

PROHIBITORY LIQUOR LAWS:

THEIR PRACTICAL OPERATION.

IN THE

UNITED STATES.

THE SUBJECT DISCUSSED AS A
QUESTION OF STATE POLICY AND LEGISLATION.

WITH SUGGESTIONS FOR THE SUPPRESSION OF

TIPPLING HOUSES.

BY

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MONTREAL:

PRINTED BY SALTER & ROSS, GREAT ST. JAMES STREET.

1855

18. LINDSEY, CHARLES. Prohibitory Liquor Laws: their practical operation in the United States. The Subject Discussed as a Question of State Policy and Legislation. With Suggestions for the Suppression of Tippling Houses. Montreal, 1855. 35 pp.
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INTRODUCTION.

Since the disposal of the Clergy Reserves and Seigniorial Tenures, by the action of the Provincial Parliament, perhaps no other local question occupies an equal share of attention with that of the manufacture and sale of stimulating beverages. The evils of excess in the use of these beverages have lately attracted unusual attention, chiefly from the manner in which the subject has been treated in some of the neighboring States of the American Union, where the extermination of those beverages has been attempted to be effected by laws prohibiting their sale and manufacture. In 1854, the first of these laws was passed by the Legislature of the State of Maine. It has since been popularly known as the "Maine Law;" and under that designation has, with various modifications, found its way into the statute books of Minnesota, Rhode Island, Massachusetts, Vermont, Michigan, Ohio and Connecticut; having been pronounced unconstitutional by the Supreme Court in Minnesota, Michigan, Massachusetts, Ohio and Connecticut, and vetoed by the Governor of the State of New York. A similar measure was proposed in the Canadian Legislature in the session of 1852-3 and was lost in the Assembly by a majority of one. The proposal has been revived; and the question of prohibition will probably be decided after the adjournment. The Legislature had before it no evidence of the working of the law—a point much contested. In this state of the case, the writer proceeded to several of the States where the "Maine Law" was in operation, to collect evidence regarding its practical working. The result of that investigation was published in the *Leader*, in which journal the subject was followed up in a series of articles, which, together with the letters, are now re-published in the present form, in the hope that they may tend to elucidate some points, and help in some degree to solve the difficulty of the question.

PROHIBITORY LIQUOR LAWS:

Their Practical Operation in the United States.

STATE OF VERMONT.

No. I.

Gorham, New Hampshire, Dec. 1854.

In the execution of my mission to inquire into and report upon the practical working of the laws which exist in several of the American States for prohibiting the sale of alcoholic liquors, I visited, in the first instance, the State of Vermont. That State has not only copied the "Maine Law," but has added provisions of even greater stringency. There, the possession of any of those stimulating beverages which are almost universally used in civilised countries, to a greater or less extent, is held proof of the intention to sell them; or rather, the conclusion is assumed without the tedious process of legal proof. By another provision, a person found intoxicated can be imprisoned until he confesses who it was that supplied him with the liquor. Perhaps no better idea of the actual working of the law could be given than by taking a particular case, selected at random; for the internal economy of all hotels throughout the State is found to be the same in this respect. I will take the very first case that occurred to me after entering the State of Vermont, in order that there may be no possible suspicion that it was unfairly selected for the purpose of giving color to a particular view of the question. For, whatever reason the reader may find to dispute my conclusions, I shall take care that there be no room to question the facts I shall relate.

On a cold winter's night, in the middle of December, with the thermometer about 20 degrees below zero, I found myself among the green covered hills of Vermont, which ever and anon aspire to the dignity of mountains. It was about dusk as I arrived at a large hotel, where I found about fifty guests. The company was not more miscellaneous than one usually meets on such occasions. Among them were English, Irish, Americans—natives of Vermont, New Hampshire and Maine; with the usual sprinkling of that peculiar cosmopolitan character that defies all attempts to designate his origin. The hotel was very like other American hotels, out of the large cities. Its usual number of guests is not less than fifty, and it would find little difficulty in accommodating twice that number. I have said it was like other American hotels, in certain localities; but in some respects it differed in visible particulars from those which most persons who will read this may have seen. There was a bar, but it contained neither glass cases nor decanters, neither tumblers nor wine glasses. The porter pump was not there—indeed except a waiter and a large writing desk, the bar contained nothing. It was in fact a mere office. Round the counter no thirsty souls pressed to refresh or brutify, as the case might be, themselves. There was not only no drinking there, but no appearance of drink. On the middle of the counter lay the

visitors' book ; the end next the wall was covered with small lamps to light the visitors to bed. The whole thing had very much the appearance of a model temperance house. The first blush impresses you with the idea that the Vermonters are a law-abiding people, even to the extent of placing an absolute restraint upon their appetites, when the law demands the sacrifice. Listen ! The gong proclaims that dinner hour is at hand. A goodly company sit down at two large tables arranged parallel with each other in a long room next above the ground floor. Before this cloud of witnesses there will be no law breaking ; men bent upon criminal acts will surely seek to throw the mantle of secrecy over their doings. There is abundance of water in those white pitchers ; and that waiter girl is not a little officious in serving it up in those tall stalked glasses. That jolly-faced gentleman puts the water from him, as if to obtain more elbow room ; at the same time giving a knowing look at those by whom he is more immediately surrounded, the latter replying by a laugh. Consult the Bill of Fare—"Turkey, ham, fowl, beef roasted and boiled"—no wines or liquors, no porter or ale. The bill of fare, like the bar below, sets its face square to the law ; it ignores the interdicted beverages ; it is discreetly silent as to their existence. Model temperance house this ! The Vermonters are a law-abiding people. Pop ! Bless me, what is that sound, so strange in such a place ? The murder is out at last, and the champagne too ; round it goes. That explains the mysterious knowing look with which the good looking gentleman opposite put away the water from him, as well as the jolly laugh which answered that look. When he pushed away the water, it was pretty evident that he would have none of it ; but who that had seen the unsuspicious exterior of that hypocritical bar would have supposed that interdicted champagne had found its way here among these mountain forests, in spite of a more than Maine Law ? Still less could any one expect to see the sparkling beverage of which the bill of fare said nothing, make its appearance at a public table in the presence of fifty witnesses. But so it is. Let us return from dinner and take a seat in the room, the door of which opens directly upon that dismantled bar. What can be the occupation of that man behind the counter ? He seems to have none of the beverages usually found in such places to dispense ; and yet he keeps to his post. A little attention suffices to show that in that depth there is a deeper still. There is a room behind the bar which is entered by a door at the back of the bar visible—it is the bar invisible to vulgar official eyes. An outward form of compliance with the law has been resorted to in order the more effectually to evade it. The liquor is not publicly exhibited, like stuffed birds in a glass case ; but it never fails to come at the magic word of command. It is concealed as much as possible from the outside crowd ; it is not spilt upon the counter ; it is not drunk in the public bar. There is some saving of appearances ; but if at dinner one needs a little stimulant to aid digestion, he is not reduced to the necessity of producing a medical certificate ; he has only to say to this servant come, and he cometh, and to that servant go, and he goeth. Whatever he demands in the way of beverage is forthcoming. There is an infinity of private rooms in all large hotels ; and to these rooms the law, which aims to prohibit the sale of liquor, has removed the drinking of stimulating beverages. Beyond this it has done little. It has not stopped the drinking, but only removed it from the bar. I saw champagne, brandy, and "Jeffrey's sparkling Edinburgh ale" go here and there at the word of command, just as readily as if no prohibitory law existed ; the

sparkling ale, as I can testify, was of prime quality. In reply to an enquiry, I was informed that during the two years that this law has been in existence, it had not diminished the sale of liquor in that hotel! that no officer of the law or other informer had ever made the slightest inquiry into the sale which every day goes on in the presence of half a hundred witnesses, at the public dinner table; and that the only practical effect was to render liquor more difficult to be obtained by the poorer class who lounge about bar rooms when liquor publicly exposed for sale there, but who do not find their way either to the dinner tables or the private rooms of the larger hotels. If the liquor law operates as a restraint in Vermont at all, it is in this way.

This single case is but a copy of all the rest. Liquors are everywhere sold just as freely as before the prohibitory law was enacted, and with little more of concealment than results from the removal of these beverages from the public bar to some place which, though it can hardly be called one of concealment, does not obtrude itself on the attention of the public officials. I was assured that no one in the State of Vermont ever thinks of questioning the propriety of selling liquor to travellers. At this practice all parties wink, but that less is sold to the lounging sot who resides where a hotel is situated, seems necessarily to result from the existence of this law for two reasons:—first, because he no longer obtains liquor at the bar as before, and secondly, because no hotel keeper would be likely to expose himself to the peril of having a drunken man imprisoned till he will tell of whom he purchased the liquor.

So much for the practice in first class hotels. In many places that do not profess to be hotels at all, the prohibited article is dispensed to all and sundry, and by this means of course it becomes accessible to that class which, under any circumstances, would not be seen in first class hotels. How far the existence of this law tends to encourage the practice of drinking at home it is difficult to obtain any accurate information. From all I could learn, it would have the effect of encouraging this tendency.

The liquor sold in Vermont comes for the most part from Boston, at which port large quantities are imported. Liquor found in one State cannot, when addressed to another, be seized; because by the laws of the United States it is a legitimate article of commerce, and no State can interfere with the importation of, or general trade in, it.

Although an unsuccessful attempt was recently made in the State Legislature to repeal the Vermont liquor law, there does not appear to be any strong feeling among the people against it. The dealers in liquor are, in most cases, the very last parties who could desire its repeal. They retain nearly all the advantages, and get rid of some of the disadvantages of the license system. From licensed they have become unlicensed dealers; and though they are sometimes harassed with complaints for the violation of the law, convictions are very rare; and when they do take place in the petty tribunals, some question of law is generally raised on which they are appealed to the higher courts. The law rids the respectable hotels of a class of customers who must be very undesirable patrons. It arms them with an excuse for refusing where refusal might otherwise be an exceedingly difficult matter; and though it does something to diminish their sales, it is by no means so certain that it diminishes their profits.

STATE OF MAINE.

No. II.

Portland, Maine, Dec. 1854.

The State of Maine, and especially the city of Portland, are on all occasions quoted as examples of the successful working of a law designed to put an end to the manufacture, sale, and use of spirits, wines, porter, beer, and whatever else, used as a beverage in other places, is capable of producing intoxication. Whenever, beyond the limits of this State, a doubt is expressed about the efficacy of such a law, a large class of persons deem it a sufficient reply to refer to the State of Maine as an example. As Maine is generally regarded as presenting the most triumphant example of the working of what is called the principle of prohibition, so Portland is usually looked upon as the city of all others where the greatest degree of success has been obtained. There are those who claim for Portland the honor of inventing a legal restraint amounting to prohibition, upon the use of beverages which, used in excess, contain the power of producing intoxication. Such a claim argues a remarkable unacquaintance with notorious facts. The colony of Georgia prohibited even the introduction of spirits; and the law remained in force two years, when, being found totally inefficient, it was repealed. But not only does Maine claim the honor of this invention; there lives in Portland a gentleman named Neal Dow, who claims the scheme of prohibiting the sale of liquors, wines, porter and ale, as an invention of his own. He claims to have set on foot the movement that resulted in the enactment of the Maine anti-liquor law and its subsequent adoption, with some modifications in Massachusetts, Vermont, Connecticut and Michigan. This claim has never been openly disputed; but I understand that a lawyer residing in Cincinnati does contest it, and contends that it is his thunder which is so boastfully used by Mr. Dow. Be this as it may, no one doubts that in Portland, above all other places, the greatest exertions have been made to carry out the law in that stringent and restrictive spirit in which it was enacted. No one contends that better examples of its working can be found than in the city of Portland. In fact, when ever an example of the success of the law is attempted to be adduced, Portland is always the place pointed to. Here the modern system of prohibiting the sale of exhilarating beverages claims to have been invented; here it was born, cradled and nurtured under the anxious, watchful eye of the far-famed Neal Dow; here the parent still lives to watch over the progress of his offspring; here where the "Maine Law" is the dividing line between political parties; where Mayors are elected or rejected in reference to the opinions they hold on this subject; here of all places in the world do prohibitionists look for facts to establish the practicability of their theory. The prohibitionist literature of the United States and Canada inculcates the idea that here, if nowhere else, the success of the law is beyond a doubt. Mr. Dow has himself visited your city to assure you of the success of the scheme of prohibition in Maine; of its superabundant success in Portland. Who that heard him in the St. Lawrence Hall does not remember the tone of confident enthusiasm in which he announced the success of prohibition in Portland? It is equally true that these confident statements have not been allowed to pass without question.

