



REFERENDUMS IN ONTARIO: AN HISTORICAL SUMMARY Research Paper 07-01 (revised July 2007)

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On April 17, 2007, the Legislative Assembly of Ontario passed Bill 155, the *Electoral System Referendum Act, 2007*. Bill 155 authorized and set rules for the holding of a province-wide referendum to be held should the Ontario Citizens' Assembly recommend an electoral system different than Ontario's current one. The proposed referendum would take place in conjunction with the Ontario general election currently scheduled for October 10, 2007. On May 15, 2007, the report of Ontario's Citizens' Assembly on Electoral Reform was tabled in the Legislature, with a recommendation that Ontarians choose a new mixed member proportional representation electoral system.

Of all Canadian provinces, Ontario has gone the longest time (83 years) since its last referendum, held in 1924. Since then, Ontarians have voted in two national referendums: the Conscription vote of 1942 and the referendum on the Charlottetown Accord in 1992. This research paper provides a summary of Ontario's previous referendum experience by discussing provincial votes held in 1894, 1902, 1919, 1921, and 1924.

CONTENTS

Introduction	2
Referendum under the <i>Prohibition Plebiscite Act</i> (1894)	2
Referendum under the <i>Liquor Act</i> (1902)	4
Referendum under the <i>Temperance Referendum Act</i> (1919)	7
Referendum under the <i>Canada Temperance Act</i> (1921)	10
Referendum under the <i>Ontario Temperance Act, 1923</i> (1924)	12

Introduction

In addition to participating in the three federal referendums since Confederation, Ontario voters have voted in five province-wide referendums. In each case – as in a majority of province-wide referendums that have been held in Canada – the subject matter concerned the importation, manufacture and/or sale of liquor and/or beer. Interestingly, neither the enactment of prohibition in 1916, nor its repeal in 1927, was the direct result of any of the five provincial referendums; the 1919 referendum, though, was originally provided for in the 1916 *Ontario Temperance Act*. The results on all questions put to the public were in favour of implementing or continuing prohibition measures, although the margin was quite narrow in the last vote, in 1924.

Referendum under the *Prohibition Plebiscite Act* (1894)

DATE: January 1, 1894

QUESTION:

Are you in favour of the immediate prohibition by law of the importation, manufacture and sale of intoxicating liquors as a beverage?¹

STATUTORY BASIS: *Prohibition Plebiscite Act*. S.O. 1893, c. 41, Sched. A.

The Act established that the vote would be held on the date set by law for municipal elections. There were no provisions in the Act to indicate that the government would be bound by any specific result. Unmarried women and widows whose names appeared on the voters list as qualified to vote at the election of municipal councillors were permitted to vote in the referendum using a ballot identical to that used by men, but differently coloured (blue as opposed to yellow).²

¹ *The Prohibition Plebiscite Act*, S.O. 1893 (56 Vict.), c. 41, Sched. A.

² *The Prohibition Plebiscite Act*, S.O. 1893 (56 Vict.), c. 41, s. 4 and Sched. A and E. Unmarried women with property had enjoyed a full municipal franchise since 1884; married women would not receive the right to vote in municipal elections until 1917.

RESULTS:³

Response	No. of Votes Polled	% of Votes Polled
Yes	192,489	63.5
No	110,720	36.5
Total	303,209	100.0

The following figure showing the plebiscite results for many, but not all, Ontario municipalities was presented in the *Globe* newspaper of January 17, 1894:

Cities.	Male votes cast.		Female votes cast.		Total majorities		Votes unpolled		Provincial Election, '90.		
	Yes.	No.	Yes.	No.	For.	Agst.	Male.	Female.	Votes polled.	Votes on list.	Votes unpol'd.
Bellefille	829	538	153	26	418	..	1,508	267	1,511	2,674	1,163
Brantford	1,510	658	185	36	1,011	..	1,157	272	2,029	3,029	1,000
Hamilton	3,907	2,701	487	105	1,495	..	4,210	922	8,136	10,494	2,358
Kingston	1,217	914	195	36	462	..	1,700	373	3,229	5,712	2,483
London	2,444	1,805	338	45	1,022	..	3,367	683	5,343	7,742	2,399
Ottawa	2,827	2,204	268	64	737	..	5,423	724	5,343	5,462	4,119
St. Catharines ..	539	440	78	22	146	..	1,085	362	1,529	2,801	1,272
St. Thomas ..	702	744	99	9	48	..	1,085	245	1,705	2,820	1,115
Stratford	631	515	79	15	180	..	1,520	229	1,500	2,326	817
Toronto	10,915	9,171	1,003	281	2,463	..	22,077	4,719	31,166	43,351	12,185
Windsor	598	724	76	54	..	104	1,742	200	1,282	2,768	1,486
Totals	20,110	20,507	2,971	696	7,892	104	45,664	9,061	57,439	85,437	27,998

