THE CITY DIRECTORY.

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THE ACT IN THE COUNTY

JUDGMENT GIVEN AGAINST THE COUNTY WITH COSTS.

Scott Act Counties Obliged to Pay Expenses of License Commissioners—Decision on the Consolidation Question—Ontario Legislation Concerning Enforcement of the Scott Act Valid—Judgment by Chancellor Boyd.

Nov. 22nd, 1887, Boyd, C.—The Canada temperance act, 41 Vic., ch. 16, D., is (with the exception of one or two minor parts) said to be "consolidated in the new revision of the dominion statute (see vol. ii. of the revision appendix i. p. 2,422).

The manner of the consolidation is shown in the same volume: Appendix ii. p. 2,474. In Schedule A of the 2nd vol. p. 2,289, this act is classed as "repealed," i. e. from the date of the coming into force of the revised statutes of Canada (see p. 2,247.) The new revised statutes came into force by Royal proclamation on March 1st, 1887, (50-51 Vic., orders in council cexix.) The purpose of the revision was to revise, classify and consolidate the public general statutes of the dominion, and the repeal of the old statutes incorporated in the revision was rather for convenience of citation and reference by giving a new starting point than with a view of abrogating the former law. That is manifest from a study of the scope of 49 Vic. ch. 4, D., respecting the revised statutes of Canada. Sec. 5, sub.-sec. 2, provides for the appeal of the acts mentioned in Schedule A. above mentioned. But this repeal is not to affect any matter pending at the time of repeal (sec. 7).

By sec. 8 the revised statutes are not to be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law in the acts repealed, for which the revised statutes are substituted; but if on any point the provisions of the revision are not in effect the same as the earlier acts then the revision shall prevail as to all matters subsequent to their taking effect, and as to all prior matters the provisions of the repealed acts remain in force. See also Interpretation act, C.S.C., chap. 1, sec. 7(51). The effect of the revision, though in form repealing the acts consolidated, is really to preserve them in unbroken continuity. The point in hand was long ago passed upon by a jurist of highest repute, Shaw, C.J., in Wright v. Oakley, 5 Met. (Mass.) at p. 406, from which I quote his words: "In terms, the whole body of the statute law was repealed; but these repeals went into operation simultaneously with the revised statutes, which were substituted for them and intended to replace them, with such modifications as were intended to be made by that revision."

There was no moment in which the repealing act stood in force without being replaced by the corresponding provisions of the revised statutes. In practical operation and effect, therefore, they are rather to be considered as a continuance and modification of old laws than as an abrogation of those old and the re-enactment of new ones."

This canon of construction was accepted by the superior court of the United States in Steamship Co. v. Joliffe, 2 Wall. at p. 456, and has been uniformly recognized throughout the American courts. See decision of the chancellor in Middleton v. New Jersey West Line R. W. Co., 11 C. E. Green at p. 273, affirmed in appeal (sub nom) Randolph v. Larned, 12 ib. at p. 562, and State v. Gumber, 37 Wis. at p. 303. The adoption, therefore, of the Canada Temperance act by the municipality of Frontenac has not been changed or interfered with by the revision of the statutes. The alterations made in the phraseology of the act (many of which have been pointed out by Mr. Agnew) are not vital, and do not materially change its character or effect. The scope and effect of the statute as a prohibitory measure remains substantially the same, and I can find no good reason for saying that the country is exempt from its operation.

It is urged that the Ontario legislation in virtue of which this action is brought is ultra vires and void. The statutes in question are R. S. O. ch. 181, secs. 92, 93, 105 and 106, as amended by 41 Vic. ch. 14, secs. 6 and 8; 44 Vic. ch. 27, secs. 11, 12, 13, 14 and 16; 47 Vic. ch. 34, sec. 34 and 50, Vic. ch. 33. These represent a body of legislation relating to municipalities brought under the temperance act, by which ways and means are provided for the enforcement of the act by the application of local funds raised by local taxation or otherwise in the county. It was said that these laws were impolitic, unphilosophical and unjust, and that the machinery thereby created was unworkable. But the sole matter for my consideration is whether this legislation is of the proper competence of the province, in view of the provisions of the British North America act. All other matters as to sound or unsound principles, wise or unwise political scope, are for the electorate and their representatives as legislators assembled.

