A plea for temperance legislation : Lord Peel's proposals for Scotland / by D.M. Ross.

A PLEA FOR TEMPERANCE LEGISLATION

Lord Peel's Proposals for Scotland

BY

D. M. ROSS, D.D.

GLASGOW

JAMES MACLEHOSE & SONS

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PREFACE.

THE following pages have been written as an exposition of the legislative temperance reform for Scotland advocated by the Scottish Temperance Legislation Board—popularly known from its Hon. President as the Peel Board—with which is now amalgamated the Scottish Alliance for Temperance and Social Reform, formerly known as the Three-fold Option Alliance.

The members of the Board, with a few exceptions, have not as yet had an opportunity of examining this exposition. The Board is therefore not to be held responsible for every detail of the policy which is here outlined, or for the way in which the arguments are presented. In the main, the exposition follows the lines of the Report of the Minority of the Royal Commission of 1899, and of the National Temperance Manifesto of 1903. The reader will find that special emphasis is laid upon two points which have not always received the consideration

they seem to deserve: (1) the withdrawal of the monopoly value of a license from the trader and securing it for the public, and (2) the remodelling of the ordinary licensing system so as to preserve, in the interests of temperance reform in future years, the absolute freedom of the community in dealing with licenses. But the suggestions which are made on these two points, it is believed, will be recognised as only the legitimate following up of Lord Peel's proposals for Scotland.

It ought to be explained that this little volume is a joint production. It is with reluctance I have yielded to the desire of my three friends that their names should not appear on the title-page, for without their collaboration, the defects of the exposition would have been greater than they are.

We are indebted for valuable suggestions and criticisms to Mr. Arthur Sherwell, to whom, along with Lord Peel, it is largely due that public opinion in Scotland has been rapidly ripening for the legislative measure, for which the present plea is put forward.

D. M. ROSS.

12 BOWMONT GARDENS,
GLASGOW, *26th December*, 1905.

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I.

THE PROBLEM OF DRUNKENNESS.

The problem of drunkenness is a complex one. It has as many aspects as there are ways in which it affects human life, and these are not easily enumerated, but one or two may be briefly indicated.

One of the most serious ways in which excessive drinking injuriously affects human life is its effect in weakening and worsening the character of the individual, and if the strength of a city depends "not on its walls, but on the manhood of its citizens," those who have at heart the well-being of the empire have reason to be concerned about the loss of moral fibre which is due to this cause.

The effect upon the life of the home is also of grave importance. Good homes are an essential condition of national well-being, but of the many causes of the wrecking of domestic peace and happiness, few are more prolific of mischief than

the dissipated habits of one or more of the members of the family.

When we go beyond the individual and the home, we are confronted with a numerous crop of evils which are inflicted upon society by our wide-spread intemperance.

It is responsible to a large extent for the inefficiency complained of in our industrial life. The magnitude of our liquor bill, which represents resources spent without industrial return, constitutes but one item, great as it is, in our loss. There are, besides, the irregularities, the loss of time, the dislocation and the confusion with which the intemperance of workmen handicaps many of our great industrial undertakings.

It is also responsible for a large amount of our far too abundant poverty. No one who knows the facts will be unwise enough to suggest that this is the only, or even the chief cause of poverty. The researches of experts like Mr. Charles Booth and Mr. Seebohm Rowntree go to prove that, even if intemperance were to be wholly abolished, the problem of poverty would still be with us in an acute form. But it is undeniable that thousands of homes are poor because the money which should be used for clothing and feeding the children is squandered upon drink.

Account must also be taken of the financial loss which is entailed upon the community in consequence of the intemperate habits of so many of its members. The poor-rate, for example, is enormously higher than it would be if sobriety were universal. Those who are conversant with the administration of the Poor Law tell us that at least one half of the poverty with which they have to deal is traceable directly or indirectly to this source. And to the same source is to be traced a considerable proportion of the poverty relieved by private benevolence, and of the sickness and insanity which are treated in our public institutions.

Perhaps a heavier financial loss is entailed upon the community in connection with the crime due to intemperance. The extent to which crime is caused by drink is notorious. Of the 51,334 total *arrests* by the police in Glasgow in 1904, 13,637 were for being "drunk and incapable," and 10,247 for breaches of the peace—mostly due to drunkenness; and of the 56,556 *commitments to prison* in Scotland for 1904, no less than 32,959 were for drunkenness and breach of the peace—facts which indicate that drink is responsible for a very large part of the expense entailed upon the community for the maintenance of police, criminal courts, and prisons.

