

IV.—THE RELATIONS OF INTEMPERANCE AND CRIME.

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IN judicial life, the relations of Intemperance and Crime are always present challenging consideration as perpetual causes and effects. To this fact the testimony of all Judges of experience is uniform and conclusive. It led at a very early period in the history of the Criminal Common Law to the establishment of the elementary principle that drunkenness is no excuse for crime. That principle rests upon the manifest fact that, if it were allowed as an excuse, criminals would prepare for the commission of crimes by intoxication. Hence courts, even in capital cases, were constrained to treat drunkenness, not as an excuse, but rather as an aggravation of crime, and to hold that a drunken intent was equally as guilty as a sober one.

More than two hundred years ago Sir Matthew Hale, then Chief Justice of England, said: "The places of Judicature I have long held in this kingdom have given me an opportunity to observe the original cause of most of the enormities that have been committed for the space of nearly twenty years; and by due observation I have found that if the murders and manslaughters, the burglaries and robberies, the riots and tumults, the adulteries, fornications, rapes and other enormities that have happened in that time were divided into five parts, four of them have been the issue and product of excessive drinking—of tavern and alehouse drinking." In the long-period that has since intervened, the progress of morality and civilization has, perhaps, modified to some extent the ratio given by that eminent jurist, but not sufficiently to make any essential difference in its truth. The late Chief Baron Kelly, then the oldest Judge of the Queen's Bench, in writing to the Archdeacon of Canterbury a few years before his death, stated that "two-thirds of the crimes which come before the courts of law of this country" [England] "are occasioned chiefly by intemperance." The writer of this monograph can speak personally from an experience of nearly thirty years on the bench of the Supreme Court of the State of New York and its higher criminal courts; and if his experience would modify to any extent the broad statement of Sir Matthew Hale, the change would relate only to classes of crimes. Taking crimes as a body, the opinion of Chief Baron Kelly, that two-thirds are occasioned by intemperance, would seem to him more nearly correct. It is, however, to be remembered that but a limited proportion of the actual crime of the country ever reaches the higher courts. It is disposed of by the Police and other Courts, not of record, held by Justices of the Peace and other inferior magistrates. If the numerous offences (including that of drunken-