

# Abolish All PROHIBITIVE LIQUOR LAWS.

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The creation of crimes by means of statutes providing for their punishment has generally proved itself bad policy. In the days of Henry VIII, it was a maxim that "a tinker was a rogue by statute"; and, in Queen Elizabeth's time, actors and "stage-players" were put into the same category as tinkers. But it came in time to be understood that the soldering of tin kettles was not a crime because a tinker here and there had pilched a hen; and that the profession which had produced a Shakespeare was not, by any salutary public policy, a criminal profession.

The absolute, unqualified, and distinguished failure of all laws for the abolition of the traffic in liquors is speedily convincing even the most sanguine prohibitionist of the expediency of wiping them from every statute-book in the land. Their failure has not been so much a protest against interference with the personal liberty of the citizen as an illustration of the venerable maxim that no law can exist without, or can survive, a reason for its existence. These laws, indeed, never had any adequate or logical reason for existing at all. They have had their origins always, and without exception, in sparsely settled communities where personal liberty was so absolute and unquestioned that it included the right to drink liquor was almost unknown and the user of it a curiosity, and where the only knowledge of the horrors of intoxication the village possessed was derived from transient temperance orators who warned upon the terrible consequences of the rum habit to a roomful of fearful old women, none of whom knew the taste of liquor or of anything stronger than green tea. The early Puritans of New England, who enacted the most ferocious blue laws, who would not let a man step over a stone in his path or kiss—not his neighbor's, but his own—wife on the seventh day, no more thought of prohibiting the drinking of liquor than of prohibiting the preaching of eight and ten hours sermons. When they settled a town, they built, first of all, a meeting house, and next to it, a jail. The jail was for those who did not want to go to the meeting house. But the pint of "new rum per labor" in the hayfield was as much a matter of course as the minister's Madeira or sherry, or the magistrate's methginn, or eggnog, or toddy. In the wainscoting around every fireplace was the inscription, "No drink to be drawn out of evenings, and when a meeting house was to be raised, the community were expected to drink as freely as Heaven had blessed them in good times; and the means to pay for them were set as 1804, when the frame of the new meeting house in Brimfield, Mass., was to be raised, the town voted \$121.22 for "rum, sugar, brandy, venous and wine" for the occasion. And there are but few towns in Massachusetts that are smaller than Brimfield. The Puritans, in their courts of justice, cited edicts and precedents, not from the reporters, but from the Pentateuch, and sent men to the jail or to the gibbet according to the law of Rehoboth or Jeroboam. But, because the sons of Rechab drank no wine or strong drink, it no more occurred to them to forego wine and strong drink them-

self than it did to forsake their substantial frame dwellings and camp out because these same Rechabites had forsworn houses and lived in tents, on the plains of Arabia, thirty centuries previously.

Liquor is legitimately and logically a subject of excise, and not of prohibition; my opinion is that it is against the thing itself as proper and constitutional. But it would puzzle writers upon constitutional law to find an origin for laws prohibiting the manufacture, or purchase, or sale of an article of commerce, though laws regulating all three are neither unconstitutional nor improper. Besides unwritten and written or statute law, there is also what is called "police power" for a State or a community, that is, the power of keeping the public peace. All three of these jurisdictions may deal with the individual out of whom too much liquor may have made a law-breaker. That is to say, the drunkard has fractured the unwritten or moral law by breaking the rule of temperance in all things. He has broken the written law by becoming a public nuisance or a public charge, and the public charge or nuisance may lay his hands upon him and lock him up for being disorderly, or for lying drunk and so blocking up the public streets and orderly persons may not pass and repress. But in what manner may the community we call liquor have broken or come under the penal force of any one of these three jurisdictions, it is difficult to imagine; and, therefore, because this is a hard question to answer, it is difficult to find a legal or logical origin for a Prohibitory liquor law. Publicists assure us that all salutary laws and statutes which have proved to be for the general good, are found to have invariably come from a demand for protection for a franchise to an individual or a class asking either for protection or for franchise to benefit the State and himself by carrying on some useful business, art, or trade; or they have been enacted for the raising of revenue, or for the sake of having a check on the conservation of the public peace. But not of such have been the origins of the various statutes against the selling of liquor which are borne on the statute-books of a great many, indeed, of most of our American States. These laws, when not copied *velutina* or adopted substantially from other States—as the Kansas law was copied from the Maine law—have originated, not with a class of citizens who asked for protection, but with a class who proposed to protect some other class against its will. I fancy it would be difficult to find a Prohibitory liquor law which was not in the first instance proposed by one who was himself either a teetotaler by preference, or one without any taste for anything stronger than water, and, therefore, without the slightest practical experience of the evils of intoxication; or one who had no knowledge of the terrors of liquor drinking came at second hand from the description of the itinerant "temperance" orator; or possibly by witnessing the effects of the abuse of liquor upon some weaker-minded brother. In other words, it was exactly as if all the persons who preferred to go to bed at nine o'clock should revive the old law of curfew and get it back upon the statute-books; or, as if all those who loved to go to Sunday school should legislate to make it criminal not to go to Sunday school. So far as the records go (and I consult only those published by the Prohibitionists themselves), not one single proposition for the policy of prohibiting the sales of liquor has originated from a demand for protection, or from cause of necessity, or even of expediency; or in a jail or to the gibbet according to the law of Rehoboth or Jeroboam. But, because the sons of Rechab drank no wine or strong drink, it no more occurred to them to forego wine and strong drink them-