As to the causes of excessive drinking, while it ought never to be forgotten that it is primarily a moral failure, a triumph of low and transient interests over those that are rightly supreme, account ought also to be taken of secondary causes which contribute to the aggravation of the evil—the customs which make almost every social occasion and every recreation an opportunity for drinking; the unhappy physical and social conditions under which a large number of the population are at present forced to spend their existence, the lack of healthy interests for the redemption of the leisure hours, and the paucity of popular places of resort and social relaxation, other than the public house with its attendant dangers.

If the causes of excessive drinking are various, so must also the remedies be. The most fundamental remedy is the increase of self-control—'temperance' in the old sense of the word. But no wise temperance reformer can afford to be indifferent to the improvement of the physical and social environment of the people. Temperance reform leads on inevitably to social reform—to the provision of better homes and more salubrious surroundings for the home, the multiplication of opportunities for healthful recreation, the provision of centres of social life for the

working man, the development of education with the broader interests and higher tastes which education fosters. The problem of intemperance is thus part of the more general task of improving the characters of men, and the institutions of society.

But the remedy with which we are concerned in these pages is that which may be sought through the action of the legislature in regulating the conditions under which the sale of alcohol is to take place.

II.

THE PLACE OF LEGISLATION.

If, as we have already said, intemperance is essentially a moral defect, the remedy must chiefly be sought in the strengthening of the will and not in passing additional Acts of Parliament. To stop drunkenness by cutting off all opportunities of obtaining drink, but to leave untouched the moral weakness which gives rise to drunkenness, can never be the full ideal of the temperance reformer. He recognises that the moral failing denied outlet in one direction would but too likely find outlet for itself in other directions, and that his work as a reformer is only half done unless the inward springs of action have been touched.

Legislative restraint ought not, therefore, to be proposed as a *substitute* for moral self-control. Indeed it cannot be a substitute. There are no substitutes for morality; every man's character must in the last resort remain in his own hands. But there are aids to morality. And legislation

which cannot directly touch the inner life may, nevertheless, remove obstacles from its way, and provide the favourable environment for its development. Although law may not aim directly at making men virtuous, there are many virtues, such as honesty and justice, in whose cultivation law has its own, if a subordinate part to play. It is said that "you cannot make a man sober by Act of Parliament." Perhaps not, but an Act of Parliament, if it cannot, in itself, produce the moral quality of sobriety, may help a man to be sober by making it difficult for him to obtain drink.

Our present licensing laws are based upon the assumption that an Act of Parliament may be an aid to sobriety. They would be indefensible if they were useless for this purpose, but that they are not useless is evidenced by the fact that few persons are bold enough to urge that they should be repealed, and that everybody should be allowed to sell drink anywhere, at any hour of the day or night, and to any person however young or however drunk.

But instead of arguing the question in the abstract, it may be better to look at a concrete case of the effect of legislation upon the promotion of sobriety.

The story of the diminution of drunkenness

in Norway within the last three quarters of a century affords evidence of the effective part which may be played in the promotion of sobriety by wisely devised and strenuously supported laws. For many years before 1833, the practically unlimited freedom granted to farmers to distil spirits from their own grain or potatoes had resulted in a perfectly alarming amount of drinking and drunkenness. During that period Norway was probably one of the most drunken countries in the world. From 1833 onwards vigorous efforts have been put forth by those who are concerned about the national well-being to secure improved legislation, as one of their weapons in combating the evils of drunkenness. Restrictions have been placed upon distilling; the taxation of liquor has been increased; powers of vetoing the retail sale of spirits by communities have been introduced and extended; communities have had the option of adopting management of the retail spirit traffic by a disinterested company, and, in later years, of displacing company management by prohibition. As a result of legislative restrictions, backed up by the activity of abstinence societies, and other influences, the consumption of spirits has been enormously reduced. It is estimated that in 1833 the consumption of spirits was 16 litres

per head of the population, and in 1843, 10 litres. In 1871 the consumption was 5.3 litres; in 1876, 6.7 litres; in 1881, 3 litres; in 1891, 3.7 litres; in 1899, 3.3 litres. Norway, from being one of the most drunken countries in Europe, has become one of the most sober. The following table of the consumption of alcoholic beverages per head of population in various European countries is instructive. The figures for Britain are for the year 1904, for other countries 1903 or 1902:

	Spirits. Gallons per head of population.	Beer. Gallons per head of population.
Britain,	0.95	29.0
Belgium,	1.19	47.7
Germany,	1.76	25.6
Denmark,	3.07	20.8
Austria,	2.64	15.4
United States,	1.22	15.0
Switzerland,	1.34	13.0
Sweden,	1.65	12.5
France,	1.56	4.8
Norway,	0.70	3.9

Experience, then, shows that while the power of legislation over human life has its own limits, it can nevertheless be extensive and real. A wise people will secure wise laws as the stable support of individual endeavour for what is right and good. And there are few ends more practically beneficial at which our legislators can aim

than that of seeking to provide by law effective methods of furthering temperance.

One condition of success in the working of an Act of Parliament is that it shall be effectively backed up by public opinion. Law must have the support of the large body of the people, else it may be a dead letter or worse. This fact must be taken into account in proposing further legislative restriction of the facilities for drinking. If restriction unduly outstrips public opinion, the result may be that drinking, forbidden in properly licensed premises, will be resorted to in secret, and, being withdrawn from regulation and supervision, cause more mischief than ever, or that the violation of the law will be condoned, and law itself brought into discredit.

But there are many indications that, as far as public opinion in Scotland is concerned, we are ripe for further legislation. Within recent years there has been an enormous advance in the recognition of the manifold mischief inflicted upon our national life by drunkenness, and also in the efforts put forth to check it. A quarter of a century ago, it might have been pleaded that the slackness of communities in making use of the legislation with which they were already provided augured ill for the beneficial effect of further legislation; but, happily, that plea can no

longer be put forward. The vigour with which the licensing authority and the police have been enforcing the existing law affords a reasonable assurance that public opinion is now in advance of the law, and can be counted upon for the support of further legislation.

III.

THE EXTENSION OF LOCAL CONTROL.

THE further legislation which we propose is based on the principle of increasing the local liberty of communities in dealing with the liquor traffic—a principle on behalf of whose reasonableness many good arguments can be urged.

In our modern political life, there are two tendencies at work, whose worth has been in many ways recognised by Parliament: (1) to entrust to local bodies, duties which had formerly been performed by the central government, and (2) to give the people wider powers to control the administration of national and communal affairs. We are moving towards decentralisation and democratisation. The extension of local government and the development of an effective popular control of local governing bodies have become political ideals.

The local control of the liquor traffic is thus

consistent with the wider movement under which government is being decentralised and democratised, and is in itself the only efficient system of administration. The local community has a very direct interest in the control of the traffic. It is more directly upon the community that the evils due to drunkenness are inflicted, and the local community has the special knowledge of the circumstances of the district, which is necessary for the efficient regulation of the traffic.

The principle of local control is already, to a limited extent, recognised in our present licensing laws. The administration of the licensing system is at present entrusted to local authorities—in burghs to the Magistrates, and outside the burghs to committees composed of County Councillors and Justices of the Peace. The local licensing authority determines what houses are to be licensed, whether an applicant is a suitable person, what structural arrangements are desirable in licensed premises, and it regulates various other details, such as the hour of closing on ordinary days and of entire or partial closing on certain holidays.

There is thus no longer any question as to the introduction of the principle of local control. What alone has now to be considered is its

extent and effectiveness. The principle is already acknowledged and acted upon: it is the further application of the principle which we wish to see embodied in legislation.

The local licensing authority might suitably be entrusted with additional discretionary powers in relation to such matters as might be dealt with differently in different localities, as, for example, the hours of opening and closing, the persons to be refused drink, the non-employment of female bar-tenders, the abolition of sales on credit, the appointment of special inspectors.

There is, however, a more important line along which the extension of the principle should be granted—an increase of local control to be exercised directly by the community itself. Various bills having this end in view have been introduced into Parliament in recent years. In some of these bills it has been proposed to create Licensing Boards, to be elected *ad hoc* on a popular franchise. But this proposal, although it would secure the valuable advantage of knitting the control closely to the movements of public opinion, has fallen somewhat out of favour. There is a strong and not unreasonable aversion to the multiplication of boards and elections. Consequently popular control is sought in other directions.