In this state of the controversy, nothing but an appeal to undeniable facts will or ought to have weight with the public. The prohibitionist leagues have

confined their literary efforts to the production of self-laudatory rhetoric and abstract arguments. They have either eschewed or misrepresented the actual working of the law. The Canadian Legislature has affirmed the principle of prohibition, without enquiry into the success of the examples they are copying; and although a Committee of Temperance was appointed it was not instructed to enquire into the working of the law in these States, and especially in the State of Maine. In this state of the case, when the Legislature is groping its way in the dark, the public has no source of information on which it can rely, but an impartial press that will collect and represent the facts in their true light, without the bias of prejudice one way or the other.

If there is one fact which is more than all others universally admitted, it is the great evil arising from excess in the use of intoxicating beverages. To that abuse we owe the greater portion of the crimes that afflict society and disgrace and degrade individuals; and every one admits that if this cause could be removed, the resulting crimes would cease. When I have heard the success of prohibition in Maine, and especially in its chief city of Portland, affirmed, I have always felt a strong desire to see the assertion corroborated by a corresponding condition of criminal statistics. If the prohibitory law really secured the object of its enactment—the suppression of the manufacture, sale and use of spirits, wines, porter and ale—the criminal statistics ought to exhibit a resulting decline. If they do, the best possible evidence of the practical success of the law would be given. If they do not, then all the rhetoric in the world will not suffice to disguise the failure of prohibition. To this infalible test then, I resolved to appeal, and the result is of the most astounding character. That there might be no possible room to cavil about the accuracy of the statistics, I resolved to search the records of the courts in order to note the fluctuations of crime since the celebrated “Maine Law” went into operation in July 1851. For judicial purposes, the city of Portland is united with the county of Cumberland: one municipal court serves the joint purposes of both. From the official records of that court I obtained the following statistics, showing the number of persons annually charged with crimes and offences from the year previous to the enactment of the “Maine Law” to the 21st of this month, the day on which I examined the judicial records:—

Year.	No. of persons charged with crimes and offences.
1850 (the year before the law passed).....	495
1851 (Law in force from July).....	523
1852.....	642
1853.....	627
1854 (to Dec. 21).....	734

Thus, then, the number of persons charged with crimes and offences, in the city of Portland and the county of Cumberland, in which the city is situated, rose from 495, in 1850, the year before the law went into operation, to 734, on the 21st December, 1854, when the year had ten days to run. The law prohibiting the manufacture and sale of intoxicating liquors has been three and a half years in operation; and the progress of crime so far from being arrested has gone on increasing in a geometrical ratio, having far outstripped that of the population. In 1850, Portland contained 20,000 inhabitants; in 1854 it has 25,000; showing an increase of twenty-five per cent. in four years. The increase of crime, in the same period, has been nearly fifty per cent. But, it may be said, there may be some other explanation of these astounding figures:

that these crimes do not necessarily argue the existence of drunkenness; but that they may have occurred in spite of the forced but exemplary sobriety of the people. This theory, however, does not rest upon facts. The judicial records show that somehow men do drink to excess in this model city of forced abstemiousness; that in the police office charges of drunkenness are daily preferred; and what is most extraordinary still *that the number of persons charged with this offence in 1854 is greater than it was the year before the prohibitory law was enacted.* On this point also I examined the judicial records before quoted; with the following result. In 1850, the year before the "Maine Law" was enacted, two hundred and sixty-six persons were charged with drunkenness, or with being common drunkards; while two hundred and sixty-eight had been charged with the same offence to the 21st December in the present year! But the actual increase of drunkards in the city of Portland and county of Cumberland is greater than even these figures indicate. The actual number of persons accused of drunkenness, in 1850, the year before the "Maine law" went into operation, is exaggerated in the records of the courts; owing to the practice which then existed of classifying as "common drunkards" vagrants sent before the court on workhouse warrants; a practice which has since fallen into disuse. Nor do these figures show the whole number of drunkards arrested during the present year; for many who are taken to the Marshal's office during the night are released in the morning. We have thus official evidence of the astounding fact that the number of public drunkards in this city and the county of Cumberland, in which it is situated, is considerably greater after three and a half years' operation of the "Maine Law" than it was before that law was enacted.

In some months of the present year, the number of public drunkards arrested has been much greater than others. The month of July was the one in which excess in the use of liquor showed the worst results; about ninety persons or nearly an average of three a day having been charged with that offence. It is a reasonable supposition that intoxicated persons take greater care to guard against arrest now than formerly; and that a greater number do consequently secrete themselves than when they were not exposed to the vigilance of an anti-liquor law administration. This, however, is only an inference; and does not deserve to have the weight or authority of an established fact. It is at the same time, a reasonable and a legitimate inference.

Of the character of the crimes other than drunkenness, the progressive increase of which I have shown, I have said nothing. They consist for the most part of such as result from drink—assault and battery and others of a kindred nature; showing that there are not only more public drunkards and more offences and crimes in this city and county than before the "Maine Law" was enacted, but that those offences and crime generally result from drink.

The cases of drunkenness which I have quoted from the judicial records are nearly all from this city. The same remark is true to a great, but not an equal, extent of the other offences and crimes of which the figures are given above.

The question remains—where is the drink obtained that produces all this intoxication, and so much swells the list of offences and crimes? At this port very little liquor is imported. That which is consumed here, comes generally by a circuitous route, from Boston; where also a similar law is in operation. None of those laws, which, in the different states, prohibit the manufacture and sale of intoxicating drinks, affect importation. This arises not from the unwillingness of those States whose prohibitory laws exist, to proceed to this extremity; but from the fact that the commerce of the country is under the exclusive control of the Federal Congress, and cannot be interfered with by an individual State. There is therefore no legal obstacle to the importation of

liquor at this port ; and if it is generally brought from Boston it is that the law may be more surely evaded. In the late collision between the Ocean and the Canada, the vessel bound for Portland was found to have on board several demijohns of brandy. When liquor is found in this State, it cannot be confiscated before proof is offered that it was kept for sale ; otherwise every man's private dwelling would be liable to be searched. It sometimes occurs that places which do not profess to be taverns or hotels, are searched. That liquor is sold at such places is abundantly notorious ; and so great has been the increase of private houses in which it is sold, since the " Maine Law " came into operation, that I have heard one of the best authorities in the city estimate the number of places of every description where intoxicating drinks are sold at from forty, the number in existence at the time the law was passed, to four hundred, at the present time. All the places not professing to be taverns at which liquor is sold, are mere drinking shops of the worst and most dangerous description. They are free from all those wholesomerestraints, which, for the good of society, it has been found necessary to impose upon licensed taverns and hotels. The sole qualification required in the keeper of one of these dens is secrecy. He is not required to provide himself with anything that is useful—rooms, beds, victuals, anything, in short, which renders a licensed tavern or hotel useful to the public. On the other hand, there is, probably, not a single hotel in the State, that any traveller would think of staying at, where every kind of liquor is not regularly sold ; where it is not openly brought to the public dinner-table ; carried to private rooms, where little parties collect, and drunk in the room where it is kept in a sort of cupboard, the doors of which are kept locked except when liquor is required to be taken out. I found no difficulty in getting, at the public dinner-tables of the hotels, anything in the way of drink I asked for. Indeed there is no pretence whatever of withholding from travellers any beverage that they may call for. I am informed that many of the most ardent advocates of the prohibition do not aim at such a degree of success. After driving through the city with a gentleman resident here, to whom I explained the object of my visit, I asked him to go with me into some one of the hotels and see the actual working of the machinery. I was stopping at another hotel ; and so we went in as mere casual passers-by—apparently, in fact, having no object but to take a glass of brandy. We went to the office—the bars have all become offices now—and on making known our wants, were shown into a room not far off, on the same floor. The waiter who accompanied us, took a bunch of keys in his hand and walked up to a sort of cupboard ; and having unlocked the door, handed out a decanter of questionable brandy ; saying, as the liquors were exposed to view, without any remark from us other than the order for the liquor—" The Maine Law illustrated !" The decanter had apparently had recent heavy drafts upon it, for the brandy had got very low. The waiter, therefore, produced a large demijohn, out of which he replenished the nearly exhausted decanter. I do not profess to be a judge ; but I should call it different liquor. Indeed, from all the evidence I can collect, nothing else but indifferent liquor is now imported into this State. Importers, in view of the risk of seizure, will not import a costly article ; and the result is that the public, which will not desist from the use of stimulants, in spite of the law, is served with a vile, deleterious, poisonous compound, which passes for pure liquor. The effect of swallowing such abominable fluids must be greatly injurious. Instead of prohibiting the use of liquor, the real effect of the law is to cause a very bad article to be consumed.

From all the evidence I can collect, I believe that the sellers of liquor not only derive great benefit from the prohibitory law, but that they are so fully convinced of the fact that they would not procure its repeal if they could.

They charge about twice as much for liquor as they did before the law was enacted, and that for a vastly inferior article; thus making their profits three or four times as great, as before the law was passed, on the quantity sold. And that the quantity sold is much less, the statistics I have quoted give no indication. But the advantages of the law to retail liquor-dealers do not stop here. They are free from the licence tax; free from the obligations for their patrons; in short, they enjoy a lawless freedom from everything but the fear of detection. And, in point of fact, they care very little for that; for society having conspired to defeat the law, the liquor dealers are held harmless of all fines, penalties, and forfeitures, which are ultimately borne by their customers; being raised by a sort of voluntary assessment. When a fine for illegal selling is announced, the regular customers of the house mulcted contribute each his proportion to make up the amount.

The conspiracy into which society has entered to defeat the law does not end here. It is the most difficult thing in the world to get evidence to convict a party of illegal selling. The seller and the buyer are in league to defeat the law. The buyer equally with the seller deems himself an interested party. Whether it be the honor that is said to exist among thieves or something else, the purchaser would deem himself disgraced if he disclosed the violation of the law to which he was a party and of which he was the cause. The law holds out a premium to the drunkard to become informer; by giving the judicial functionary who is to try the case a discretionary power to remit part of the penalty to which he is subject in case he turns evidence against the seller. Cases are very rare in which the buyer becomes informer or witness; and this danger is especially small with respectable hotels. Convictions therefore are most difficult to be obtained. The great majority of complaints for infraction of the law come to nothing. But when conviction is obtained, in the lower tribunals, it is seldom acquiesced in, when it is possible to raise some legal point on which to appeal it to the Circuit court. Nearly the whole legal fraternity has joined the conspiracy to defeat the law; and there are few cases in which it is not possible to pick some flaw. When a case is appealed, the chances are that the conviction will be upset.

In Augusta, under the eyes of the very Legislature that passed the prohibitory law, liquor is just as much sold as in this city. Two or three persons will go into a hotel, take a room and call for any liquor they want, which at once comes to order. This necessity of taking rooms by parties who do not intend to remain all night is another new source of profit which the prohibitory law secures to hotel keepers. In Bangor, liquor is more openly sold than in either Augusta or Portland; and in the surrounding country the effect of attempting to prohibit its sale and use is said to have produced the most disastrous results. As liquor is dearer, if not more difficult to obtain, in small quantities, several parties club together and purchase a large quantity for their joint use. It is stored in some particular place where the owners go to drink it. It is not kept for sale; and neither its purchase nor use is a violation of the law. A native of Bangor informed me that practice, an offspring of the prohibitory law, has made many sober young men miserable sots.