of the wild ass," and so because absolutely irksome—where a man with a theory or a crank with a hobby is welcome as a diversion—it is necessary to burrow in unusual paths for a relaxation. In such a precinct as this, a proposal of something so something, to prohibit something—it might be the wearing of crinoline, or of birds in ladies' hats, or card playing, round dancing, Sunday newspapers, or the eating of anything and anything, so long as it is something any one enjoys, will become fortuitously popular. Any one of the above would furnish a topic for conversation, a call for a conference in the meeting-house after singing school, might appear in the choice of a selectman, or in the election for the Assembly member, and so speedily become "practical politics," especially in a State where a Governor is chosen every year, and which lives in a state of perpetual gubernatorial canvass! If laws preventing the sale of liquors should be demanded in a petition of those who used and habitually purchased liquor, but who desired to be relieved from the necessity of purchasing it, a wise public policy might have decreed that the petition prevail. Or, if the best sense of the most enlightened citizens of a community (and it is usually the most enlightened citizens who appreciate the value and understand the judicious use of liquor) had felt the need of a law prohibiting the sale of cheap and poisonous adulterations of liquor to those who were unable to buy the pure article and whose health was being deteriorated thereby—in any one of these cases these laws might have wisely been forthcoming, under a general pursuit of the greatest good for the greatest number. But for the non-users and non-purchasers of liquor, finding themselves in a majority, to resolve on their own motion that the minority of their fellow-citizens needed a protection, for which they did not ask, from temptations against which they did not protest, for which they did not temptations to the majority, savor rather more of what old Butler characterized as "compounding sins one had a mind to by damning those one's not inclined to," than of legislation for the greatest good of the greatest number; of paternal rather than of popular government!

Once originated, however, the history of the paternal Prohibitory liquor law is invariably mainly, its appearance in local politics, then in State politics, and so on, up to the dignity of a balance of power, where the numerical insignificance of the supporters became a tower of strength, and the supporters themselves grew to have fat things at their disposal. The earliest liquor law I can find, for example, grew out of some letters beginning on February 15th, 1832, in a local newspaper in Essex County, Massachusetts, and finally at the State level. The most law-abiding and church-going communities in the world, whence it was carried by one of the letter-writers, who became a member of the Maine Legislature, into that State as an inalienable body. There was a State in our Union of States, at that date almost Arcadian in its innocence, where the foot of the tempter and the setter of snares, or the ayarite, or the debauchee were unknown, that State was Maine; yet from the immaculate vicinage of Essex County, Massachusetts, to the virtuous State of Maine, the policy of prohibiting that which did not exist, of protecting the few from temptations which had no attractions to the many, flew on the wings of oratory and became fixed by the edicts of legislation. Into the older community, Essex County, it may be feared that Satan has entered. But the sovereign citizen of the State of Maine, in the case of the slavery to its Prohibitory liquor law—a law, indeed, marvelous to behold, and a sight for the nations of the earth; alter—

—The Salem Gazette.

nately sending its citizens to jail for being free men, and rewarding them for being slave slaves! Under the malign influences of the Essex reform, the State of Maine was introduced into its economy a new industry, a profitable and somewhat ordinary courts and constables and special magistrates, its bailiffs and petty officers, who earn salaries on the pretense of enforcing laws which none of themselves, and probably no officers of the State or of its courts, from chief justice to tipstaff, thought of observing, are legion. Of the published volumes of its reports the bulk are ponderous decisions on and expounding the meaning of "quodlibet" which read between the lines like the statutes of the Grand Duchy of Gerolstein! And for all this the intelligent citizens of Maine pay the bills and dodge the laws as well as they can. "Sixty years or so ago, when the Essex law crawled into Maine, surely, as I have said, it was a virtuous and an Arcadian State. At present, whether it is more temperate than any of its sister States, whether there is less immorality, and whether the letters of the law are so well built better, or worse, than they know, did not themselves propose a total prohibition from the sale of wines, ales, and other vinous or malt liquor, but one solely from the sale of ardent spirits, and also only a mild restriction to sort of "pig law"—that is, that spirits should be sold only to prevent the public drinking in run-shops and bar-rooms, and the public spectacle of intoxication and hawking drunk so often resulted (and that which they sought is desirable to day, as desirable as then, nobly can deny). But the idea that a gentleman who desired to use ardent spirits could not first purchase them, it is only a letter of the law, and the letters to say, did not present itself to them at all. When the matter got into the Maine Legislature, however, whether because the distinction between wines and liquors was too subtle, and from the fact that the distinction was disappearing. As the pure and simple prohibition of the sale of any liquor, even of domestic manufactured cider, it became a law; the prohibition has since been written into the Constitution of Maine itself, until that State has become a Commonwealth of law-breakers not only, led of constitution-breakers, for the law against selling has become a law against manufacturing, and so against purchasing. And all these laws have been written in the Constitution of the State itself, and the citizens go on buying, selling, and purchasing, with a pretense of surreptitiousness, that, come as it all is, keeps buyer, seller, retailer, and consumer all equally in breach of the statutes in *secula seculorum*."

(Continued next week.)

A PARTY of tourists went to visit a famous chateau on the Loire. On entering one of the rooms, the guide remarked: "This, ladies and gentlemen, is the hall in which the Duke of Guise was assassinated."

"Pardon me," interrupted one of the tourists, "when I came here three years ago, you told me it was a room in the other wing."

Thereupon the *cicerone* replied, with perfect serenity: "Yes, but the chateau was then undergoing repairs."

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"She—" Bishop, what you said about the Powells' baby after the christening recalled to me a thought from Wordsworth. 'The Bishop—' Let me see. I said it was a rum thing, didn't I? And what was the thought?'"

"She—" Heaven lies about us in our fancy."

Illustration of a man in a top hat and coat, standing next to a large bottle of KIOU.

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