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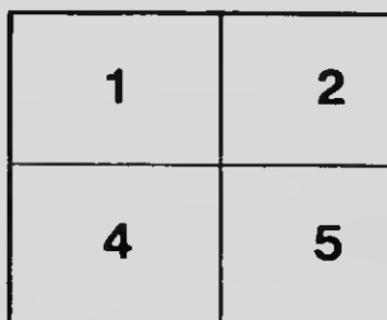
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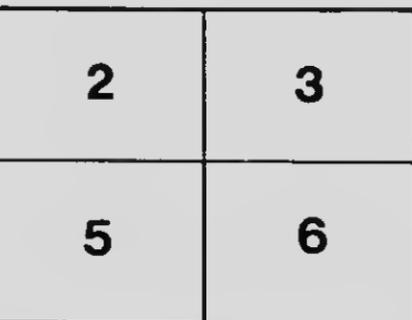
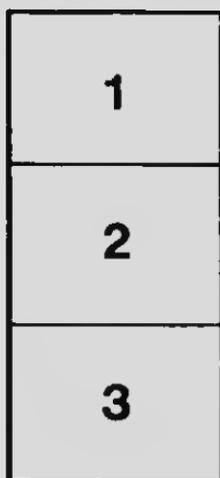
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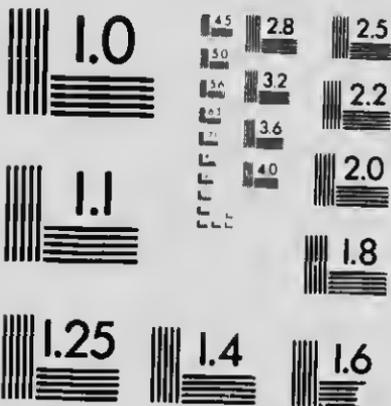
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The Whitney Government and
the Liquor License Law.

From Address of
W. J. HANNA, Provincial Secretary
Delivered at Sombra, Ontario, on
Friday, January 10th, 1908.

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The Whitney Government and The Liquor License Law

HON. W. J. HANNA, speaking to the electors at the meeting at the Village of Sombra on the evening of Friday, January 10, dealt with the position of the Whitney Government on the enforcement of the Liquor License Law, as follows:

Mr. Hanna's Address

What was Mr. Whitney's position on this question prior to the General Elections of January, 1905? While not an extremist one way or the other on this question, he pledged himself again and again, and always to the same effect, that, if elected to office, he would give as strict an enforcement of the Liquor License Law as the means at the disposal of the Government would permit.

I cannot better state his position than by quoting his own words. Speaking in the House on the Referendum, as leader of the Opposition and as reported in the newspapers on March 6th, 1902, he said :-

"Let me repeat that I approach the consideration of this question with an earnest desire to so deal with it as to minimize the evils of the liquor traffic. I believe I have given it as much honest thought as any man of my age in this country. I believe that no man worthy of the name of a good citizen, who understands and realizes the nature and extent of this great evil, can fail 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 that I will maintain intact and allow no relaxation on the restrictions on the sale of liquor, and that I will enforce the license law honestly and with the whole power of the government."

And again in the same address he said, with almost prophetic vision :

"We may not succeed in attaining 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." Applause.

In the House, as leader of the Government, and as reported on March 31st, 1905, he said :-

"The License Act, irrespective of whether the liquor or temperance people will be pleased or not, will be enforced. We expect to find defects in the law, but we will remedy these defects to the best of our ability, and whatever law the people place on the statute books will be enforced, and we will not for a moment allow ourselves to be dragooned in any way." Applause.

Again, in the House, as reported on 19th April, 1907, Mr. Whitney said:—

"I believe it to be the duty of every good man to do all in his power to minimize the effects of the drink evil in the province. I have stood by this and would do so again, even if the extreme temperance man and liquor man hunted in couples, as at the last election."

Has The Law Been Enforced ?