In this State, no one is reduced to the necessity of feigning sickness and getting a medical certificate to that effect in order to obtain liquor. It is only too easily accessible everywhere. If it is not publicly exhibited, it is publicly sold at the dinner table in the private room and the room where it is kept.

As may readily be supposed, the parties charged with the office of public informer do not always show an excess of vigilance or carry the system of *espionage* to a revolting excess. If I am correctly informed, a good deal of collusion exists between the illegal seller and those whose duty it is to watch them.

I have it on the authority of a gentleman extensively engaged in the administration of the law, and we thoroughly understands its working, that it leads to the most frightful perjury ; and he does not think that this immorality can be avoided so long as the law holds out the temptations it does to the commission of this crime.

STATE OF MASSACHUSETTS.

No. III.

Boston, Mass., Dec. 1854.

Most persons will think that if prohibition has failed in Maine, where it was invented, and especially if its success is more than problematical in the city of Portland, the home of Mr. Neal Dow, it would be a work of supererogation to carry the enquiry into any other State. This consideration, however, although unquestionably entitled to great weight, was not sufficient to induce me to close my enquiries with the remarkable evidence collected in the State of Maine. In the State of Massachusetts the administration of the prohibitory liquor law seems even more lax than in Maine. There is less pretence of complying with its provisions. There is, in this city, none of that prudery which, in Portland, causes the importation of liquor to be made principally by circuitous passages from distant ports. At the port of Boston is imported not only the liquor consumed in this city and State, but a large portion of what finds its way to Vermont and Maine. In some parts of this State the saving of appearances even is less carefully attended to than in Maine or Vermont. If the liquor is not exactly exposed to public view in some of the bars, it is very ill concealed ; and nowhere is there any pretence of refusing it when asked for at the public dinner table. It is not however sold publicly, in the bar rooms so far as I have seen. In one instance, at Springfield, appearances indicated that such was the case ; but on enquiry I was informed—" You will get whatever you require, at the dinner table ; we don't keep any thing here"—that is in the bar. There were, however, bottles and glasses standing below the counter inside the bar. The same thing occurs everywhere. So openly is liquor of every description sold to travellers, at the public dinner tables of the hotels, that the list of liquors and wines is not always omitted from the bills of fare. The excessive laxity with which the law is administered may be imagined, when it is considered that its provisions are every day openly violated at the public dinner tables of all the principal hotels throughout the State, and generally with impunity. There is no sort of secrecy about the thing ; and consequently the administrators of law cannot be ignorant of its violation. A hundred persons cannot sit down together to dinner without some of them being prohibitionists, in a State where that party have been strong enough to carry a majority in the Legislature ; and being there they cannot help seeing what passes before their eyes. Why then are the penalties of the law not enforced ? Simply because men shrink from the odium that surrounds the name of a common informer. Conversing with an American gentleman, who lives near the city, upon the prohibitory law in Maine, I asked, " How does it work in Massachusetts ? Do you carry it into effect ? " We don't try," was the reply. " But don't you think the effect of the law has been to diminish the use of spirits, in the State ? " I asked. " I think," he replied, " it makes very little difference ; it is doubtful whether the law has any effect on the quantity consumed ; but I think it has done something to put down small grogeries in country places ; and so far it has operated beneficially. " Liquor is, however, sold at numerous places which do not profess to be hotels or taverns." This gentleman had no kind of prejudice against the law ; and if he was not favorably impressed with it the reason was that he knew it to be rather a name than a reality.

Neither in this State nor Maine, neither in Vermont nor Connecticut, neither in Michigan nor Rhode Island was any compensation paid to the manufacturers of any of the interdicted beverages for the losses they sustained by the operation of the law. A certain time was given them to close their business; but beyond this no indulgence was accorded them. This, I believe, is an entirely novel principle of dealing with private rights; and nothing less than the fervent zeal of Puritan New England could have conceived or applied it. Admitting that the prohibition of the manufacture and sale of stimulating beverages is a question of state policy which, like any other question, is to be decided by a majority—and I do this only for the sake of argument—are we to be told that the lucrative rights of a whole class, guaranteed by the sanction of the law and the faith of the sovereign legislative authority are to be taken away without compensation? It is no reply to say these parties are engaged in a manufacture which is injurious to the public, and condemned by public opinion. That would only be a reason for discontinuing the business, not for the destruction of lucrative rights without compensation. It is only an evasion to heap epithets upon the heads of dealers and manufacturers; for if they were all that prohibitionist opinion holds them to be, they would still be persons who had invested their means in a legal calling; and if the State requires the sacrifice of these means, it cannot in justness or fairness ask the particular individuals who happen to be engaged in the business to bear all the loss. The notion is un-English. It is peculiarly American. As a matter of state policy, the British Parliament decreed the abolition of slavery in the West India Colonies. The change demanded a large sacrifice of individual property; but no one thought of calling upon the individual slave-holders to bear the whole burthen. But no one ever hears the American abolitionists propose a similar scheme of indemnity to the slave-holders of the South. They are very patriotic. They propose emancipation with the most fervent enthusiasm; but they never propose to bear any portion of the burthen of their scheme. In this spirit have such of those New England States as have decreed the abolition of ale and liquor manufacture proceeded.

In several of the States, prohibition has been found a capital "cry" for the aspiring politicians who, destitute of personal merits, are reduced to the necessity of seeking adventitious helps to carry them into power. Prohibition has, in several States, long been the trump card of demagogueism. It is, accordingly, played off on all occasions when elections are to be carried by deluding an unsuspecting public. It is the make-weight of politicians and parties, who, weighed in the balance, have, without it, been found wanting. Nor is this the only use which has been made of prohibition. It has been made a subject of pecuniary, no less than of political speculation. The class of harpies who live upon popular excitements of this kind tried to extract a million of dollars from the prolific mine of prohibition. Their motto was a "Million Fund." With this fund they proposed not to compensate the parties despoiled of their property; but to pay for their own valuable services in the line of agitation. A large sum was actually contributed towards the projected "Million Fund," and so long as excitement is profitable the harvest of agitation will never be in want of laborers. At the same time, no fact is better established than that the cause of prohibition has had and still has many disinterested advocates. In this category may be placed the contributors of the sinews of war, which set the movement on its feet and sustained it there.

Of the prohibitionist literature of these States, it would be flattery to say that it is in the highest degree fanatical and intolerant. Taken as a whole, the prohibitionist literature of these States and Canada is at once the least tolerant, the most bigoted, the least scrupulous and the furthest removed from decency of anything in the whole current literature of America. There may be exceptions; but it has not been my fortune to see them.

PROHIBITION VIEWED IN THE LIGHT OF HISTORY.

No. IV.

At a time when public attention has become so steadily fixed upon the vice of excess in the use of intoxicating beverages, and when public feeling inclines to the violent remedy of attempting to prohibit the manufacture and sale of those beverages, a greater service could hardly be rendered to the community than an accurate representation of the actual working of similar laws in the neighbouring States. It was with this view that our investigation of the subject was undertaken. After reading the descriptions of the working of the law in the three States of Vermont, Maine, and Massachusetts, all candid persons must arrive at a common conclusion,—that the attempts which have been made to repress, by force of law, the use of intoxicating beverages, has failed. However reluctantly this conclusion may be adopted by those who had cherished enthusiastic expectations of the success of prohibition, it would be mere self-delusion to seek to ignore the evidence of the failure of that scheme. Our inquiries were not confined to the three States in question, but extended also to Connecticut. As, however, to proceed to other States, would be to repeat a thrice-told tale, we shall not carry the details of evidence further. What we have related of the operations of the scheme of prohibition, is capable of the most abundant corroboration.

We know how perilous a thing it is to tell unwelcome truths to an excited and prejudiced audience; but we have the fullest confidence too that the startling facts which our investigations have produced will have proper weight with the thinking, intelligent, and candid of our community, whatever, in the absence of any reliable evidence, may have been their prepossessions in regard to the scheme of prohibition. With that fanaticism which listens to no facts and which adheres to the conclusions it passionately embraced in spite of the most convincing demonstrations of their unsoundness, we hold no parley. To men who cannot bear to have a favorite theory submitted to the test of experience and argument, without losing temper, we have nothing to say.

From that class of "temperance" advocates who deal only in epithets and abuse, we expect neither fairness nor candor. Among those who are trying to build up a reputation for disinterestedness and philanthropy, by insisting on the reasonableness and the sufficiency of prohibition, we expect to make no converts. The attention we seek to enlist is that of the unprejudiced portion of the public which grounds its convictions upon evidence and takes a practical view of great public questions; and though we cannot allay the irritation of popular passion we may hope to convince the public reason. As we intend to close the discussion of this subject by suggesting a plan for the suppression of grogeries and tippling houses, which we believe will be more effective and less demoralizing in its operation than the "Maine Law," we hope to enlist the co-operation of all true and practical advocates of temperance. In the meantime, it may be as well to assure the biggoted prohibitionist, who cannot tolerate an expression of dissent from his opinions, that this question must be discussed in a spirit of candor and is not to be settled by a storm of epithets or a shower of abuse.

It is the part of a statesman to meet all questions of legislation in a practical spirit. To this test must prohibition be tried. Prohibition of the use of nutritious and useful articles of food and drink, as well as of luxuries of more than questionable utility is no new invention. It is as old as tyranny itself; and to deny that majorities, as well as despots, may act upon tyrannical principles, is to confound the distinction between liberty and tyranny, between right and

wrong. Sumptuary laws have existed in almost every nation ; and they were not unfrequently made a source of public revenue. Among the nations where such laws existed were ancient Rome, Sweden, China, Russia and even the Society Islands. Julius Cæsar prohibited the use of certain provisions ; and placed guards about the flesh market to seize and carry to him all prohibited articles of food ; but in spite of the vigilance of the guards the prohibited provisions found their way to the tables of the people whence lictors and soldiers were sometimes sent to carry them away. A class of economists existed at the beginning of this century, who contended that it was the right of every government to prohibit the use of coaches as a dangerous luxury : others who did not go the extent of prohibition, thought it better to censure their use by the penalty of a tax. Coffee now generally deemed an innocent beverage though,—as its innocence is a subject of dispute, we shall say nothing on that point—encountered various arbitrary attempts to prohibit its use before it became an article of general consumption. The origin of coffee is not generally known ; but is always ascribed either to the Persians or Arabians. The first account we have of its use is, as a medicine. No sooner had it passed from Arabia Felix to Cairo, as a beverage, than its use was prohibited by Kahie Beg, in 1511, on account of the exhilarating effect it produced ; but Sultan Causon, finding the attempt ineffectual, lost no time in removing the prohibition, and coffee advanced into Egypt, and pursued its course into Syria and Constantinople, where it was first publicly sold in 1554. Here, again, the obnoxious beverage was arrested in its march through the world, and placed under prohibition ; but not till the Turks had acquired a passionate taste for it. The mosques were deserted, and the coffee-houses filled. This state of things elicited loud complaints from the ministers of religion ; the coffee-houses were closed, and the policeman was placed between the Turk and his favorite beverage. But the coffee-drinking custom flourished, amid the persecution to which it was subject. It was found that the Turk would drink coffee, in spite of the policeman and the law. He evaded the argus-eyed *espionage* of the one, and broke through the flimsy web of the other. Thus defeated in its project of prohibition, the Turkish government determined to draw a revenue from the existence of a custom which it could not abolish, with the aid of all the force at its command. Matters ran into the other extreme. The consumption of coffee became prodigious ; and the refusal of a husband to supply it in a certain quantity to his wife, was ranked among the causes of divorce.

