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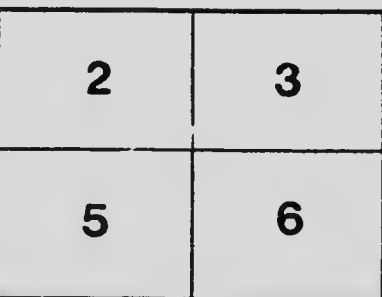
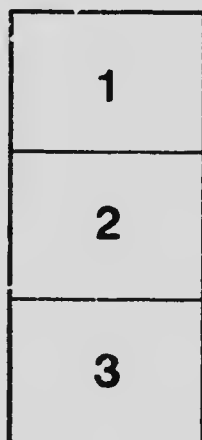
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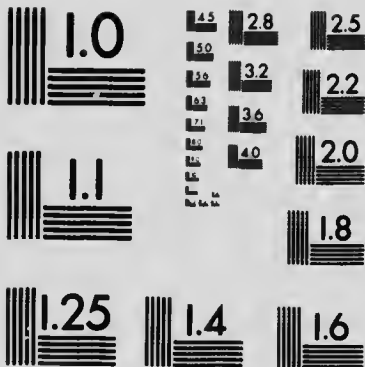
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No. 25—Manitoba Series No. 1

Issued by the Department of Social Service and Evangelism
of the Methodist Church.

PROHIBITION FOR MANITOBA

"THE MANITOBA TEMPERANCE ACT."

OPINIONS AND STATEMENTS ABOUT THE ACT

1. "Heavy penalties are provided by way of fine or imprisonment for breaches of the Act."—The Late Chief Justice Killam (13 Manitoba Law Reports, 280).

2. "It is not necessary to go through the provisions of the Act. It is enough to say that they are extremely stringent—more stringent probably than anything that is to be found in any legislation of a similar kind."—Lord MacNaghten of the Judicial Comm. of Privy Council in his judgment on the Appeal testing the constitutionality of the Act (71 Law Journal Reports, P. C. at p. 31).

HISTORICAL NOTE

3. "When the Hon. Hugh John MacDonald was by the people of Manitoba made its Premier in 1900, pursuant to an election promise to pass advanced temperance legislation, he gave instructions to draft an Act to abolish the bar, or in other words, to prohibit the retail sale of intoxicants. That draft did not prove acceptable to the extreme Prohibitionists, so instructions were given by his Government to prepare one to go to the limit of Provincial power. The Bill so resulting was modified in some details when being passed, but that the Act did reach that limit is shown from the fact that in 1901, by the unanimous decision of the Manitoba Court of Appeal, it was declared 'ultra vires,' but, a few months later, by the Privy Council, 'intra vires,' and so its constitutionality was firmly established."—Sir James Alkins, K.C. (who framed the Act).

WHAT THE ACT DOES

1. It banishes the bar (Sec. 48).
2. It destroys the treating system (Sec. 48).
3. It abolishes the liquor store (Sec. 48).
4. It prohibits exposing or offering for sale, except under the strict limitation of the Act (Sec. 48).
5. It prohibits keeping or giving except in a private dwelling or as herein indicated (Sec. 49).
6. It prohibits consumption on licensed premises (Secs. 46 and 56).
7. It makes unlawful the use of liquor purchased or received in contravention of the Act (Sec. 53).

(Under Dominion legislation the enforcement of the law might be under an unfriendly Provincial Government and enforcement might not be sympathetic. Provincial legislation must be reasonably enforced by the Provincial Government.)

THE MUCH DISCUSSED SECTION 119

WHAT IT IS

It allows only interprovincial and international trade, not liquor trading within the Province.

HOW IT EXISTS

Because the Judicial Committee of the Privy Council has declared the Province has not the power to prevent such trade.

(See Atty.-Gen. v. R., 4 v. Atty.-Gen. for Dom. of Can., 65 Law Journal Reports, P. C., 26.)

The fact is, it is a splendid safeguarding section of the Act, and was especially commented upon in the Judgment of the Privy Council respecting the Act. It takes nothing away from the other sections of the Act that was intended to be there, but it does save the Act from (perhaps) being rendered ultra vires and useless by in some way unintentionally going beyond Provincial powers.

ENFORCEMENT

1. Penalties (Secs. 65, 67, 97, etc.).

First offences.—Graded fines, \$10.00 to \$1,000, according to offence.

Second offences.—Heavier punishments and for serious offences six to twelve months' imprisonment without option of a fine. If a license—license void and no new license for at least three years.