It is proposed to give the ratepayers the option of deciding by vote, whether any licenses[1] are to be issued in their district, and it is proposed to give the ratepayers the additional option of deciding whether the traffic, if it is to continue, should be managed by a disinterested company.

In whatever way these two options might be dealt with, the granting of such options to a community would be a distinct gain. For upon each community would be laid the direct responsibility for the regulation of the liquor traffic. There could be no surer way of quickening public interest in the problem of drunkenness, and in the moral and social problems it involves, than by saddling it with such responsibility. A community might not adopt either prohibition or management; it might be content with an ordinary licensing system; but the fact of its being charged with a new responsibility, and compelled to make up its mind how to deal with the traffic, could not fail to have a salutary effect. As Lord Aberdare (Mr. Bruce, as he then was) put it admirably in a speech in the House of Commons so long ago as 1871:

[1] The licenses referred to here and in the sequel are public house licenses. The question as to hotel, grocers', and wholesale licenses is not raised in these pages, but it must, of course, come up for discussion.

"The principle of an appeal to the ratepayers, on matters affecting their interests, was one of which great use could be made. Over and above the fact that the ratepayers were the persons chiefly interested, that it was their comfort and convenience, and not that of other people that should be consulted; that they were the persons who bore the burden of all the crime and misery produced by the multiplication of those houses, and by their disorderly conduct; over and above those considerations, there was another, and in his view a most important one, namely, the advantage of enlisting the minds and hearts and feelings of the people in the thorough consideration of that subject. Let them give the ratepayers a voice in that matter; let them give the power, in some way or other, of deciding how far those houses should exist among them, and they would at once create a strong public opinion—they would at once create among them that sort of feeling, which, among the upper classes of society, had long made drunkenness disgraceful, which was also rapidly making it disgraceful among the working classes themselves, and which no longer permitted them to call a mere sot a good fellow, or to look upon the offence of drunkenness as merely venial. He was satisfied, therefore, that if they were to create a wholesome and vigorous

public opinion on that subject, they must give the ratepayers of the country some direct interest in it, and that the wider spread the interest was, the greater would be the social advantage."[1]

[1] *The Report of the Royal Commission*, p. 309.

IV.

THE MONOPOLY VALUE OF A LICENSE.

BEFORE proceeding to discuss the main outlines of the legislative measure we propose, it will be convenient at this stage to interject some consideration of a grave anomaly in our present licensing system, which has created serious difficulties, and which, if not carefully guarded against in further legislation, will create serious difficulties in the future—the anomaly of granting the monopoly value of a license to the trader (the license-holder and the owner of the licensed property).

Wherever restrictions are imposed by statute upon the number of those who are permitted to engage in a trade, a monopoly is created in favour of those to whom the trade is restricted. To such a trade a monopoly value accrues. Over and above the natural trading profit, there is the artificial profit due to the lessened competition

which is secured by the application of special statutes.

The question arises, To whom does this monopoly value of the trade belong? Surely to the community. If the restriction in the number of persons permitted to engage in a trade has been effected by the community for the public good, the value resulting from the monopoly ought not to be parted with to any private person whatever, but retained by the community for communal purposes. "It is a very great mistake in public policy to grant a very valuable thing for no consideration."[1]

This "very great mistake in public policy" is being committed on a gigantic scale in connection with the liquor trade. Not that a license is granted for "no consideration" at all. An annual license duty is exacted, which ranges from a minimum of £4 10s. on premises rated under £10 to a maximum of £60 on premises rated at £700 and above. But the license duty often represents a mere fraction of the benefit of the monopoly, in some cases not a tenth part of it. Let a few instances be quoted. The *Report of the Royal Commission* says:[2] "A full license is granted to a house with an outside value of £4000 or £5000. In eighteen months it is sold for

[1] *Report of the Royal Commission*, p. 116. [2] *Id.*, p. 116.