Attempts more general, but equally ineffective, were made to prohibit the use of tobacco, after Europeans carried it across the Atlantic from America. Tobacco was first introduced into Portugal from Florida in the beginning of the sixteenth century. It was grown in England in 1570 ; and its use, both as snuff and for smoking, soon became general in Europe. It was at first used indifferently by both sexes. In process of time the idea gained ground, that the use of tobacco would soon debase the manners of the people ; and one nation after another passed prohibitory tobacco-laws. Among the countries where such laws existed were Switzerland, Russia, Persia, and Turkey. In other countries, tobacco was made a royal monopoly. In England, Queen Elizabeth published an edict against its use ; assigning as a reason, that her subjects, by accustoming themselves to the luxuries used by barbarians, were in danger of degenerating into barbarism. Her successor, James was more inclined to “moral suasion ;” and accordingly he issued his “counterblast to tobacco ;” in which he describes the practice of smoking as “lothesome to the eye, hatefull to the nose, harmful to the braine, dangerous to the lungs ; and in the black stinking fume thereof, nearest resembling the horrible stygian smoke of the pit that is bottomless.” But James did not stop short with argu-

ments against the use of tobacco; and though he did not absolutely prohibit its use he caused it to be subjected to a duty of six shillings and eight pence a lb., which was intended as a side-wind prohibition; and restricted its cultivation to 100 lb. to each planter in Virginia. Under Charles this duty was continued; and the article was moreover made a subject of royal monopoly. This latter example was followed in France and the Netherlands. An anecdote is recorded of a remarkable discrepancy between the profession and practice of Fagon, the physician of Louis XIV. which, upon a kindred subject, might find its counterpart nearer home. While descanting fervently upon the pernicious effects of tobacco, Fagin made a sudden pause and unconsciously refreshed himself with a pinch of snuff to brighten his ideas and quicken the current of his argument. Towards the close of the sixteenth century Ibad Abbas prohibited the use of tobacco in Persia by a general law; but many of the inhabitants of cities fled to the mountains where they might regale themselves in violation of the law with impunity. In Russia, the Grand Duke of Moscow prohibited the importation of tobacco into his dominions; graduating the penalty of disobedience to an application of the knout for the first offence, and death for the second. The Muscovite who was convicted of snuffing was condemned to the penalty of having his nose split. In Berne, Switzerland, smoking was a crime that ranked next after adultery. A special Tribunal was created in 1634, to punish delinquent smokers, and continued so late as the middle of the eighteenth century, when the persecuted custom having triumphed over the law, the tribunal was abolished. In Russia the peasantry now smoke all day. The popular notion of a Turk is that of a man eternally smoking and drinking coffee; yet strenuous efforts were made at Constantinople to prohibit the use alike of coffee and tobacco. Smoking was punished in that city by transfixing a pipe through the nose of the culprit, and conducting him in ridicule through the streets. These Prohibitory Laws against the use of tobacco were seconded by the anathemas of the Church. In 1624, Pope Urban VIII. anathematized all snuff-takers who should take a pinch in any Church; in 1690, Innocent XII. made excommunication the penalty for the vice of snuff-taking in St. Peter's; and Pope Amurath IV., in 1625, prohibited smoking as an unnatural and irreligious custom, under pain of death.

In spite of prohibitory laws, of religious anathemas, and of death punishments, the bad custom of using tobacco triumphed, and is now universal in all those countries where these prohibitions and penalties were imposed. If the aphorism of Bacon, that "history is philosophy teaching by example," be correct, can we extract no wisdom from these pregnant examples? Shall the lessons of history be lost upon us, and her instructive teaching be thrown away? Or shall we seek for precedents in the barbarous and exploded decrees of despotic countries, in the sixteenth century?

The modern attempts to prohibit the use, instead of the abuse, of intoxicating beverages, in the United States, will leave behind them nothing but the history of their failure—their folly, and their immorality. We say their immorality, because no law can be openly and almost universally violated, without producing the consequences which never fail to flow from bad example. By an easy gradation, the violation of one law leads to the violation of another; and it therefore follows, that a law which is not and cannot be enforced; is worse than no law at all; it is "a mockery, a delusion, and a snare."

PROHIBITION OF IMPORTATION—USE AND ABUSE.

No. V.

In the United States, the importation of liquors, wines, ale, and porter is carried on contemporaneously with the existence of laws, in several States, for

prohibiting the manufacture and sale of these articles. It has already been explained that this anomaly arises from the fact that the control of commerce is vested in the Federal Government. In Canada, we possess, in this respect, more ample powers than any particular State of the American Union; our Legislature having full control over the commerce of the Province, short of imposing differential duties on British goods. Although none of the schemes of prohibition yet offered to the Canadian Legislature have proposed to prohibit the importation of the articles, the manufacture and sale of which it is attempted to suppress, yet the question was broached in debate; and it is just as well that its practicability should be discussed. It is an admitted fact of political economy that a very high import duty produces less revenue than a moderate low one; because the high duty, by setting a premium upon smuggling, drives the trade in the articles on which it is imposed into illicit channels. Sir Robert Peel laid it down as a pretty well ascertained fact that a higher duty than 13 per cent. on articles not of a bulky character afforded a sufficient profit to the smuggler to cause him to step in and interfere at once with the public revenue and the business of the fair trader. Without adopting that particular figure, no one, we feel assured, can successfully contest the general principle. The history of high duties is the history of smuggling; and there have been times in the history of British commerce when particular branches of trade have been almost wholly monopolized by the smuggler. By the well-known impost of 1692, the British Parliament imposed high differential duties of twenty-five per cent. on French goods, while those of other nations generally paid but five per cent. Four years after, these rates were doubled. These high duties, which were retaliated by the French, were equivalent to a prohibition. What was the result? Let Adam Smith, the celebrated economist, be witness:—"These mutual restraints," he says, "have put an end to almost all fair commerce between the two nations; and smugglers are now [1776] the principal importers, either of British goods into France, or of French goods into Great Britain." At a later period (1804), Sir John Sinclair, in his work on the revenue of Great Britain, says of the effect of the high duties then imposed upon drugs:—"It is generally, indeed, supposed that nine-tenths of the drugs we consume are clandestinely imported." High duties have everywhere been productive of the same results. A law prohibiting the importation of any article for which there is an extensive demand, in the community would be more certainly evaded, because everything in the shape of legitimate trading would be at an end; the profits of the smuggler would be increased beyond example, and the natural consequence would be that that illicit mode of traffic would become sufficient to supply the demand how great soever it might be. If in England, where the country is surrounded by a coast-guard, for the prevention and detection of smuggling, a duty of fifty per cent. on any particular article, not extremely bulky in its nature, is sufficient to throw the whole trade in that article into the hands of smugglers, how could we, without any detective force, and with a frontier of over three thousand miles bordering on the United States, hope to enforce any law prohibiting the importation of any commodity for which an extensive demand exists among us? It would be sheer madness to expect it. The whole revenue of the country would not be sufficient to maintain a detective force to suppress the illicit trade that would spring up.

Some will reply that we ought to make an effort; that we ought to do what we can to prevent the importation of spirits, wines, porter, and ale. But no statesman whose opinion is worth a straw, will contend that it is politic to attempt impossibilities; to enact laws which cannot be enforced, and the existence of which will only produce new crimes, and add to the existing list of social disorders.

If the importation and sale of stimulating beverages cannot be prevented, in a community where a demand for them exists, what hope is there that their manufacture can, under like circumstances, be suppressed? We believe there are members of the present Legislative Assembly who could prove that an excise tax of one penny per gallon upon whiskey, used to lead extensively to the illicit manufacture of the article in this country. In Ireland and Scotland, the stringent excise laws have long been extensively evaded. In the former country, the illicit distillation of whiskey has baffled the keenest vigilance of the government; while in the latter, the excise laws which relate to the making of ale are, in country places, almost universally evaded. To expect that the manufacture of whiskey could be entirely suppressed in a country offering such opportunities of concealment as the remote parts of Canada, would be next to madness. For our part, we believe it would be a blessing to the community if this fiery, brain-inflaming beverage were to fall into disuse and be banished from the sight of men; but we have no hope that this end can be accomplished by any attempts to prohibit its sale or manufacture. Whiskey is the common drink of this country, though used to a much less extent than formerly; and excess in whiskey drinking has been more injurious than any other habit of our people. The evil is, however, fast abating. Twenty years ago, whiskey was as sacredly kept in every farm-house in the country as the bible. Now it is not found in one out of twenty. It has not required the aid of any prohibitory law to effect this reformation. It has resulted from the spontaneous action of the people, whose observation of the evils this beverage produced led them to abandon it. With such a result before us, why should we abandon the voluntary principle in so purely a personal matter as that which relates to what a people eat and drink any more than in matters which relate to religion?

We yield to none in our anxiety to see the vice of excess in the use of intoxicating beverages and its resulting evils abated; but we cannot believe in the efficiency of prohibitory laws to control the inclinations of mankind in matters of food and drink; because we cannot believe anything in opposition to all the evidence of past and present experience.

So far, we have treated the question of prohibition solely on the grounds of efficiency; and if our investigations have proved—and we think they have conclusively proved—that prohibitory laws are insufficient to prevent the use of any particular article of food, drink, or luxury, the discussion might be narrowed down to this single point; but as other questions have been raised in the discussions that have taken place on this subject, and as every inch of the ground is contested, as almost literally nothing is settled in regard to it, it is obvious that the more the matter is discussed, the greater will be the chance to elicit the truth, and to make clear the principles of public policy which ought to guide such cases.

We do not need to be told that personal rights, in a civil community, have their limitations. Neither do we need to be informed that the tendency of enlightened modern legislation has been to extend the area of personal freedom; to remove commercial restraints; towards a dependence upon reason rather than law in cases where the right or the policy of legislation is doubtful. Time was when an Englishman was debarred from leaving his country; when the British Colonies of America were denied the privilege of manufacturing a horse-shoe nail; when, in England, people of a certain class might not wear in their garments fabrics above a stated value; when usury was deemed infamous; when conformity to a particular creed in religion was enforced by law. Modern intelligence has discarded all these restraints upon personal liberty as barbarisms unworthy of the present age. It is true that other restraints upon individual liberty of action remain; some of which are

necessary for the protection of the public. A man may not burn his own house ; because there would be danger that the fire would extend to other property ; and the reason of the law commends it to 'the common judgment of mankind. On the same principle, a man is not permitted to have a nuisance on his premises, or to have trees, the branches of which overhang his neighbor's property. In both these cases, the restraint is necessary to prevent the infliction of wrong upon others. In neither case is the restraint gratuitous. Another description of restraints, less defensible, still exist. For example : In England the law forbids the growth of tobacco. The law was originally designed to secure a colonial monopoly ; and has been continued as a source of revenue. It is wholly arbitrary in its nature ; belonging to that class of laws with which legislation has played such dreadful havoc. This restraint, however, is confined to the use which may be made of land, and is not of a personal nature. It is a wholly different case from that of preventing one man using a particular beverage because another man will persist in abusing it. To do the latter is to punish the innocent for the deeds of the guilty ; to confound the distinction between virtue and vice—between right and wrong. The safeguards which the law has thrown around the sale of arsenic and strychnine are of a totally different nature. They aim not to restrict the proper use, but only to prevent the abuse of these articles. The precaution is a just and necessary one, and there can be no objection to applying it to alcoholic beverages. It cannot however be stretched so as to embrace a prohibitory law : for such a law aims to restrict at once the use as well as the abuse of the thing prohibited. Deadly poisons can only be administered with safety under the advice of a physician ; but this is not the case with stimulating beverages. It is unfortunately true that, in the case of alcoholic beverages, the use frequently leads to the abuse ; and that that abuse is attended with the most frightful evils. But if we are to adopt the principle of prohibiting the use of a thing because it is liable to be abused, where shall we stop ? Let any thinking man ask himself this question. Shall we prohibit the manufacture and sale of rope, because deranged persons sometimes hang themselves ? Shall we have a prohibitory razor law, as a means of preventing another mode of suicide ? We see at once the absurdities into which we should be betrayed by admitting the principle that it is right to prohibit by law the use of a thing which is liable to be abused. Let us, instead of taking the dangerous ground of confounding the use and the abuse of a thing, punish the abuse while we leave untouched the sacred liberty to use all things in reason and moderation. Punish drunkenness with all necessary severity ; treat the drunkard, if you will, as a person incapable of managing his own affairs ; appoint guardians over his children and trustees to administer his property ; degrade him from office and position ; do all this and whatever else may be necessary for the punishment of crime and the protection of innocence ; but don't punish one man for the crimes of another ; don't abolish the distinction between virtue and vice, good and evil, right and wrong.

