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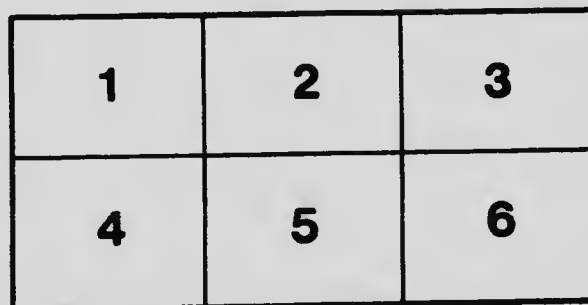
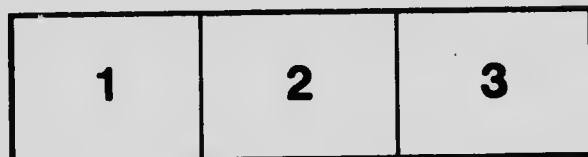
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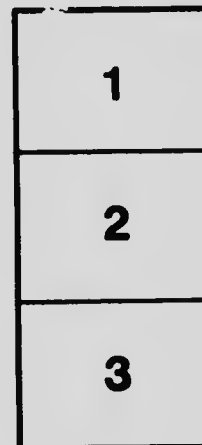
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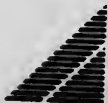
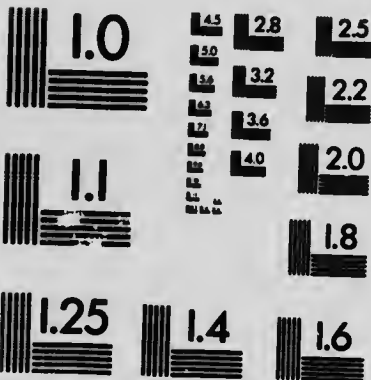
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SPEECH

—BY—

Mr. J. P. WHITNEY, K.C.

M. P. P.

Leader of the Conservative Opposition

—ON—

The Bill Respecting the Retail Sale of Intoxicating Liquor

Delivered in the Legislature, March 8th, 1902, on the Second Reading of the Bill

As a matter of fact, the Manitoba liquor act, which it is proposed to adopt in Ontario, is not prohibition, nor anything like prohibition. It could be more properly termed an act to prohibit the retail sale of liquor in hotels. It permits the uninterrupted manufacture of liquor in the Province, and its wholesale distribution throughout the homes of the Province by agents of the liquor interest living outside of Ontario. — *Toronto Globe, Jan. 22, 1902.*

THE OPPOSITION POLICY ON THE LIQUOR BILL

In the debate on the second reading of the Bill relating to the liquor traffic, Mr. Whitney, in reply to the Hon. Mr. Ross, spoke as follows :

Mr. Speaker:—It is a matter not unpleasant to the ordinary observer, I apprehend, to notice the jaunty manner in which my honorable friend (Hon. G. W. Ross) approaches the consideration of this question which has occupied his days and nights for I forget how many months past, and find that since the matter was last discussed in this House he has received testimonials, so to speak, of approbation of his legislation from all possible parties in the State. The extreme prohibitionists, my learned friend says, naturally expected something different, and I agree with the honorable gentleman. Those who were in the liquor business thought the bill was an improper bill, and then between the two there was a large group of persons who also thought that perhaps this bill might not be just what was expected, but my honorable friend had the agreeable intelligence to announce to the House that all these classes approve of his bill. (Laughter.) What more has the honorable gentleman to fear? What more has he to hesitate about with reference to any of the details of this bill? My honorable friend can extract sunbeams from cucumbers, on the slightest warning. His cheerfulness reminds me of a gentleman who was once known to be of a very optimistic turn of mind, and the circumstances which surrounded him from time to time had nothing to do with his bearing towards the occurrences which were going on, or with his mental attitude at the time, and so at a funeral one day this gentleman marched into the room where the remains were stationed, and while he noted the expansive expression of sorrow and lamentation which was abroad in the room he felt it his duty to cheer up all and sundry concerned, and out of the fullness of his heart he said, "It is a nice quiet corpse." (Laughter.) So he comes to-day with the echoes of the thunders of the denunciations of the liquor men last night in his ears (applause), with the echoes of the denunciations of the extreme prohibitionists—always excepting Mr. John J. Maclaren, of course—(laughter), and my hon. friend excels Mark Tapley, who, under all conceivable circumstances was determined to be jolly. (Laughter.)

I hope I shall be enabled in the discussion of this question to-day to do so in a reasonable way, and to do so without taking up any larger portion of the time of the House than I reasonably can; and I want to approach the discussion of this question, Mr. Speaker, in the first place in this manner: My conclusion is that in considering the second reading of a bill of this description we find ourselves face to face with a situation of the utmost gravity and seriousness. The situation is grave and serious both because of the nature and possibly far-reaching consequences and effects of the measure we

are about to discuss, a question than which no more important one can on its merits call for the attention of a representative Assembly; and because of the fact that for the first time in the history of responsible Government, according to our British system on this continent, and indeed elsewhere as far as my knowledge serves me, it is proposed by responsible Ministers of the Crown, deliberately to abdicate their functions and refuse and repudiate the responsibility which up to the present day has been not only acknowledged and admitted, but cheerfully accepted by hon. gentlemen in their position here and elsewhere under British rule. The circumstances surrounding this question have been and are of a peculiar nature, not only with reference to the purposes of the bill, and to the hon. gentleman who was responsible for the proposed legislation, but also for the peculiar and unusual nature of the methods by which the question is to be decided. It is not often that a political leader has become identified in a personal sense, and practically for a generation, with an important public question, having regard to the merits of the question and latterly to pledges and promises made by himself and by others whose political assignee and successor he is.

MR. ROSS' RECORD IN DODGING PROHIBITION.

It may be well, therefore, to trace as rapidly as may be the connection of the Hon. Leader of the Government and his Party with this question of abating or abolishing the drink evil in this country. During his whole public and political career, indeed for upwards of thirty years the hon. gentleman has had at his back the great bulk of those who believe in drastic measures with relation to this question. We cheerfully admit him to be the possessor of talents above the average, which, in the ordinary course of events would have assured to him the attainment of a high position in public life in this country; but, sir, he, for the reasons I have given, rode on the crest of the wave for many years with reference to this question. In order not to be misunderstood, let me say here in my opinion the hon. gentleman deserves credit for his early efforts in the direction I have indicated, and credit which I am quite willing to accord him. Now, sir, let us go back, if you please to the year 1877. My hon. friend had then been for a number of years in public life, a trusted representative of his party, a valued representative of his party in the House of Commons; one who had received the strong support of the class in this community of ours which I have alluded to just now, and by means of that support had had his way made easy to the realization of his hopes and desires, namely a seat in the House of Commons of the Dominion of Canada. My hon. friend's party was in power, a large majority sat there to the right of the Speaker, prepared to support the Government of the day; the situation was a very desirable one from the point of view of any great moral question, and one would have taken that opportunity at any rate, to have made use of the abilities which had been given to him in order to pay back to the people who had put him there something, at least, of the debt which he owed to them, and of which I am sure he will not to-day deny the existence. But, what occurred in 1877 in the House of Commons at Ottawa? At that time the Hon. Dr. Schultz, a member of that House, proposed the following resolution:

That in the opinion of this House a prohibitory liquor law is the only effectual remedy for the evil of intemperance, and that it is the duty of the Government to submit such a measure at the earliest moment practicable.

Now, sir, I believe, as far as my recollection goes that that resolution expressed in as few words and in as curt and clear a manner the object which its promoter had in view as it was possible to have done by means of any resolution in our English language. I have yet to learn, sir, that while there are many people who believed in the past and who may believe to-day, that

the jurisdiction over this question rests with the Dominion Government, and while there are a great many others who believe also to-day that the jurisdiction rests with the Provincial Government, I have never yet heard of any man of standing or repute in this country who said the Dominion Government had no jurisdiction at all over the manufacture and sale of alcoholic liquors, and I never will hear any such statement from any reputable man, because it is beyond the possibility of doubt or question, no matter what the jurisdiction might have been it was quite evident, as it is now evident and proved, that the Dominion Parliament was seized of jurisdiction, at any rate of some kind, with reference to the manufacture and sale and importation and exportation of intoxicating liquors in this country, and therefore no matter what case case might be brought before the Court of Appeal or the Supreme Court, no matter what litigation might be proposed to be sent to the Judicial Committee of His Majesty's Privy Council, at the same time this jurisdiction rested in the Dominion Government, the Dominion Parliament, and there could have been no excuse whatever for those having the great subject at heart not making an attempt to crystallize their views into legislation on the Statute Book of Canada (Opposition applause.) And so, sir, Dr. Schultz thought, and he brought forward the resolution which I have alluded to.

BLOCKED PROHIBITION IN 1877.

Now, sir, the hon. gentleman, the leader of this Government, moved at that time the following amendment:

Whereas grave doubts exist (and I notice, in the reports in Hansard, following the words "grave doubts," there are the words, "ironical cheers"), whereas grave doubts exist whether, under the provisions of the British North America Act, 1867, this House has the power to deal with the sale of intoxicating liquors as a beverage; and whereas the Court of Error and Appeal in the Province of Ontario, has referred a case to the Supreme Court, whereby the relative jurisdiction of the Provincial and Dominion Legislatures over the liquor traffic will be argued, be it therefore resolved that this House, while not receding from any previous declaration on the importance of a prohibitory liquor law, deems it inexpedient under these circumstances at present to express any opinion regarding the action to be taken by the Government in dealing with this question.

That is the amendment which was moved by my hon. friend (Hon. G. W. Ross), when the Hon. Dr. Schultz endeavored in his own way to bring this question before the Parliament of Canada for decision, in order, that he could have his way a prohibitory law should be passed; the hon. gentleman got up and stood in the doorway and prevented Dr. Schultz from bringing in his measure. (Opposition cheers.) At that time, and I am quoting from Hansard now, my hon. friend spoke as follows:

In order to satisfy himself that no unreasonable delay would occur by not putting any resolution on the paper this session, he placed himself in communication with the Attorney-General Mowat, who had charge of a case on behalf of the Government of the Province of Ontario, which was expected to be referred to the Supreme Court, and which he thought would involve the question of jurisdiction. In this correspondence he ascertained that it was their intention in the case which had been appealed recently from the Court of Error and Appeal to open up the whole question of the jurisdiction of the Provincial Legislature.

Now, sir, that was the attitude which my honorable friend assumed with regard to this question in 1877. Of course there are evil-disposed men in this country, Conservatives and others, no doubt, who have suggested from time to time that the principal object the hon. gentleman had in view was to protect the Mackenzie Government, of which he was a supporter, from the possible consequences of any sudden legislation on the great question of prohibition. However that

may be, I do not propose to dwell upon that phase of the situation. We shall now, Mr. Speaker, make a long jump from 1877 to 1893. For sixteen long years, as far as my hon. friend was concerned, at any rate, no hand was lifted to abate this terrible evil which has for so long occupied this position in the Province of Ontario. For half a generation in the Province of Ontario the present leader of this Government made no attempt to bring about that state of affairs, the desirability of which has been the text of his addresses from time to time on the public platform and in the House of Parliament during years which have passed away; and, sir, going on then and recalling the cruel indifference of the apostles of this movement who are willing to sit in public office and enjoy the fruition thereof while the widows and orphans starve and died as theretofore, passing over that, I say we go on for sixteen years, and we find that in 1893 my hon. friend who sits here to my left (Mr. Marter) stirred up the situation, if you will allow me to use the word, with a very long pole indeed, and my hon. friend was then awakened from the apparent trance in which he had been sleeping away the time, in the midst of, and surrounded by the fat of the land until he was forced to take some action by the bill of my hon. friend here from North Toronto (Mr. Marter).

