

I can understand that if prohibition were passed by either party, in the ordinary method of political warfare there might be a disposition on the other side to discredit it. I do not say that either party would do so, but it has sometimes happened in party conflicts. If this question can be submitted to the people as a question on which the best thought of the people can be enlisted, and in regard to which the strongest convictions of the people can be expressed, without regard to their party affiliations, we would have a better and more conclusive and perhaps a more judicial decision than we could get on it in any other way.

#### Is It Constitutional?

The question with which I am confronted is this: Is the referendum which we are now adopting a constitutional mode of procedure. I notice that some of our newspapers take the ground that it is not constitutional, and, as a matter of course, the Government are severely censured for adopting this measure. It is said to be a measure by which we are shirking our responsibilities. It is said to be un-British, a departure from British usages. The fact that we are introducing the measure in this form adds to the responsibilities which I now feel in the discussion on which I have entered. I am not merely introducing a bill for prohibition, but a bill which will be quoted as a precedent for many years to come as to the proper procedure in matters of this kind and in other matters. I am aware what a great divergence it may mean, what a great divergence from the practice of

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this Legislature and of the Legislatures of the colonies since constitutional government was established here. Having some misgivings in the matter, I put myself in communication with Sir John Bourinot, who is admittedly a high authority on constitutional matters. I wrote him as long ago as Dec. 5 last, asking him to express his opinion on two points.

#### Opinions of High Authorities.

First, did he think that the question of a referendum was a constitutional mode of procedure, and secondly, when the opinions of the electors had been expressed, by what procedure could the prerogative of the Crown be put into effect? This House cannot delegate its legislation to anybody, and it cannot delegate the final act by which it enacts its legislation. The State is the Crown and the Legislative Chamber, the Lieutenant Governor in Council and the Legislative Assembly, so that some act within the constitution must follow upon an expression of opinion by the elector in order to give vitality to that act. Sir John Bourinot's memorandum is a little long, but, as I said at the outset, I intend to proceed with deliberation

and calmness, as the question is such an important one, and I shall give in extenso his views. In answering the letter, he said:—"The democratic conditions of the Canadian system of Parliamentary government can be seen in the growing tendency of recent years to depart somewhat under special circumstances from the old principle of Parliamentary sovereignty in legislation, and obtain immediately an expression of opinion on some question of grave import on which there is a great diversity of opinion, and the future success of which must mainly depend on the measure of public support which it will receive in case it is brought into legal operation. It is for this reason that the Dominion Parliament and the Legislatures of several Provinces have, within a decade of years, submitted to

the people at the polls the question whether they are in favor of prohibiting the sale of spirituous liquors within the limits of their constitutional jurisdiction before proceeding to pass legislation dealing with the subject?

#### Plebiscite and Referendum.

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 method 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 a municipality, of giving the people of a district an opportunity of accepting or rejecting the Canada temperance act, of permitting a majority of the ratepayers in a municipal division to establish a free library at the public expense, etc." And here, Mr. Ross continued, he quotes a high constitutional authority, Cooley, of whose standing, I am sure, hon. gentlemen are well aware. He also quotes Dr. James Bryce, an ex-Professor of Oxford University, and one whose opinions also carry great weight, as well as Mr. Dicey, an equally competent authority.

He then refers to the constitution of the Australian Commonwealth, in which there is a provision to the effect that in case of a irrepressible conflict on a bill between the Senate and the House of Representatives—both elective—the Houses are dissolved and an expression obtained from the electorate on this measure alone, which is again submitted to the Legislature, to be settled by a joint vote of both Houses.

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M. A.