“YANKEE NOTIONS” AND RETROGRADE VOLUNTARYISM.

No. VI.

It is fully time the question were raised and settled—can a man consistently be a Voluntary in religion, and a Compulsory in matters of food and drink ? The most celebrated economists, and the most conspicuous voluntaries have agreed, in placing the two questions on the same footing. Adam Smith wrote : “ The law concerning corn may everywhere be compared to the laws concerning religion : the people feel themselves so much interested in what

relates to their subsistence in this life or their happiness in that which is to come." Again, the same writer remarks: "The law ought always to trust people with the care of their own interests, as they must generally be able to judge better of them than the Legislature can do." Legislation regarding religion, and whatever relates to subsistence of a people, are here put on the same footing; and we have never seen any successful attempt made to prove that the position taken is untenable. While Adam Smith took this ground, as an economist, Mr. Miall takes precisely the same ground as a voluntary; believing that men are not made virtuous, moral, or religious by pressure of law. Indeed, virtue and morality form part of religion; and to say that compulsory laws cannot make men religious—a point which few will, in the present day, be found to dispute—is to say, that such laws cannot make them moral and virtuous. The ground taken by the voluntary, is, that religion is not a proper subject of legislation; because it is a personal matter, and as every man must be responsible for himself he must be left free to act out his convictions. But, at the same time, the voluntary does not deny that a bad, a corrupt, or a superstitious religion may degrade the character of a people, and sink them beneath the level of neighbouring nations, in national energy, wealth, intelligence, freedom, and general civilization. So that, while religion is a personal matter, it may, notwithstanding, have great effect on national character and progress. How often is the degradation of particular nations referred to the religion they profess! How firmly one portion of the people believes that the religion of the other portion not only emasculates the energies of its votaries; not only makes them superstitious, not only induces in them thriftlessness and improvidence; not only injures them in all the concerns of this life: but consigns them to eternal misery after they pass from this world! Acting on this belief, and thinking it a sacred duty to rid the world of the cause of so much evil, how have governments drenched the earth with tears and deluged it with blood! and what is the result of all this sanguinary experience? What conclusion has the intelligence of modern times deduced from these follies of the past? This: that, in order to secure liberty of conscience, what a majority may regard as heresy, folly, extravagance, and superstition in religion, must be licensed and permitted. Nine-tenths of a people may believe the tendency of the religion of the other tenth to be vicious and degrading, and that its general prevalence would, in a social and political sense, be the worst calamity that could befall them; yet they could not, on that account, forbid the exercise of that religion without striking at the root of all liberty in religious matters. We see, then, that it is necessary to permit what nine-tenths of a people may regard as evil in religious matters, in order to prevent another and much greater evil.

The Voluntary, holding these opinions in reference to religion, cannot without gross inconsistency, run counter to them on questions that relate to the subsistence, the food and drink, of a people. In matters of religion, he will tolerate, license, and defend the exercise of what he may consider wrong, in order to prevent tyranny. It is not that he loves wrong, but that he hates tyranny more. If he refuses to grant equal indulgence in matters which relate to the tastes and subsistence of a people, it is evident that his voluntaryism is a convenience, not a conviction; a pretence, not a principle. Errors in diet, equally with errors in religion—two contradictory opinions cannot both be right—may occur; but the one equally with the other must be permitted, if we are to prevent the greater evil of tyranny. A man may commit an error in swallowing daily a glass of porter or wine; and he may commit an error in his religious belief—he may believe what is false; but in both cases he must be allowed to be the judge, if he is to retain a vestige of personal liberty. In both cases, this personal liberty must be *innocently* exercised. He must not,

under cover of a personal right, seek to do a public wrong. In the exercise of his religious rights, he must not trench on the rights of others; in the exercise of his social rights, he must not commit a social wrong. If he embraces polygamy, he may fairly be made amenable to the laws against bigamy; if he becomes an habitual drunkard, he may be dealt with as a person incapable of managing his own affairs: for when he comes to that pass, he will certainly waste his property, if he have any; and if he have none, he will neglect to provide for his family; in either case, leaving them a burthen upon others, which would be a wrong, a crime, and a disgrace.

It is the pride of voluntaries, that, in this country, the state has ceased to interfere with religion; but if it is to begin to meddle with the substance of the people, by passing sumptuary laws of the most intolerant character, our boasted progress will be extremely equivocal. This Maine-law movement is, in fact, the last form of the upheaving dregs of that intolerance for which Puritanical New England has always been conspicuous. The Puritans of New England have ever been famous for Prohibitory laws. Among the things they formerly prohibited were "needless novelties in religion;" Prelacy, which was denounced as "licentiousness" of opinion; the Book of Common Prayer; members of the Church of England, whom they transported beyond the seas; religious opinions different from their own; the Presbyterian mode of discipline—the exclusion lasting more than a century; such preaching and worship as did not suit the fanatical elders; all unordained preachers; Quakers. These are a few of the things which used to be prohibited in that New England, to which we are now asked to look for patterns and models of legislation. Indeed New England has ever been the great armoury of prohibitory laws; and as the times change, so do the fashions. The New England Puritans never lost faith in compulsion; in spite of the bad working of the principle when they attempted to win converts by denying the elective franchise to all who did not belong to their own sect, by compelling the attendance of all persons at Puritan Churches, by punishing "heresy and error" in religion, by excluding "heretics" from the magistracy, and banishing whoever they could not confute. This style of compulsion has passed away; but its spirit surviving, has assumed the shape of the "Maine Law." When we are asked to take our ideas, our opinions, or our laws from that quarter, we will pause before adopting the advice.

At a later period, New England distinguished herself by a war upon witches. Little more than a century and a half ago, a law against witchcraft was passed, the penalty of death being denounced against the offender. The entire pulpit oratory of Boston was levelled at this offence. If Mr. Neal Dow is not now engaged in witch-hunting, the fact is due solely to the accident that he was born out of time. Numbers of persons were hanged in New England for the crime of witchcraft, and numbers more were tortured and terrified into confessions. These atrocious impostures were not confined to the ignorant and uneducated; but extended to the highest functionaries in the land, some of the judges making themselves especially conspicuous as accusers. Then, last of all, in these latter days, came from the same quarter, the "spirit rapping" imposture, and Maine Law liberty; which appear to be twin brothers, both having been born about the same time.

The form of Puritanical New England tyranny has changed, but the substance remains. The intolerance of the Maine Law movement; its contempt of history and experience; its disregard of facts and logic; the savage tone of its literary advocates, are alike worthy of their origin. We must be excused if we cannot regard them as worthy of admiration and imitation.

THE ECONOMICAL VIEW OF DISTILLATION.

No. VII.

Many regard the distillation of cereals into spirits as something worse than a waste of all the labor which is employed in producing them ; inasmuch as the product of the still produces, on the whole, far more evil than good. The soundness of this view we do not seek to controvert. In the main, it is undoubtedly correct. We should commit an error, however, if from these premises we sought to deduce the conclusion that it would be sound policy to attempt the forcible suppression of distillation, so long as a prevalent habit of drinking spirits creates a demand for them ; for in spite of all such attempts the demand, so long as it exists, will be supplied. The distillation of spirits will only cease when a general conviction that there use is, on the whole, more hurtful than beneficial, shall have repressed the demand. The true way to prevent distillation is therefore to enlighten public opinion on this subject ; to correct the vitiated tastes and intemperate habits of that portion of the population that stands in need of such reform. The process may require time ; but it is only in this way that the work can be effectually done. It is a libel upon mankind to say, that the great lever of moral force cannot effect this reform ; that we must look for its accomplishment to some other agency than argument, persuasion, conviction, a sense of right and a horror of wrong, of misery and of wretchedness. We need not, indeed, look for ideal perfection in an imperfect being : all expectations of that kind must be disappointed. But if we are to change the social habits and customs of a people, we must first convince them that those habits and customs are wrong. A chilling scepticism of the reformatory power of moral agencies is spreading like a thick cloud over the land. It has come to be regarded as a mark of civilization—as the watch-words of the advanced guard of social reform to cry,—“Down with moral agencies : give us none of your persuasive eloquence—none of your attempts to produce conviction ; but give us instead the batten of a policeman and the bolts and bars of the jailor. The age of reason, of persuasion, of conviction is past : the glorious age of force has arrived.” But have reason, persuasion and conviction done nothing to produce that moral reform in the habits, the customs and the tastes of the people for which it is now so fashionable to inveke the aid of force ? Have habits of sobriety made no progress, in this country, within the last fifteen years ? Has not the conviction taken deep root in the minds of a large proportion of the people that the abuse of intoxicating beverages is a crying evil, and that their use is more or less surrounded with danger ? Has this conviction—this great moral agency—produced no practical reform ? Compare the drinking habits of our population with what they were ten or fifteen years ago ; and withhold, if you can, an exclamation of surprise at the change. Not longer since than the more distant of these periods it was not *respectable*, it was almost disgraceful, not to drink intoxicating beverages. Now, so great is the change in public opinion, that the great bulk of the rural population has abandoned their drinking *habits* : if they drink intoxicating beverages at all it is not from habit or custom, but casually and seldom. Conviction has here wrought a change which the barbarous and exploded expedient of force could never have effected. In obedience to this popular conviction ; this great revolution in the social habits of the people, the distillation of whiskey no longer bears anything like the same proportion to the population that it did formerly. A reform of this kind cannot fail to be lasting ; because it rests upon the solid foundation of popular conviction and popular habits.

How different was the result of the attempt made by the British Government, by the force of stringent excise laws to suppress distillation in Ireland !

Regiment after regiment was poured into that country to hunt down the habit of illicit distillation, which those stringent laws begat. And what was the result? Why, that the attempt of the British Government was defeated; and that in acknowledgement of that defeat, the stringency of the excise laws had to be relaxed.

Louis Napoleon, Emperor of the French, recently issued a decree forbidding the use of cereals in distillation; as a measure of economy in a time of scarcity. The French Nation and Government, in whatever else they have distinguished themselves, have earned no celebrity as economists. And, economically considered, this measure of Louis Napoleon's Government, is of more doubtful wisdom and efficiency. The best English economists have condemned it, on the ground that its tendency will be exactly the reverse of that what it was intended to effect; that it will lessen rather than increase the supplies of grain, from the belief it will beget that that country cannot afford a good market for such grains as are usually used in distillation, where distillation is forbidden. An article is produced only when it is known that it is in demand, or that a demand for it can be created. And, in this particular case, facts sustain the theory. The demand for spirits in France, has not been diminished by the Emperor's decree; and instead of the grain, the distillation of which is forbidden, France is receiving American whiskey. To this fact the *New York Journal of Commerce* is witness. It testifies that "since the French Government have forbidden the distillation of cereals, a very active export demand has sprung up here for raw whiskey and common rum, and prices have materially advanced, with large freight engagements for France. When it comes back, it will not be recognized either by smell, taste, or price." If Napoleon III succeed in enforcing this law, he will be more fortunate than other countries have been even when they attempted less.