SIMILAR COURSE IN 1893.

Now, sir, there was a Government in power here in 1893, the hon. gentleman was a member of that Government, and so it seemed whatever was the reason of his action in 1877 a similarity of motives apparently existed when we come to consider his action in 1893. There was not only a Grit Government to protect, but it was a Government of which he was a member, and therefore he had a double incentive to protect that Government from the consequences of the laxity with which it had lived up to the principles which he had said all public men ought to act upon. So, when my hon. friend to my left (Mr. Marter) introduced his bill which provided simply for the shutting off of the retail sale, if I recollect aright, on May 1st, 1893, the hon. gentleman, sir, your predecessor in this chair (Mr. Balfour), whose loss we all lament, moved the following resolution: "That the bill be read a second time this day three months," and then strange to say the hon. gentleman got up in his place, being actuated by his view of the motion to throw out this bill by a three-fourths' hoist, and on the spur of the moment produced a typewritten amendment of three foolscap pages (Opposition cheers) and that, sir, I am afraid I will have to trouble you to listen to as follows:

That the extent or power of any of the Provincial Legislatures to enact a prohibition liquor law is uncertain and doubtful; that a case involving the question of whether or not the Legislature has even a limited power of this character is now pending before the Supreme Court of Canada:--

Do honorable gentlemen recognize the echo of the words that went down through the corridors of the House of Commons sixteen long years before?

That before attempting to deal with the question of the prohibition of the liquor traffic the extent of the jurisdiction of the Provincial Legislature should first be ascertained by the authority of the judicial tribunal of last resort in that behalf; that to deal with this question of prohibition now and whilst the jurisdiction of the Legislature is so doubtful and uncertain would, in the opinion of this House, militate against the best interests of temperance and of the public, and would practically result in an indiscriminate and unlicensed traffic in liquors; that this House has confidence that the Government will without delay take all necessary and proper steps to secure the judgment of such judicial tribunal as to the extent, if any, of the jurisdiction of the Provincial Legislature to enact a law for the total or

partial prohibition of the liquor traffic, that it end when it shall be adjudged by such judicial tribunal that the Legislature has power to enact such a law this House will be prepared to consider and decide upon any measure in that behalf which may be brought before it; that for reasons aforesaid this House is of the opinion that the question of the prohibition of the liquor traffic by the Provincial Legislature should not be further dealt with during the present session, save and except to make and enact all necessary provisions for securing a provincial plebiscite on the question of the prohibition of the said traffic, and this House accordingly orders that the said bill be not now read a second time, but be read a second time this day six months.

Strange how these accidents will happen! Strange how great and serious questions may be dealt with in the most deliberately trifling manner when the actors dealing with them keep long and steady countenances. Now, sir, the hon. gentleman then introduced something which he must have been very sorry for since, viz., that fearful and wonderful provision called a plebiscite, and the hon. gentleman I believe, has oftentimes since regretted that he ever touched the plebiscite or had anything to do with the unclean thing; and I don't wonder, sir, at his disgust, although we may imagine sometimes, even against our better common sense, that we are entertaining an angel unaware, my hon. friend did not look forward as he ought to have done; he thought the people who had allowed him to alumber for sixteen years in relation to the discussion of this great question would not care particularly what took place with reference to it in the future, and he little dreamed when he advocated the plebiscite in 1893 that Nemesis would come home to him with the thing called the referendum. (Opposition cheers.)

MR. ROSS' FORMER DESCRIPTION OF THE PRESENT BILL

Let me quote my hon. friend again—and I will say this for him, and it ought to be said for him, that when he makes a statement which is taken down and printed you will always find that what the statement was intended to mean is pretty clearly expressed—here is what my hon. friend said on this debate on the second reading, which he succeeded in shutting off as he had succeeded sixteen years before in shutting off the proposed legislation of Dr. Schultz:

What we propose to ask is not, shall we prohibit the retail sale of intoxicating liquors, that would be but a small matter, the bar-rooms are bad enough God knows, but they are not as bad as the canteen in the private homes. While the retail traffic was prohibited there would be permitted that wholesale traffic which would result in a man carrying his demijohn home by night and drinking it with his wife at his own fireside. (Opposition cheers.)

And, sir, what was the hon. gentleman describing in these words? He was describing word for word, line for line and letter for letter the bill, the second reading of which he had moved to-day (Opposition cheers); the bill the second reading of which he moved to-day, and for which he dare not assume the responsibility, constitutionally speaking, is practically the bill introduced by my friend from North Toronto (Mr. Marter), which he describes truthfully in the language I have just quoted here. Now, sir, let us go on a little further. In 1893, sixteen years had passed of this long waiting in the wilderness, and then we had in 1895, and I do not wish to go into a very detailed history of that, the judgment of the Judicial Committee of the Privy Council, and nothing was done upon it. There are people who say that it was impossible to say what the meaning of the judgment of the Judicial Committee of the Privy Council was. Well, sir, if I were the leader of the Government of the Province of Ontario I would not wait for the Judicial Committee of the Privy Council of England to tell me what their meaning was, I should submit it to the people and stand or fall by it. (Opposition cheers.)

SALE OF LIQUOR IN HALF PINTS.

I cannot pass by that episode in 1897, I think it was, where the law was changed to the position it occupies to-day. The law was changed by the hon. gentleman and still remains in force. Under that change a storekeeper who has a license may sell one-half pint of spirits to any man or boy in this country of ours. (Opposition cheers.) I say the hon. gentleman has posed, and I say it sir, almost with fear and trembling, people have been found to thank God he has posed as the leader of the temperance sentiment and temperance element in this province. (Opposition cheers.) One-half pint of spirits by reason of the amendment to that effect introduced by the leader of this Government can be sold by any licensed storekeeper in the Province of Ontario to-day, and still we are asked to follow my hon. friend as the leader of the temperance movement in this province of ours! (Opposition cheers.) The judgment of the Privy Council was in 1895, and seven years have elapsed and what have we got? I shall allude presently to one or two things that have taken place during all these years, but in the meantime seven years have elapsed, and at the end of the seven years, even as Jacob hoped to obtain Rachel—so our temperance friends have hoped to receive that from my honorable friend which he has been promising them for a generation of public life, only to find in the end that they are not sure of it even at the expiration of fourteen years. Now, sir, we find certain promises were made by the honorable gentleman and his predecessors, and he said in his remarks to-day he would have been very wrong if he had precipitated a bill upon the public mind at this time. Why, sir, since my honorable friend here at my left (Mr. Marter) introduced his bill nine years have elapsed. Can it be urged with any success by any person in this House or out of it, that this great question has been absent from the public mind at all for the last eight or ten years? I think the hon. gentleman will find in the end that his judgment, at any rate, was not good when he took this Manitoba Act, not feeling able or willing, whichever it may be, to draft a proper one himself, and asked this Legislature to pass it, and hand it on to the people, a law by which among other things—and what I am about to allude to is a copy word for word in this bill of ours to-day—a law by which, among other things, it is provided that a veterinary surgeon may purchase two gallons of spirits at a time, and in another section he shall only have one gallon in his possession! (Laughter and cheers.)

DISTINCT PROMISES TO PROHIBITIONISTS.

Very well, Mr. Speaker, we come down to the promises. Here is what the Globe says was the promise made by Sir Oliver Mowat:—

If the decision of the Privy Council should be that the province has the jurisdiction to pass a prohibitory liquor law as to sale, I will introduce such a bill at the following session, if I am at the head of the Government. If the decision of the Privy Council is that the province has jurisdiction to pass only a partial prohibitory law, I will introduce such a bill as the decision will warrant, unless the partial prohibitory power is so limited as to be ineffective from a temperance standpoint.

Did Sir Oliver Mowat say that he would introduce a law and pass it on to the people to vote for it? Not one word of such intention, and Sir Oliver Mowat was too good a constitutionalist, a man of too good an instinct as far as public life is concerned, to trust himself to any such foolish proposition. Now, then, there was a loophole in the end of this promise by which my honorable friend might have escaped if he had seen fit. Sir Oliver Mowat said:—

I will introduce such a bill at the following session if I am at the head of the Government. If the decision of the Privy Council is that the province has jurisdiction to pass only a partial prohibitory law, I will introduce such a bill as the decision will warrant unless the partial prohibitory power is so limited as to be ineffective from a temperance standpoint.

What does he mean by that? "I shall decide in my own mind whether it will be ineffective from a temperance standpoint, and if it will be ineffective according to my mind, I will not introduce such a bill." Now, then, my honorable friend cannot escape the responsibility, no man can who occupies the position of a Minister of the Crown. If he says to-day that he believes this bill would be ineffective, then under the terms of that promise he should never have introduced it, because that promise had at the end of it a saving clause by which if in the opinion of the giver of the promise partial prohibition would be ineffective from a temperance standpoint, he would not have put himself about to introduce such a prohibitory law. I think my honorable friend would have done wisely, no matter which side of the question he had taken, because the people, sir, in my opinion, respect and believe in those who have no hesitation in expressing their true opinions and their sentiments on any subject. (Opposition cheers.) My honorable friend on the same authority then said,

'The verdict of the people has been accepted by the Government partially and by me gladly. It is what it ought to do, and it is the only kind of Government I would be a member of.'

On February 20th of this year Mr. Ross is reported as having said: "You know what our past record has been, and what our predecessors have agreed to, and what is the general policy of the Government upon that question? That need not be repeated over and over again, because you know exactly where we stand."

ORIGIN OF THE ROSS REFERENDUM.

When was this idea of a referendum first heard of? Why, sir, a couple of days after the decision of the Privy Council was announced a couple of feelers were thrown out through the public press, by supporters of the honorable gentleman, in order to see what view the public would take of this referendum. Did Sir Oliver Mowat say there would be a referendum? Sir Oliver Mowat was a precise man, a man of detail, and he said: "I will introduce a bill of such and such a nature." Does the honorable gentleman mean to assert that if Sir Oliver Mowat had had in his mind any idea of any further proceedings he would not have expressed it then? Will the honorable gentleman himself say that when he endorsed Sir Oliver Mowat's promise that he then had in his mind any such thing as is called to-day the referendum, in regard to this bill? Now, then, sir, I come to the speech of the honorable gentleman the other day, a remarkable speech in many respects, one which could be followed easily and the meaning of which it was not difficult to observe. As he went on from the question of the municipalities he said—and this is not a matter over which there is any contention at all, though I think he is mistaken about one or two statements here with reference to the comparative conditions of Ontario and Quebec—that 20 per cent. of the municipalities in Ontario were without tavern licenses, and that the convictions for drunkenness in Quebec were nearly double those in Ontario. I do not know what the figures show, and I do not care, because the figures of statistics in regard to some questions are utterly unreliable. There may be a wave of temperance sentiment going over a county in consequence of which everybody found drunk on the streets may be arrested, and the opposite state of affairs may exist in an adjoining

county, and there may be no arrests, and yet more drunkenness. I want to say this, there is less drinking of spirits in the Province of Quebec relatively to the number of people than in the Province of Ontario, and I will venture to say without having the figures by my side here, that there are double the number of municipalities in the Province of Quebec, without retail licenses, than there are in the Province of Ontario without retail licenses. I don't know how it affects this question, but I did not think it was my duty to allow the statement to go by, when it really worked an injustice to the Province of Quebec.

NO PRECEDENTS FOR THE REFERENDUM.