Separate Towns.	Male Votes cast.		Female votes cast.		Total majorities		Votes unpolled.	
	Yes.	No.	Yes.	No.	For.	Against.	Male.	Female.
Niagara Falls	268	239	33	10	52	..	549	67
Peterboro'	741	385	81	13	421	..	1,569	314
Sault Ste. Marie..	179	154	10	5	30	..	676	41
Chatham	757	630	118	37	208	..	922	201
Prescott	155	240	22	3	..	66	340	102
Toronto Junction..	459	275	34	5	215	..	632	163
Windsor	223	113	8	1	117	..	72	12
Aylmer	274	121	49	1	180	..	211	66
Oshawa	431	180	57	7	301	..	373	101
Cobourg	257	163	47	5	130	..	686	237
Rat Portage	237	161	4	0	80	..	665	19
Durham	151	80	19	3	78	..	155	18
Warkerville	19	138	2	1	..	118	85	2
Trenton	230	106	38	7	155	..	603	90
Perth	172	95	32	3	106	..	308	134
Total	4,532	3,033	553	101	2,075	184	8,027	1,661

Counties.	Male Votes cast.		Female votes cast.		Total majorities		Votes unpolled.	
	Yes.	No.	Yes.	No.	For.	Against.	Male.	Female.
Carleton	2,513	1,596	88	23	983	..	3,643	207
Essex	2,740	1,322	186	30	1,576	..	4,314	203
Lincoln	2,491	1,236	136	16	1,315	..	1,606	374
Norfolk	3,172	1,297	222	10	2,177	..	3,015	470
Peel	2,491	1,475	168	26	1,158	..	2,339	348
Westworth	3,169	1,145	189	22	2,191	..	2,803	555
Totals	16,576	8,041	980	123	9,400	..	18,320	2,557

³ Ontario Legislative Assembly, *Return from the Records of the Votes Cast "Yes" and "No" on the Question of Prohibition*, Sessional Paper No. 70, 4th Session, 7th Legislature, tabled February 28, 1894.

HISTORICAL FOOTNOTE:

In 1896, the decision of the Privy Council in *Attorney-General for Ontario v. Attorney-General for the Dominion* ([1896] A.C. 348, at p. 371), established that provinces do not have the authority to prohibit the importation of liquor.⁴ This decision first enumerated the “national dimensions” interpretation of the so-called “peace, order and good government” (p.o.g.g.) clause in Section 91 of the *Constitution Act, 1867* (formerly the *British North America Act, 1867*).

Referendum under the *Liquor Act* (1902)

DATE: December 4, 1902

QUESTION:

Are you in favour of bringing into force Part II of *The Liquor Act, 1902*?⁵

STATUTORY BASIS: *Liquor Act, 1902*. S.O. 1902, c. 33.

The Act consisted of two parts. Part I contained provisions authorizing the holding of the referendum; Part II contained legislation that, in the words of the *Globe* newspaper on December 3, 1902,

embodies as much prohibition as a Provincial Legislature is known to have power to enact. It abolishes bar-room drinking and club-drinking, and its provisions against the sale of liquor in eating houses, dives and other such places are far severer, more comprehensive and easier of enforcement than are the provisions of the present license law which seek the same end. The liquor act will not only abolish the legal sale of intoxicating drinks, but will also make almost impossible the illicit sale of such drinks, thus practically wiping out the whole treating system, which in this Province is either the primary or secondary cause of nearly all the intemperance which is so universally deplored.

⁴ Noted in *Air Canada v. Ontario (Liquor Control Board)*, [1997] 2 S.C.R. 581.

⁵ As noted in *Return of Votes, Ontario Gazette*, Vol. 36, No. 5, January 31, 1903, pp. 136-38 and Vol. 36, No. 6, February 7, 1903, pp. 171-73. The question as set out in the Act was as follows: “Are you in favour of bringing into force the Liquor Act, 1902?”

