

What's the Matter with Prohibition?

BY FRANCIS M. COCKRELL

One who participated in the moral war, and still believes in Prohibition, takes stock. He finds the leaders of Prohibition element in a state of mind similar to that of liquor barons of a few years ago.

WHY I VOTED FOR PROHIBITION

DURING the years preceding National Prohibition the question of liquor-control interested me deeply. The evils growing out of the abuse of liquor constituted, in my judgment, our greatest social problem.

But I had no pet theories as to its solution. I tried to keep an open mind on all plans—from absolute prohibition to the other extreme of absolute freedom from all restriction. My interest was wholly practical.

In my rather extensive travels over the country I observed the results from the different methods of control then being tried. Under Local Option I saw the benefits which had come to smaller communities from prohibiting all local sale of liquor. But the workability of this in larger cities I was inclined to question. It seemed to me that more effective results could probably be secured there by increasingly stringent regulation: that the limit in this direction had not yet been reached.

But as time went on a disturbing factor intruded itself. No one could fail to note the increasing boldness and aggressiveness of the liquor interests—the viciousness with which they fought every effort at their legitimate regulation, their contempt for sane and decent public opinion. Among my acquaintances were brewers, distillers, and

wholesale liquor dealers, and when discussing the subject I would say to them: “Why don’t you make your business decent and respectable? Why do you allow the retail end of it to ally itself with gambling, prostitution, and professional crime? Why do you fight those who are trying to remove the evils which threaten the very existence of your industry? Why don’t you join with them—if only as a matter of sound business?”

Their reply was always an evasion of their own responsibility and abuse of “Prohibition fanatics.”

Finally, I was forced to the conclusion that, under existing conditions, it was practically impossible to secure the enforcement of restrictions which would remove the evils; and that before we could ever deal with the problem effectively we must first destroy the power of the organized industry by making it an outlaw. So, when the Prohibition Amendment was submitted for ratification, I heartily supported it. My primary reason was because I felt confident that it would suppress the corrupt and debauching influence of the liquor traffic; in addition, there was the hope that it would materially reduce both the general use and the abuse of liquor.

WHAT OF PROHIBITION TO-DAY?

But, now, after ten years of its operation, what can be said of Prohibition?

In my deliberate judgment, if we double all the evils charged against it, Prohibition has more than justified itself. It has removed from our social life the degrading influence of the open saloon. It has successfully destroyed the power of the organized industry. In the place of a bold, defiant, legally intrenched enemy, we have now only to contend with a furtive outlaw group and a small minority of good people who conceive of Prohibition as an end in itself. So, we have practically a free hand in dealing with the evils now confronting us.

However, it is squarely up to those of us who supported the enactment of Prohibition to take stock—to weigh accurately the results of its operation. We cannot afford to blind ourselves to the evils which exist, or to minimize their seriousness. Instead of cheapening ourselves and hurting our cause by criticism of its opponents, we must consider fairly the facts and arguments they present. Only by so doing can we hope to remedy its evils.

Nor can we continue to sit back complacently and offer as a sop the fact that Prohibition at its worst is better than the old system at its best. We are here attacking only a bogie-man. No one today defends the old system or advocates its return.

Some of our leaders have adopted this defense:

1st. If Prohibition is so bad, why don't you who are fighting it propose a better plan of liquor-control?

2d. Even if you do propose a better plan, it is practically impossible to secure its adoption because of the difficulty in amending the Constitution. Therefore, the only thing for all of us to do is to make the best of the situation (bad as it may be and however worse it may become).

The responsibility for any evils or shortcomings of Prohibition rests directly upon those of us who supported its enactment; hence, if we cannot remedy those deficiencies, it is *our* duty to devise a more effective plan to take its place. By what logic can we shift this responsibility upon those who opposed Prohibition and predicted its failure?