Now, we come to this word, or expression, or system, or scheme, this un-failing remedy for politicians in distress on that side of the House, at any rate, called the referendum. The honorable gentleman made some remarkable statements in his speech the other day, statements I was surprised to hear him make. He is usually careful and precise. He usually takes all proper steps to have a proper foundation for the remarks he may make on any great question, but there is one of two conclusions which I must come to with reference to his speech the other day. One is he intended to deceive his listeners, and the other is he had not studied up the question and spoke through ignorance rather than knowledge. I take the latter one, of course, because I cannot come to the former, but I propose to prove the truth of what I have stated just now. He cited in favor of the referendum the question of municipal bylaws in this country; he also cited a liquor bill introduced by Sir William Harcourt, one that was favored by Mr. Joseph Chamberlain, and he also cited Chief Justice Cooley, of the United States, with reference to the idea of the referendum. Now, I ask honorable gentlemen to follow me for a short time, and I will show how utterly inconsequent the speech or argument of my honorable friend was, and I make this statement here and now, and I stand or fall by it in the minds of those equally able to judge with myself, that no statement made by him with reference to the referendum was applicable, or if it was applicable, was correctly stated. (Opposition cheers.) We all know that in municipal by-laws providing for the raising of sums of money there is no principle involved, there is no great moral principle upon which the people are asked to pronounce for or against what they believe to be in the interests of the people of the country. But a municipality, small or large, is given the right, the power and privilege, so to speak, of entering into some public work, of granting a bonus to some industry, and of taxing the properties in that municipality to pay such bonus or grant, and a general power is given; the general power remains on the statute books from year to year, and from decade to decade, and how can my honorable friend apply that to the doctrine by which a law affecting a great moral question is passed by the representatives of the people in this House, and then sent out to the people to be voted upon, and the moment that vote is completed the law relating to the referendum falls to the ground and dies and ceases to exist? Now, Sir William Harcourt's bill and Mr. Chamberlain's bill were just such laws as we have now in this land of ours; they provided for local option in regard to the liquor traffic, and consequently they provided that the votes of the people should govern and therefore they are not applicable. The citation of them does not apply in the slightest degree whatever to the considerations which affect honorable gentlemen in discussing this bill or coming to a conclusion upon it. Chief Justice Cooley, who is well known as a lawyer and a judge, of high standing in the United States, made some remarks of an academic nature with regard to the question of referring matters to the people, and I do not know

whether anybody ever disputed with him about it, but his remarks have no possible application to this bill for the reasons which I have given, and for reasons which perhaps I may dilate upon at greater length later on. Let us see, too, what the honorable gentleman will make out of the speech or remarks uttered by the Hon. Alexander Mackenzie. My honorable friend, after quoting Chief Justice Cooley, and these other citations, which have no bearing whatever upon the question, also stated that the Hon. Alexander Mackenzie used this language, and I have no doubt he did use the language, but I want to read it: "I have always taken the ground that until public sentiment has reached such an advanced stage of maturity that we would be quite certain of a very large majority in favor of such a measure, it would be unwise and impolitic to attempt to enforce a total prohibition of the liquor traffic." Who disputes it? I do not, Mr. Speaker. Well, my honorable friend goes on to comment on this, and then quotes Senator Vidal, also Senator Aikins on this question, but he does not say one word as coming from these gentlemen, because he could not utter such a word in favor of a referendum at all, or in favor of such a referendum as is proposed here. Hon. Alexander Mackenzie, and the other distinguished men alluded to did not, as he endeavored to have honorable gentlemen believe, express one word in favor of the idea of adopting the referendum.

SIR W. R. MEREDITH QUOTED.

Then, it was amusing to listen to my honorable friend. I have been in this House fourteen years, and it was the first time I ever heard one word uttered by the honorable gentleman except in condemnation of Sir William Meredith, but it does seem to me that my honorable friend will not get very much from the reference he has made to that distinguished gentleman. It is our experience, and has been our experience in this House that honorable members should never be surprised at anything the honorable gentleman does, and not very much at anything he may say, but to think he should be so far driven to a corner as to find himself compelled, and he must have found himself so or he would not have done what he did, to quote Sir William Meredith's remarks made during a political speech at London, and also the remarks of Mr. John J. MacLaren in support of the constitutionality of this act! Mr. John J. MacLaren is a reputable member of the legal profession and all that sort of thing, but I ask, honorable gentlemen, whether it would have occurred to anybody else in the City of Toronto, or in the Province of Ontario, but the Premier of Ontario, to quote him as an authority on any constitutional question, and outside of a matter of interest to the political parties of the Province of Ontario? (Opposition cheers.) It is not the first time that the honorable gentleman has gone to Conservative sources for the inspiration which guided him with reference to his public conduct, it is not the first time that doctrine has been borrowed from Conservative sources in order to bolster up and reinvigorate the tottering and dying party which he is leading still. (Opposition cheers.) In 1884, I think it was, it was before I came here, the same distinguished man, Sir William Meredith, introduced a bill into this House providing for the establishment of manhood suffrage in the Province of Ontario, and this gentleman who valued his opinion so highly to-day stood up in his place and voted down this proposition of the distinguished gentleman, Sir William Meredith. They waited three years and then they adopted the principle advocated by Sir William Meredith, and to-day it is the law of the land, like many other questions which have come from the Conservative party in this House, and have not been acknowledged—like the position taken by the Great Reform Party of the Dominion of Canada which has swallowed holus bolus the National Policy and Protective Tariff, and feels very comfortable after the dose

it has taken. (Opposition cheers.) I am surprised at the course pursued by the honorable gentleman in appealing to Conservative authority. Now what Sir William Meredith says was read by my honorable friend, and he is welcome to all the comfort he can get out of it. Sir William Meredith evidently had in mind the plebiscite which has been enacted, and which has been voted on, and he spoke his mind with reference to the large majority of the people who ought to endorse and support any law of this kind, but did Sir William Meredith say that the Government of the Province of Ontario should run away from their responsibility? (Hear, hear.) Did he say a law should be introduced and passed in this House and then turned over to the people to vote upon it again?

Hon. Mr. Ross—Yes.

Mr. Whitney—He said nothing of the kind.

Hon. G. W. Ross—Yes. (Reads): "If it shall be determined that there is jurisdiction in the Local Legislature to deal with this question of the liquor traffic, then it will be the duty of any Government which is in power in Ontario to bring in a bill and pass it for the purpose of bringing into effect what has been determined to be within the jurisdiction of the Legislature. It seems to me that any such law as that should be an effective law, and should have no results that would be disastrous to the interests of temperance throughout the country, and therefore I think it would be decidedly in the interests of the whole community that any measure such as that, before it should become law, should be again submitted to the people in order that they should have an opportunity of pronouncing yea and nay upon it."

Mr. Whitney—Just as I said. (Opposition laughter.)

(Mr. Ross rose to make a remark): If my honorable friend will be contented, there is an old Burmese proverb which says that the ass, though weary, carries its burden.

Hon. Mr. Ross—On which side of the House is that inoffensive member? (Government laughter.)

Mr. Whitney—I do not apply it to him in any offensive sense, but I am not going to quarrel with him if he shall apply it. If he will just allow me to go on, because I am going on (Opposition cheers), I can make every possible allowance for the hon. gentleman who has been under the harrow, so to speak, who has been roasted (Opposition cheers) for the last two months of his life by night and by day, who, as soon as he has become released for a moment from the importunities and threats of the liquor men, has found himself face to face with the determined attitude of the men whose principles he has betrayed in this province, therefore, I say, sir, I can make every allowance for my honorable friend, and were it not for the fact that I am afraid he would not accept it, I would offer him my pity. (Opposition laughter.) Sir Wm. Meredith did not say what the honorable gentleman contends he said. Is there one word in Sir Wm. Meredith's speech of a referendum loaded so as to kill the bill? (Opposition cheers.) Is there one word in his address that it shall be submitted to the people? Who that knows the bold and chivalric course always pursued by that honorable gentleman would doubt for one instant that he would have spurned from him with contumely any attempt or suggestion that he should handicap the people with regard to a vote which he might or might not consider necessary on that question? (Opposition applause.)

BOURINOT'S TESTIMONY.

Now, however, my honorable friend dealt with Sir John Bourinot. There was a peculiarity if honorable gentlemen will notice it, a peculiarity all

through his speech the other day that he only read extracts from the authorities he quoted. Sir John Bourinot was here five days consulting with the honorable gentleman—

Hon. G. W. Ross—No.

Mr. Whitney—I say, yes.

Hon. G. W. Ross—I say no. I shall call the honorable gentleman to order I have not spoken to Sir John Bourinot. I think, within twelve months.

Mr. Whitney—I say that Sir John Bourinot was here the most of five days on the business which my honorable friend refers to.

Mr. Ross—I must contradict my honorable friend; he was not here on that business. There passed two letters, one to Sir John Bourinot, and the other to me. I have not seen him nor spoken to him, nor did I know he was in the city.

Mr. Whitney—I do not contradict my honorable friend, and I will go right back now to what I said. In every case of citation by the honorable gentleman (Hon. G. W. Ross) he does not read the whole opinion, and in the case of Sir John Bourinot he does not read one word or letter or syllable which says that his referendum is constitutional. (Opposition cheers.) Who, that knows the place that Sir John Bourinot occupies in the ranks of constitutionalists would expect anything else? Sir John Bourinot in all the extracts quoted by the honorable gentleman goes no further than to say something like this, that the idea has progressed, that it is very likely one of those vexed questions which might be taken from out the quarrels of Parliamentary Government or Parliamentary contention, but, sir, in order to make sure just let me see what Sir John Bourinot says:—

“ While the plebiscite may be compared to the Swiss initiative which gives the right to the electors to move the legislative bodies to take up and consider any subject of public interest, the referendum which is also borrowed from the same country, has been also suggested on several occasions as a desirable and efficient manner of bringing into force a measure which can only be successful when it obtains the unequivocal support of a large majority of the people interested in its provisions. This democratic feature of the Swiss political system may be compared with the practice that already exists in Canada of referring certain by-laws of municipal bodies to the vote of the ratepayers, of giving to the people in a district the opportunity of accepting or rejecting the Canadian Temperance Act, of permitting a majority of the ratepayers in a municipal division to establish a free library at the public expense, etc.”

As far as I have heard the quotation from Sir John Bourinot given by my honorable friend there is not one word with regard to the constitutionality of the referendum, and how could there be? The referendum is in direct antagonism to the principles of our system of Cabinet Government.

Hon. G. W. Ross—I will read this quotation from Sir John Bourinot:

As far as the Crown can, at any moment, exercise its undoubted prerogative of dissolution in order to obtain an expression of general opinion on a popular vote, so it can use the referendum under the authority of the Legislature as a direct means of ascertaining the popular will on a special measure of grave importance. (Government cheers.)

Mr. Whitney—I still say Sir John Bourinot does not declare that the referendum is constitutional. (Opposition cheers.) And in the face of the great constitutional associates of his who sit opposite I will maintain my word here and hereafter. Sir John Bourinot does not say distinctly whether this Legislature may not pass a vote to do one of two very different things, that is altogether a different question from asserting that the referendum as proposed by my honorable friend is constitutional in this country and under our

system. (Opposition cheers.) Why, it is impossible, and for this reason, that under the British system the Legislature is practically governed by a committee of it who assume the responsibility for all legislation. I am bound to say, sir, that hereafter perhaps that definition will have to be varied by a foot-note to the effect, "Except during a short period before their dissolution when the Government in power in the year 1902 tried to avoid their responsibility." (Opposition cheers.) It is quite possible, Mr. Speaker, for the constitution to be changed so that the referendum would be part and portion of our system, but until that is done it is not any part or portion, and cannot become any part or portion of our British constitution. (Opposition cheers.) Then, my honorable friend's quotations, as I have said, were merely portions of the ideas that had been expressed by the authority he wished to quote.

THE REFERENDUM IN AUSTRALIA.

