

loosely and spoken recklessly. They have defined the aspirations of their hearts with a definiteness which the facts do not support. When they quietly analyze their experience in prayer, they are willing to admit that the voice of God which they heard in prayer may have been the voice of conscience and nothing else. For those few men who, when they have carefully and critically analyzed their own minds, feel the presence of God coming to them in prayer, I have nothing but envy. I would like to be one of them—but God has never blessed me with the sign.

What, then, is left of the reality of prayer?

Prayer to me is nothing but a simple expression of human desire. There are times in our lives when we need to forget the small troubles and quarrels of the scramble we call life. Then it clears our vision for some one to express with us the higher hopes of universal service and brotherhood. That is why I still pray with my congregation for higher motives and ideals. I want to teach them through prayer something of higher aspiration.

And does not prayer have a real function as an expression of noble desire? Out of the darkness we have come and into it we will go. Everywhere is Death. The Mystery gives back no answer when we cry. The brave man looks into the darkness unafraid: he is terrified by no threat of the future but he would claim the Unknown for himself. He stretches out his hands to gain greater fullness of life. Priests and fear-mongers bring answers to his prayers. He scorns them for he is not asking for their answer. He is yearning for Life: he is on the great search which has no goal.

THE ETHICS OF PROHIBITION.

BY A. V. C. P. HUIZINGA.

I.

IT is a curious coincidence that just at the time that the slogan of "self-determination" is adopted as a panacea for the nations, even to straighten out their tangled international relations, the prohibition movement engulfs with its amendment to the Constitution of the United States the hundred million inhabitants of "the land of the free and the home of the brave." Legal restraint is thus deemed necessary for the free and the brave in this great republic to the extent of employing the very Constitution, designed as a

charter for the liberty of the people, as a police measure to regulate personal conduct. Whether the basic idea and purpose of the Constitution, as relating specifically to the fundamental principles of government to protect life, liberty, and property within the nation, is thereby not perverted to a questionable police regulation, which with its paternal assumption reduces personal liberty by circumscribing it, remains within the domain of legal experts, and for them to decide.

On this point Judge Alton B. Parker and ex-President Taft are agreed. Judge Parker declared: "that now and here in our land the time has come when conditions demand that the liberties and the form of government which constitutes their foundation be guarded with jealous care. . . . There is every indication that both the court and the tribunes are to be kept busy. There are innumerable proposals flying about our ears like missiles in battle for human betterment at the expense of human freedom."

Ex-President Taft observes: "The reaching out of the great central power to brush the door-steps of local communities, far removed geographically and politically from Washington, will be irritating in such States and communities, and will be a strain upon the bonds of the national union. It will produce variation in the enforcement of the law. There will be a loose administration in spots all over the United States and a politically inclined national administration will be strongly tempted to acquiesce in such a condition. . . . For these reasons, therefore, first because the permanent national liquor law in many communities will prove unenforceable for lack of local public sympathy; second, because attempted enforcement will require an enormous force of federal policemen and detectives, giving undue power to a sinister and partisan subordinate of the national administration; and third, because it means an unwise structural change in the relations between the people of the States and the central government, and a strain to the integrity of the Union, I am opposed to a national prohibition amendment."

Vehement denunciations are heard against the Southern States for abuse of their political responsibility in supporting the measure. It is asserted that the South has lynched Jeffersonism. For Thomas Jefferson it has substituted the Anti-Saloon League lobby. In supporting this measure, it is argued, the South has wrecked the whole structure of State rights, obliterated the police powers of the States, without which they have no political excuse for existence, and destroyed the personal liberty which has hitherto been a bulwark of American freedom. Centralization supplants liberty. The South

has lynched the Jeffersonian theory of government, now let it take the consequences.