Then, having devised such a plan, how can we say it is any more impossible to secure its adoption than it was to secure the enactment of Prohibition? Did we meekly allow the organized liquor interests to continue their debauching influence, simply because it was difficult to outlaw them?

Are we more interested in Prohibition as a pet hobby than in the purposes we sought to accomplish through it? Shall we expend our efforts in defending it, or in boldly seeking to find its weaknesses—to the end that we shall continue to advance in our fight against the evils of liquor?

Of course we are going to try to remedy those defects before even considering any substitute. But, in so doing, are we going to face the facts as they are, or as we would like to have them? Let us take a look at some of these facts right now.

PERSONAL LIBERTY

In his inaugural address President Hoover said "we must awake to the fact" that patronage of the liquor industry by "large numbers of law-abiding citizens" is the primary cause of its continued existence. Why do these men of standing disregard Prohibition? They tell us it is because they feel that the law is an unjust invasion of the individual's private life and personal conduct.

And what is our reply to this? The usual thing is to say that personal lib-

erty is just a myth—an illusion. As one of our most prominent leaders (Bishop James Cannon, Jr.) recently expressed it: "The enlightened social conscience of to-day absolutely refuses to recognize anything as 'private life and personal conduct' which affects the general welfare."

Let us briefly analyze this statement. Our *general* welfare is essentially the sum total of the welfare of each individual citizen. Therefore everything which affects the welfare of an individual affects also the general welfare. His diet, his recreations, his hours of sleep affect his bodily health. The amount of his savings affects his economic status. His regular attendance at religious worship is generally inclined to improve his morals. Hence his actions in all these things affect the general welfare: in fact, there is not a detail of the individual's life, from his birth to his death, which does not in some measure affect the general welfare. And the enlightened social conscience of to-day recognizes this fact. More and more does it interest itself in the individual's well-being. It is constantly striving to improve him; to help him advance to higher levels of thought and action.

But there is always the problem as to the most effective method of accomplishing this aim—whether by force of law or by education and moral suasion. And the determination of this is purely a matter of practical expediency. How would it work if we should "absolutely refuse to recognize anything as private life which affects the general welfare"? Should you eat potatoes for dinner? And if so, should they be fried or baked? Should they be seasoned with salt and pepper and butter? And if so, how much of each should be used? Now the decision in each of these questions

might definitely affect your individual health, and thereby necessarily affect the general welfare. Consequently, all these things should be subject to legal regulation!

Coming back to plain common sense: as to some things there is general agreement that we should use the force of law. As to others there is also general agreement that we should rely upon education and moral suasion. In the matter of liquor, there is general agreement up to a certain point—that its use should be subject to severe legal restrictions. But a large number of our law-abiding people say that if we go beyond this and absolutely prohibit its use, we unjustly invade the individual's personal liberty. They feel that, so long as he is not actually intemperate, he should be left free to make his own decision as to whether or not it is desirable that he should drink.

Now, although we believe that this attitude is wholly wrong, yet there it is staring us in the face. It has been there for ten years; it is unquestionably the most potent factor in our problem to-day. What have we been doing about it? Have we approached our opponents in a spirit of kindly reasonableness, and tried to show them that the great good which would come from banishing all use of liquor far outweighs the injury from such invasion of their personal liberty? If this has been attempted, it must have been by a "whispering campaign." It has not been revealed in any published statements of our leaders. Instead, they have taken this stand: "We are right and you are wrong. And we have the power to make you do what we think is right. We don't care what you think about it: it's up to you to obey the law as we made it, or be punished."

How has this worked? President

Hoover's warning would seem to indicate that we have not gotten very far with it. As a matter of fact, is there a single one of us who does not know that the opposition to-day is just as strong as it ever was—if not stronger; that we have only increased the antagonism and resentment of many thousands whose support we must win before we can ever hope to make Prohibition effective?