Then, I want to show you for a minute or two how deeply unfortunate the honorable gentleman has been with regard to the Australian question which he introduced, and I will say this, it is beyond my comprehension why he was so ill-advised as to introduce into this discussion the question of Australian precedent, because it directly antagonizes his position in two most important particulars. In the first place I will just now refer to a gentleman called Pomeroy, with whose existence I did think my honorable friend had a close acquaintance, but of which I am doubtful now. Let us see what Australia gives us. In the case of the Australian Commonwealth as was fully brought out in our debate on the Senate resolutions, what was proposed was that they intended to have, and do have now under the law, two Houses of the Legislature, both of which are elected by the people, and they provided that in case there should be a deadlock between the two Houses they should have what my honorable friend calls a referendum. Here is what is stated about it in an article in the Contemporary Review, consisting of extracts from the leading speeches of statesmen there. The honorable gentleman quoted Australia as an example of the referendum here, and which would justify the establishment of the referendum here. What is said here is:

The great fact about the Australian referendum is that it is not an attempt to constitute the people sovereign, but to substitute their assent for that of the upper House should the upper House continue to reject a bill passed by the lower House.

It distinctly states it is not a submission to the people of a law which the Legislature is not certain whether the people may wish, but it is because there is no other remedy at hand when the two Houses are in a deadlock, and then they say we will appeal to the people in order to get a remedy, because it is the only remedy to be had. Then,

It will be noticed how different the referendum as proposed in Australia is from the referendum in Switzerland. There the voting is chiefly on a bill which has passed both Houses. Only in one case does the law provide for a referendum in case of a dispute between the two Houses—when they disagree as to the necessity for a revision of the constitution. To sum up. The referendum is to be introduced into the Australian Parliamentary system to settle questions of dispute between the two Houses. The people are not to be supreme legislators, but arbiters.

FORMER CONSERVATIVE LEADERS MISREPRESENTED.

In this sense the law is not sent to the people to say whether they like it or not, but to say whether or not in their opinion the dispute should, between the two Houses of the representative bodies be decided in one way or the other, in other words they are arbiters or arbitrators, either of which terms will carry the meaning which is distinctly the legal one in the case of Australia. Now then the honorable gentlemen alleged, and I would like to have

him now state with what authority, that Messrs. Tilley and Foster were in favor of—I do not quote his exact language—but he quoted them as witnesses in favor of adopting the referendum. He produced no proof, and until he does I simply say he was trifling with this House. He also alleged that Sir John Thompson was in favor of the referendum. Fancy the assurance with which this honorable gentleman took upon himself to state to the members of this Legislature and to the province at large that all those leading statesmen were in favor of the doctrine of the referendum, at the same time producing no word of proof of the statement which he made. Then, he actually quotes Sir John Thompson in these words: "I am not submitting, as the honorable gentleman seems to anticipate, that there is any constitutional question involved. Sir John Thompson did not raise constitutional objections. He said: 'I have no doubt we can change and mould our constitution in that respect as we please.' So he had no doubt as to the constitutional process." No, he had no doubt as to the constitutional process, but he did not say a word as to the presence of any constitutionality in the adoption of the referendum without a constitutional process having to be gone through, and more than that Sir John Thompson said:

I feel very confident in the assertion that such a mode of action is utterly repugnant to the constitutional principles we have adopted and followed with zeal down to the present time. (Opposition cheers.)

Then he also claimed the old hero, Sir John Macdonald. Of course Sir John Macdonald cannot come here to reply. My honorable friend said:

Further evidence shows that Sir John Macdonald and Sir Mackenzie Bowell, and all who had any status in Parliament in fact, for the last ten or fifteen years, either by their vote or by their speeches accepted the constitutionality of a referendum.

The old hero has gone; if the honorable gentleman will produce anything to prove his statement he will make his position unassailable with regard to Sir John Macdonald, but I want to read a few words now.

Hon. G. W. Ross—My remarks were based on this. In 1889 when the subject of prohibition was up in the House of Commons there was first a motion by Mr. Jamieson, the then leader of the temperance forces, and there was an amendment by Mr. Wood, of Brockville, and there was an amendment to the amendment by Mr. Taylor, of Leeds, as follows:

That all the words after "purpose" in the original resolution be struck out, and the following substituted: If it be found on a vote of the qualified electors of the Dominion first being taken that a majority thereof are in favor of a prohibition law, it shall also make full provision for compensating those engaged in the manufacture of such liquors!

Sir John Macdonald and Sir Mackenzie Bowell and fifty-six others voted for this resolution. (Government cheers.)

Mr. Whitney—And on that was based the statement with regard to Sir John Macdonald! I do not wonder it was not given to us. I do not wonder that the honorable gentleman did not show to us the foundation upon which he stood in this deliberative assembly for saying that these two men had been in favor of this referendum to which the honorable gentleman wishes to call as supporters all the leading men of the Dominion of Canada.

SIR MACKENZIE BOWELL'S DENIAL

I have some proof here myself and we will see what one of the gentlemen whom he wrongfully accuses has to say with regard to this. (Reads letter from Sir Mackenzie Bowell as follows):

Ottawa, Feb. 20th, 1902.

Dear Mr. Whitney,—Your favor of the 18th only reached me this morning, in which you call my attention to a statement which you say was made by Hon. Mr.

Ross that "the principle of the referendum had been adopted by Sir John Macdonald and Sir Mackenzie Bowell for the last ten or fifteen years." I am at a loss to understand what grounds he had to justify such a statement. I have no recollection or knowledge of Sir John Macdonald ever advocating the principle of a referendum in Canada.

Hon. G. W. Ross—I said voting.

Mr. Whitney—My honorable friend can put it any way he likes. (Mr. Whitney continues reading):

For myself I have in Parliament, and through the columns of the press, opposed the principle, not only of a referendum but also of a plebiscite as being schemes by which Ministers could avoid that responsibility, which under our system of Government it is their duty to assume. In this respect a referendum is much worse than a plebiscite, for the reason that in the latter case the Government would assume the responsibility of acting after the will of the people had been ascertained. In the former, that of a referendum, the responsibility is shifted from the shoulders of a Government to that of the people. I know of no greater violation of the principles of responsible government than the course which is being taken by the Ross Government on the question of prohibition. (Opposition cheers.)

Let us see what further we have in this wonderful argument of my honorable friend the other day. After these statements as to Sir John Macdonald and Sir Mackenzie Bowell, about which we will not hear much more in future, my honorable friend goes on to say: "If, therefore, we are making a departure we are making it upon high legal sanction, the sanction of the British House of Commons." Think of it! He makes the statement here boldly, "We are making this departure on high legal sanction, the sanction of the British House of Commons," and in his speech there is not a syllable to show that the British House of Commons expressed itself on this question, not one word or syllable. Then, he claims the sanction of the Australian Commonwealth, the sanction of the Canadian House of Commons, the sanction of the great leaders in constitutional law on both sides of the Atlantic; there we no more worlds, Mr. Speaker, for him to conquer. (Opposition cheers.) If there had been available one million planets, each having hundreds of thousands of leaders of thought on constitutional practices my honorable friend would have had them on his side too. (Opposition cheers.) He quotes Lord Salisbury, too, but he is very careful to make his quotation separate from the context. He does not give us any explanation of what Lord Salisbury was talking about. He talks about a leaflet which was issued by the British Conservative party in which the referendum was made a party plank. Very well, all I have to say about that is this: when the question of the adoption of the referendum as part of our constitution comes up for discussion we will all be able to take sides upon it, and if the honorable gentleman will send to me that upon which he bases his criticism of Lord Salisbury and the Conservative party of Great Britain perhaps I may be able to let in some light on that question. There was not one quotation given by my honorable friend declaring that in the opinion of any man of note or repute we should adopt the referendum in a case of this kind. The only quotations which were at all in point were as to the propriety of the idea of a referendum, not that it was an idea which could be admitted into our present constitutional system—and set it all out of gear—and provide whenever there was a timid or a weak, or a dying Government that that Government could decide they would not assume the responsibility of certain questions, but they would put the responsibility over on the shoulders of the people, and they would stay in their places. (Opposition cheers.) Honorable gentlemen will not forget in connection with the submission of questions to the people in the United States and in Switzerland—there is no case of its having been done in England—it is one thing to submit an abstract question to the people

such as "Shall we have prohibition?" upon the vote in respect of which a law shall be founded by the Legislature, and quite another question to pass a law such as this, and submit it to the people. It is only questions of the former nature which have been referred to the people in the United States as I shall endeavor to show you before long.

THE CONSTITUTIONAL QUESTION.

With regard to the constitutionality of the referendum we have a gentleman in this city, Dr. Goldwin Smith, who is generally understood to have some considerable reputation with regard to constitutional questions, and among other things he says this:—

It seems to be assumed that the Ontario Government in dealing with prohibition intends to relieve itself of its legislative responsibility by submitting the issue to the people. In this case the popular vote would have legislative force, as the ratification of an Act of Parliament; whereas the plebiscite taken by the Dominion Government had no legislative force, but was merely an informal test of opinion. This in short would be a real application of the referendum. The day may come when the referendum may be a part of Canadian institutions. But the day has not come yet.

Hon. Mr. Gibson—It has come right now.

Mr. Whitney—My honorable friend agreed with me right up to that sentence; why does not he continue his attitude? (Continues reading):

But the day has not yet come. In the meantime it will not do to license any Government at its pleasure to shirk an embarrassing question by throwing off the responsibility of decision upon the people.

(Opposition cheers.) I have two or three other quotations from this distinguished publicist on the same matter and to the same effect, but I will only read the latter portion of one:

The separation of the question of compensation from that of prohibition, practically inviting the people to vote for prohibition without compensation, and relegating compensation to the members of the Legislature, who would probably be afraid to do justice, is not honest; nor has Mr. Ross asserted that it is.

These are the views of this distinguished gentleman. Then, Mr. Speaker, here comes in very well a reference to my honorable friend's suggestion that we are not always to be in leading strings, and my honorable friend once started went on to dwell for five or ten minutes on the burning question of our being able to discuss and consider and decide upon our own political future, that we are not always to be kept in leading strings, and the indignation which my honorable friend manifested was something noticeable from all sides of the House—that we are not any longer to be kept in leading strings by Great Britain, and we do not care whether we have precedent or not, we will make the precedent; but the question which my honorable friend refrained from touching upon was that part of the question alluded to by Dr. Goldwin Smith. My honorable friend failed to suggest that any Government would have the right to decide what questions they would bear the responsibility of and what questions they were afraid or unwilling to bear the responsibility of and push them aside to be decided by the people. (Opposition cheers.) I have here a letter written by a member of the English bar with reference to the Manitoba bill, which is now under discussion, and it is so much in point that I hope honorable gentlemen will bear with me while I read it, and I am bound to say this, that this letter and the doctrine therein contained applies distinctly to the bill and referendum under discussion in this House, but the application and the meaning of it are rendered much more intelligible and clear when you consider it with reference to this Manitoba law, because there is this difference between our proposed law and the Manitoba law, the latter was passed without any reference to a referendum, and a referendum now is sought to be tacked on to it. This gentleman writes to the newspaper:

"Will you allow me space to refer to the question as to whether the proposed referendum bill is constitutional? The position in Manitoba is shortly this. The Liquor Act was passed by the Legislature and received the Royal assent on the 5th July, 1900. The amending Act under which it was to come into force upon the proclamation of the Lieutenant-Governor-in-Council received the Royal assent on the 29th March, 1901. It is now proposed to take a vote of the people as to whether the Liquor Act should be enforced or not. The question has not, as far as I can learn, been dealt with in any English court, and so we turn to American authorities to ascertain whether a similar case has arisen there, and upon so doing I find the law to be laid down in the American and English Encyclopaedia of Law, second edition, Vol. 6, page 1022, as follows. (I might say this work is perhaps more commonly referred to as authority by both judges and counsel than any other):

"Even the people of the State cannot under the constitution by means of submission to popular vote, be reinvested with the function of legislation conferred by them on a department of the Government, and the Legislature cannot render the enactment of a law dependent on its acceptance by the voters of the State, nor can the expediency of repealing an existing law be thus submitted to a popular vote.

