

affirms of this law only that which is true of every penal statute forbidding an act which, without the law, might be legal—as for instance the law forbidding the sale of lottery tickets in the commonwealth, and many other similar statutes which might be named. But precisely the same charge can be made against the law which the petitioners ask the legislature to pass. For under the most liberal administration of that law, not more than one man in a thousand will be able to obtain a license, and the petitioners ask that “the provisions of the existing Statutes shall remain in force against all persons manufacturing or selling contrary to law, whether without license or in violation of their license.” And more than this, by the terms of the proposed law, each city and town is to have the power to determine whether or not to permit the sale of these “articles of commerce” within its own territorial limits. Now, if it is an unauthorized assumption of power, and an unjust interference with the rights, either of the seller or buyer, or both, for a majority of the people of the commonwealth to declare, by a single and direct act of their legislature, that intoxicating liquor shall not be sold in this State, to be used as a beverage, how is it any the less so for that same majority to establish the same prohibitory rule, or law, by voting directly upon the question in the several municipalities of the commonwealth, or according to the provisions of the law proposed by the petitioners? And if it is an act of oppression—an interference with private rights for the majority—to establish such a law for all the towns, it would be equally oppressive for majorities, in half, or one-quarter, of the towns, to establish it as a rule of action for all the citizens of such towns as should adopt the law. The objection we are now considering originates, as before stated, in a total misapprehension of the theory upon which this class of laws is founded—founded, as we affirm, on “*that great conservative police power which lies at the foundation of the prosperity of every State.*”

Society and the State have the right to protect themselves against great and overwhelming evils; and if to prevent these evils it becomes necessary to prohibit the sale of intoxicating beverages, the use of which is the known cause of such evils, even if the prohibition results in depriving the individual citizen of the power, to a greater or less extent, to buy and use those articles, that is a deprivation to which it is his duty to submit, and he cannot call upon the State, or the whole society, to forego the execution of its great right of self-preservation, or its duty “to prevent and redress crimes against individuals.”

Again it is urged, as if it were a valid objection against the law, or system of laws we are now considering, that men cannot be made moral by the act of the legislature. That is true; but then it is clearly within the legitimate scope and duty of legislation to guard against the corruption of morals. Men are not made rich by act of Congress or Parliament, but it is within the acknowledged province of legislation to prevent the causes of poverty, and to make it impossible, or at least unlawful, for any class of citizens to pursue courses of trade or business which cast heavy burdens