SPIRIT OF THE CONSTITUTION

The opposition has, in fact, grown to the extent that five States have repealed their Prohibition laws, and have thereby withdrawn from further co-operation with the Federal Government in the enforcement of Prohibition. This co-operation was originally given under a clause of the Eighteenth Amendment which provides that "Congress and the several States shall have concurrent power to enforce this article."

What have our leaders had to say about the action of those States? They have insisted that the foregoing clause imposes a *moral obligation* on the States to exercise the power therein granted to them; and that, if they decline to do so, they thereby violate the "spirit" of the Constitution. Now we all know that the *spirit* of any law is the intent of its authors. Hence the spirit of this particular clause is the intent—the purpose—of those who wrote it in the amendment. To determine what this was, let us refer back to the discussion on the matter in Congress.

This clause was not in the amendment as passed by the Senate. It was inserted by the Judiciary Committee of the House, and the reason for its insertion was stated by Congressman Webb, a leading Prohibitionist, who was spokesman for the committee. He said:

"Most of the members, including my-

self, of the Judiciary Committee, both wet and dry, felt that there ought to be a reservation to the States also of power to enforce their Prohibition laws. Nobody desires that the Federal Congress shall take away from the various States the right to enforce the Prohibition laws of those States. If we do not adopt the amendment from the committee, there might be a fight in Congress every two years as to whether the States should be given the right to help enforce this proposed article of the Constitution. Because, after the States have delegated to the Federal Congress power to do a certain thing, for instance to stop the manufacture and sale of alcoholic liquors for beverage purposes, the question is whether the States have not turned over to the Federal Congress the exclusive power to enforce it."

How many persons of even low average intelligence can we expect to convince that to grant the right to do a thing creates the duty—the moral obligation—to exercise that right?—That the constitutional right of a State to enact an income-tax law makes it the duty of every State to do so? That the legal right of a parent to punish his child for misbehavior makes that his duty, even though he may think it more desirable to use moral suasion?

However, some of our leaders do not go to this absurd length. They only claim that it is the broad moral duty of every State to support the Federal Constitution in its entirety, even though some of its provisions may conflict with local sentiment. But one of the first principles of law is that the plaintiff must come into court with clean hands; otherwise his claim will not be heard—it will be thrown out of court. Now does any one deny that the spirit—the intention—of the Fourteenth and Fifteenth

Amendments was to grant to the negroes in the Southern States the right to vote? Or deny that these States have enacted laws which do *in fact* prevent the negroes from voting, and which thereby directly conflict with the spirit of those amendments? As a Southerner, I uphold this direct "nullification." But does not that automatically bar me from criticism of those States which have merely declined to uphold further the spirit of the Eighteenth Amendment?

When our Northern leaders make this claim, our opponents ask them: "Is any one article of the Constitution more sacred than another? Why do you single out this particular article which you happen to favor? While condemning us, why don't you at the same time condemn the Southern people? Is your silence on the Fourteenth and Fifteenth Amendments due to the fact that the stronghold of Prohibition sentiment is in the South, and you are there playing practical politics to retain its support, while with us you are taking a highly moral stand? In face of the facts, and their clear proof of your inconsistency—or insincerity—why should you expect us even to listen to your exhortations?"

So far I have not seen any reply to these questions. And the lack of a reply causes this question to arise: How much longer will our leaders continue in the hope of influencing any one by this particular absurdity?

"RESPECT THE LAW!"

The most frequently heard appeal from our leaders to-day is to "respect the law." They solemnly declare that obedience to law is the foundation of all stable government; and therefore the present disregard for Prohibition is undermining the foundations of our gov-

ernment; it is challenging the basis of our form of government, and has raised the issue as to whether that form of government is incorrect in principle and a failure in practical operation.

But were we not all taught as school-children that our nation was born in rebellion against law? Did we not read in our history that the revered John Hancock and Samuel Adams were noted smugglers of rum and other commodities before the Revolution, because they felt that the English trading laws were unjust? Were we not fascinated by the "Underground Railway"—how it was organized by the best citizens in the North to prevent the poor runaway slaves from being recaptured and taken back into slavery, under the terms of the Fugitive Slave Law? Did we not read how Lincoln and other Northern leaders pleaded with their people to respect the law, and how unavailing was that plea?