"For the Legislators to say that they deem a law expedient, provided the people shall deem it expedient amounts to an abandonment of the Legislative functions. A statute passed to take effect upon a subsequent event must be when it comes from the hands of the law in present to take effect in future. On the question of the expediency of the law, the Legislature must exercise its own judgment definitely and finally. If the law can be made to take effect on the occurrence of an event, the Legislature must declare it expedient if the event shall happen, but inexpedient if it shall not happen. They can appeal to no other man or men to judge for them in relation to its present or future propriety or necessity. They must exercise that power themselves, and thus perform the duty imposed upon them by the constitution, but in case of a law drawn to take effect, if it shall be approved by popular vote, no event affecting the expediency of the law is expected to happen. The expediency or wisdom of the law abstractly considered does not depend upon a vote of the people. If it is unwise before the vote is taken it is equally unwise afterwards. The Legislature had no more right to refer such a question to the whole people than to a single individual. (Ex parte Wall, 17 Am., R. 425.)

"This liability arises no less from the joint principle applicable to every delegated power requiring knowledge, discretion and rectitude in its exercise than from the positive provisions of the constitution itself. The people in whom the power resided have voluntarily relinquished its exercise, and have positively ordained that it shall be vested in the Assembly. To allow the general Assembly to cast it back on them would be to subvert the constitution, and change its distribution of power without their action or consent. (Cincinnati, etc., R. Co. v. Clinton Co., 1 Ohio, S., 77.)

"(Illustration) Where a statute regularly passed by the General Assembly and approved by the Governor contained provisions for submitting it to a vote of the people, as to whether it should become law or not, it was held that such provisions were void, and that such votes of the people pursuant thereto had no legal effect whatever, and that it became a law when it passed the two Houses and was properly signed. (Santo v. State 63 Am., 457.)"

Now, then, honorable gentlemen will see who have followed me at all, the idea which animated the distinguished gentleman who wrote this letter. As long as the referendum is no part of the constitution, and unless you change the constitution the duties and the exercise of the functions of the Legislature remain intact and unattackable, and no matter what you pretend to do, you cannot, without changing the constitution, do something which this constitution says you shall not do, or refrain from doing something which the Legislature says should be done. The name of the writer

of this letter is Mr. Arthur M. Fraser. He wrote the letter to a Winnipeg newspaper. It sets forth a train of thought, which I say with all confidence has not been touched upon by one out of ten who have considered it at all with reference to the constitutionality. The moment you go outside the constitution to do something, you are going outside the boundaries of the area over which this Legislature has the right to act. (Opposition cheers.) That is the meat and pith of the citation which I have just given.

NO TWO-THIRDS MAJORITY IN THE STATES.

Now we come to the honorable gentleman's citations as to the referendum in practice, and the inferences he drew. I was surprised at the first part of his speech for the reasons already given, but I was more surprised at the latter half of his speech, and I will tell the House why. Here is the Globe report of my honorable friend's speech:

In the United States every constitutional amendment—and every State of the Union, except Delaware, has the power to make constitutional amendments in that way—has been submitted to the people, and in every one of these cases so far as I can ascertain they are approved by a two-thirds majority.

In all the cases quoted and recited in this book which I have there is not one case in which anything more than a simple majority of the whole vote were required. (Loud Opposition cheers.) Does the honorable gentleman think for a moment that he is to be allowed to go Scot free, that he is to be allowed to stand up in this House before the majesty of the people as shown by their representatives here, that he is practically to address the people of the Province of Ontario and tell them with regard to the votes which have been taken in the United States, that which is entirely and absolutely untrue? (Opposition cheers.) In the first place, there is a distinct and definite difference between constitutional amendments and other subjects that are submitted to the vote of the people in the different States of the United States, and in order to shorten my speech somewhat I will say right here it requires a majority, in some of these States, of the votes present, and voting, when? On a day set for the purpose? No. It requires a majority of the votes present and voting at the general or State elections to call a constitutional convention. Let honorable gentlemen follow me. The call for a constitutional convention in the State of Minnesota at any rate must have in favor of it the majority of the voters who voted at the general or State election at which the people voted on this question of whether a convention shall be called or not; but other questions, indefinite in number, than the questions called constitutional amendments are submitted to the vote of the people from time to time in different States of the United States, and so far there is no State in the Union which I have been able to discover where the law is other than this; that on any question being submitted to the people the majority of the votes cast shall govern. (Opposition cheers.) Honorable gentlemen will find on investigation and on looking up this book, called Pomeroy on the "Referendum," that I am distinctly correct. I do not wish to pursue an unpleasant subject, but all I have to say is this, in passing from it for a moment, that I cannot understand how any man, the Premier of this province, or any other man, could look at that book and make such a mistake as the honorable gentleman has apparently made, the effect of the announcement of which may deceive public opinion in the Province of Ontario, and bring to his aid, as I have no doubt he fondly hopes, some votes that otherwise would not be his. Now, sir, he said in all these cases so far as he could find, a two-thirds majority was required. It is not so. I have not only the book here, but I have summaries and tabulations here in my hand which show exactly

the contrary. There is another peculiarity with reference to the submission of this question that as far as I have noticed—I do not now give this positively—as far as I have noticed in my hurried consideration of this measure and this book in the majority of cases, I believe in all cases, the votes taken by the people on different subjects, constitutional amendments, and otherwise, have been taken on the day there was another election going on. That is the case in Massachusetts, New York, and Arkansas.

THE VARIOUS VOTES IN THE UNITED STATES.

In the State of Massachusetts there was a constitutional amendment proposed to the people on which 115,000 in round numbers voted for it, and against it 141,000, the total votes being 276,000. For the Presidential election of the same year there were 401,000 people voted, so that the number of those who voted on the referendum was 124,000 less than the vote at the general election. So that there they do not ask the people who are in favor of the amendment proposed to get a majority of the votes cast at the last general election, or at any other election, and in this case they got 124,000 less than the number of votes cast at the general election. New York State furnishes similar proofs of the point I am now making, viz., that the vote in all these cases is much less on questions submitted to the vote of the people than the votes cast in the State elections which are held at the same time. In the case of New York State, 320,000 voted for an amendment, and 710,000 against it, making in all 1,030,000. The vote for the Presidential electors was 1,423,000 or 391,000 more than the votes cast on the constitutional amendment.

Take the case of the State of Arkansas. A liquor license law was voted on and was carried, though the majority was less by 5,878 than a two-thirds vote. The vote stood: for, 36,088; against, 61,862; or a majority of 24,226. In the State of Texas two amendments were voted on, one being carried and one defeated. The one which was carried had a large majority, but there was no provision requiring anything more than a bare majority. In the State of Missouri four amendments were voted on and all defeated. The highest vote on any of them fell 20 per cent. below the vote for the Presidential electors. In the State of Minnesota, while voting upon laws and amendments a majority were voted on and carried because they received a simple bare majority. Now, if the honorable gentleman had consulted this book, he had before his eyes every word I have said here, and could not possibly have been mistaken in every instance I have brought before the House. In the State of North Dakota a prohibitory liquor law was voted on and carried, the vote being: for, 18,552, and against, 17,393; or a majority in favor of it of 1,159. This was carried and had the force of law at once without a further majority. The vote at the political election was 38,083, so that with what I may call the Ross handicap the prohibition law would have been defeated by a large majority. In 1894 an amendment prohibiting lotteries was carried on the following vote: for, 10,579 and against, 5,309, or a majority of 5,270. Here, though the opponents of lotteries were victorious by nearly two to one, they would have been beaten by 8,920, since the vote for Congressmen that year totaled 38,997, had the Ross handicap prevailed.

Then, let me refer to the book itself in one or two cases. Take the case of Nebraska (on page 175): "More than one-half—to be exact, an average of 51.16 per cent.—of those voting for Presidential electors did not vote on the amendment. This varied from 45 to 53 per cent." Then in Colorado (page 176): "The vote stood 25,327 in favor and 39,790 against, or a total of 65,117. It was thus defeated by a majority of 14,463, or 22 per cent. against, to less than 40 per

cent. in favor. But the vote for Presidential electors was 189,272, so that about one out of three who voted for the electors voted on the amendment." Then, take the State of Montana: "Only about one-third of the voters voted on the amendment." Then, take the State of Idaho (page 175): "You will observe from the above figures that the equal-suffrage amendment polled the most votes, but that less than 13,500 electors voted on it, while Presidential electors received in round numbers 30,000."

Now, sir, I could go on through the whole list of these States showing that in every case there was not only nothing but a mere majority of those voting required, but that in every case much less than a majority of the vote was polled, a much less vote, in other words, being polled for each of these questions submitted to the people by means of the referendum than in the general election, which my honorable friend, knowing full the effect of his condition, makes the basis and standard upon which this bill is to be fought and won or lost. (Opposition cheers.) Then, we have the State of Washington (on page 179), and the same state of facts occurred. In California the total vote cast for the Presidential election was 290,000, but only 71 per cent. of that number voted on the question referred to them at the same time by way of referendum.

Then the State of Michigan (page 185), there was this question, and it is the only one which refers to the question under discussion here, and therefore I shall read it: "In the year 1887 there was submitted on the ballots 'Amendment to constitution relative to the liquor traffic.' It was widely known that this amendment was for prohibition, and it was the chief issue at the election, which was a spring election, and at which no State officers or Presidential or party questions were voted upon, yet a vote was cast of 362,917 relative to this referendum as against the total Presidential vote last preceding of 401,186." Let us take Australia again. I have already shown that "the great fact about the Australian referendum is that it is not an attempt to constitute the people sovereign, but to substitute their assent for that of the upper House should the upper House continue to reject a bill passed by the lower House." "It will be noticed how very different the referendum as proposed in Australia is from the referendum in Switzerland. There the voting is chiefly on a bill which has passed both houses. Only in one case does the law provide for a referendum in case of a dispute between the two Houses—when they disagree as to the necessity for a revision of the constitution."

Then "To sum up. The referendum is to be introduced into the Australian Parliamentary system to settle questions of dispute between the two Houses. The people are not to be supreme legislators, but arbiters."

Here is what Hon. Geo. Reid, the distinguished Premier of New South Wales has said with regard to this question, and one sentence uttered by him will show you how utterly and completely the honorable gentleman is away from any understanding of the facts which have taken place in Australia. Hon. Geo. Reid said, "If no referendum, then only a single chamber. It must be one of the two." Why, my learned friend said the other day we have no appeal from this House, we have only one legislative body, we have no authority to which to appeal in order to steady public opinion, instead of public opinion steadying us (Hear, hear), and he declared that the fact that we had only one House was a reason why the referendum principle should be adopted, while Hon. Geo. Reid said, that if they did not have the referendum he would only have one House; felt safe with one House, but if they had more than one House he felt safe with the referendum. I think I would be utterly unjustified if I attempted to use any more time of honorable gentlemen in order to show them either of two things; that every statement

made by the honorable gentleman with regard to this matter in relation to the attitude of distinguished men of Canada, Great Britain and Australia has been incorrect; and next with reference to the condition of affairs in every one of the States of the American Union, declaring deliberately that in every case he has examined into, a two-thirds majority was required, when in fact such a majority is required in no case, was also at least utterly incorrect. If the honorable gentleman had just read the doctrine laid down by Hon. Geo. Reid he would have seen that Mr. Reid felt perfectly safe in his province with one House, and would not have felt safe with two Houses, and therefore, and only therefore, desired to have a referendum. How does the honorable gentleman know how this House is divided on this question? How can he know this House needs steadying? How does he know until he assumes the responsibility and calls his cohorts to stand together with him? How does he know this House is opposed to or in favor of the provisions of this bill? The position is perfectly conceivable to anyone who has an elementary knowledge not only of the British constitution, but as to the manner in which our system works itself out, and it can only work itself out in one way. We have an appeal to a body outside this Legislature, we have an appeal to the people, under our constitutional system, and our constitutional system and method of appeal is satisfactory to the people of this province, and the people know very well that no very important measure of legislature, no very serious action by the Government of the day can take place unless it is, as the saying is, "Broad-based upon the people's will." (Applause.) Because under our system when the Government, not afraid or ashamed either of the responsibilities which are theirs, take a position for or against any great public question, the people know full well that the result is left with them, and in the constitutional way they pronounce for or against it, and the question is thus settled by the people and for the people, without reference to the rise or fall or the continuation in office of the Ministry. (Opposition cheers.) In other words we have Cabinet Government with all that that word implies. The honorable gentleman said a little while ago something about the temperance men who were afraid to stand up to be counted. My honorable friend has declared that in the past all the great moral victories which have come down to us, the great public advantages which we enjoy, the rights and privileges which are ours under responsible government and favored by God's blessing, were won by men who were not afraid to stand up and fight, and, Mr. Speaker, I thought how unselfish he was, because he was then describing every man in this country other than the leader of this Government. (Loud Opposition cheers.) He went on to say that in the past, as these victories had been won by brave men who were not afraid to stand up to be counted, so in the past had temperance men failed, often because they would not stand up and be counted. Now, Mr. Speaker, he says, you may stand up and be counted, if you like, but you shall not carry it even then.