It is generally admitted that the old-time Prohibition party has had little to do with the present result, while the Anti-Saloon League has had a great deal to do with it. Without considering here the merits or demerits of prohibition as such, it should be emphasized that this circumstance constitutes the most ominous feature of the procedure and way in which the result has been accomplished. For one certainly cannot now say—prohibition in itself be desirable or not—as does Mr. W. E. Emory in the *Boston Transcript*, writing under the witty caption “A short review of the big topic of the day that may place the soda fountain in hotels and other places that were ‘barred.’” He says: “Prohibition has gone beyond a party issue. It is largely a matter of education and evolution, and it is one on which the politician in Congress and in State legislatures is free to act like a statesman without incurring the displeasure of any considerable element of the voters. None knows better than the practical politician that the safest thing he can do is to vote for a moral reform and, indeed, that not to do so when he is out in the open is political suicide.” Mr. Emory assuredly proclaims here the moral reform movement of human nature by law with a vengeance, and betrays in these same few words its inadequacy.

It would seem that the severe arraignments of the prohibition movement as Anti-Saloon League are not without point, for since the Webb-Kenyon Act was declared constitutional the States had the power to control fully the use, sale, transportation, and manufacture of liquors, etc., each within its own limits, but now the proposed prohibition amendment forces its provisions upon those States that do not want it, forcing all individuals to conform their conduct to its regulation. Judge Cullen of the New York Court of Appeals is quoted in the *Connecticut Report* as saying that “in his career as lawyer and judge, he has witnessed the assaults on personal liberty starting with the assumption in prohibition laws of a right in A, and B, to pass a law that C shall not be allowed to drink for fear that D may allow himself to get drunk, gaining in force and volume until they have reached that height of legislative folly in eugenic laws which forbid men and women to marry except upon concurrent permission of a physician and a priest.”

There is then no question that this law goes far in the direction of restricting personal liberty, nor is the claim made that it does not interfere with private liberty, while by its centralizing of power in the Federal Government it is destructive of local civil right. Yet,

precisely the sumptuary laws—if administered at all—require to be administered locally for evident and generally recognized reasons. Prussian paternalism applies this permanent federal liquor law to every State, and imposes it upon those States that do not want it as well.

Mr. Gerald Chapin's article in the *New York Sunday Times* is interesting. He expects a reaction, if only the enthusiasts are permitted to enact their extreme restrictive measures. He opines that then the Amendment will soon become a dead letter in most unsympathetic States. He says: "We must keep in mind the fact that the country is in an abnormal state of mind," and expects a cure by letting the prohibition fanatics have full sway. In this he depends, as he declares, "on the sane psychology of reaction." Perhaps it might come about, but not till a deplorable object-lesson has been paid for. Mr. Chapin's adopted attitude is certainly logical, but logic is not always wisdom, and it is as sound psychology to look for insane reaction upon extreme measures at this time. To this Mr. Chapin points, when he says: "The present Amendment marks only the beginning of a series of infringements of personal liberty." Surely, why should not tobacco follow suit? Why—if adequate publicity for "postum" is kept up—should public opinion not be convinced that "there is a reason" also for the prohibition of coffee? Indeed, to what length will prohibitory measures not go, when man is once made to "live under law," because his responsibility is denied. I cannot help recalling here how some one said some years ago at the occasion of a half-drunk Indian in a trolley-car in Western New York: "Indians cannot have any liquor, because they are 'wards of the nation.'" Guardianship has been extended far since then.

The California Grape Productive Association obtained a restraining order forbidding Governor Stephens to certify the ratification to the Secretary of State, and it wants a large sum appropriated by the State legislature to recompense the wine grape growers of the State. It would seem they might rather ask Uncle Sam, who holds the final decision and responsibility, for eventual indemnity.

Just as it is urged by the opponents that the Anti-Saloon League lobby has hurried up unduly the prohibition movement into legal enactment, so it is claimed that the prohibition amendment itself is not properly passed by the majority of a quorum, instead of by the majority of the full membership of both houses. This is the view of the State Bar Association of Connecticut, which in a "Report of a Special Committee on the Prohibition Amendment