Mr. Whitney's attitude on this question, as leader of the Opposition, left no room for doubt or misunderstanding as to where he stood. The electors took him at his word and elected him to office with an emphatic mandate to carry out his pledge. Has he done so ?

As Premier of this great province, he assigned to me the important duty of administering the Liquor License Law. I could have no doubt as to the nature of the trust imposed upon me. I came to my duties determined to carry out the pledges so repeatedly given. Our first effort was to select as Liquor License Commissioners men who could command at once the respect and confidence of the community. In the great majority of cases we have succeeded in doing so. We adopted a like course in our appointments of inspectors where changes were made, and we at once by circular notified the commissioners and inspectors alike as to the policy of the Government with regard to the enforcement of the law, and asked them to see to it that the licensees of the province "kept hotel."

We spared no pains to impress upon the commissioners and inspectors alike that the law should be properly enforced. Have we succeeded in securing proper enforcement ? It has fortunately not been left for me to answer that question. We ask the liquor license holders, and they answer "Yes." We ask the temperance people, and they answer "Yes." We need not stop here. We go to the columns of the temperance press, and we find there repeated expressions of gratitude to the Government for their honest effort to enforce the law. We find like expressions in the resolutions of the conferences and meetings of the different churches of the province. We find the same answer as well in letters, not by the score, but by the hundred, that have reached the department from all classes, commending the government for its earnest enforcement of the law. It is true that this condition, while very general, may not be without exceptions, but I can assure the electors of the province that where this is not the condition locally, it is not for lack of effort on the part of the Government.

As to The Special Officers

But I hear some one say: "As to all this I am agreed, but I do not like your methods. Why do you employ men specially charged with the collecting of evidence ?" The facts are that early in the administration of this law, we found that notwithstanding the efforts of those locally responsible, the law was at times being violated. Complaints would reach the Department from responsible sources; each complaint would be sent back to the License Commissioners and Inspector of the district from which it came. From the Inspector we would receive the report—"I have investig-

ated, I am satisfied the complaint is well founded, but I am so well-known throughout the district that from the moment I leave my home my movements are watched, and when I reach the scene of complaint I can find no evidence whatever upon which I might properly found a prosecution. I am helpless to deal with this matter. Some persons unknown to the parties violating the law should be sent in to secure evidence." These complaints were not new to the Department. They have been received constantly through all the years that have gone by, but we determined to deal with them, and in order to do this two additional inspectors were appointed for the province, with instructions to these men to deal with such complaints as might be forwarded to them for the purpose. We gave the inspectors power to employ men unknown to the persons complained of, to go in and secure evidence, with instructions to report that evidence back to the inspectors, in order that the persons complained of might be punished if the evidence warranted it.

Instructions to Officers

I hear some one say, however: "I agree with all this as well, but I do not agree with the methods adopted by the men who are sent in to secure this evidence." My answer is: "You would agree if you understood the facts." What are they? Let me tell you the instructions the men employed by these inspectors receive. They are instructed that in the discharge of their duty they must not resort to any sneak methods to secure a conviction. They must not, under any circumstances, induce a violation of the law in order to found a charge. They are instructed that if, in the ordinary course, they find that liquor is being sold during prohibited hours—particularly on Saturday nights or on Sunday—they are at liberty to walk up to the bar, to call for liquor and to pay for it, but they are not at liberty to feign sickness, they are not at liberty to make appeals on the ground of friendship, they are not at liberty to resort to any methods that any decent man would be ashamed of. They are informed that any such action on their part will not only be followed by their dismissal, but that any fine obtained by any such methods will be remitted. This has been our practice from the outset, and to this course we have adhered. I want to say that to this course no man, I don't care how much he may be interested in the liquor traffic, can possibly object. The licensee gets a license to sell within certain hours; he pays for that license; within those hours he is carrying on a legalized business and is entitled to the protection of the law. The moment he sells outside of those hours he is violating the law, he is without protection. As good citizens of the province, we must agree that the Liquor License Act should be enforced just as is enforced any other law of the land.