And later, as we studied the history of other peoples and nations, was it not impressed upon us that practically all advance in religious, political, and individual freedom had come through resistance to law?

The foundation of our government rests upon a far more stable basis than the laws which happen to be enacted by our legislators. The real basis is the innate sense of fairness and justice—the conscience—of its individual citizens, and the sum total of these which forms the composite conscience we call public sentiment.

Laws are but the expression of our delegated agents—our representatives. The great majority of them also conform to public sentiment, and are therefore generally observed. But in a country as large as ours, with people of many different origins, thoughts, and habits,

it sometimes occurs that our legislators enact a law which expresses the sentiment of only a particular section or group and which conflicts with the sentiment of other sections or groups. When such a law arouses a strong feeling that it is unjust, it always meets active resistance. While obedience to law in general is recognized as desirable, there is the feeling that justice is far more important.

Respect for law is somewhat like respect for an individual. Neither is given gratuitously: they must both be earned. And respect for law can only be earned through its appeal to the sense of justice.

Therefore, considering our past history and traditions, and more especially human nature as it is, could we possibly make to our opponents a more futile appeal than to "respect the law"?

WHY WE HAVE FAILED

One of our foremost authorities (Professor Irving Fisher of Yale) frankly states that "The present condition of imperfect enforcement is intolerable, and must be corrected." And President Hoover warns us that this present intolerable condition is primarily due to disregard for the law by "large numbers of law-abiding citizens." Hence, it is evident that up to now we have made but little headway; that our arguments and appeals have been largely ineffective.

A contributing cause to this failure has been the moral attitude of our leaders. This has been one of self-righteousness, of superior virtue. They have assumed that Prohibition to-day is a moral issue; that its opponents are necessarily indifferent, if not antagonistic, to the general welfare.

The effect of this emotional bias has been twofold:

1st. Among our leaders it has pro-

duced a mental confusion. This has prevented them from grasping the real attitude of our opponents, and consequently the character of appeal most apt to influence them.

2d. Among our opponents it has caused the feeling of injustice against the law itself to extend to its supporters. Their resentment at being charged with moral turpitude has injected into the question the regrettable element of personal antagonism. And this has prevented them from appreciating the full value of the advantages which would accrue from Prohibition if it were generally observed.

There is some extenuation for this unfortunate attitude taken by our leaders. Before the adoption of Prohibition all our efforts to promote temperance were opposed by a powerful and corrupt enemy—the organized liquor interests. They used every means to stimulate the use of liquor, and fought all attempts to suppress its abuse. Finally the issue resolved itself into one of open warfare against this public enemy.

The advisability of using absolute prohibition as a means to its destruction was questioned by some of our foremost citizens. But they did not so much oppose our course as warn us of the difficulties which they feared would arise after we had won our fight.

So, with but few exceptions, the active opposition came only from this enemy to decent society. That made the question essentially a moral issue. It became a moral war—between the forces of good and the forces of evil. Ours was clearly a righteous cause; and we could fairly charge our opponents that (regardless of their motives) they were in fact upholding a vicious and immoral cause.

But the zeal and fervor which car-

ried us to victory tended to blind us to realities. We made ourselves believe that, by outlawing the organized liquor interests and banishing the open saloon, we would automatically solve the problem of intemperance. It has been difficult for many of us to realize that, instead of reaching our goal, we have only removed an obstruction from our path; that we have a long, difficult way still to travel.

And, from this zeal and fervor, it is only natural that many of our leaders should have acquired a fixed attitude on the subject—an attitude which would be but little affected by any subsequent change of conditions. As a result, they continue to view every opponent of Prohibition as one actuated wholly by selfish considerations and indifferent to the general welfare.