to the Federal Constitution" argues this case at some length, but concedes that in the House and in the Senate in the *ordinary* business of the legislative branch of the government precedent not only exists, but it is regular practice to regard the members in session as the "houses." They consider the proposed amendment as *extraordinary* business, conceding here, however, also precedent, but they contend that at these precedents there was at the time no disagreement and the point was therefore not raised, and conclude that "failure to raise the question concerning an amendment in favor of which there was practically unanimity of opinion cannot be held a waiver of the right to raise the objection nor an acquiescence in the precedent claimed to have been established." It would seem to be a question what legal weight this precedent should be accorded, for without consideration of the legal weight of precedent, the argument presented seems to favor the view of a majority of "full houses." The report makes also a strong attack on the wording in Section 2 of the Amendment: "The Congress and the several States shall have 'concurrent power' to enforce this article by appropriate legislation." They argue that "concurrent power" is clearly wrong, and would render the enforcement of the law confusing and ineffective. The Connecticut report does not make mention of the claim made elsewhere that there are fifteen States where the action of the State legislature may be carried to the people on a referendum, which would, if successfully carried out, annul the amendment. There are more than that number of States in which amendments to their own State constitutions must be referred to the people and in many cases any action of the legislature is subject to popular review. It is, however, asserted that "the United States Constitution provides that its amendment may be accomplished by act of Congress, which must be ratified by three quarters of the total number of States in one of two ways—either by action of the State legislature or by action of a convention called in each State for that purpose. Congress chooses which of these methods shall be used and in this case, as in nearly all others, the former was designated. There is therefore no hope in the referendum claim for the opponents of prohibition, except a possible delay of its enforcement. The opposition of prohibition finds also of little avail Article X of the Constitution, which provides that powers not delegated by the Constitution to the Federal Government or by it prohibited to the States shall be reserved to the States. In connection with the federal income tax some years ago the Supreme Court held that individual States had a perfect right to delegate to the Federal Government

any powers which they possess, as they have been doing at one time and another ever since the United States became a nation. Many claims are heard on every hand, the opposition evidently bestirring itself in the conviction of the imminence of their legal defeat. Some even expect Congress not to act upon the Amendment, which would turn the legal attempt at moral reform into the great joke, which they assert it is, and anyhow, 'better a great joke than a great calamity.'

Nebraska evidently put the Amendment over on January 16, when the State of the peerless leader, the picturesque, first and foremost figure in the recent prohibition movement, ratified the Amendment as the thirty-sixth State. It is interesting to remember how only a few years ago William Jennings Bryan failed to raise prohibition to a national issue by adopting it in the Democratic platform, when we find ourselves now already with prohibition as an accomplished legal fact. No wonder that the cry goes up enthusiastically to proceed to make the whole world dry, bone-dry!

II.

We must, however, consider that legal enactments are not the whole story, that all law after all is but instrumental, creature and servant of ethical ends. We therefore leave these technical matters, pertaining to the legal machinery, to the legal profession and the courts, and turn to the ethics of prohibition, because we believe that all law should function ethically. Law may indeed generally be regarded as social ethics precipitated into written statute with this understanding that the law requires only the minimum and exacts this minimum under penalty. If law be thus precipitated into written statute from ethical sentiment of the social milieu over which it functions, it goes without saying that such legislation must bear a natural ethical relation to the people who enact it, and who are to stand guardians over it by enforcing it generally. This at least is desired in legislation. If law is not thus expressive of the moral tone of the community its functioning is bound to assume an artificial character, and its efficacy is doomed. This question, whether prohibition does really prohibit, comes within the domain of social ethics but is mainly viewed with a utilitarian bias, that is, with a view to its effect upon society rather than upon man. We need to consider man in society, but should give ethics there an individual, concrete bearing, as the rule of life is carried individually in the world's market-place. Hence we shall have to fall back here, as in most other cases, on the individual as our starting-point.