Stories of Questionable Methods Not Borne Out

But I hear the answer: "That is all very good, but the fact is that these men, so employed, have been reported in the newspapers as resorting to the very methods that you say you have warned them against."

It is true that these men have been so reported. But again and again we have investigated these reports. It has, for instance, come to the Department through the columns of the newspapers or otherwise, that a pair of those men have come to an hotel, they have gone to their beds, that at eleven or twelve o'clock one of them comes down telling that his partner has an awful colic and he is looking for a drug store. The proprietor, out of sympathy, gives him a glass of liquor, the man presses into his hand ten cents, and next morning to his astonishment the proprietor finds himself in

Court. Time and time again these stories have been told, but not in one single instance have they been substantiated. We have taken the pains to write to responsible persons in the municipality, to the mayor, the reeve, the Crown Attorney, etc., and have given it to the newspapers for that matter, and we have said on every such occasion that if the facts as reported were found to be correct, the man who had resorted to such methods would not only be dismissed, but the fines would be remitted. But in not one solitary case has this offer been availed of by the person convicted. In every instance the report came back that the account published was entirely without foundation. The truth is that it sometimes happens that the licensee on the charge being launched against him comes to Court, pleads guilty, does not pretend to any such story so long as the persons are there to refute it, the fine is paid, the proceedings are over; and he then hastens out on the street to take his friends into confidence and tell them the harrowing details of how he was seduced into breaking the law for which he has always had such respect. In no single case has such a story been confirmed by the story in the witness box. In every case that has reached the Department through the press or otherwise, the story has turned out to be without foundation. I repeat again that our methods have been such as no good, law-abiding citizen, whether he be in the hotel business or out of it, can fairly find fault with.

Enforcement of Local Option

Again I am asked from time to time: "Why does the government seek to enforce the law in local option districts? Have not the municipalities that pass it power to provide officers for its enforcement?" It is true that we have given the municipalities this power, and it is just as true that the municipalities that pass such a bylaw should avail themselves of this power and ought at least to co-operate with the government in enforcing the law which they have been instrumental in putting in force. It too often happens that the people who enact local option think that their duty is at an end when they have cast their ballots. Their duty, on the contrary, has just begun. The municipality that passes a Local Option law ought to have in it a sentiment in favor of the law sufficiently strong to see that the officers in that municipality charged with the enforcement of the law, their mayors, reeves and councillors, should be such men as will see to it that the bylaws of that municipality are observed and carried out. Not only that, they should be prepared, if necessary, and the law by the amendments of 1906 gives them the right—to vote moneys of the municipality towards enforcing that municipality's own bylaw. While this is true, however, such additional precautions for the enforcement of the Local Option law in no way relieve the Provincial Government from its obligation to see that the law is enforced. The Local Option law is just as much a part of the Liquor License Act as any other part of that Act, and the duty of enforcement is just as firmly binding on the Government and its License Inspectors as in the districts where licenses have been granted. This Government is pledged, then, to the enforcement of the Liquor License Act, not only where licenses obtain, but in Local Option districts as well, and I repeat that the Government will redeem this pledge to the full extent of the means at its command.

Liquor Men Favor Enforcement

There are many men in the liquor trade today who see as they never saw before, that it is most important that the liquor license law should be enforced, and that it is in their own interest as citizens that it should be so. It was on Thursday last that there appeared at the Department in Toronto a deputation of licensees from a populous town in the province. They stated that they owned their buildings, and carried on business themselves

that they were anxious to see the license law in that town enforced to the letter, and they had again and again secured a meeting of the licensees and entered into an arrangement between themselves that the law would be strictly observed, but that the arrangement was no sooner made than it was broken by some of the less responsible of the licensees. They saw that this course pursued by those licensees meant - what? It meant that the citizens of that town would not much longer stand for it, and that unless the licensees themselves would rise to their opportunity and put themselves strictly within the law as other men in other lines of business in the same town never failed to do, the people of that town would rise and wipe out the trade entirely by adopting Local Option. They stated plainly that they came to the Department as a matter of self-preservation, and they wished us to see to it that the law was strictly observed and enforced in that town. They assured us of their best assistance in the work. These men expressed the view that the choice of this province is not between the Liquor License Act observed and an open house, but is between the Liquor License Act observed and no license at all. Can anyone possibly doubt that these men were right in the views they thus expressed.