All the preliminaries required by the Ontario statutes appear to have been observed. The license commissioners are appointed for a district somewhat less than the whole county of Frontenac, but no part of their district is outside of that municipality. The objection that the whole area of the county is to be taxed for this license district is not one affecting the power of this province so to legislate.

As stated by Sir Montague Smith in Russell v. The Queen, 7 App. Cas. at p. 835 the effect of the Canada Temperance act when brought into force in any county is to prohibit the sale of intoxicating liquors except in wholesale quantities or for certain specified purposes, to regulate the traffic in the excepted cases, and to make sales of liquors in violation of the prohibitions and regulations contained in the act, criminal offences punishable by fine, and for the third or subsequent offence by imprisonment. Now the act is brought into force in any municipality by a majority of the votes of the therein qualified electors, and when so introduced it becomes a part of the municipal law relating to public order, safety and good government in that locality. The general law as to the prohibition respecting all Canada which can only be enacted by the dominion being localised by municipal suffrages its enforcement becomes also a matter local importance in the province within the meaning of the British North America act, sec. 92, item 16.

The enforcement of the act in the adopting municipalities involves questions of local police regulation. For the purpose of ensuring uniformity and efficiency of action, the prosecution of offenders may be properly relegated to the hands of provincial officers for the appointment and payment and governance of whom laws may be made under British North America act, sec. 92, item 4. The expense of carrying the act into effect within the adopting county is a burden to be borne by the ratepayers of that locality so that the legislation now questioned may also fall within the scope of the British North America act, sec. 92, item 8, as pertaining to municipal institutions in the province. This body of Ontario legislation is not in conflict or competition with the provisions of the general law enacted by the dominion, but in furtherance of it as to its local application and details. Legislation for the well-being of the municipalities in order to the fair and equal enforcement of the prohibitory measures introduced by themselves does not to me appear to be *ultra vires* of the province, even though in one aspect it be supplementary to the general legislation of the dominion on that subject. In my opinion each province is competent so to legislate, if not restricted by any constitutional limitation embodied in or deducible from the British North America act, and such limitation I have been unable to discover. My conclusion, then, in brief, is that the general prohibitory law, being localised by municipal option, may be enforced through the medium of provincial officers to be appointed and paid for according to provincial legislation. (Richardson v. Ransom, 10 O. R. at p. 392.)

It was also contended that the estimates were not approved of by the proper officer, but only by his deputy. The estimates, however, bear the signatures of the provincial secretary and of Mr. Totten, acting for the provincial treasurer.

By 41 Vic., ch. 14, sec. 6, sub-sec. 2, the estimate of the license commissioners was to be approved of by the provincial treasurer. This duty was, however, by order in council of July 20th, 1887, transferred to the provincial secretary as authorized by R.S.O. ch. 14, sec. 3. We have in fact therefore this estimate sanctioned by the deputy of the provincial treasurer and by the provincial secretary in person. The approval or audit of the estimates was regarded as an administrative act that might be delegated by Spragge, C., in license commissioners of Prince Edward vs. county of Prince Edward, 26 Gr. at p. 457, and if so, there is no doubt the sanction of the deputy was sufficient (see intepretation act R.S.O. ch. 1, sec. 8, sub-sec. 26, p. 8.) But without this there is the proper signature of the provincial secretary which concludes the matter, and there is no evidence to contradict its finality.

An argument was made as to the arrears brought forward from the former year (1886 7) as "a deficiency." It appears that this was the whole sum estimated for that year, and that it was not diminished by any receipts for any sum so as to reduce it to a deficit in the usual sense. But, after all, that is but a matter of form, as it could be sued for a substantive debt upon the estimates of the former year.