N.B.—Lieutenant-Governor in Council alone has power to remit "fines"—**magistrates cannot do so**—nor can they suspend or compromise punishment." (Secs. 110-111.)

2. Evidence and Prosecutions.

- (a) Records of sales must be kept—failure to keep records is evidence of illegal sale (Secs. 42, 43, 54).
- (b) Liquor appliances, signs, bars, etc., are declared prima facie evidence (Secs. 85, 92).
- (c) Proof of consumption or intended consumption on premises is evidence of sale, etc. (Sec. 86).
- (d) Occupant of premises prima facie liable for contraventions of the Act by others on his premises (Sec. 87).
- (e) Burden of proof of right to do the act charged lies on accused (Secs. 88, 90, 91).
- (f) Any one may prosecute and the Attorney-General's Department must not prevent prosecution (Sec. 68).
- (g) Inspectors and policemen may enter any place except private dwelling (Sec. 112), and, **on warrant**, may search anywhere (Sec. 113).

8. It prohibits sale to illicit dealers (Sec. 55).
9. It regulates export liquor warehouses and breweries and distilleries and prohibits sales by them in Manitoba except to licensees under the Act (Secs. 47, 48, 51, 52, 54).
(The existence of these being licensed by the Dominion Government is not prohibited by this legislation, which is Provincial.)
10. It places the supply for sacramental, mechanical, scientific and medicinal uses with **druggists only**, and then under **strictest limitations**, and **subject to loss of the privilege** if abused (Secs. 35 to 45).
(For example, a prescription can be acted upon **once only**—and such prescription must be retained open for **public inspection** for one year (Secs. 40, 42).
11. It makes the person supplying liquor to an intoxicated person who dies while drunk liable in damages (Sec. 64).
12. Gifts or sales to minors are prohibited except for medicinal purposes (Sec. 58).
13. It prevents purchase of liquors even for family use in a private dwelling excepting by direct importation from outside Manitoba (Secs. 49, 50, 119).

WHAT THE ACT DOES NOT DO

1. It does not attempt **anything beyond Provincial powers**.
2. While it records, controls and most strictly limits, it does not absolutely prevent use in reasonable limited quantities for
 - (a) Sacramental (wine to a minister of the Gospel only, and upon written request);
 - (b) Medicinal; or
 - (c) Scientific or mechanical purposes. (Secs. 37, 40, 41, 49, and 57.)
3. It does not prevent family use in a private dwelling (Sec. 49).
- N.B.—A private dwelling must be a **real separate private dwelling** (Secs. 3, 85), and even it ceases to be deemed such under the Act if the provisions of the Act are not observed (Secs. 61, 63, 85).

SPLENDID FEATURES OF THE ACT

1. It is stringent—leading jurists say so.
2. It permits to a reasonable degree personal liberty **in private**, restricts it in public (Secs. 49-63).
3. It is based on **safety first**. It aims to go the extent of Provincial powers, but wisely and safely does not go beyond. (See judgment of the Privy Council—71, Law Journal Reports, P. C., 28).
4. It is **sound law**—tested in the Privy Council, the Court of last appeal. It is **beyond attack** in litigation.
5. It has been **partially tried in operation** and **has proved good**.
(Manitoba Local Option law has been declared the best in Canada—only that the provisions relative to bringing it into effect were questioned. The operative clauses were drafted from this Act and are almost word for word with it.)
6. The enacting power (the Province) operates the enforcing machinery (the Attorney-General's Department, the courts, and the police force).

IN CONCLUSION

This Act offers as full a measure of Prohibition as has been sought by temperance advocates in any province at any time.

Experience will make clear just where and how it may be strengthened up.

In 1900 it was satisfactory to temperance advocates. After fifteen years it stands to-day as the only reasonably full measure of Prohibition which in any province has stood the test of final litigation. It offers to the people the opportunity of testing in practice a measure which in war time will be, admittedly, of the highest value in conserving our national energies and resources, and which at all times (if successful in operation as it should be) will be of paramount permanent worth in promoting sobriety, domestic happiness and prosperity amongst those of our people who most need help in those directions.

THE ACT CAN BE DEPENDED ON VOTE FOR IT

THE LAST WORD ON CONSERVATION

"The necessity for conserving our national resources has been occupying the attention of our legislators, national and state. Laws have been enacted to protect our forests and our water supply. Millions of dollars have been spent in controlling contagious diseases among our domestic animals, and to eliminate the boll weevil from the Southern cotton fields and the various blights from our fruit orchards. What greater national resource has our country than our boys and girls, and why should not the government protect them from the blight caused by the use of intoxicating liquors?"—*Congressman Addison T. Smith, of Idaho.*

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