Under the Act, passage of the referendum required an affirmative vote in the majority that also exceeded one-half of the total votes cast in the 1898 general election,⁶ calculated in the following manner:

- adding all the votes cast in the 1898 Ontario general election, except for the electoral district of Ottawa;⁷
- adding one-half of the votes polled for candidates in the electoral district of Ottawa in the 1898 election; and
- adding, for electoral districts in which in 1898 there was an acclamation, the number of votes polled in the last contested election prior to 1898 in those districts.⁸

This total was to be certified by the Clerk of the Crown in Chancery. The Act provided that should the referendum pass in the manner prescribed:

the Lieutenant Governor in Council shall issue his Proclamation in the *Ontario Gazette* declaring Part II of this Act to be in force on, from and after the first day of May, 1904 and Part II of this Act shall come into force and take effect on, from and after the said date accordingly⁹

RESULTS:¹⁰

Response	No. of Votes Polled	% of Votes Polled
Yes	199,749	65.9
No	103,548	34.1
Total	303,297	100.0

The vote does not appear to have been held in conjunction with any other election, which may explain the requirement that any majority in the affirmative also be approximately equivalent to one-half the turnout at the

⁶ At the time the legislation passed (it received assent on March 17, 1902), the 1898 contest was the previous general election. However, on May 29, 1902, the tenth general election continued the Liberal government under new leader George William Ross.

⁷ In the 1898 election, the electoral district of Ottawa elected two seats.

⁸ *Liquor Control Act, 1902*, S.O. 1902, c. 33, s. 104 (2).

⁹ *Ibid.*, s. 104 (1).

¹⁰ Ontario Legislative Assembly, *Return from the Records of the Votes Cast "Yes" and "No" for and against the Adoption of "The Liquor Act, 1902,"* Sessional Paper No. 48, 1st Session, 10th Legislature, tabled March 10, 1903.

general election in 1898. According to the *Globe* of December 8, 1902, the actual turnout represented no more than "about 30 percent of the votes of the whole electorate." Therefore, the resulting affirmative vote did not bind the government.

VOTE OVER ONE HUNDRED AND FIFTY THOUSAND.

Prohibition Majority Greatly Increased by Later Returns—The Official Declarations Add Many Thousands to the Total Vote—Northern Districts Still Have Scanty Totals.

RECAPITULATION.

Total Vote Reported:—

FOR	150,576
AGAINST	85,427

Majority for..... 65,149

Official returns are now available in a great many of the counties and all of the cities, and the result is a very great increase in the total vote cast for prohibitory legislation. The summary compiled at 1 o'clock this morning shows that the vote for the act totals 150,576. As the northern sections of the Province have sent very incomplete returns, and some of the more thickly-settled counties have also to complete their returns, the total may yet be increased to 160,000, with probably 90,000 against. This vote is considerably over that of the Dominion plebiscite of 1898, when the total was 152,337, while the nays will apparently fall short of the total then secured against prohibitory legislation by fully 20,000.

An important step has been taken in the enactment of the Ontario Temperance Act, which prohibits the sale of intoxicating liquors as beverages in the Province to the extent of the powers of this Legislature; such legislation to remain in force until a vote in respect to repeal after the war, and until such time thereafter as the people may ordain. This measure has been adopted as a necessity of war, to conserve our strength for the great struggle in which we are engaged. In due time, when our soldiers have returned from the front, and the legislation has been given a full and proper trial, the electors will be called upon to pronounce finally upon it in the light of experience and knowledge.

Ontario Gazette, April 27, 1916

Referendum under the *Temperance Referendum Act* (1919)

DATE: October 20, 1919

QUESTIONS:

1. Are you in favour of the repeal of the *Ontario Temperance Act*?
2. Are you in favour of the sale of light beer containing not more than two and fifty-one hundredths per cent alcohol weight measure through Government agencies and amendments to the *Ontario Temperance Act* to permit such sale?
3. Are you in favour of the sale of light beer containing not more than two and fifty-one hundredths per cent alcohol weight measure in standard hotels in local municipalities that by a majority vote favour such sale and amendments to the *Ontario Temperance Act* to permit such sale?
4. Are you in favour of the sale of spirituous and malt liquors through Government agencies and amendments to the *Ontario Temperance Act* to permit such sale?

STATUTORY BASIS: *Temperance Referendum Act*, 1919. S.O. 1919, c. 61, s. 2.