This new whiskey trade which has sprung up between the United States and France, is a sufficient proof of what must take place in Canada, under like circumstances. If Parliament should decree the suppression of distillation tomorrow, an import trade of this nature would spring up. Let the importation of spirits be prohibited, and smugglers will become the importers. The evil at which the law is aimed, will not be cured; but instead, become interwoven with others of a worse description. In this view of the matter, it would be bad national economy to decree the suppression of distillation. While the attempt would fail of its object, in one way or the other: while it would lead to illicit distillation and the importation of spirits, to smuggling if importation were declared illegal, the cultivators of the soil, in this country, would be deprived of a market for a particular description of their produce: that which is now used in distillation. If we could prevent the distillation and drinking of whiskey, under its various forms, the object might be worth the sacrifice; but, in the actual state of the case, the attempt to suppress distillation, even supposing it to attain a fair measure of success, would only be to deprive our farmers of a portion of their present profits. It would be a fallacy to assert that new articles of production could be substituted which would yield an equal profit. The rules of successful cultivation which demand a variety of produce, disprove the assumption. The only result, therefore, of attempting to suppress the distillation of whiskey, so long as it is abundantly produced in other countries and a demand for it exists in this, would be to deprive our farmers of a demand for a portion of their produce; the decrease of the demand being in exact proportion to the success of the law; importation supplying the place of the domestic spirit, either operating legally or through the agency of smugglers.

ADULTERATION OF LIQUORS.—STARTLING DEVELOPMENTS.

No. VIII.

The public has little idea of the extent to which the adulteration of liquor is carried, in this country. Some time ago, during the preliminary investigation of a criminal case, the fact was incidentally elicited, that all the liquors retailed in a particular house, in this city, were "made up" in Toronto! So striking a disclosure did not arrest the public attention, which was exclusively fixed upon other features of the case. We have recently been led to make inquiries into the extent to which this system of adulteration is carried; and the result will cause some surprise to the uninitiated. Probably nine-tenths of the liquors sold in this city are adulterated, in different degrees, the lowest qualities frequently containing not a drop of the liquor under the name of which they are sold. There are various parties engaged in the fraud; but the greatest offenders are to be found among the grocers.

It is right that the public should know the kind of stuff they swallow under the name of brandy, gin, wines, and other kinds of liquor. Let the uninitiated, then, take a lesson in the manufacture of liquors. First, take the article of gin. Very little "pure Hollands" is imported into this country at all. By far the greater part of what is consumed—and it is not much, for we are not a gin-drinking people—is a spurious article. The 'gin' which comes here in square bottles, is, for the most part, manufactured in Montreal; and "gin" is also made here, and put up in that shape. Alcohol, more generally called high wines, and common whiskey, form the basis of this spurious liquor. The alcohol is not unfrequently imported from the United States under the name of whiskey; and when this is done, the first fraud consists in cheating the government out of part of the customs' duty. Alcohol is used solely as a solvent to dissolve the juniper oil which gives the article the flavor of gin. Alum and grains of paradise are also among the ingredients used in the adulteration of gin, or the manufacture of a spurious article sold under that name. The strength of the alcohol, used to dissolve the oil of juniper, is reduced by common whiskey. When a "superior article" has to be made, perhaps one-twelfth of the pure liquor is mixed with the spurious article. Ten gallons of alcohol and 90 gallons of common whiskey will make 100 gallons of "gin." The cost of alcohol is seldom more than 3s. 6d. to 4s. a gallon; though just now it is about 5s. Common whiskey generally sells from 10d. to 1s. 3d. a gallon. It is worth more at present. The drugs used in the adulteration or manufacture of this liquor do not cost more than about 3d. a gallon. Much of what passes for gin in this country, is compounded of vile ingredients, at a cost not exceeding 2s. a gallon.

The brandy fraud is, if possible, more criminal still. In the manufacture of the common counterfeit of this liquor, also, alcohol and common whiskey play important parts. They form, in fact, the staple of the poisonous thing too often sold under the name of brandy. As in the case of the gin counterfeit, so also in that of brandy is an infinitesimal portion of the pure liquor sometimes, but not always, used. For coloring, burnt sugar, and for flavor, oil of bitter almonds—a rank poison—are used. The tinctures of kino and catechu, and ascetic ether are also used. The oil of almonds contains a large proportion of prussic acid, one of the most deadly poisons in existence. It is clear, colorless or tinged with a greenish yellow; is nearly inodorous and has a bland, sweetish taste. Catechu has an astringent bitter taste, followed by a sense of sweetness. It has a powerfully astringent effect. The alcohol dissolves the kino, except the impurities; and the tincture, which the fraudulent compounders of liquor use on account of its cheapness, when mixed with a certain proportion of water, lets fall a red precipitate. This substance is often found at the bot-

tom of a quantity of spurious brandy. When a large quantity of water is applied instead of this settled precipitate, the liquid only becomes slightly turbid. The office performed by the ascetic ether is to impart a flavor to the vile compound.

Wines are also extensively counterfeited and adulterated. In these fraudulent processes, too long tolerated by the apathy of the Legislature, to the injury of the public health, a small portion of the wine counterfeited is used. Common Canadian whiskey enters largely into the manufacture of what often passes for "Port Wine." Logwood (*Hæma loxyton*) is used, not, as is generally supposed, for coloring, but for its astringent properties, which are so great as to cause it to be frequently used medicinally for diarrhœs and chronic dysentery. Sugar of lead, which is poison, is also used to impart a pungent taste. A syrup and burnt sugar are added; and sometimes rotten beef is steeped in the "wine." Red saunders, which is destitute of medicinal properties, is used for coloring. In this way all the cheaper descriptions of "Port Wine" are made, of these materials are they composed.

Sherry wine is made of a very small portion of the genuine article, whiskey or alcohol and water, burnt sugar and catechu. If there be any essential oils to absorb, alcohol is used; if not, the cheaper substitute of whiskey is resorted to.

Ale and beer are very little subject of adulteration here; simply, because they are not worth the trouble. Some little experiments in adulteration, not of a pernicious nature, have been tried; but it is extremely doubtful if the process will pay! If not, of course, the practice will not become general. But while Canadian ale and beer are generally free from deleterious adulteration, they are very indifferently manufactured. The malt is often imperfectly made; and an excess of hops is added to cover up the bungling of the unskilful brewer.

The Champagne sold here is, for the most part, made from cider in the United States!

But amidst all this fraudulent counterfeiting and adulteration, pure liquors are imported. The spurious articles are often sold at prices that would yield a good profit on genuine liquor. Into nearly all but first class hotels these spurious find their way: and their exclusion even there is not always secured. Here is a legitimate case for the interference of the Legislature. Here is a crime of the blackest dye, deserving signal punishment. Here are indeed poisoners by profession; who obtain money under false pretence of selling what they do not possess. Let the Temperance Committee of the Legislative Assembly deal with this fraud instead of seeking to press doubtful points and to occupy disputed ground. Let it take evidence on this practice of wholesale poisoning, of fraud, of counterfeiting and adulteration. Let the Legislature take steps to stop the evil. Let it establish an organized detection and enact severe penalties against this system of insidious murder; and it will do far more to rise itself in the estimation of the civilized world than by all the attempts to prohibit the sale and use of pure liquors it can ever make.

THE LICENCE SYSTEM AND TIPPLING HOUSES.

No. IX,

The practice of granting licenses to carry on a particular business has generally rested upon fiscal considerations. It has been a means of raising a portion of the revenue of several countries. If it is a departure from absolute free trade principles, it has generally been sought to be justified by the necessity of raising a revenue. "The license to sell intoxicating drinks," says Mr. Mial of the *Nonconformist*, "is not an affair of morality

but of revenue. Happy would it have been for this country (England) if the traffic had never been so interfered with! The system has coerced the trade into artificial limits, and has gradually destroyed the domestic habits of our working men. For the gratification of what might have been a harmless taste, they have been forced by law to congregate in public houses—and the beverage which at home might, at worst, have been an inexpedient indulgence, has been dealt but to them under legal arrangements which associate it with cruel temptations. To the gin palace, the public house, and the beer shop system, originated by the interference of the law, and with a view to revenue, we ascribe not a little of the drunken habits of the working man." This is the view of an eminent English journalist who is a free trader and a voluntary—in fact the head and front of English voluntarism. We do not, however, intend to inquire whether the licensing system in the sale of liquors has introduced all these evils, or whether they might not have grown up under a system of unrestricted trade. These questions might have been very proper for consideration, if it were now proposed for the first time to adopt the license system. We have adopted it, and we have to do with its working, its vices and their cure.

In the session of 1850, the Legislature made an important change in the license law. As the law then stood, the power of licensing hotels, taverns and beer shops was in the hands of the magistrates, and was exercised in quarter session for the counties, and by the aldermen in towns and cities. The system did not work well—especially in towns and cities—where alone the licensing power was in the hands of an elective magistracy. To refuse an application for license might operate injuriously on the chances of an alderman's re-election; and the tavern license was complained of as omnipotent in such contests. The number of taverns in cities was also declared to be out of all proportion to the population. Nor were these complaints wholly destitute of foundation. The motives that actuated the elective magistrates of the cities in multiplying licenses may not have been confined to the purchase of popular favor. To refuse a license was often to depreciate a property; because a house licensed as a tavern would bring much more rent than one not so licensed. At all events, it was impossible to deny that the needless multiplication of the lower description of taverns, which were generally mere tippling houses, was the great evil of the system.

In 1850, the licensing power was lodged in new depositaries. Along with other municipal officers, inspectors of houses of public entertainment are elected; and through them the licensing power is exercised. The municipal councils make regulations concerning the descriptions of houses which may be licensed; they limit the number, and if they think proper, may pass by-laws refusing to grant any licenses whatever. Such by-laws, however, cannot take effect till they have received the sanction of a majority of all the voters in the municipality. The municipalities do often limit the number of taverns, hotels and beer shops that may be licensed; and they generally pass some by-laws relating to the accommodations which houses must possess in order to entitle them to receive a license. If the number of applicants for licenses exceed the maximum number of taverns fixed by by-law of the municipality, the license inspectors select out of the whole list the number allowed by by-law; and on their certificates the revenue inspector issues the licenses. The requirements of the by-laws as to the accommodation which the houses shall possess, are frequently evaded. In the lower taverns, rooms are multiplied by temporary partitions, and furniture is borrowed for the occasion of inspection. By far too large a number of houses are generally licensed; and many of them are of a description that renders them incapable of serving any useful purpose—mere tippling shops, in fact. The license inspectors depend upon popular election; and when the tavern influence is great, they are not over exacting to that class of their patrons—the very parties whom they are elected to watch. Hitherto, in this city especially, there has generally been warm contests for the office of license inspectors; but it seems to have been of infinitely small importance, so far as any practical result is concerned, who was elected. There is, beyond all question, a large number of unlicensed grogeries; and the inspectors do

little or nothing to abate the evil. The paltry emolument of £25 a year, previously paid to license inspectors in this city, seemed to make it an object of desire by certain persons ; and it is remarkable how the number of candidates diminished at the late election, when the figure had been cut down from £25 to £5. In 1851 the common council of the city of Toronto limited the number of taverns that might be licensed to two hundred, and that maximum has not subsequently been exceeded. This number is larger than ever existed in any year previous to 1851: Of what earthly use are three-fourths of these taverns? Fully that number are mere drinking shops for which no kind of necessity can be pleaded, and which are only a nuisance and an evil, a source of drunkenness and crime. In other places, the same excess of tippling houses exists. Take the principal city of Lower Canada for an example. The Mayor of that city and certain of its citizens represent the following facts in a petition to the Legislature, praying for an alteration in the license law :

" The Mayor, the Aldermen, and the Citizens of the City of Montreal, respectfully crave the consideration of your Honorable Council to the already incalculable, and still daily augmenting evils arising from intemperance, and by which the whole state of society is affected. By a reference to the published police statistics of this City, for the year ending the 30th December last, it will appear that, out of the number of 3,600 offenders punished before the Recorder's Court, no less than 2,208 were convicted of the crime of drunkenness.