The Three-Fifths Clause

But while you may agree with all this, there are, no doubt, some who disagree with the three-fifths clause. In the revision of the Act in 1906, of the many amendments made by the government this is the solitary clause to which exception has been taken by some of the advocates of temperance. There were many other important changes made in that amending Act which have had universal approval. That amending Act

1. Defines intoxicating liquors.
2. Prevents the issue of liquor licenses to the wife of a member of a Municipal Council, or to the son or daughter living with his or her father who is in the council.
3. Makes any person in charge of a boat or vessel responsible for the sale of liquor thereon.
4. Repeals the law as to the special census which was so capable of being abused.
5. Prohibits canvassing for orders for liquor in Local Option districts.
6. Gives power to the head of the Department to veto licenses in Provisional Judicial Districts.
7. Makes it compulsory on municipal councils to submit Local Option by-law on petition of 25 per cent. of the electors, and makes it compulsory on the council to give it the third reading if the people carry it.
8. Provides against fraud in the qualities of liquors.
9. Provides against "tied houses."
10. Provides that technicalities shall not prevail against convictions good on the merits.
11. Provides that minors shall not be permitted to act behind the bar.

All these provisions without exception, it is agreed are good and make for the better enforcement of the law. But when we come to the three-fifths clause, there are, as I have said, those who object.

The Practice Elsewhere

On introducing the Bill in the House, I quoted a great mass of authority in favor of the three-fifths clause. I pointed out that in the Province of Quebec, as to certain licenses, a majority of all the electors on the list was required; that the Northwest

territories—now the new provinces—required a three-fifths vote; that in Halifax, where the conditions were reversed, the temperance people require a three-fifths vote, and in places outside of Halifax, two-thirds; that the Australian Colonies were practically unanimous as to the three-fifths or more to carry; that the practice in England was irresistibly in favor of a three-fifths or a two-thirds vote. I quoted from Sir William Harcourt, in the English parliament, where he said:

“First of all as to the two-thirds. The Government adopted that because from the temperance party itself it has a great authority for that proportion. I have drawn it, I may say, from the original Parnassian Bill of the Hon. member for Cumberland [Sir Wilfrid Lawson.] for that included a two-thirds majority; to come down to later times, the Welsh Bill and the Direct Veto Bill of 1890 had also a two-thirds majority, the Irish Bill of 1890 had a two-thirds majority, the bill of the noble Lord, the member for Paddington, had a two-thirds majority, and the Manchester Bill also a two-thirds majority, and another bill, the Westminster Bill, had a two-thirds majority. Therefore, the Government has adopted as the majority for total prohibition a majority of two-thirds.”

Speaking to the bill, I quoted as well the views expressed by many leading public men in Church and State in support of requiring a strong preponderating vote. I said in reference to the bare majority under which the bylaw might be carried by a very small majority, and in three years repealed by an equally small majority of even six or seven:

“Can any one say that that majority of six or seven means a change of feeling in that locality? No one can. It is simply an accident one way or the other. Should the status of those men and their property, amounting to thousands, to all that these men possess, be changed by the accident of a few votes? It is only after we have had a substantial preponderance of sentiment in that locality that local option should be carried, and once established it should not be changed until the pendulum has swung back the other way, not one per cent., or two per cent., but ten per cent. past the centre, for that is just what it means. We think the provision is a proper one, and propose that it be made law.”