£22,000." "Mr. Burton, builder and contractor, and assessor, arbitrator, and valuer in Newcastle-on-Tyne, mentions a case in which, in his estimate, a gift of no less than £23,000 was conferred by the justices—a free gift for which practically nothing was paid." Earl Grey tells us how he was first convinced of the need of reform in the present system of granting licenses: "It having been represented to me that it would be a convenience to the people of Broomhill if an additional license could be provided, I applied to the licensing authorities, in my capacity as chief landowner in the district, for the necessary license. The magistrates, having decided that the requirements of the population called for an additional public house, granted me the license. I immediately discovered that the State, in conferring upon me a monopoly license, had also granted me a commercial asset of enormous value. I was informed that if I would consent to sell my license I could without spending a single sixpence obtain nearly £10,000. Now, it appears to me that large monopoly values arising out of the possession of a public license conferred upon a private individual by the State ought to belong not to any private individual, but to the community." Amongst many instances given by Messrs. Rowntree and Sherwell, the following may be quoted: "In

another small northern town a new license was granted in 1897 to a small house valued at £3500. On receipt of the license the owner immediately sold the house for £24,500."[1] The remarks of the chairman of a licensing bench in 1898, quoted by Messrs. Rowntree and Sherwell, are instructive: "As I ventured to point out last year, by the steady limitation of the number of licenses, a monopoly has been established which causes such licenses to become of very substantial value indeed. I suppose that each license now applied for [there were 20 applications] may be worth over £5000, or, in other words, the Bench to-day is to be asked to grant licenses worth £100,000; that is to say, to make a present of £100,000 to certain parties, for whose claim in preference to others there is no valid reason."[2]

In view of such facts—and the illustrations might be indefinitely multiplied—it is natural to ask how a system involving such a spendthrift abuse of public rights could ever have come into existence. It is difficult to believe that sane legislators could have deliberately devised a method of licensing under which license-holders receive for nothing such valuable gifts from the

[1] Messrs. Rowntree and Sherwell, *Public Interests or Trade Aggrandisement*, p. 53.

[2] *Id.*, p. 54.

licensing authority. Fortunately, it can be said with justice that when our licensing system was devised, the results in which it has issued to-day could not well have been foreseen—at least in their full extent. The present monopoly value of a license has been an accidental creation. When licenses were first issued, the number was so great that little or no monopoly value existed. But since the passing of the Home Drummond Act of 1828 for Scotland, there has been a steady tendency to reduce the number of licenses. In 1829 the number of publicans' licenses (including 'off' as well as 'on') was about 18,000. In 1852 they numbered about 15,000, and in 1862 about 12,000. In 1882 the number of all licenses (public houses, hotels, grocers) was 12,196, and in 1904—in spite of an enormously increased population—11,421. The reduction of licenses in cities has in recent years been very marked. For example, in Glasgow in 1881, with a population of 511,415, the number of licensed premises was 1794, while in 1905, with an estimated population of 785,474, the number was 1635.

This reduction in the proportion of licenses to population has been due to a growing appreciation of the evils inflicted upon the national life by excessive drinking. And there can be no doubt that the decrease in the number of oppor-

tunities of temptation has been a gain for the interests of sobriety. But, on the other hand, the policy of reduction has had the effect of increasing the value of the licenses which have been continued. How this happens, it is not difficult to understand. If one out of four public houses in a district is shut up, a few of its customers may give up drinking, or at least drink less, but most of them will find their way, with accustomed frequency, to one of the three houses which are still open. If two of the remaining three are shut, then the solitary public house left in the district will draw to itself most of the customers of all the houses, and will probably, owing to economy in working and other causes, at least quadruple its original profits. In a word, reduction inevitably inflates the monopoly value of surviving licenses.

Such are the circumstances, under which the present large monopoly value of licenses has been created. Now, if nothing more were involved in the enhancement of monopoly value than the concentration of the profits of the liquor traffic in the hands of fewer publicans and owners of licensed property, the result would not be a matter of special concern for temperance reformers. But, unfortunately, much more is involved.

