dunkin Act, providing severer penalties, and it was adopted and subsequently repealed in twenty-five counties and two cities of Ontario.

Public attention was very much centred upon the Dunkin Act between 1870 and 1880, and very much centred upon the Scott Act between 1880 and 1890.

The British North America Act does not mention the prohibition of the liquor traffic among the subjects assigned to either the Dominion Parliament or the Provincial Legislature. In consequence of this, very soon after Confederation a controversy began as to where this power lay. The decisions of the courts were very conflicting. In Ontario in 1875 it was decided that municipal prohibitory by-laws under the old Provincial Act were valid, and subsequently the Canada Temperance Act was declared valid by the courts. The latter Act had repealed the Dunkin Act so far as it related to territory in which it had not been adopted.

The Canada Temperance Act, being a Dominion measure, was not very cordially received by Provincial law enforcing officers, who contended that as a Dominion law it ought to be en-