But we must force ourselves to realize that conditions to-day are radically different from those which existed before the adoption of Prohibition. Our old enemy—the legally protected liquor traffic—no longer exists. In its stead we have an outlaw industry which owes its birth and its continued existence to Prohibition. Therefore, the situation within the liquor industry itself is completely reversed.

Who, then, are the present opponents of Prohibition? The largest contributor to the cause is Mr. Pierre S. duPont, chairman of the Executive Committee of The Association against the Prohibition Amendment, who is also chairman of the board of the General Motors Corporation and the E. I. duPont de Nemours Company. Both of these corporations were on the black list of the United States Brewers' Association before Prohibition, because they encouraged temperance among their employees. Then we find the presidents of the Pennsyl-

vania Railroad Company and the Western Union Telegraph Company, and incidentally both of these companies were on the brewers' black list. We also find the presidents and directors of our largest life-insurance companies—the business which has the greatest direct financial interest in the public health. Among others are leading clergymen, educators, physicians—in fact, practically every line of human interest and endeavor is represented. And behind these leaders are thousands of law-abiding citizens throughout the country.

As to how great is the numerical strength of this opposition, one guess is as good as another. Our leaders have vigorously fought every effort made by our opponents to secure a referendum on the question. But we do know that it has been strong enough to prevent our securing effective enforcement of the law; and there is every indication that it is growing stronger.

The deplorable feature of the present situation is that we all agree as to the major portion of our programme. Our opponents are just as anxious as we are to keep out the old saloon, and to suppress both the present bootleg industry and the intemperate use of liquor. The sentiment in our country is practically unanimous as to these things; yet both bootlegging and intemperance are steadily increasing because we are fighting among ourselves over the ban which has been placed on the moderate use of liquor.

What shall we do about it? Shall we who are responsible for Prohibition blindly continue in our efforts to carry out our full programme by legal force—and continue to get no effective results? Or shall we use our practical common sense: get all we can by that method; and use education and moral suasion to

accomplish that which it has been proven we cannot do by force?

By so doing we are not admitting defeat or abandoning any principle. We are simply recognizing a principle which has been thoroughly established by our past experience: the enforcement of all laws depends upon their voluntary observance by the great mass of our people. The machinery of our government is not designed, and cannot be successfully applied, to the enforcement of a law which conflicts with a large body of public sentiment—no matter how desirable may be its purpose. In fact, it might fairly be said that our plan of government was in large measure designed to prevent the enforcement of such laws.

Now we were merely mistaken in our judgment of public sentiment when we placed a ban on the moderate use of liquor. At the same time we were correct in our interpretation of that sentiment with reference to the liquor traffic. Why should we not frankly and honestly recognize these facts? Why should we not ask our present opponents to join with us in an effort to work out a plan by which we can accomplish the great purpose we have in common? If we will only do this, we will soon rid our country of the terrible scourge which is now afflicting it. We created that scourge, and upon our heads rests the responsibility for its continued existence. What are we going to do about it?



God

AN APOLOGY

BY CHARLES HALL PERRY

The author of "The Catholic Advantage" declares that the present-day God of the churches, "patched up out of exegeses of selected Biblical texts," is a matter for apology to the God of the universe.

SUNDAY; and I have just come from "meeting." The church is one of the few remaining beautiful meeting-houses which were built about a century ago in New England hill-towns. It stands above the Common in the half-deserted village, a memorial, not so much to religious truth as to the fine excellence of some forgotten architect. Its beauty has been much debased by modernizing. But the lofty, terraced spire yet

is seen from far distances as a cherished landmark. It is eloquent with the remembrance of many generations of faithful worshippers who answered its Sabbath bell—soundly orthodox, unquestioning Christians.

The meeting-house to-day will seat four hundred, but the congregation of thirty-seven was larger than usual. We had just sung "Rescue the Perishing." The minister rose to preach his sermon.