In the first place, as long as the monopoly value of a license thus enhanced is granted as a free gift to the favoured applicant, there is nothing surprising in the keenness of the scramble for a new license, especially if the license is for a new district with a rapidly-growing population. If a gift of £500, £5000, or £10,000 is to be had from the licensing authority for the asking, applicants resort inevitably to all available methods of bringing pressure to bear in favour of their application. Unhappily, there are only too many proven facts which make it plain that illegitimate pressure has been brought to bear on any members of the licensing bench, who were supposed to be amenable to such influences. To take only two cases from the city of Glasgow. In 1897, a publican was charged in the Sheriff Court with bribing or attempting to bribe a magistrate in connection with his duties as a licensing magistrate. Counsel for the accused tendered a plea of guilty, and explained that the accused had left money in an envelope in the house of the magistrate. The Sheriff, after commenting on the gravity of the charge, imposed a fine of £50. A few years later, it was proved in court that a magistrate had accepted a bribe of £600 from an applicant for a new license. It is highly improbable that these instances are solitary. The community must

depend on mere accident to discover the cases where the magistrate is approached with a bribe. And apart altogether from such barefaced bribery, there are many indirect ways, not less potent or vicious, in which applicants for a license attempt to bring illegitimate pressure to bear on members of the licensing bench. Human nature being what it is, the granting of the monopoly value of a license to the trader cannot but lead to many sorts of municipal corruption.

In the second place, the granting of the monopoly value of the license to the trader has created an additional obstacle in the way of the community exercising its freedom to renew or not to renew licenses. Whenever it is proposed to give communities the power to effect a sweeping reduction of licenses, or to adopt prohibition or management by a disinterested company, we are met with the claim for compensation to the dispossessed license-holders. Now, the problem of compensation is immensely aggravated by our having allowed the trader to retain the monopoly value of his license. For the value of a license is chiefly, at least in most cases, monopoly value: goodwill in the ordinary sense forms but a small part of it. And the license-holder has come to look upon the monopoly value as his *property*. It is *not* his property. As we shall point out

further on, it might be extinguished under the operation of the existing licensing laws, in such a way as to leave him no possible claim for redress. At the same time it must be owned that the community has acquiesced in a policy which has encouraged him to look upon the monopoly value as his property. In many cases he has bought and paid for the monopoly value —at his own risk, it is true—but it is intelligible that what he has paid hard cash for, he should reckon as his property.

But for the complication introduced by our having given to the trader the enjoyment of the monopoly value, there would be less trouble with the problem of compensation. There is of course no legal claim to compensation for the value of a license which is not renewed; the license, as it is expressed in the form of certificate, is for a year "and no longer." But if we have granted a free gift to the license-holders, and if this free gift has come to be treated as a marketable commodity, we can understand why many people consider that some equitable consideration should be shown to license-holders, when the free gift is revoked.

Difficulties such as we have here indicated warn us of the necessity of securing in any further legislation that we get rid of the root out of

which they have sprung. There can be no efficient reform if the anomaly of granting the monopoly value of the license to the trader is not abolished. Unless this is done, the old difficulties, sooner or later, will be found hampering us again.

The raising of the license duty—which will probably be proposed very soon—will not ensure the abolition of the anomaly, but there is much to be said for the proposal in itself. The present license duties are too low, ludicrously low for the more highly rated premises. "The average license duty in the cities of the North Atlantic States is £180, or nearly nine times the average for England."[1] "Taking the whole of the cities, towns, and villages in England and Wales, and applying to them the license duties imposed upon similar towns and villages (*i.e.* of the same size) in the State of New York, we should receive from our existing public houses not, as at present, less than a million and a half sterling, but more than six and a half millions sterling every year."[2] The community by insisting, and wisely insisting on a reduction of licenses, is decreasing the sum raised

[1] Messrs. Rowntree and Sherwell, *Public Interests or Trade Aggrandisement*, p. 88.

[2] *Id.*, p. 99.

from licenses, but is simultaneously increasing their value. So there is every reason in public policy for imposing an increased license duty. And it is a further argument in favour of the increase of the license duty, that it would automatically tend to a still further reduction in the number of licensed houses.

But in addition to the increase of the license duty, something more is needed, if the anomaly complained of is to be conclusively got rid of. It is a weak point in the report of the minority of the Royal Commission that it suggests no machinery for withdrawing the whole monopoly value from the trader. It proposes that when the "clean slate" has been obtained at the expiry of a time notice of five years a large "license rental," payable to the State, shall be imposed upon each license. But if this "license rental" does not exhaust the monopoly value, we shall have the re-establishment of something like the present system. The licensing authority will still have something to give for nothing, and the way will remain open for the abuses to which reference has been made. In the course of years, the license holders will once more come to look upon the monopoly value as their property, businesses will change hands upon that basis, and the temperance reformers of the

future will find their path obstructed as ours is at present by the cry for compensation.

