

adds, "yet, so varied are the aspects of the problem you submit to me, that I am unable to quote any general or definite rules affording a solution of it." The writer thinks that "of course it is repugnant to all right reason that drunkenness should confer immunity upon, or produce benefit to, anyone; and that the effect would be most disastrous if drunkards are ever encouraged to believe that they will, when drunk, be treated with greater consideration than if they were sober."

We presume he means to say they will be treated with greater consideration for offences committed when they were drunk than those committed when they were sober. He then goes on to say, "Therefore I think it is necessary, in the interests of the public, that when magistrates are from day to day determining cases of assault, accompanied often with brutal violence, they should give no heed—certainly none in the direction of mitigation—to the constant plea of drunkenness." He then touches upon a point which we have more than once heard brought forward by judges on the Bench, when he says: "In such cases, I doubt if the reasoning faculty is ever totally absent, and the man who chooses to drink to excess, and, when drunk, from time to time commits acts of brutal violence, must be taught that he is answerable both for being under the influence of alcohol and for the acts such influence produces."

It certainly does seem strange at times to hear the confession of the commission of *another* offence pleaded by a prisoner in extenuation of, or as an excuse for, the offence for which he is then being tried, though we admit that, in some special case, a judge might well take into consideration, in his own mind, such a plea when passing sentence. We say, *in his own mind*, for we doubt the expediency of giving any open expression of opinion in such a case, inasmuch as it might seem like offering a premium for drinking to excess if it were known that a mitigation of punishment resulted from it.

We have, indeed, known a judge, while passing a lighter sentence in such a case than he otherwise would, not only refrain from letting the prisoner know this, but tell him that he ought to be punished also for the minor offence. Here the offender gets the benefit of a *moral* consideration of his guilt, without receiving in the slightest degree any encouragement to promote a "want of moral accountability" prior to the commission of his next offence. On the other hand, there are cases where the fact of the offender being under the influence of liquor at the time might almost be said to call for a heavier punishment. Where, for instance, a man does not dare to attack another unless he first "screw his courage to the sticking place" by ample potations—by, in other words, acquiring "Dutch courage." Here it is deemed necessary to break one law in order that the commission of another offence may be undertaken: and the absence of the moral restraint of a cool head and intellect may fairly be claimed as a potent factor in the commission of a more serious offence, it may be, than was at first contemplated, and calling, therefore, for a more severe punishment.

Sir Henry summarizes his ideas thus: "In determining the legal character of the offence committed, drunkenness may be taken into account:

- "1. Where it has established a condition of positive and well-defined insanity.
- "2. If it produces a sudden outbreak of passion, occasioning the commission