

"individuals in the enjoyment of those absolute rights which were vested in them by the immutable laws of nature, but which could not be preserved in peace without that mutual assistance and intercourse which is gained by the institution of friendly and social communities. Hence it follows that the first and primary end of human laws is to maintain and regulate these absolute rights of individuals." And further, "that system of laws is alone calculated to maintain civil liberty, which leaves the subject entire master of his own conduct, except in those points wherein the public good requires some direction and restraint.

"So great moreover," (says Blackstone in another place) "is the regard of the law for private property that it will not authorize the least violation of it; no, not even for the general good of the whole community. If a new road, for instance, were to be made through the grounds of a private person, it might perhaps be extensively beneficial to the public; but the law permits no man, or set of men, to do this without consent of the owner of the land. In vain may it be urged that the good of the individual ought to yield to that of the community; for it would be dangerous to allow any private man, or even any public tribunal, to be the judge of this common good, and to decide whether it be expedient or no. Besides, the public good is in nothing more essentially interested than in the protection of every individual's private rights, as modelled by the municipal law. In this, and similar cases, the Legislature alone can, and indeed frequently does, interpose, and compel the individual to acquiesce. But how does it interpose and compel? Not by absolutely stripping the subject of his property in an arbitrary manner; but by giving him a full indemnification and equivalent for the injury thereby sustained. The public is now considered as an individual treating with an individual for an exchange. All that the Legislature does is to oblige the owner to alienate his possessions for a reasonable price; and even this is an exertion of power, which the Legislature indulges with caution, and which nothing but the Legislature can perform."

The question now to be considered is Does the existing Legislation (notably the Canada Temperance Act) jeopardise individual rights whether of person or property, to such an extent that if the same precedents were followed in respect of cognate subjects, civil liberty would be thereby endangered? And if so, is it not well to retrace our steps, and confine legislative efforts to that "direction and restraint" which the public good requires?

It is not intended to question the power of Parliament to restrict and restrain even to the extreme of absolute confiscation. "Its jurisdiction," says Sir Edward Coke, "is so transcendent and absolute, that it cannot be confined, either for causes or persons, within any bound," but just because its power is so absolute, it becomes every individual member of it to refuse his sanction to any measure by which individual rights are menaced, except so far as the restriction or regulation of those rights is demanded for the public good. One

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