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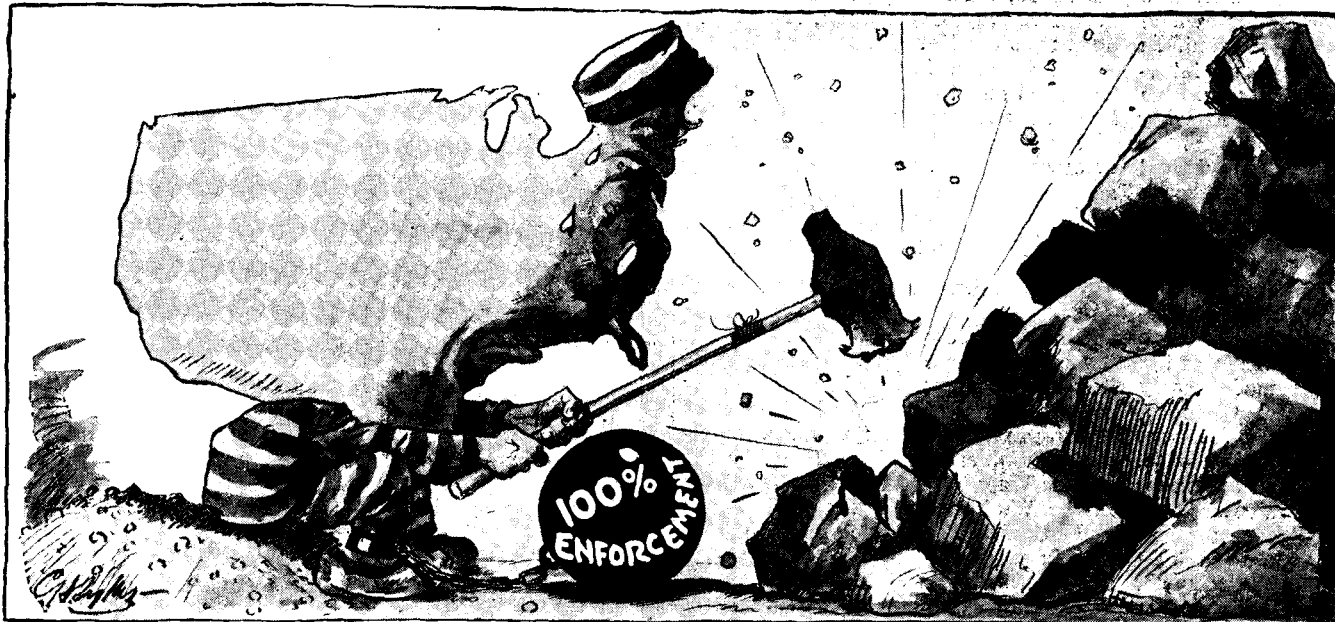
Collier's

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The Law Among Friends

WHEN the great lawyer Burke said in his defense of the American colonists that you cannot indict a nation, he could not foresee prohibition in the United States.

What Burke said the British Parliament could not do, our American Congress has done. The Jones Act, together with other forgotten legislation, makes felons of millions of otherwise good Americans.

Congress is now troubled over Senator Morris Sheppard's proposal to make the buyer equally guilty with the seller of beverage alcohol. Logic and justice support Senator Sheppard's proposal, as Collier's has already pointed out.

If the traffic in intoxicating beverages is to be destroyed, buyers as well as sellers must be suppressed.

Congress has recognized the fairness and reasonableness of this position on many occasions.

The Narcotic Act makes the purchase of illegally imported drugs unlawful. The drastic Harrison law provides other penalties for the buyers of forbidden narcotics.

The Migratory Bird Act provides penalties for those who purchase or offer to purchase protected by that statute.

The Tariff Act makes it unlawful knowingly to buy smuggled merchandise.

The National Motor Vehicle Theft Act makes it a crime even to receive an automobile, knowing it to have been stolen in interstate commerce.

The law protecting interstate shipments of freight provides penalties for buyers as well as sellers of stolen goods.

Even the laws regulating oleomargarine, filled cheese and mixed flour penalize the buyers as well as the sellers of such of these

commodities as do not meet the requirements of the statutes.

In all of these cases and in others akin to them no one questions the justice of joining the buyer and the seller in guilt.

The explanation is obvious. Where the act forbidden by law is also condemned by public opinion, there is no question of punishing the seller and excusing the buyer. Congress hesitated specifically to penalize the buyer of alcoholic beverages because so large a section of the American people do not think it a crime to drink.

Congress ought in decency to go the whole way. If it is unlawful to traffic in forbidden drink, it is silly merely to provide one-sided penalties for the sellers.

If, however, the courts sustain the opinion of the United States Court at Peoria, Illinois, already Congress has, unintentionally, made buyers as guilty as sellers.

An Embarrassing Discovery

The Jones law makes violations of the Prohibition Act felonies and not mere misdemeanors. Federal Judge Louis Fitzhenry pointed out recently in a case before him that:

"By an act passed by Congress in 1790 anyone knowing that a felony is being committed and who does not make a proper report of the matter, is a felon himself, subject to the same punishment."

Judge Fitzhenry added:

"Any person who buys a drink of liquor from a bootlegger and does not make a report of the matter to the authorities has committed a felony and is equally guilty as the person making the sale.

"Whether it is wisdom to make this change, which makes thousands, perhaps millions, of persons felons, or whether it is constitutional is quite a different thing. The (old) law operates entirely outside and beyond the National Prohibition Act."

Already, therefore, the thousands or millions of drinkers in this country who buy from bootleggers are violators of the law and can be prosecuted as felons whenever the enforcement officials are willing to undertake the adventure.

Of course drinkers are not going to be prosecuted. Prohibition enforcement officials were reported to be irritated at this discovery of the law of 1790. The prosecutors have enough to do fighting the trade.

Nor is the average man going to tell on his neighbor whom he sees sneaking a drink regardless of what the law says.

Not even congressmen and senators, panting to show their constituents how dry they are, will testify against their associates when offered the chance.

Customs and manners are too strong for that. The man who voluntarily would report on the liquor purchases of his wet friends would be ostracized almost anywhere in the United States. Custom overrides the law.

Nevertheless it is important to have a Federal court point out the ancient statute, even though no one intends to obey it. For we can't go on violating a law as important as the Prohibition Act without injuring the very foundations of our institutions.

If we sincerely want prohibition, we must be willing to obey the law or take the punishment whether we buy or sell, or merely accept gifts from indulgent friends.