

Hepburn Hints Ontario Will Take Such Action If Repeal Plea Rejected

In That Event, Premier Tells Legislature, Onus of Heavy Costs Would Be on Dominion Because of Ottawa's Persistent Refusal to Allow Reference of Dispute to Supreme Court

WON'T BE ENFORCED ANYWAY, HOUSE TOLD

In the event of Ottawa failing to meet Ontario's proposed repeal of the Canada Temperance Act, and by such action forcing the Hepburn Government to seek a Privy Council decision on the controversial issue, the complete onus for the heavy costs of the endless litigation entailed will be upon the Federal Administration, Premier Hepburn warned yesterday.

Speaking in the Legislature in support of the motion to petition for such repeal, the Prime Minister charged that in the past the Dominion authorities had persistently refused the province the co-operation necessary to submit a reference to the Supreme Court of Canada on the constitutionality of the act. Through the medium of the resolution, his government now sought to bring to the issue the finality that was imperative, he said. That another province had agreed to cooperate with Ontario in its petition move, he also indicated.

Mr. Hepburn made it quite clear that, regardless of Ottawa's stand, his government would not enforce the Canada Temperance Act. "I made it quite clear before the election, and I make it clear now," he said.

L.C.A. More Restrictive.

The Prime Minister's declaration of policy arose out of allegation of Leopold Macaulay that in its resolution the government had not taken the "straightforward and obvious course in the controversial issue."

"Why doesn't the Premier carry out the pledge he made before the election respecting the policy to be followed in respect to the application of the act to the Counties of Peel, Perth and Huron, and the District of Manitoulin?" said Mr. Macaulay. "I suggest we are not here to debate the relative merits of the Canada Temperance Act and the Liquor Control Act. At the same time, I am inclined to agree that the L.C.A. is the more restrictive act of the two."

He claimed there were strong indications that the people of those counties wished to cling to their rights under the C.T.A., and again, he said: "The Premier pledged himself that the question would be submitted to the courts and that he would abide by the decision of the courts and take this matter entirely out of politics."

While members of the Conservative Opposition were critical of the resolution procedure, it was rumored, after Premier Hepburn had adjourned the debate, that they are, in effect, "on the spot" and probably will vote solidly for the resolution.

Released From Pledge.

W. A. Dickson (Lib., Perth), only representative of a C.T.A. county who joined in the debate, declared he would support the resolution, adding: "Never in my public life have I been afraid to take a stand where it concerned the welfare of the community, and I am not afraid now."

Both the Premier and Hon. Gordon Conant, Attorney-General, who sponsored the resolution, asserted vigorously that Ottawa's non-co-

operative attitude, in the face of repeated attempts to secure from the Department of Justice joint action placing the act to the test of the courts, had in effect released the government from any pledge which might have been made.

Mr. Conant bluntly interpreted the Minister of Justice's final communication as an indication that any further effort along that line was a "futile quest."

Mr. Macaulay claimed the government, under the authority of the Judicature Act, had the power to submit a reference of its own to the Supreme Court of Ontario, and that the decision could be taken to the Privy Council if the parties wished.

"By this resolution," he claimed, "you are taking away from those counties what I suggest was the very thing the Premier pledged to them, self-determination."

Says Issue Enforcement.

The Premier insisted that the issue was basically one of law enforcement in the C.T.A. counties and, he added, "I think you will agree with me that the Dominion has no jurisdiction over the enforcement of the liquor laws in this Province."

He pointed out that in a stated case in Peel County the judge in that jurisdiction ruled that the L.C.A. was in force, but that in another case in Manitoulin the district judge ruled the C.T.A. was in force. It was useless, he claimed, to bring the many infractions in the district before the magistrates, as they were bound by their judge's decision.

"What will you do if the Dominion won't act on the resolution?" asked Mr. Macaulay.

"We will cross that bridge when we come to it," replied the Premier, smiling. "They have never acted on anything yet and I will be surprised if they do. But I am still hoping."

He submitted there was a precedent for the government's move asking repeal in a decision of the Supreme Court of New Brunswick which declared the act to be ultra vires. This decision, he said, has not been challenged by Ottawa.

Right of Home Rule.

Mr. Conant, in detailed explanation of the policy founded in the resolution, emphasized that the province had the right to "home rule" in the matter of liquor legislation and enforcement, and while there might have been justification for a general enactment for the whole of Canada, as was attempted by the C.T.A. in 1878, the basis of justification had long ceased. He pointed out also that, of the 232 counties and districts in the five provinces where the act might have been invoked, it has been applied only in 17.

He emphasized that the L.C.A. gave the people ample opportunities to express by their votes their desire as to whether or not the L.C.A. should apply to their respective

municipalities by the three-fifth voting regulations.

"We desire to get rid of the C.T.A. for several reasons," he said, "but one of the most important reasons is that the C.T.A. cannot be enforced in Ontario, invoked as it has been and may be by a bare majority of the voters. The outstanding difference between the two laws is that under the federal act the municipalities may vote themselves wet or dry by a majority, whereas under the Ontario act it requires a three-fifths majority."

He strongly maintained that the L.C.A. was the more restrictive of the two acts, citing that under it there were almost ninety offenses as to which the C.T.A. was silent.

Conditions Intolerable.

Under the Ontario Temperance Act, he said, those "who are willing to face the facts and deal with realities rather than ideals will recall and acknowledge that conditions were intolerable. . . . People did not respect the law because it was an arbitrary, vindictive law, creating and punishing offenses for the doing of things which a great many of our people regarded as harmless. The will of our people has been frequently expressed since 1927. They do not want to return to those conditions, and that is what is happening and bound to happen where the Canada Temperance Act is applied. We prefer our own law, a system of liquor control permitting of reasonable opportunities for those who desire to obtain liquor to do so and avoiding the excesses, the lawlessness and the most unsatisfactory conditions which arise from attempts at total prohibition."

Mr. Dickson said he was convinced that people could not be forced to be temperate. Education only would accomplish that. At the present time people could buy liquor outside Perth County and bring it inside and drink all they liked, wherever they liked, under the Canada Temperance Act. "Perth County wants to know where it's at in this muddle," said he.

L. M. Frost (Con., Victoria) saw in the resolution little more than a deliberate move on the part of the Hepburn Government to "pass the buck" to Ottawa on the ticklish question, knowing full well, he added, that "probably nothing will come of it."