" This alarming extent of licentiousness and crime is to be attributed, in the first place, to the many licensed houses of public entertainment in the city, and the absence of all proper regulations for their government ; and secondly, in a still greater degree, to the countless number of unlicensed taverns and grogeries which abound in the city ; and for the suppression of which, it is proved by daily experience, that the existing laws are wholly inadequate.

" Deeply moved by the indecencies and outrages, and the numberless violations of the city by-laws which have sprung out of the criminal facilities given to the traffic in intoxicating drinks, your petitioners, as guardians of the peace and welfare of this great city which they have the honor to represent, and especially appointed to enforce its by-laws, earnestly pray that your Honorable Council will be pleased to lend a favorable ear to their petition, as well as to those of a like nature now being transmitted to you from every quarter of the Province ; and that you will not permit this session of Parliament to pass away without enacting a new license law, or at all events without so amending the existing one, as to render it more effective, and better calculated to remedy the innumerable and grievous abuses against which the whole country is now crying out."

These facts suggest the inquiry, how it comes to pass that the illegal selling of liquor cannot be suppressed under the existing law ? That such illegal selling does exist to a very great extent no one questions. The Mayor and petitioning citizens of Montreal declare that the existing laws are wholly inadequate for the suppression of the evil. Those laws do, however, provide for the detection and punishment of this offence ; and it is obvious that the difficulty lies rather in the lax administration of the law than in the law itself. The evil, we fear, is more deeply seated than is generally admitted. It lies in the drinking habits of the people ; and the only effectual cure is to change these habits by the force of a moral reformation. We are far from saying, however, that nothing can be done to mitigate the evil by a change in the license laws. The practice of licensing houses which have no real accommodation for travellers or boarders ; which are mere tippling shops, incapable of serving any useful purpose, is wrong, and should at once be arrested by a change in the present license law. Experience has abundantly proved that so long as the licensing power is in the hands of the municipalities, just so long will it be abused. The Legislature should therefore prescribe such rules for the granting of licenses as will render more tippling houses impossible. This might be done by requiring that no license should be granted to any house of less than certain ample dimensions, and perhaps, also, value. In that case a guarantee would be taken that none but respectable hotels would be licensed. It might not prevent the evil of tippling ; but it would do perhaps as much as any legal restraint could do in that respect. Other plans have been suggested and are worthy of consideration. The Governor of the State of Michigan, where the

Maine Law experiment is declared on the highest authority to be a failure, end its repeal recommended, suggests the passing of a law enacting that no liquor shall be sold in less quantities than a gallon. This suggestion might be adopted with advantage, if exceptions were made in favor of such leading hotels as are required for the accommodation of travellers. Some plan of this kind might tend to mitigate the evils of excess in drink; but we have no hopes that any artificial measures whatever would cure a radical evil like that of drunkenness.

If, however, a majority of the people of this country, in spite of all history and experience showing the inefficiency of the proposed remedy, will insist upon the enactment of such a measure as the Maine Law, let them have it; and the sooner this takes place, and the more stringent the provisions of the measure, the speedier and the more signal will be its failure.

CORROBORATIVE EVIDENCE.

X.

Since the publication in another form of the astounding evidence upon the operation of the Maine Law, in its MATERNAL State, the cry of "mad dog" has been freely raised; but while no epithets have been spared, while every kind of abuse has been showered upon us, our facts have been allowed to remain unrefuted, and our figures unquestioned. We have already stated that the evidence we had adduced was capable of the most abundant corroboration; and already has the stream of confirmatory evidence began to pour in.

The editor of the Montreal Herald says: "We can ourselves testify that at the dinner tables of the Portland hotels, the drinking of intoxicating liquors is as open as at those of Quebec or Montreal." But there has just issued an official document, from a partizan of the law, which contains the most astounding confessions. We refer to the Message of Governor Morrill, delivered before the Legislature of the State of Maine, on the 6th of January. Governor Morrill is a Maine Law Governor. He is either a fac simile or a very apt pupil of Neal Dow. Both hold the same language on the liquor question. Both use almost precisely the same words. According to his own admission, Governor Morrill owes his election to the advocacy of the "Maine Law;" for he says:—"The law for the suppression of drinking houses and tippling shops has been fully discussed by the people of this State, and became a question of prominence and deep interest in our elections. The result proves conclusively that the people are, by a very large majority, in favor of sustaining that law." This fully corroborates what we said respecting the use made of the question by politicians. As much capital as was possible was made out of the question in Maine; and so good a ticket did it prove to Governor Morrill, that it secured his admittance to the Gubernatorial office. We propose to let our readers hear what this witness has to say on the subject. We extract entire the portion of the message which relates to the liquor law:—

"The law for the suppression of drinking houses and tippling shops has been very fully discussed by the people of this State, and became a question of prominence and deep interest in our elections. The result proves conclusively that the people are, by a very large majority, in favour of sustaining that law—a happy verdict for the cause of humanity throughout the land. Had Maine declared against the law, her decision would have been felt most disastrously by other communities where strong efforts are being made to obtain similar legislation. That any law that human wisdom can devise will at once rid the public of an evil so fast and deep rooted as intemperance, should not be expected; but that the traffic which produces it, can be circumscribed and controuled by penal enactments, as surely and legitimately as other crimes, there can be no reasonable doubt. And it is equally clear that the people are determined to pursue the effort faithfully, and give the law a fair trial. They see and feel the terrible ravages the traffic in intoxicating drinks has made on society and its best interests. They feel deeply the loss of many valued citizens who are being hurried constantly to the inebriate's grave. They fully realize that the sale and use of alcoholic liquors as a beverage are in direct conflict with the health, morals, industry, peace and happiness of society; and this fact is so apparent, that the individuals who insist on selling in violation of law should be made to feel its consequences. It is too late to plead that making men inebriates or giving them

the facilities to become such, is no crime ; none but the more depraved or reckless will support a doctrine so pernicious or absurd ; and it is believed that few are now engaged in the traffic, in this State, except those persons who are alike indifferent to public sentiment, the demands of humanity, and their own best interests. Persuasive efforts having been exhausted on this class of men, the law should be enforced in protection of society and in mercy to the offender. This important statute has not had a fair trial. Executive officers have been culpably negligent in seeing it enforced. Too often has the officer whose duty it was to honor and execute it as the law of the Commonwealth, been found more willing to exculpate the offender than to bring him to justice. Such official dereliction of duty emboldened violators of the law to repeat offences which they would not have committed, with the full assurance that the law was to be faithfully administered. This error must be corrected, the law must be faithfully enforced. The people demand that grog shops be closed, whether found in spacious saloons and popular hotels, where the temptation is presented in the most alluring form, or in the filthy cellar or den, where poor degraded humanity is made loathsome to the last degree.

"No man sells ardent spirits in violation of this law through the promptings of patriotism or humanity ; he has no higher motive than a reckless or sordid love of gain ; he should be held strictly accountable for the mischief his traffic produces. Let this be done and none will continue in the business except those madly bent on suicide. I would suggest the importance of so amending the law as to impose imprisonment for the first offence. The penalty for the first conviction is trifling, and the schemes devised to avoid detection are so numerous, that many sellers undoubtedly realize large amounts from the business before a conviction is had.

"Let the prison be opened for their réception and reformation, as it is for offenders of less magnitude, even the unhappy victims of their traffic, and be assured its prospective chastening influences will be felt more restrainingly than merely taking by fine from the pockets of the delinquents a trifling part of the money the business had given them.

"The willingness of rum sellers in other States to supply those in the same business, and the facilities afforded by steamboats and other common carriers to bring liquor into this State for unlawful purposes, call for such improvement in the law as shall meet this prolific source of evil, and cut off a great artery which is pouring the poisonous liquid into this State. Other amendments may be desirable to give efficiency to the law, and meet the modes of evasion which the ingenuity and cupidity of determined violators have invented."

Governor Morrill thinks it of the first importance that the result of the election should be to sustain the law, in view of the circumstance that it is being copied elsewhere. Now we humbly submit that, what other people than the inhabitants of Maine desire to know of this law is not whether the politicians who used it as a helping cry have succeeded ; but whether the operation of the law itself has been a failure. We, at this distance, care not a straw for the success of this or that party in Maine ; what we want to be informed about is the success of the "Maine Law." And on this point we take the evidence of Governor Morrill, bearing in mind that he has so far profited by swearing by this law as to have secured the first office in the State. Having given us to understand the political use that has been made of the question, he proceeds to apologise for the failure of the law to effect what its advocates, previous to its enactment, declared it would effect. But when he comes to describe the operation of the law, he shows a frankness which forms a charming oasis in the dreary desert of prohibitionist literature. Of the people of Maine, he says—"They feel deeply the loss of many valued citizens who are constantly being hurried to the inebriate's grave." This, be it understood, is a description of the State of Maine, by an anti-liquor Governor, three years after the prohibitory law was enacted—we cannot say enforced. If the law could be enforced, either the state of things here described would not exist, or would, in spite of the administration of the law. In

either case, the law would be worse than useless ; for if it were not enforced it would needlessly create a new description of crime and a new class of criminals ; and when once the Rubicon has been crossed, when once crime has been committed, the way is open to the commission of others. Governor Morrill does not say that the inebriety which he deplures, and which all good men must join him in deploring, took place before the Maine Law was enacted. He admits that "many "valued citizens" of Maine are *now* "constantly being hurried to the inebriate's "grave." Governor Morrill next tells us that the law "has not had a fair trial." How is this ? He seems to have forgotten that he had just before exulted in the consideration "that the people are by a very large majority in favor of sustaining "the law." It comes to this then : that with a very large majority in favor of the law, it has not been enforced ; nay, it has not even had a fair trial. Could evidence be more conclusive that the law is a failure, and that it cannot be enforced ? But Governor Morrill not only admits that the law has been enforced : he proceeds to tell us to what cause this result is owing. "Executive Officers," he says, "have "been culpably negligent in seeing it enforced. Too often has the officer whose "duty it was to honor and execute the law of the Commonwealth, been found "more willing to exculpate the offender, than to bring him to justice." This charge is not confined to any particular portion of officers whose duty it is to see to the enforcement of the law. No exception of any is made. All are included in the censure. But how does it happen that this occurs in a State where "the people "are by a very large majority in favor of sustaining the law." The people elect these delinquent officers ; they have been electing them over and over again, having had ample opportunities of correcting the evil if it was capable of being corrected, during the last three and a-half years ; and yet in spite of all this the law cannot get a fair trial. The old adage—"like master like man" somehow or other—can nobody explain why ?—does not hold good in the State of Maine. Perhaps, the explanation may be that the "very large majority," who are in favor of *sustaining* this law,—of not letting it fall to the ground—of not admitting the failure—are by no means so careful about *enforcing* it ; especially upon themselves.