Moral reform is not from without but from within. The law cannot replace the ethical mandate which addresses itself personally to each individual. The law may aid in protecting whatever moral standards are prevailing in a community or nation, but the law as such cannot add one cubit to its moral stature. Both Woodrow Wilson and his opponent in the presidential campaign are in perfect agreement on this point. Woodrow Wilson said before the American Bar Association at Chattanooga, Tennessee: "The major premise of all law is moral responsibility, the moral responsibility of individuals for their acts, and no other foundation can any man lay on which a stable fabric of equitable justice may be reared." And he emphasized in this connection that the people ought to be cured of the appetite for law as the remedy for all ills. Hughes declares: "I do not sympathize very much with schemes of moral regeneration through legislation. We can accomplish a great deal by wise laws, but the impetus of moral movements must as a rule be given by the voluntary work of citizens who, with the force of conviction, press their views upon the people and secure that public sentiment according to which alone any true moral reform can be accomplished. I also have very little sympathy for an ambitious scheme for doing away with all evil in the community at once." As I tried to show in an article "Social or Individual Regeneration" in the *Bibliotheca Sacra*, January, 1912, moral reform must begin within man, the leverage of all civilization and moral progress forever starts with the individual man. It is a sad testimony to the churches that they have allowed themselves to fix attention unduly upon surroundings, conditions, and external things, instead of engaging, as was their wont, the man, for after all it is the man who controls, creates, makes, and unmakes these "conditions," and also makes and breaks the customs. The magic word "environment" has subtly poisoned the modern mind into flabby fatalism of materialistic flavor. We are all set adrift upon the evolutionary currents with the vague hope that somehow the evolving is upward and onward, though some wrecks and much driftwood on life's ocean alarm us. We are evidently not naturally floating to the haven of destiny. We need compass, chart, and above all—we need to steer ourselves.

Professory Perry puts this clearly in *The Moral Economy* (p. 130): "The external environment of life is in some respects favorable, in others unfavorable. Now, strangely enough, it is the unfavorable rather than the favorable aspect of the environment that conduces to progress. Progress, or even the least good, would, of course, be impossible, unless the mechanical environment was

morally plastic. The fact that nature submits to the organization which we call life is a fundamental and constant condition of all civilization. But there is nothing in the mere compliance of nature to press life forward. It is the menace of nature which stimulates progress. It is because nature always remains a source of difficulty and danger that life is provoked to renew the war and achieve a more thorough conquest. Nature will not permit life to keep what it has unless it gains more." I will quote two more professors of Harvard who have given this subject special attention. Professor Peabody declares: "Better methods (as wiser laws) may simplify the social question, it can be solved by nothing less than better men." Professor Münsterberg observes in *American Problems* (p. 21): "The whole radicalism of the prohibition movement would not be necessary if there were more training for self-control. To prohibit always means only the removal of the temptation, but what is evidently more important is to remain temperate in the midst of a world of temptation. The rapid growth of divorce, the silly chase for luxury, the rivalry in ostentation and in the gratification of personal desires in a hundred forms cannot be cured if only one or another temptation is taken out of sight. The improvement must come from within. The fault is in ourselves, in our prejudices, in our training, in our habits, in our fanciful fear of nervousness."

A point that should not be lost sight of in connection with these legalistic tendencies, is that they make their strongest showing on the least positive moral strength. It is a truism to say that as moral virtue languishes people will naturally lean more strongly on the law, or the conventional verdict. Hence conventional and legal morality, which at best cultivates negative virtues, has become often of ill repute. It has led people to conceive prevalingly of morality and religion as restraint, not as inner conformity to right, as a life responsive to and expressive of a positive principle within. The monumental exhibit of legal morality in the religious sphere stands branded in the Pharisees. Read in Schurer's work *The Jewish People in the Time of Jesus Christ* the chapter "The Life Under the Law," realize the monstrous result when ethics and theology were swallowed up in jurisprudence, and you will pause at the folly to acquire temperance through prohibition. Rather the hysterical appeal for prohibition is itself proof of intemperance. Is not the leading appeal and argument on the ground of prevailing weakness and consequent abuse of liquor an explicit and implicit declaration of the moral bankruptcy of the nation? Scripture insists that Christian liberty is nowhere allowed to be forced. In