THE COURAGE OF BRITISH STATESMEN.

He did not tell us that when the British people with one blow struck the irons off the black men in Jamaica and declared that henceforth no slave should exist under the British flag, and paid twenty millions pounds sterling for doing so, they asked a law to be passed and referred it to the people. (Opposition cheers.) There were political giants, Mr. Speaker, in those days, there were many who have been quoted and alluded to from the treasury benches as being "big" men, there were political giants indeed in those days, political men in the British Government who were big men, and who were not afraid of saying, "We will take upon ourselves the responsibility of this measure, of this expenditure of twenty millions of pounds sterling, and

we will leave it to the people afterwards in a constitutional manner to say whether this act, and we, the Government of the British Empire, shall be endorsed or shall be condemned." (Opposition cheers.) Let me take another great question, sir--(the freeing of the slaves to which I have already alluded and the one to which I am about to allude constitute two questions which perhaps in importance have never been exceeded in the history of the British Empire, having regard to the highest possible morality and the greatest possible good to all the human race)--let us take Mr. Gladstone's disestablishment of the Irish Church. He took upon himself the responsibility of doing that; he did not run away and hide. (Opposition cheers.) That was a question of great national importance, and he took the responsibility of it, and to-day his fame is that which it would not have been and could not have been if instead of being the man he was he had been a political coward at this stage and had refused (Opposition cheers) to take the responsibility which the British constitutional system imposed upon him, and which his self-respect as a public man, called upon him to take. (Loud applause.)

It being six o'clock the Speaker left the chair.
On resuming at 8 p.m. Mr. Whitney continued:

THE BRITISH SYSTEM DISCARDED.

I desire to add a few words to my argument with reference to the impropriety of this referendum from the point of view of our political system. It is not properly speaking a referendum unless the Government as a unit take the responsibility of advocating it and ask us to confirm their action by a large majority, or by a majority as the case may be. Now, in this case what do the Government do? They simply send out feelers, so to speak, seeking to ascertain at large expense the feeling of the public. They do not advocate it themselves, they do not canvass for it nor ask their friends to support it, they do not say they favor it, they simply enable the people to vote yea or nay. It is not their child which they support, but a foster-child which they will take in if a large majority put themselves out enough to go to the polls and say so. They abrogate their function of responsibility, they throw cold water on the proposition by refusing to father it. They put a vote in the slot, so to speak, and then if the bill comes out the Government will father it, but whether with or without compensation, they do not say. The general elections are coming on. If they had confidence enough in themselves to advocate this measure as a policy it would come before the people in the natural and usual way within a few months of the present time, and the question would be decided in the ordinary way, and according to our constitutional practice. Before dinner I neglected to mention another instance in addition to the freeing of the slaves, and in addition to the Irish Church bill, where a measure which was carried out in constitutional manner, and I refer to the British North America Act with which all of us should be, and I believe are, more or less familiar. This was not an ordinary measure, it was a measure such as comes up under British practice and under British rule hardly once in a century. It was a measure destined to change vitally the status and attitude towards the Empire and towards themselves of the Provinces of the British North American Confederation as it is now. It was argued pro and con very warmly over all the provinces comprising this Dominion. People took sides upon that question with great vigor and earnestness and a very considerable portion of the public men of the day, including a large number of members of the Reform party, took the ground that such a measure as that, practically taking away and forming anew the political institutions under which British Americans were to live on the Continent of North America, was a measure such as should be pronounced upon, decidedly,

formally and specifically by the people who were most interested in such a measure. What was the result? All the arguments that were advanced in favor of that course were put aside and the greatest peaceable British revolution which ever took place outside of the British Isles was carried out, and is now an accomplished fact, and much to our satisfaction, without a direct vote by the people at all. This is another instance which I have chosen to give to honorable gentlemen for their consideration, as showing the utter impolicy and want of judgment shown by those who endeavor in this case before us to urge that an ordinary bill comprising a matter which is merely within our jurisdiction, as far as may be at any rate, should not be pronounced upon in a constitutional way by the Government of the day, but should be remitted to the people. Now, I wish also to refer a little more at length to some of the utterances of Prof. Goldwin Smith on this question:

The name "referendum" is being mischievously misapplied. It belongs properly to a regular mode of legislation, embodied in certain constitutions, such as those of Switzerland and Australia which define the occasions for resort to it, regulate the method and provide the necessary safeguards. In the Canadian constitution or in that of this province there is nothing of the kind. A proof of it is that three or four different modes of reckoning the vote or determining the sufficiency of the majority are already before us. Amidst this uncertainty the door is evidently open for machination as well as for doubt. Let us first have the referendum legally introduced, regulated in its operation and surrounded with its proper safeguards. We may then have recourse to it with confidence. It is now taken up for the nonce without constitutional warrant for the purpose of relieving the Legislature of a responsibility which properly belongs to it; and at the same time dodging the question of compensation. Unfortunately there is at Ottawa no control over breaches of the constitution by Provincial Legislatures. This has been seen in more cases than one. The Prime Minister is a confederate of the party in power here, and the Governor-General is a cipher.

Another quotation:

Whether prohibition could succeed on any terms is an ultimate question which has nothing to do with the immediate truth that prohibition cannot have even a chance for its life in Ontario until the prohibitionists are strong enough to elect a Legislature and create a Government to do their work. A referendum on the terms fixed by Hon. G. W. Ross is a fraud. Any sort of referendum on the prohibition question must rank as a delusion. The referendum invites the prohibitionists to exhaust their strength in non-partisan voting and to leave their enemies on guard in the Legislature and the Government. The referendum may have its uses, but in the prohibition question the referendum is simply a dodge to let politicians out of trouble. Prohibitionist sentiment must be either strong enough to fill the Legislature and the Government with politicians who will do its work, or else be wise enough to realize that prohibition is impossible and ask for something else.

Hon. Mr. Gibson—Who is the author of that?

VIEW OF REV. DR. M'LEOD.

Mr. Whitney—Bystander. I also wish to read something from Rev. Dr. McLeod who was a member of the Prohibition Commission issued by the Dominion Parliament:

Not only are the Governments of Manitoba and Ontario on trial just now—as to their honesty in dealing with a great question—but the prohibitionists of those provinces are on trial, too. If they allow themselves to be humbugged into acceptance of the rum men's referendum scheme, handicapped by a compensation clause, and a demand that they poll a majority of the registered votes, they will show themselves unworthy of the cause they have professed interest in, and will give the rum men and the politicians additional evidence that they are not to be taken seriously. The one thing for temperance voters to do if they would be respected, is to visit their righteous indignation on the members who have played them false. Just so long as they allow themselves to be fooled into approval of such dishonest schemes as those

by which the Governments of Manitoba and Ontario are now playing to the rum traffic, they may expect to be laughed at—as they ought to be—and to have no influence whatever with Governments or Legislatures. If they will stand up like men and stand together, they can win victories.

I also want to read, because this is the proper place to do so, a letter which appeared in an evening paper in this city several days ago, written by E. Pomeroy, the compiler of this book, by whose efforts we have been enabled to discuss this question intelligently, and from whose statements, as shown in this book, I have been able to show conclusively this afternoon that the positions assumed by the honorable gentleman, each one of them seriatim and in the whole collectively, have not been founded on the facts as expressed by Mr. Pomeroy, who is an enthusiast on the subject of the referendum, writes as follows:

The National Direct Legislation League can only regard any development or application of the referendum with pleasure, and its advocacy by a great party like the Liberal party of Canada, and its application to even one great question is a great step in advance. We would be glad to see it applied to all questions, but welcome its application to any. It is with decided approval that we greet the Premier Ross' bill. But there is one important point in that bill which is decidedly wrong. The provision to be enacted—it must have not a majority of those voting on it, but a majority of those casting their votes at some other election—is almost unprecedented in referendums. As long as every voter has the right and opportunity to vote, if he voluntarily absents himself from the polls that action should not affect the result. The decision should be by a majority of those actually voting. As the bill is constituted it counts those who do not vote against the measure. The effect of this will be that those who are opposed to it will stay at home, and then both the measure and the referendum will be discredited because of the small vote. It looks as if this was intended because the poll on the measure is not to be held at the regular time with the other votings, but at a special election when nothing else comes before the people, and when the people are not accustomed to voting. Of course the stay-at-homes will be larger than at the regular time. Another effect of this will be that those in favor of the measure will stay away from the polls at the previous election, in order that the number polled then may be small, thus lessening the majority which will have to be polled on the measure. I should think all the prohibitionists would do this.

The honorable gentleman has taken good care in his bill that that last resort of the prohibitionists, viz., staying away from the polls at the general election, will not have the desired effect.

THE QUESTION OF COMPENSATION.

Now, Mr. Speaker, with regard to the question of compensation, the honorable gentleman has chosen to give that question the go-by. He has not chosen to submit the question of compensation to the people, at the same time with the other question, out of which compensation is an offshoot, and holds it, so to speak, over the heads of the people in the future, with the suggestion that his attitude on the question of compensation may have its uses in the future. What reason could there be, either in law or in morals, I was going to say, but what reason can there be having regard to the dictates of common sense, if the people are to pronounce upon the question of this bill that they should not pronounce on the complicated question which arises out of it? I apprehend no good reasons could be given, and no reason has been shown yet.

THE DEVICE TO PREVENT ABSTENTIONS.

With regard to the number of votes required in order to carry this bill, a more or less hurried consideration by myself of the figures at the last general election, which as I understand now is to be the test of the vote for this bill, is as follows: At the last general election, roughly speaking, there were 432,000 votes polled; in order to carry this bill it will be necessary that 216,000 votes be polled in its favor. At the last Dominion plebiscite the figures show the votes polled in favor of prohibition were 154,000 in round numbers, so that in order to carry this bill at the referendum

vote prohibitionists must get something over 60,000 more votes than they were enabled to poll at the plebiscite a couple of years ago! This is entirely unfair, but let us look at it for a moment. A short time ago there appeared an editorial in the Globe with reference to this matter, which was headed: "A Foolish Proposal," and after suggesting it was rumored that prohibitionists would remain away from the polls at the general elections in order to lessen the vote necessary to carry the referendum, the Globe went on:

It would be easy for the Government, and we have no idea what its intention is, to defeat this by providing that should the vote at the next general election be smaller than the vote cast in 1898, then the basis of the referendum should be the vote of 1898. We have no idea that the Government intend taking such a course, but it would be perfectly legitimate for it to do so if there was any attempt to prevent the obtaining of a full expression of opinion by the methods suggested in some quarters.