In The Interest of Temperance

The provision requiring a three-fifths vote to carry is one which the Government believes to be in the interest of the better enforcement of the law. To carry a local option bylaw does in itself little for temperance, but a local option bylaw carried with a strong sentiment behind it, and properly enforced when carried, may accomplish much. Local Option was in force in upwards of 100 municipalities in this province. I had before me when introducing the bill a statement showing the municipalities in which local option was then alive. I found that it was still alive in but fourteen municipalities that had adopted it before the year 1900, and that of these fourteen municipalities every solitary one of them carried it by more than a three-fifths vote; in many of these cases a 75 per cent. or 80 per cent. vote. It was carried in those municipalities by a vote that at once met and beat all opposition and secured a proper enforcement, and as a result Local Option in these fourteen municipalities survived every attempt at repeal. The many municipalities that carried it with smaller majorities repealed it at the first opportunity. In introducing the three-fifths clause, we did not seek to legislate for any particular class alone. We took the whole history of sumptuary legislation in this province, and with regard to the requirements of the whole people of the province attempted to shape a bill which should establish a condition of things that would survive the test of time and justify the bill. I predicted then that while the friends of temperance

pointed to the three-fifths clause as the one objectionable feature of the bill, the time would come when with proper support from the temperance party themselves, and with proper enforcement of the law on the part of the Government and the municipalities adopting it, those same people looking back over four or five years' experience would point to the three-fifths clause as the one which above all others had advanced the cause of temperance. I am not sure that that prediction then made will not be literally fulfilled. It is not in the interests of temperance that local option should be adopted by a municipality only to create bitterness and strife between different sections of the people and to be disregarded by the majority; it is in the interests of temperance that local option, if adopted, should be passed by such a majority that it will be observed, and have a fair trial in the community that adopts it.

The Two-thirds Majority Principle in The Churches

Speaking in the Legislative Assembly, on April 10th, in reply to the motion of Mr. T. H. Preston attacking the three-fifths majority clauses of the Liquor License Act, Mr. Hanna pointed out that the same principle was embodied in the constitutions of the principal Churches, in which it must have been inserted with precisely the same object as that which had animated the Ontario Government, namely, in order to discourage inconsiderate changes. Mr. Hanna then quoted the following extracts from the Constitution of the Methodist Church and stated that the same principle obtained in greater or less degree in several of the other churches.

THE METHODIST CHURCH

Extract from the Doctrine and Discipline of the Methodist Church, 1906.

Page 48, clause 94. The General Conference only shall have full power to make Rules and Regulations for our Church under the following limitations and restrictions:

(4) It shall not make any change in the General Rules of our Society except by a *three-fourths majority* and if required by either order of ministry or laity, a *two-thirds majority* of each order, voting separately.

(5) No change shall be made in the Basis of Union affecting constitutional questions or the rights or privileges of ministry or laity except by a *three-fourths majority* of the General Conference, and if required by either ministry or laity a *two-thirds majority* of each order voting separately.

(6) In cases of the foregoing clauses 4 and 5, it is understood that only three-fourths and two-thirds respectively of those voting shall be required, provided that the total number present and voting shall not be less than one-half of all the members reported elected.

Clause 95. The General Conference by a vote of *two-thirds of its members* shall have power to increase or diminish the number or alter the boundaries of the several annual Conferences.

Clause 112. The General Conference may reverse any decision of the Board of Appeal by a *three-fourths majority* of those present and voting provided that the total number of those present and voting shall be not less than one-half of all the members reported elected.

THE GENERAL SYNOD OF THE CHURCH OF ENGLAND IN CANADA

Adopted 1893.

Page 125. No change in the Basis of Constitution shall be considered unless a majority of each Order is present, and no change shall take place unless *unanimously adopted* by both houses or until affirmed by a *two-thirds of the Upper House* and a *two-thirds majority* of each Order of the House of Delegates, and in the latter case it shall stand over for confirmation till the next meeting of the Synod when it must be affirmed by *similar majorities*.