the whole Bible the prohibition fanatics search in vain for sanctions for their crusade. Christ turned water into wine. "And He called the multitude, and said unto them, Hear and understand. Not that which entereth the mouth defileth the man." The argument when Paul urges that the strong (those who do not abuse it) become weak to the weak (those who actually abuse it, or are liable to do so) can of course never come within the range of law, as it is necessarily a voluntary, individual act to abstain in behalf of the weaker brother. Yet, Billy Sunday, who should know Scripture, indulges in the following characteristic diction at the ratification of the prohibition amendment: "The rain of tears is over; the slums will soon be a memory. We will turn our prisons into factories, our jails into storehouses and corn-cribs. Men will walk upright now, women will smile, children will laugh, hell will be for rent." Without depreciating Billy's evangelistic endeavors the query forces itself forward: Can Billy really believe such extravagant statements? Does Billy not realize that his own evangelistic efforts aim with powerful emotional, histrionic, and dramatic effect at the will of his hearers, and unless that will is reached, and is (with or without grace) strong enough to break the baneful habit, his appeal goes for naught? Is Mr. Sunday not aware of the fact that prohibition only limits a man's choice by eliminating liquor as an object evil in itself or leading to evil consequences, but that the weak or depraved will, thus barred, is ever ready to find other objects? Still, Billy fills a niche all his own, his thundering people away from the temptation of drink into abstinence is readily seen to move on a higher plane than having possible temptations removed by the police measures of prohibition. Contrast Billy's thunder against the liquor traffic with the resolution of the Massachusetts Federation of patriotic societies and good-government clubs, held at Malta Hall in Cambridge, and one cannot fail to rate Billy's rampant denunciations as wholesome by the side of utterances of these alleged patriots of good-government clubs. Billy never smells unctuous, he is in fact the exact opposite of those whose fatal pride is inflated with the sense of their own excellence. These people urged commemoration of the 300th Anniversary of the Landing of the Pilgrims at Plymouth along with the resolution "that we exert every influence and labor unceasingly to make as a contribution by 1920 a decisive and complete victory over the greatest enemy of all times." How many of these people realize what an entirely different conception these Pilgrim Fathers, whom they wish to commemorate, had of "the greatest enemy of all times," over whom they certainly

could not gain "a decisive and complete victory" by a mere legal prohibitory enactment. How many of these people are aware that Robinson and Brewster, when the leaders of the Puritans at Leyden, obtained there special privileges to buy enough wine and beer without tax to supply most of the congregation, and that the beer which the pilgrims of the Mayflower had was sold off to pay their debts to their harsh English creditors! The Pilgrim Fathers had "disciplined hearts," but this prohibition movement is born of intemperance. This Massachusetts Federation of patriotic societies should be reminded of the fact that the Bay State itself annulled the prohibition law nearly two generations ago after having been dry for some twenty years, its leading men and best citizens sustained public opinion in a general protest against it. We might point here also to Cotton Mather's sermon on the Bostonian Ebenezer, where he says: "And, oh! that the drinking-houses in the town might once come under a laudable regulation. The town has an enormous number of them; will the haunters of those houses hear the counsels of heaven? For you that are town-dwellers, to be oft or long in your visits of the 'ordinary,' 't will certainly expose you to mischiefs more than ordinary. . . . But let the owners of those houses also now hear our counsels. Oh! hearken to me, that God may hearken to you another day! It is an honest, and a lawful, though it may not be a very desirable employment, that you have undertaken: you may glorify the Lord Jesus Christ in your employment if you will, and benefit the town considerably. There was a very godly man that was an innkeeper, and a great minister of God could say to that man in 3 John 2, 'Thy soul prospereth.' Oh, let it not be said of you, since you are fallen in this employment, 'Thy soul withereth'. . . . There was an inn at Bethlehem where the Lord Jesus Christ was met withal. Can Boston boast of many such? Alas, too ordinarily it may be said, 'There is no room for him in the inn.'"

We raise in this connection the question whether the prohibition movement itself is wholly guiltless of the excesses of the drink evils, when it forced the liquor traffic, which needs to be so carefully guarded, by its violent, persistent attacks into careless and reckless hands? Cardinal Gibbons is quoted as describing the Prohibition Amendment as a blow at the Christian religion, and predicts the invasion of American homes by federal officers "with the authority of policemen and the violence of burglars." This accords fully with Mr. Taft's statement, and is left for truly-good-government clubs to reflect upon.