This was very suggestive at the time. It was understood, as I imagine it was intended to be understood, as a warning to prohibitionists who might perhaps have some lingering remains of affection for the Reform party, that if they chose to remain away from the polls at the coming election their intentions in that respect could be thwarted, and would be thwarted by the Government adopting the suggestion outlined in the Globe, and to-day the honorable gentleman announced that this threat is to be carried out, that the vote on which the referendum is to be based, is the vote of the general election of 1898, and the honorable gentleman has retaliated on those who suggested in order to relieve their sense of outraged dignity that they would avenge themselves on the Government by remaining away from the polls at the general election. My honorable friend, the member for Brockville (Mr. Graham) in his newspaper suggested as follows:

If the Government thought there was any danger of such a thing happening, a clause could be added to the bill providing that only those who vote at the general election will be entitled to vote on the referendum in October.

That suggestion has not been carried out by the Government. They have confined themselves to the carrying out of the threat which they made that the vote might be taken on the vote of 1898 in order to prevent revenge being taken upon themselves with reference to their action upon this question. Now, sir, the honorable gentleman (Mr. Ross) this afternoon quoted from the Montreal Witness, an editorial apparently favoring the referendum. It has been suggested to me—I am not aware with how much truth—that this editorial which he read, and which he was unable to give the date of, was written three days after the first reading of this bill, and that an editorial subsequently published by the Witness was of a rather different character. I have here a short clipping from an editorial of the Montreal Witness, of which I cannot give the date either, but it is within the last three or four weeks, in which that paper says:

If, instead of granting prohibition as promised, the matter be referred to the people in the form of a so-called referendum the prohibitionists would look upon this in view of the past assurances of the Government as pure pusillanimity and bad faith. (Opposition cheers.)

So we have the testimony of the Montreal Witness also. Now, sir, I shall not attempt at any length to rehearse the career of the honorable gentleman with regard to this question, suffice it to say that in 1877 when an opportunity was offered for an expression by the people with regard to the great question of general prohibition by means of a resolution in the House of Commons of Canada, he stood up and barred the door, so that the prohibitionists were shut out from an attempt at any rate at that time, to have this question brought before the representatives of the people. Then in 1893 as I have detailed, after the lapse of sixteen long years in which the Province of Ontario and the Dominion of Canada remained still under the burden which it was carrying, when my honorable friend beside me (Mr.

Minister) attempted to bring this question up by means of a bill the Government opposite, of which the honorable gentleman was, as he is now, a member took steps to again bar the door in the face of the prohibitionists of Ontario, and now after a distinct, specific and clear-cut promise that in the event of the jurisdiction being given by the Judicial Committee of the Privy Council, to the Legislature of Ontario to deal with this matter, action would be taken, the Government, instead of carrying out their promises in the simple and frank manner in which they were made, now say: "We will not do so, we will avoid the responsibility ourselves and we will send this bill over to the people" to allow them to say whether they will have it? No, sir, not to allow them to say whether they will have it, but loaded up with conditions and burdens which render it in their view, at any rate, practically impossible that a majority of the people of this province shall be able to say whether or not they are in favor of this measure. I say, Sir, this is not fulfilling the promises which he and his predecessors gave. They did not say anything of the kind that is proposed by this bill; they said they would introduce a bill if jurisdiction were given, they did not say if a bill after passing this House was passed by a majority of the people who voted at the previous elections that then it would become law, but they say now: "You can take it if you can get it, we wash our hands of all responsibility, and we do not propose to help you to get it. Sir, I was very much interested indeed—it is always a matter of interest to listen to the honorable gentleman speaking—and I was very much interested indeed from beginning to end of his speech for various reasons, some of which I have attempted to delineate this afternoon, and one remaining reason to which I desire to call the attention of honorable members. The honorable gentleman, after discussing the question of a two-thirds majority and three-fifths majority, different proposed majorities, looked around this House, sir, with that childlike and bland expression of his and said: "As for me, Mr. Speaker, I have always been in favor of a simple majority"—a simple majority! I will venture to say, sir, that what the honorable gentleman had in mind at that time was not a simple majority, but the simple people whom he thought he would be able to draw away from the actual facts of the simple majority which he was apparently suggesting. (Opposition cheers.) I have already shown you, Mr. Speaker, perhaps at tedious length, that a majority which, under the provisions of this bill, will be necessary in order to pass it upon the referendum vote must be 60,000 at least more than was polled in favor of the prohibition plebiscite a year or more ago. That is indeed the simple majority that is required, and our people will indeed turn out to be a simple people in every sense of the word if that suggestion of the honorable gentleman is taken at the value at which he would desire it to be taken.

A LIBERAL VOICE ON THE REFERENDUM.

Now, let me read to you a few words from a newspaper which is a leading organ of the Reform party in the Maritime Provinces, and if I am not mistaken a paper formerly, and perhaps at present, controlled by the Hon. Mr. Fielding—I am not sure of that—the Halifax Chronicle. Its view of the question is one of the many reasons why we, who disagree with the present situation, have reason to congratulate ourselves on finding we are in company with all shades of political and party feeling, not only in the Province of Ontario, but in the Dominion of Canada. What the Chronicle says is:

So far as we are concerned we are entirely without sympathy for either squirming set of paltering politicians. It would rather please us on the whole to see

either or both of them strangled, politically, in the holes into which they have got themselves. At any rate, we protest strongly to their resorting to the referendum. It is an un-British and unconstitutional device. The people of this country elect specially qualified representatives to make their laws. Those representatives have no right, nor should they with impunity, be permitted, to fling back upon the mob the task which has been deliberately committed to them at the polls, and which they are well paid to perform. The plebiscite on one special general principle may at times be justifiable or excusable, although even that seems doubtful. But the referendum, that is, the submission of a whole measure in all its details for popular consideration, is neither. It is vicious in principle and could not fail to be demoralizing in practice under our policy. Its only conceivable use would be as a snuffbox for time-serving politicians. Those who would resort to it should therefore be met with unmistakable disapproval at the very outset. The politicians have only to take a manly and honest stand on this subject for that matter to find solid ground under their feet at once in any part of Canada. Let them do this, or let the people trample them deeper in the mire of their own making rather than permit, much less help, them to escape from it by still more devious ways. (Opposition cheers.)

Sir, there is a legal way, there is a constitutional way, there is a manly way, and the manly way must be the constitutional way and it happens to be the legal way, too; it is the duty of the Cabinet, of any British Government, to gauge the opinion of the people (Hear, hear, and Opposition cheers.) that is the principal reason for their existence as a Cabinet. They are not to say, holding the position they do, responsible for the legislation and government of the country: "We will not attempt to decide upon matters of great moment, but leave them over to the people."

The instincts and traditions of British Cabinet Government under our system are, that the Cabinet shall comprise a Committee of the Legislature, that they shall be given the duty, not only the power, but the duty, of framing necessary legislation for the people's representatives, a majority of whom are presumed to be at their backs. They have no other purpose under our constitutional system, and it is their duty to decide whether or not any important measures, such as the Manhood Suffrage question, questions affecting educational matters, questions affecting municipal law, will be in the interests of the people for whom such laws are made. I say that is why they exist, and there is no other reason for their existence under our constitutional system, and they are not to say to the people: "Take a vote and let us see what you are going to do in this matter." As I said a moment ago, it is their duty to gauge the opinion of the people, and if they find they have gauged the opinion of the people properly, they will be sustained by the people, and if they find the opposite, they will be condemned by the people. (Opposition cheers.) Thus in that way, and in that way only, the British constitutional system of Cabinet Government can be worked out successfully to a issue which will please the people of the Province of Ontario. (Opposition cheers.)

THE MANLY COURSE.

Let us see what would happen if the Government chose to take this manly and constitutional way. A great deal has been said and I agree with it, on the necessity, not the propriety merely, but on the absolute necessity, because experience has shown it, of having a large majority of public opinion behind any proposed measure of this kind. Sir, I entirely agree with that for many reasons, none of which I will waste your time by attempting to detail here to-night, because everybody is more or less familiar with them. But let us see what would happen if the Government chose to take the constitutional way of doing things. This large majority of the people, which we all agree is necessary, honorable gentlemen say should be found by means of this so-called referendum, and the majority they are going to be content with is a majority of one over half the votes polled at a general election. I do not understand that, Mr. Speaker, to be a very large majority. But suppose for a moment that honorable gentlemen opposite had

assumed the responsibility which is theirs, and of which they cannot divest themselves, endeavor how they may. Assume that they chose to take the responsibility and say: "We will take this bill as a matter of Government policy." Or suppose they chose to take the opposite view—either expression will serve my purpose—but suppose they take the first view I have presented, then they would say: "We propose this bill as a portion of our policy, we are going to the people in a few months, and we wish this bill to be endorsed by the people." If a majority were returned to this House to support the Government, then this bill would be supported by a majority. It may not have dawned upon the minds of everybody, because it is a thing that is not likely to have done so unless a person has studied it with more or less carefulness, but I make the statement, and will endeavor to prove it, that if the Government took that stand and were sustained, the majority they would have in favor of this bill would be much larger than a mere fractional majority of the total vote. We do not believe on this side of the House that the majority in this House of honorable gentlemen represents their actual standing before the people, but having said that by way of premise let me illustrate what I mean. This vote of 1898 is to be the test vote. Honorable gentlemen have a certain majority in this House now. Assuming, as I said before, that this represents the vote of the people, it represents a majority of 15,000, and more which would be given to them on their platform of which this bill would form a part (Opposition cheers), and thus the people of this province would have that which now they cannot have, that which it is not suggested even they will have, a large practical sufficient body of public opinion behind this bill to secure its being carried out with the sympathy of the people. (Opposition cheers.) Instead, Sir, what will we have? We will have possibly one vote more than half of the votes polled at the election in 1898. So that you see, Mr. Speaker, the beauty and the conclusiveness of the British constitutional system when you follow it. Follow its workings out to a successful conclusion when it is properly administered, and no question could possibly arise as to the necessary volume of public opinion being behind this bill when the Government would be sustained with a majority of ten or fifteen or twenty thousand of the total votes cast at a general election in the province.

NO ADVOCACY OF THE MEASURE.

Sir, another remarkable thing that I noticed with reference to the honorable gentleman's speech the other day, and his speech to-day is this (I thought that to-day perhaps he would refer to it as he failed to do so on the occasion of his moving the first reading of the bill), he has not so far said one word in contemplation of the purposes and objects of this bill, and for all we know from the author of it, for all the promoter of it has chosen to vouchsafe to us, this bill is a mere mechanical act of the Government in which he or they are not interested in any way. (Hear, hear, and applause.) The promises that he has made are not for me to allude to at any great length. His promises remain for settlement between him and those to whom they were made. The devotion of some of them, sir, is extraordinary, having faced all the attitudes of the honorable gentleman objecting to and antagonizing the attempts of the prohibitionists for years past to bring to a successful conclusion their attempts in favor of prohibition, with all these facts staring them in the face, still some gentlemen are found yet who insist that it is a fortunate thing for the prohibitionist party in this province that they have at the head of the Government the honorable gentleman who is the leader of this Government, and even as he brings in this measure

loaded up with the burdens which will render it impossible for this competitor to win in the race, even then they turn their eyes to him with adoration like the dying gladiator, and they cry, "Dying, we salute thee." (Opposition cheers.) It is one of the remarkable facts which has come to light during the discussion both in the press and in this House with reference to this question. My honorable friend said the other day that he, like Henry Clay, would rather be right than be president. Why, sir, cannot my honorable friend (in a political sense, of course), be honest? Why can he not be honest? Why cannot he be bold in a cause which he declares to be right and proper for the welfare of his fellow men in this province of ours? Why should we be treated here to such an exhibition as he gave the other day, when he wittingly or unwittingly succeeded at any rate for the time being in deceiving the House and the country with reference to every point that was made by him, when his entire argument, when every one of his long series of quotations consisted of a long series of misrepresentations with reference to the facts as the compilation has shown here in detail? Mr. Speaker, I would say to my honorable friend that his punishment probably has come now. It is not for me to dilate upon that. But it certainly is time that some recompense should be given by him for what he has received, and for which he has given in return less than nothing indeed. Sir, no man in this country, I apprehend, to-day realizes more thoroughly than the honorable gentleman that "black care sits ever behind the horseman," and I think he will find, and those who are endeavoring to bolster up the position which he endeavors to assume here with reference to this question will find, that punishment will come in the end, that, the mills of God grind slowly but they grind exceedingly small."