The main matters now under consideration have been disposed of in the same way as I have done in the case License Commissioners of Prince Edward v. County of Prince Edward, 26 Gr., and again by my brother Armour in the License Commissioners v. Norfolk (Nov. 1, 1887), but I was asked to give an independent judgment upon the points urged, and this I have endeavoured succinctly to do.

The result is that judgment should be for the plaintiff, with costs.

Rabbits in Australia.

The "rabbit question" is still a burning one in several of the Australian colonies. Victoria, Queensland and New South Wales are each of them suffering from the pest, and their governments are much exercised as to the best means of abating, not to say extirpating it. In New South Wales especially, where many of the pastoral districts have been almost taken possession of by the little mischiefs, a great deal of money has been spent in attempts to kill them off, without, apparently, much effect. A considerable army of rabbit killers has been in the field for two or three years back, and the ranks of the enemy have hardly been thinned. What the precise method adopted to catch and kill is we are not aware, but the expense of the protracted campaign, compared with the number of dead, does not say much for its efficiency. Last year the payments in New South Wales amounted to £146,000, being at the rate of 1s. per rabbit slain. And yet 3,000,000 is a large number to have bagged in a twelvemonth, and the carcasses might surely have kept a soup kitchen going merrily in the towns of the colony, where so many have been out of employment, and presumably in want of a good dinner.

The fact that such an immense slaughter has made little or no impression on the rabbit swarms shows to what proportions they have grown, how detrimental to the farming and grazing interests they must be, and how tremendous a task that of their extermination has become. Some other and more effective way of dealing with the pest is urgently demanded. One ingenious suggestor proposes jackals. These animals, it appears, hunt hares and rabbits as cats hunt mice. An instance is cited of their having in a few years cleared a similarly infested district of Algeria. Import jackals in sufficient quantity, set them adrift in the overrun district, and the thing is as good as done. The Australians will probably be chary of sanctioning any novel importation. Who would have suspected that the introduction of a few innocent rabbits to give a home look to some Victorian farm would have given rise to a difficulty which has swollen almost to the dimensions of an Irish one? Would the jackal, in its turn, not be likely to become as troublesome as the rabbit?—Glasgow Evening Times.

The Czar in Denmark.

Of all the crowned and uncrowned princely heads in the castle of Fredensborg, Zealand, Denmark, none attracts so much attention as the czar of Russia. The unusual extension of his sojourn in that secluded spot in the month of October is easily understood if the fact is known that it is the only place on earth where the mighty ruler of the largest empire that now is or ever was feels at ease and can allow himself to go about and behave like other human beings without the fear of nihilistic attacks harassing his mind. Although he has surrounded his castle of Gatchina, near Petersburg, with walls and guards believed to be impregnable, death from a murderer's hand has several times already stared him in the face in his very private study in that palace. And wherever he goes within his own empire things are worse and more threatening than at Gatchina. But at Fredensborg his fear leaves him, and he is familiar and human like other men.

The other day the whole family circle—some three dozen in number—made an excursion to Helsingoer by train. The czar invited his sister-in-law, Princess Marie, of Orleans, to walk with him, and the couple actually traveled the whole distance, some nine miles, and enjoyed the walk. On their arrival they went to the public restaurant at the depot and had their lunch by the side of a drummer, who was not at all aware of the high rank of his table companions. All the children of the princes—Danish, Greek and English—are unanimous in the opinion that the czar is their "very best uncle," and whenever they have a chance they will crowd around him. The other day a few hundred Danish children came to celebrate the birthday of their own queen Louise. They sung, and the czar, stepping into their midst, joined in the song. The queen desired the song to be repeated, when the czar placed himself in front of the little ones, and, acting the director, beat time to the children's song.—Chicago Herald.

Breck & Booth's is the cheapest place for pine blocks, bunchwood, hard or soft wood, cut or un-cut.