The Act provided for a vote on the questions to be held on a day to be proclaimed by the Lieutenant Governor in Council. As noted above, the Whitney government had brought in the *Ontario Temperance Act* (i.e., enacting ‘Prohibition’) in 1916. Section 147 (1) of the Act required a vote to be held in three years on the repeal of the Act (i.e., Question 1). The *Temperance Referendum Act, 1919* amended s.147 (1) so that the additional three questions could also be put to the public. The referendum was held in conjunction with the fifteenth Ontario general election.

All four questions were binding on receiving an affirmative vote by “a majority of the voters voting thereon” and the Act prescribed, in each case, what would be required should such a vote be received:

- (1) ... the *Ontario Temperance Act* shall be repealed, and such repeal shall take effect on such date as may be fixed by the Lieutenant-Governor in Council by proclamation, and upon the date fixed by the proclamation of the Lieutenant-Governor in Council, *The Liquor License Act* as amended prior to the passing of the *Ontario Temperance Act*, shall be revived and shall be in force in Ontario, and all by-laws and regulations made thereunder, including any by-laws and regulations passed or made under section 137 of the Act, or any provision for which the said section was substituted, shall be in force and shall be in effect until altered or modified by lawful authority, as if the *Ontario Temperance Act* had not been passed.
- (2) ... light beer as hereinafter defined, shall be sold by sales agencies established by the Board of License Commissioners for Ontario subject to such regulations as the Board, with the approval of the Lieutenant-Governor in Council may from time to time prescribe, respecting such sale, anything in this Act to the contrary notwithstanding.
- (3) ... licenses may be issued by the Board of License Commissioners for Ontario under and subject to such regulations as the Board may, with the approval of the Lieutenant-Governor from time to time may prescribe, authorizing the sale of light beer, as hereinafter defined, in standard hotels in any municipality where a majority of the voters voting thereon shall have voted in favour of the affirmative to the third question.¹¹
- (4) ... liquor or liquors as defined in this Act shall be sold by sales agencies established by the Board of License Commissioners for Ontario, subject to such regulations as the Board, with the approval of the Lieutenant-Governor in Council may from time to time prescribe respecting such sale, anything in this Act to the contrary notwithstanding.

¹¹ In addition, if the third question were to receive a majority, local municipalities would have until December 31, 1921 to submit by-laws, subject to existing legislative provisions regarding local option by-laws, with respect to the sale of light beer in standard hotels, or the prohibition of the sale of light beer in hotels, subject to the approval of a majority of the voters voting upon the by-law.

RESULTS:¹²

Question 1 (repeal of *Ontario Temperance Act*)

Response	No. of Votes Polled	% of Votes Polled
Yes	369,434	32.4
No	772,161	67.6
Total	1,141,595	100.0

Question 2 (sale of light beer through government agencies)

Response	No. of Votes Polled	% of Votes Polled
Yes	401,893	35.2
No	741,007	64.8
Total	1,142,900	100.0

Question 3 (sale of light beer in standard hotels)

Response	No. of Votes Polled	% of Votes Polled
Yes	386,680	33.8
No	755,933	66.2
Total	1,142,613	100.0

Question 4 (sale of spirituous and malt liquors through government agencies)

Response	No. of Votes Polled	% of Votes Polled
Yes	449,370	39.3
No	693,524	60.7
Total	1,142,894	100.0

None of the questions having received an affirmative response, the government was not required to take any action.

¹² *Ontario Gazette*, Vol. 52, No. 49, December 6, 1919, pp. 2932-34.

REFERENDUM IN ONTARIO

The Ontario Referendum Committee on compiling various partial returns from many constituencies in Ontario declare that the aggregate majority for the "No's" on the four questions will run about one hundred thousand.

The total Ontario Referendum vote at an early hour this morning was very incomplete, but is about as follows:

	YES.	NO.
1 Are you in favor of the repeal of the Ontario Temperance Act?	103,031	114,367
2 Are you in favor of the sale of light beer containing not more than two and fifty-one one hundredths per cent. alcohol, weight measure, through Government agencies, and amendments to the Ontario Temperance Act to permit such sale?	109,555	108,317
3 Are you in favor of the sale of light beer containing not more than two and fifty-one one hundredths per cent. alcohol, weight measure, in standard hotels in local municipalities that by a majority vote favor such sale, and amendments to the Ontario Temperance Act to permit such sale?	105,713	112,334
4 Are you in favor of the sale of spirituous and malt liquors through Government agencies, and amendments to the Ontario Temperance Act to permit such sale?	114,866	105,819

The above are largely city returns.