THE B. N. A. ACT.

Now, sir, if honorable gentlemen will bear with me, I desire to go back for a moment to my remarks on the question of the British North America Act, and refer to the debates in the House at that time. On its being proposed to refer that measure to the people, Sir John Macdonald said:—

By what contrivance known to our constitution could we take such a vote? There is none such. There is no means, no system, by which we could make an appeal of that kind and in order to do it we should have to subvert the principles of the British constitution. The honorable gentleman knows there is no means of doing it. We might indeed pass a law declaring that the people shall vote yes or no on this question; but such a law would in itself be a change in our constitution, and I would like to see any man representing Her Majesty in this country give his sanction to a measure of this kind which would be a subversion of the first principles of British constitutional government.

Then, Sir John Macdonald is one of the statesmen who was quoted by my honorable friend as being in favor of the referendum. Sir Mackenzie Bowell put a quietus upon any further attempts to use him, and now we have had a quotation from Sir John Macdonald's own words. One other reference, and I shall be practically through. I have a distinct recollection of a debate in which my honorable friend, the Premier, took part, when the then member for one of the Yorks, Mr. Boulton, desired to amend the Scott Act, in the direction of requiring a certain majority or a certain number to vote in order to bring it into force, and my recollection of the position taken by my honorable friend, in which he will correct me if I am wrong, was that he opposed the doctrine altogether, and among other illustrations of the propriety of it my honorable friend asked Mr. Boulton to apply it and see how it would work out when applied to the votes in the House of Commons. I ask the honorable gentleman how he would like to have his principle applied to the vote of the House of Commons, so that a certain majority of members of that House would be required to vote for a certain

measure before it would be allowed to become a law of the land. I contend I have shown successfully that all the arguments and authorities used by my honorable friend, either do not apply, or that practically all his allegations are contrary to the facts, and I assume with great confidence that I have shown clearly

First, that the referendum has no place in our system, and cannot be applied under it.

Second, the vote required to carry the bill is an unfair condition, is utterly opposed to the theory and practice of the referendum were it in operation, and is intended to kill the bill.

Sir, an expression of public opinion under our system would be of greater volume and more conclusive.

THIS BILL IS NOT PROHIBITION.

Now, a few words in conclusion as to the bill outside of the referendum. It is not prohibition, as the Christian Guardian truly says. Let us start with that proposition. We cannot have prohibition in a province. Let that fact, because it is a fact, sink down into our inner consciousness, as we endeavor to come to a reasonable conclusion on the merits of this question. What we will have under this bill is just what I described a while ago in the beginning of my address this afternoon, and it is this, we will have what is described here by my honorable friend, the leader of this Government and the promoter and proposer of this bill, when he says: "What we propose to ask is not, shall we prohibit the retail sale of intoxicating liquors. That would be but a small matter. The bar-rooms are bad enough, God knows, but they are not as bad as the canteen in the private homes." (Opposition cheers.) "While the retail traffic was prohibited there would be permitted that wholesale traffic, which would result in a man carrying his demijohn home by night and drinking it with his wife at his own fireside." That is what this bill proposes to give, and it would be practically the Scott Act over again.

MR. WHITNEY'S PERSONAL EXPERIENCE.

When the Scott Act came up for consideration in the Province of Ontario I voted for the adoption of the Scott Act: I felt in common with the great mass of public opinion, perhaps not extreme in either direction, that the drink evil in this province was of so great a character and moment that it would justify experiments being made in order to arrive at some reasonable way of obviating that evil, and so in company with thousands of men in the Province of Ontario I voted in favor of the Scott Act. I prosecuted for a license inspector for a year, and what I saw and what I know occurred I shall not take up your time in detailing here. But, sir, I have the satisfaction of knowing that when the time came I, along with the same great volume of people in the Province of Ontario, who had become convinced against their wills that the Scott Act was evil instead of good in its effects, went to the polls and voted openly and honestly against the Scott Act. (Opposition cheers). The evils which are so graphically detailed by the honorable gentleman in the language which I have just quoted, are evils which I believe would result from the adoption of this measure, and, therefore, sir, I believe the effect of this bill—and I am now speaking of it outside the referendum—would be bad. Let me repeat, I approach the consideration of this question with, I believe, an honest desire to so act with regard to it as to lessen as far as possible the evils which it is proposed to deal with by this bill. I believe that no man worthy the name of a good citizen, who understands and realizes the nature and extent of this great evil, can fail also to realize that it is his duty to bend his energies—not in a narrow or bigoted spirit, but

with malice towards none and charity to all—towards the solution of this great problem. As a feeble attempt to do what I consider to be my duty, I, therefore, for the reasons I have set forth, declare:

THE OPPOSITION POLICY.

That I am opposed to this bill on account of the unconstitutionality and impropriety of the so-called referendum, which is an illegitimate application of a bastard proposition to our Governmental system (Opposition applause), and also on account of the unjust and unfair conditions attached to it.

Also, that I am opposed to the bill on the merits of it outside of and without reference to the so-called referendum.

We cannot have prohibition in a province, therefore, it is idle to discuss that remedy. I believe the remedy lies rather in using the powers that we possess, namely, wholesome restriction; a decrease in the number of licenses; removing those charged with the administration of the law from political and party influences, and honestly enforcing the law.

Therefore, I am prepared to support, and to introduce and pass, should the opportunity offer, legislation to—

- (1) Decrease the number of licenses.
- (2) Maintain intact and allow no relaxation of the restrictions.
- (3) Remove the commissioners and inspectors from political and party influences; and
- (4) Enforce the license law honestly and with the whole power of the Government. (Opposition cheers.)

We, of the Opposition, are here to criticize, and not to propose, and I might have refrained from thus announcing my position on this question, and have declared that, when the opportunity offered, I would be ready to settle it in a constitutional way. There are precedents to justify such a course. I might have followed the example of Sir Wilfrid Laurier, formerly a "Democrat up to the hilt," who retired behind the formidable lines of Torres Vedras, to wait comfortably, as he did, for the opportunity to arrive. I believe I would have been justified, constitutionally, in so doing. But, sir, be it wise or foolish on my part, I will not hide, no matter in what distinguished company I might find myself were I to do so. I prefer to be "honest enough to be bold, and bold enough to be honest," let the consequences be what they may. (Loud cheers.)

As a party we know well what we may be called upon to face in the coming elections. Judging by the acts of our opponents, which are being unmasked from day to day by the court in one of the cities of the province, we may be again confronted by an awful saturnalia of fraud and crime, such as that by means of which the honorable gentleman and his colleagues occupy their positions, and are not ashamed, while every one of the wretches whose work placed them where they are goes unwhipt of justice.

We may not succeed in obtaining power. I am, however, prepared to take the responsibility for my attitude on this question, and to face whatever the future may bring, but I do believe that I can see beyond the excitement and agitation which has been caused by dealing with this great moral question as a political football, and I believe the people who love honesty and fair dealing will justify the position which—on my honor and on my conscience—I have felt impelled to take, and from which I shall not recede. (Loud applause.)

I thank the House, both sides of it, for the patience with which they have listened to my long and perhaps discursive address, which I shall conclude by stating that I feel it my duty to vote against the second reading of this bill. (Loud and continued applause.)

THE PRESENT BILL NOT PROHIBITION

From the Toronto Globe, January 22, 1902.

"As a matter of fact the Manitoba Liquor Act, which it is proposed to adopt in Ontario, is not prohibition, nor anything like prohibition. It could be more properly termed an Act to prohibit the retail sale of liquors in hotels. It permits the uninterrupted manufacture of liquor in the province and its wholesale distribution throughout the homes of the province by agents of the liquor interest living in Ontario. The bill, in fact, is a strictly limited measure of provincial option, and must necessarily be much more difficult of enforcement than a measure absolutely prohibiting manufacture and sale throughout the province."

From the Toronto Globe, January 12, 1902:

"It is a misnomer to call it a prohibition law, unless that phase could be applied to all of the legislation intended to restrict the liquor traffic."

"Roughly stated, the Act prohibits the wholesale or retail sale of liquor within the province as a beverage. The bar, and the club as a drinking place are both in effect declared illegal, and every man who deplores the evils wrought by intemperance would hail this gladly if there were more confidence that something equally as bad did not take its place."

"The Act expressly recognizes the legality of keeping liquor in private dwellings and the legality of obtaining such liquor from points outside the province. Any resident of Manitoba could have his cellar stocked with all the intoxicants known to the trade and be strictly within the law. The only restriction is that he must not sell any of them. The liquor dealer outside the province could legally send in all the liquor for which he could find purchasers."

INTERVIEW WITH MR. J. W. FLAVELLE

From the Toronto Mail and Empire, March 11, 1902:

"I give unequivocal support to Mr. Whitney in the position he has taken that the remedy applicable to the present situation is a further restriction of licenses, and the fearless administration of the law. I believe his position to be honest, sane, and deserving of the support of the country at large."

"So spoke Mr. J. W. Flavelle last night, when asked by The Mail and Empire for his opinion on the Ross Liquor Bill, and the stand taken on the question by the leader of the Opposition. Mr. Flavelle's munificence in the cause of religious education, his unswerving loyalty to the Methodist Church, his identification with the temperance movement, and his integrity in business, have made him one of the foremost men in the province, and his views carry unusual weight."

"Mr. Flavelle said:--

"I have been, and I always will be, identified with those who are desirous of removing in every way possible the evils attendant upon the sale of spirituous liquors. I think, however, there is a danger of men who think strongly upon this question failing to appreciate the great body of well-balanced sentiment in the community which is opposed to prohibitory legislation as the remedy for these evils. Nor do I think that ardent friends of prohibition realize the lamentable absence of conscience on the part of Governments, Liberal and Conservatives, to fearlessly enforce a prohibitory law, or that they measure the number in their own circle who are without sensitive conscience upon the enforcement of the penalties for the violation of law, when enforcement interferes with or imperils party success."

"I cannot overlook in this connection the remarkable absence of public protest from men, irrespective of party, covering gross irregularities and flagrant abuses of the ballot in connection with recent election scandals. Therefore, in considering whether prohibitory legislation is practicable at this time as a remedy for the evils attendant upon the liquor traffic, I am bound to say that I do not believe it is practicable, and that this absence of conscience on the part of politicians, whether they are leaders or only in the rank and file of either of the great parties, renders it impossible to enforce with any fair degree of success such legislation, particularly when there is such an influential body of sentiment against it."

"I give unequivocal support to Mr. Whitney in the position he has taken that the remedy applicable to the present situation is a further restriction of licenses and the fearless administration of the law. I believe his position to be honest, sane, and deserving of the support of the country at large, and whether the outspoken declaration of his views makes or loses him votes in the coming contest, I am glad to know that we have in public life as a leader of one of the great parties in this province a man who is not afraid to state his honest convictions without hedging upon an important measure."

