

"general reasons of public utility, annihilates the traffic, destroys altogether the employment, and reduces to a nominal value the property on hand. Even the keeping of that for the purpose of sale becomes a criminal offence; and, without any change whatever in his own conduct or employment, the merchant of yesterday becomes the criminal of to-day, and the very building in which he lives and conducts the business, which to that moment was lawful, becomes the subject of legal proceedings, if the statute shall so declare, and liable to be proceeded against for a forfeiture. A statute which can do this must be justified upon the highest reasons of public benefit; but whether satisfactory or not the reasons address themselves exclusively to the legislative wisdom."

It is to that legislative wisdom that these observations are addressed.

When a brewer or distiller under the protection of law invests \$20,000 in a building and machinery adapted to the manufacture of liquor, and almost worthless for any other purpose, it is not his object to sell his products to drunkards, any more than it is the object of the farmer, in selling his barley and rye, to be instrumental in causing drunkenness to which that barley and rye in all probability will ultimately contribute. His object is to sell to those who will buy. A large proportion of those who use his liquor use it in moderation, and, to that extent, his business is harmless. But, because some of those who use his productions use them in excess, and public injury is thereby caused, that portion of his business which is harmless must be taken away along with the rest, because it is impossible to separate them. But if we grant that the public good demands this, does it follow that the public good demands that the brewer or distiller should bear the loss thus caused? That is a very different matter. The property which cost him \$20,000 is now worth \$5,000. He has given up \$15,000 for the public benefit. He has not done this voluntarily, but by compulsion of law. This sum has not been taken from him as a penalty for any offence. His business was just as lawful the day before the Act passed as that of the dry goods merchant. He had even the express license of the Government, and the expenses of the protection afforded by Government to all other lawful trades was partly paid for out of the earnings of this one which has suddenly become unlawful. The nature of the transaction is too plain to be disguised—\$15,000 has been taken from the individual against his will for the public benefit. The promoters of prohibition all contend that one effect of it is to add immensely to the public wealth. Every time a brewer or hotel-keeper is impoverished by his property being rendered worthless or nearly so, the public is correspondingly enriched. On what principle have the public a right to enrich themselves at the expense of these individuals? It can only be upon the principle that once the law comes into force, it makes them criminals *ex post facto*, and their property liable to confiscation. This doctrine is one which many prohibitionists advocate and seem quite ready to father, but which no legislature ever can.

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