Referendum under the *Canada Temperance Act* (1921)

DATE: April 18, 1921

QUESTION:

Shall the importation and the bringing of intoxicating liquors into the province be forbidden?¹³

STATUTORY BASIS: The referendum was conducted under the auspices of the *Canada Temperance Act* (Part IV) and the *Dominion Election Act* (S.C. 1919-20, c. 46, s. 101).

¹³ *Canada Gazette*, Vol. 54, No. 48, May 28, 1921, pp. 5145-46.

As noted above, the Judicial Committee of the Privy Council had ruled in 1896 that provinces did not have the authority to prohibit the importation of liquor. Part IV of the *Canada Temperance Act* made it possible for the dominion government to enact such a prohibition on behalf of any province requesting such a prohibition after it held a referendum and received an affirmative response to the question. Other provinces – including Alberta, Manitoba, Nova Scotia, and Saskatchewan in 1920, and New Brunswick and Prince Edward Island in 1921 – also held referendums under these provisions. Ontario’s vote was originally scheduled for October 25, 1920 (as in Alberta, Nova Scotia and Saskatchewan), but concerns about the adequacy of the voters list led Ottawa to reschedule the referendum for April 18, 1921. Prior to the vote, on April 2, 1921, the *Globe* newspaper offered the following opinion:

The Canada Temperance Act is not a new or untried measure. It has been operative over wide areas for a generation. As amended and modified by the supplementary legislation of the Province it will unquestionably prove effective in shutting off the flood of liquor now flowing into Ontario from the warehouses of Quebec and of the United Kingdom. The moral and economic loss following upon that traffic is very great. If the people of Ontario are prepared to vote as they talk they will wipe out the traffic forever on April 18.

The “supplementary legislation of the Province” referred to in the above passage was the *Act to Amend the Ontario Temperance Act*, S.O. 1921, c. 73, specifically section 8, which added a new section 139a to the Act in anticipation of federal action in response to an affirmative referendum vote.

RESULTS:¹⁴

Response	No. of Votes Polled	% of Votes Polled
Yes	540,773	59.1
No	373,938	40.9
Total	914,711	100.0

The vote does not appear to have been held in conjunction with any other election. The result was seen to be a complete victory for total or “bone-dry” prohibition. Nonetheless, the issuance of the Order in Council by the federal Cabinet that would implement the prohibition of the importation of liquor

¹⁴ Ibid. and *Ontario Gazette*, Vol. 54, No. 26, June 25, 1921, p. 1091.

into Ontario was delayed. The June 17, 1921 edition of the *Globe* newspaper indicated that the Order in Council banning the importation of alcohol would be published in the *Canada Gazette* on Saturday (the following day), and come into effect on July 18, 1921.

HAVE DRY ONTARIO JULY EIGHTEEN

Proclamation Likely to be in Canada Gazette on Saturday

(Staff Correspondence of The Globe.)

Ottawa, June 16.—Ontario will go dry on July 18, according to present plans of the Government. Next Saturday's Gazette is intended to carry the order in Council proclaiming that Ontario shall go dry 30 days later.

The same number is to carry a proclamation giving the Secretary of State power to call a referendum in New Brunswick under the Canada Temperance Act.

Another proclamation will give him the same power to set a date for a plebiscite in the city of Quebec on local option, which obtains in that city, and which the Provincial Government wishes to get rid of so that its own law can function unimpeded. The citizens of Quebec made a petition for this poll on the Scott Act.

Referendum under the *Ontario Temperance Act*, 1923 (1924)

DATE: October 23, 1924

QUESTIONS:¹⁵

1. Are you in favour of the continuance of the *Ontario Temperance Act*?
2. Are you in favour of the sale as a beverage of beer and spirituous liquor in sealed packages under government control?

¹⁵ *Ontario Gazette*, Vol. 57, No. 38, September 20, 1924, p. 1889 and Vol. 57, No. 39, September 27, 1924, p. 1927.

Voters were asked to indicate their support for *either* question 1 *or* question 2, but not both.