Another admission follows, equivalent to a positive declaration that the law is a failure. "The people," says Governor Morrill and remember that it is the State of Maine he is referring to—"demand that the grog shops be closed." The implication is that, in spite of the famous Maine Law, grog shops do, as before it was enacted, continue open. The fact was too notorious for any one who valued his character for veracity to deny, in the presence of the people of the State of Maine. Before that kind of assertion can be ventured upon, it is necessary to go beyond the limits of the State. Neal Dow doubtless thought he was safe in telling a very different story in St. Lawrence Hall, Toronto. It was comparatively a safe game. The means of contradiction were not at hand. Will the prohibitionist journals of Canada have the honesty to cease repeating what no man in Maine dares for a moment to assert—that the prohibitory law is or can be enforced ? Governor Morrill (bear in mind that he is still referring to the State of Maine) goes far beyond anything that we have stated when he asserts of liquor "that it is found in spacious "saloons and popular hotels, *where the temptation is presented in the most alluring form.*" This in the State of Maine, three and a half years after the enactment of the anti-liquor law ! Liquor is undoubtedly found in every description of hotel in Maine, as well as in "the filthy cellar, or den, where poor degraded humanity is "made loathsome to the last degree." This, the reader will not forget, is the admission of the "Maine Law" Governor, who admittedly owes his election to his advocacy of the prohibitory liquor law, contemporaneously with which this state of things exists.

But the admissions of Governor Morrill do not stop here. He tells us that "a great artery is pouring the poisonous liquid into the state." After this, we shall

surely hear no more of the success of the Maine Law in Maine. Governor Clark, of New York, in his message to the Legislature, referred to the success of prohibition, in Maine, as a reason for adopting compulsion in his own State; affirming, what Governor Morrill does not venture to state, that the effect of its operation had been to diminish crime.

If Governor Morrill had admitted the logical consequence of his own statements and admissions, he would have admitted the utter failure of the law. But he was not in a position to do this. He owes his position as Governor to *the delusion that this law is to do for mankind what Christianity has failed to do*—inaugurate the reign of universal sobriety, purity and virtue. The profitable imposture is not to be given up. Obligated to detail facts which prove the liquor law to be a complete failure and an organized imposture, Governor Morrill tries to keep up the delusion by recommending an augmentation of its penalties. He recommends the legislature of Maine to take one step towards mounting the sanguinary platform of Neal Dow, who has a favorite syllogism by which he has long been in the habit of proving, to his own satisfaction, that in the carrying out of his favorite theory of prohibition, death punishment may become a rightful resort.

The Governor of the State of Connecticut recently stated, at a public meeting in New York, that the Maine Law in his State had been effective in its operation; but he produced no figures to show any diminution of drunkenness or crime since the law came into operation. The *Hartford Times* (President Pierce's organ in his native State) has published the following startling criminal statistics bearing on this point. The *Times* says of the operation of the law in Connecticut:

"The truth is, in Connecticut, that there is as much, if not more liquor there at this time than there ever has been at any former period. *In this city there is quite as much drinking as there was under the former license laws on this subject; and we are credibly informed that the same thing is true of New Haven and other localities.* Club-rooms are numerous, in which young men congregate for purpose of drinking and social carousing; and liquor is freely offered to visitors in private houses.

"The direct tendency of the present law is to revive the old custom of forty years ago, which made it fashionable to keep a supply of spirits on the sideboard of every private gentleman and offer the same as an act of common politeness to all who called. This is already the effect of it in some quarters; and the tendency is increasing. It is notorious that liquor is freely procured at this time, however strenuously the Maine Law papers may deny the fact.

"Number of commitments to the Hartford County Jail before and after the passage of the law.

	1850.	1851.	1852.	1853.	1854.
August,	5	6	2	0	11
September,	2	3	3	2	22
October,	1	0	2	0	19
November,	1	2	1	2	24
December,	3	1	1	1	15
Total.....	12	6	9	5	89

Since the above was written, Mr. Neal Dow has himself practically admitted the failure of the present Maine Law in Maine, by proposing to supersede it by another which he has laid before the Special Committee on Temperance, in the Legislature of that State. His scheme of improvement is to make the code more sanguinary—to increase the punishment. He stops short of capital punishment in the meantime, contenting himself with imprisonment.

RIGHTS OF INDIVIDUALS AND OF THE LEGISLATURE.

XI.

There are two sorts of rights. There are moral rights and there are legal rights. And when we speak of the Legislature to do this or that, it is necessary that there should be no misunderstanding as to the kind of right to which we refer. When we are told that Parliament has no right to take the general funds of the State and appropriate them for the benefit of a particular religious sect, we do not understand the assertion to import that Parliament may not legally do so; that it is not, by its nature and constitution, sufficiently omnipotent to do so; that it would transcend the limit of its powers in doing so; what is meant is only that, morally, it has no right to do that which would be unjust to a large portion of the population. The "right divine to govern wrong" no longer finds defenders in this age and country. All legislation to be justifiable must have a basis of immutable justice. The hon. Robert Baldwin once said in regard to a public question, no matter of what nature: "There seemed to be an opinion out of doors that 'this question was to be disposed of by the opinion of a mere majority. This was a false principle in morals and politics. He questioned whether the absolute will of a single individual would not be less despotic than that of a majority, if it were held that a majority might do anything. There must, in order to justify an act of legislation, be right and justice, as well as the mere will of a majority, to sanction it.' These words contain a great eternal truth that will last when empires have decayed and their memory been forgotten. There are certain inherent and inalienable rights, which existed antecedent to all written laws; rights which tyranny may temporarily depress but cannot destroy. These rights no legislature can be justified in taking away. It may be so constituted as to have the power to deny their exercise; and it may exert that power. But this is only another way of saying that it may do wrong. Legal tyrannies are not justifiable in morals; and therefore we are not to seek the proper limits of legislation in anything but the immutable principles of right and justice. Has the Legislature, acting by a majority or in any other way, the right to say that any man shall not be at liberty to use this or that article of food or drink; or to pass a law intended to have the effect of preventing its use by rendering it impossible to obtain it? We at once and unhesitatingly take the negative of this proposition. Eating and drinking being necessary to existence, the right to exercise them is just as clear as the right to life itself. For a government to prescribe and proscribe articles of food and drink would be an act of tyranny, because it would strike directly at the root of a natural right, in possession of which every individual comes in the world, and the deprivation of which would place his life at the mercy of another; for if the use of one article may be forbidden, it is clear that the use of all others equally may. This is the general rule; and it is not in the slightest degree invalidated by the exceptions to which it is subject. In the case of pestilence it may be necessary to forbid the sale of articles, the use of which must necessarily prove fatal. But, this is not the case with wine and beer. The evil is not in their use; but in their abuse. And common sense dictates that while their use cannot without injustice be forbidden by law their abuse is a rightful subject of penal legislation; because that abuse is public evil, engendering crime, idleness, incapacity for labor, taking off the "heads of families," as effectually as if it were done by the sword, and leaving unprovided widows and helpless orphans a burden upon the public. Drunkenness is a crime against society, and many rightfully be punished like any other. But the right and duty of punishing drunkenness, do not carry with them a right to punish the innocent user of intoxicating beverages with deprivation of them.

We hear a great deal about the force of example and the duty of removing temptation. Example is good when it is the natural growth of a good principal or habit; but, in a question of morals, we confess our inability to place any high value upon the effect of example prescribed by law or extorted by force. The right name for this would be coercion; and the chances are fifty to one that the fruits of it would be hypocrisy. Then, as to the duty of removing temptation. Shall we accuse the Creator of doing wrong in not removing the forbidden tree from the garden of Eden? Man has been endowed with reason to distinguish right from wrong; but he is every where surrounded with temptation. What father is there who would not rather trust his son's safety to inbred principles of virtue than the mere absence of temptation? The virtue which exists only upon the want of opportunity is not to be trusted. Remove temptation! Why there is not a man in the world who will ever be safe from mere want of opportunity to do wrong. If the temperance societies would teach men the glory of resisting temptation, of overcoming it, they would stand much better chance of working a radical cure than can ever be expected from the quack nostrum of removing opportunities of error and crime. A sickly negative, pretentious, doubtful, untried thing would virtue become under such hot-house treatment.

Such is not nature's plan: not nature's law. To the proper use of all that is fit for man she annexes pleasure; but for excess she has a thousand punishments. On this point we quote the weighty words of the distinguished voluntary, Mr. Miall:

"Violated nature avenges herself. God has inscribed upon all his gifts to man, what man's experience soon renders visible: *THUS FAR YOU MAY USE THEM, BUT NO FURTHER.*" The loss of reason, of speech, and, at last of sensibility—the heaving stomach—the aching head—the trembling hand—the collapse of animal spirits—to say nothing of graver physical evils which follow a long course of intemperance, are all of them divine teaching addressed to the conscience, and they impressively warn men to govern their appetites and put a bridle upon their passions. And mark! the self-command which grows out of trial, is a higher result in all respects than the non-indulgence which is the consequence of the absence of temptation. To nourish us into strength in the government of ourselves is the only visible reason for leaving us exposed to such a multitude of evils. Not to cut off opportunity but to arm the man to meet it, is the method, so far as we can see, of infinite Wisdom, and our impatience with the present mixture of evil and good, argues nothing but our own distrust of His plan of administration. But again, by attacking the outward occasions of mischief, instead of dealing with the internal causes of it, we do but alter the form of depravity, and seldom diminish its vitality. *It is easy to drive vice beneath the surface—not so easy to staunch the sources of it.* We may prevent the sale of intoxicating drinks: are we certain that we shall not drive men to the use of stupifying drugs? But if not, if a Maine Liquor Law for Great Britain should prove a decided success, may we not reasonably fear the application of so efficacious a remedy in many other directions? May we not see it right to regulate marriages, to compel education, to place literature under a censorship, and to ward off from society all the evils which can overtake it during the imprudent conduct of individuals? What would be the result? As a community, we should suffer less, and we should be less. We should escape some mischief and we should lose more good. We should retreat towards a second childhood, and be, for second time, put under tutors and governors. May it never be our lot to live amongst a people made virtuous by law—a people whose minds and morals are kept straight by the irons and pads of civil law—a people who have no falls because provided by Parliament with go carts—a people of passive and negative worth of character only, kept orderly whilst the eye of a governor is upon them, but when left to themselves, helpless as Russian serfs! Do not our friends know that

"out of the nettle danger," they must "pluck the flower, safety?" *In truth we are alarmed at the tendencies of the times in these respects.* We see an increasing penchant for legislative preventives of moral wrongs. Results are everything now a-days, and processes nothing. *Superficial cuttings and scarifications are the quack nostrums for diseases bred in the constitution.* Would it not be better, if possible, to shut up one-half of the community in prison, and employ the other half in watching over them? From what a world of license would such an arrangement as this save us! Aye! but whilst men gathered up the tares, they would gather up the wheat also. On the whole, perhaps, the wisest method is that of letting "both grow together until the harvest." No preponderent good comes out of forcing humanity to be virtuous."

The same writer disposes of a fallacy drawn from the analogy of legislation; a fallacy which was resorted to in the discussion of this question, by M. Felton, the introducer of the Prohibition Bill.

"Betting is a vice—drinking beer, or wine is not a vice, although it often leads to it. A betting house is a place set up for making a profit by the indulgence of vice. A public house is established for the sale of malt liquors, wines and spirits. We consent to attack the one because it is, *per se* and in its own nature, evil. We decline to attack the other, because it is not evil *per se*, but is only liable to be made an occasion of evil. Betting is not a vice arising out of an excess in what is lawful, but it is itself to be condemned, drunkenness is purely a vice of excess arising from inadequate self-control. The moral state of society revolts from putting into the category of vices the mere act of taking a vinous or alcoholic stimulant; and until our correspondents learn to distinguish between a lawful indulgence and an intemperate gratification, we fear we shall not be much enlightened by their lucubrations."

Here we bring this discussion to a close. A parting word to our Legislators. How many of you are acting upon your real convictions on this question? How many of you are practically consistent in the matter? Do you yourselves need a little legal restraint to back up your faltering self-control? It would be curious to know what probable proportion of you will be found in the soloon below, when the division bell calls you to record your vote for compulsory abstinence. Do you believe that if you, "the collective wisdom of the country," formed your selves into a separate community you would ever think of obeying such a law. Not you. Then where is the foundation of your faith that it will be observed by others; that it will be anything better than an organized hypocrisy; that it will or can be any thing but a delusion and a snare?