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CONSTITUTIONAL LAW—LOCAL OPTION—POWER OF LEGISLATURE TO REGULATE AFTER VOTE BY COUNTY.—*Ex Parte Pricha,* 70 So. (Fla.) 406.—The constitution of Florida provided that the counties might determine whether the sale of intoxicants should be prohibited therein. After a county had voted to allow the sale, the legislature enacted that in those counties where the sale was permitted, no intoxicants could be sold in less quantities than one half pint, and then only in sealed receptacles, and not to be consumed on the premises. *Held,* such law is constitutional. Taylor, C. J., and Ellis, J., dissenting.

The legislature has the power to regulate the liquor traffic in the absence of a constitutional provision to the contrary. *People v. Schafrau,* 168 Mich. 324. The power to regulate is not the power to prohibit. *Andrews v. State,* 50 Tenn. 165; *Mernaugh v. City of Orlando,* 41 Fla. 433. Nor does the power to regulate confer power virtually to prohibit. *Ex parte Patterson,* 41 Tex. Cr. Rep. 256. As this statute neither prohibits nor virtually prohibits the liquor traffic, it seems that it is a valid exercise of the police power. The construction put upon this local option clause of the constitution—that it merely gives the power to decide whether or not the sale shall be absolutely prohibited—is in accord with that of other courts. The Kentucky court in construing a similar statute, says in *Board of Trustees v. Scott,* 125 Ky. 545: "The only thing that ever has been submitted is: Shall the sale be prohibited? If the vote is that it shall not be, then the sale is nevertheless subject to police regulation by the state. . . . . In fine, the effect of a 'wet' vote has always been construed to be that the legislature is then left a free hand to deal with the traffic in such community as may seem to it to be expedient."

R. C. W.

CONDEMNATION PROCEEDINGS—PROSECUTION OF APPEAL.—IN MATTER OF CITY OF NEW YORK v. GREEN, NEW YORK LAW JOURNAL, JAN. 19, 1916.—*Held,* In condemnation proceedings, the owner of the land may accept payment of award and still prosecute an appeal on ground that award was insufficient.

It is settled, as a general rule, that after a party receives payment of a judgment or decree, he cannot appeal therefrom, or prosecute an appeal theretofore taken. *Ducy v. Patterson,* 119 Am. St. Rep. (Colo.) 284; *People ex rel. Dunn v. Burns,* 78 Cal. 645. The reasons for the general rule as tersely stated in *Paine v. Woolley,* 80 Ky. 568 are as follows: "If the collection of the judgment be right, the appeal must be wrong, and if the appeal is well taken, the judgment ought not to have been collected." There is an exception to the general rule, namely, where the amount found in favor of the litigant by the judgment or decree is due him in any event, the only question to be determined by the appellate court is whether or not he is to receive a greater or an additional sum; then his acceptance of the amount awarded him by the judgment which he seeks to review does not preclude him from prosecuting a writ of error to obtain more. *Reynes v. Dumont,* 130 U. S. 354; *Jackson v. Brockton,* 182 Mass. 26. The distinction between the cases in which the acceptance of the fruits of the judgment bars the appeal, and those that do not is, whether or not