STATUTORY BASIS:

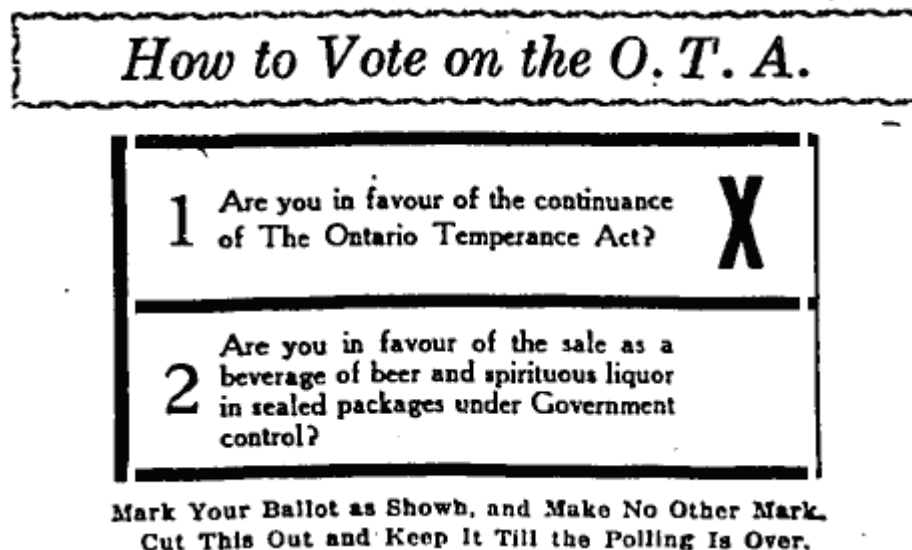
Section 2 of the *Ontario Temperance Act, 1923* authorized the Lieutenant-Governor in Council to put forward at any time questions dealing with the repeal and or amendment of this Act or otherwise dealing with the sale, possession or transportation of liquor in Ontario. The effect of the vote was advisory, as indicated by sub-section 147 (4):

Nothing in this section shall be construed as affecting or limiting, or intended to affect or limit the powers, rights and privileges of the Crown or the Legislature or of the office of the Lieutenant Governor.

RESULTS:¹⁶

Response to	No. of Votes in Favour	% of Votes in Favour
Question 1	585,676	51.5
Question 2	551,761	48.5
Total	1,137,437	100.0

The referendum does not appear to have been conducted in conjunction with any other election. On the eve of the vote, the editorial page of the *Globe* newspaper offered readers the following advice:



¹⁶ Ontario Legislative Assembly, *Returns from the Records of the Plebiscite Holden Under The Ontario Temperance Act, 1924*, Sessional Paper No. 50, 2nd Session, 16th Legislature, tabled March 13, 1925.

As the results show, a narrow majority voted in favour of the continuance of prohibition, but the small margin was perhaps a sign that the *Ontario Temperance Act's* days were numbered. The *Globe* noted on the day after the referendum that, on the basis of initial returns, voters in the cities, from which the current government drew much of its support, had voted “wet” (i.e., a majority for question 2). The following passage is from the front page of the Saturday October 25, 1924 edition of the *Globe*:

Ontario will remain totally dry. There will be no liquor concessions to Toronto, Hamilton, Ottawa, Windsor and other localities casting overwhelming “wet” majorities, according to Premier Ferguson’s definite announcement last evening.

Not a word upon the subject would the Premier utter on Thursday night or Friday morning until he had consulted with his Cabinet colleagues. At noon yesterday the Cabinet met, and immediately upon its conclusion the Premier handed out a prepared statement, the effect of which was that the O.T.A. would remain upon the statute book, and that there would be absolutely no concession to the “wets.”

Only four months later, on February 10, 1925, the Speech from the Throne indicated the government’s intention to increase the strength of beer permitted for sale in the province. Reporting on March 5, 1925 on the throne speech debate, much of which focused on the “real beer” proposals, the *Globe* noted that Premier Ferguson indicated “there will be no more plebiscites – cabinet will take all responsibility and if the O.T.A. (*Ontario Temperance Act*) is to be in politics, the Conservatives are ready.”

HISTORICAL FOOTNOTE:

In the 1926 election, the Ferguson government maintained a strong majority (72 of 112 seats) while its popular vote increased by 8%. In 1927, the Legislature ended prohibition in Ontario by passing the *Act to Regulate and Control the Sale of Liquor in Ontario*, which repealed the *Ontario Temperance Act* and brought in government control of liquor sales.