We, therefore, consider it indispensable in any thorough-going legislative measure that the monopoly value at present accruing to the trader shall be taken completely out of private hands.

V.

TRANSITION.

We have come to the conclusion that there is little likelihood of obtaining for the community a perfectly free hand in dealing with licenses, unless some equitable consideration is to be shown to dispossessed license-holders in the event of any sweeping non-renewal of licenses. As has been already said, there is no legal claim for compensation. Nor equitable claim, it is argued by those who regard trading in liquor in any form, as in itself, even apart from objectionable methods, immoral. But as long as the vast majority of the people see no inherent immorality in the trade, it is futile to hope for legislation which ignores the claim of dispossessed license-holders to be dealt with equitably. Whether the majority of the people are right or wrong in their attitude need not be here discussed. It is enough that practical men

must take this attitude into account in their proposals for legislation.[1]

How, then, can we get rid of the so-called equitable claim once for all? By granting a time notice for all licenses; that is to say, by fixing a period during which all license-holders shall be secured in the tenure of their license—subject to a provision to be mentioned immediately—and at the close of which the licensing authority will be absolutely free to renew or not to renew the license. The report of the minority of the Royal Commission suggests a period of five years for Scotland. The exact length of the time notice is a matter for discussion, but the principle which should determine its length is plain. It must be sufficiently short to guard the rights

[1] In fixing the amount of equitable consideration to be granted to license-holders, it must be borne in mind that the present market value of a license might be enormously reduced under the operation of the existing licensing laws. We have shown that the present market value of a license has been enhanced by the policy of the licensing authority in reducing the number of licenses. But it must be observed that there is no legal obstacle to the licensing authority diminishing the present market value, by adopting the contrary policy of increasing the number. And the extinction of the monopoly value by this process would not rouse the public sympathy or raise the cry for compensation. In fact, the only guarantee for the maintenance of the present market value is secured not by any legal provision, but by the zeal of temperance reformers in insisting upon the diminution of facilities for drinking.

of the community, and sufficiently long to enable the licensing authority to refuse renewal without giving good grounds for the plea of hardship to the individual, and thus ranging the sense of justice and the sympathy of the people on the side of the trade. During the period of the time notice the licensing authority, as a matter of course, would retain all its rights to cancel a license whose conditions were violated.

It is further proposed that during the period of the time notice the licensing authority should have power to reduce the number of licenses by a system of commutation ; that is, by granting to a license-holder whose license is not renewed a sum of money in proportion to the number of unexpired years of the time notice, the fund for such money compensation to be raised by a levy upon the license-holders whose licenses are continued.

The basis of compensation suggested by the report of the minority of the Royal Commission is the annual rateable value of the licensed premises. But no satisfactory machinery is provided for enabling the licensing authority to determine without favouritism which licenses are to be suppressed before the expiry of the time notice, and which continued. This difficulty is better met in a scheme suggested by Mr. Whittaker, under which license-holders are to be

requested to tender the amount which they are prepared to pay for the privilege of having their license continued. Those whose licenses are not selected for continuance are to have distributed amongst them, in proportion to the amounts they have tendered, the tendered sums paid by those whose licenses are continued.

The report of the minority of the Royal Commission suggests that it should be obligatory to have reduced the number of licenses at the expiry of the time notice to a fixed proportion to the population—one license for every 750 of the population in towns, and one for every 400 in the country. But the circumstances of different localities vary so greatly that the fixing of a statutory maximum of licenses might possibly prove to be a hindrance to reduction. If a maximum were fixed, which would be considered suitable for a town which has a large influx of visitors on certain days of the week, or during certain months of the year, this maximum might be altogether too high for other communities, and there would be a temptation for them to rest content with an inadequate reduction. But apart from considerations such as these, it has to be borne in mind that the raising of the license duty will automatically reduce the number of licenses.

We have argued for the granting of equitable

consideration as a necessary policy for practical men, but there is one objection to compensation in any form, which deserves to be noticed—the objection which is based on the fear lest a precedent might be established, which would prove a serious hindrance to further legislation for the promotion of sobriety. If compensation is once sanctioned by an Act of Parliament, will the trade not be in a better position in the future, should the occasion arise, for demanding compensation, and demanding it on a larger scale?

This objection has lost somewhat of its weight since the passing of the English Licensing Act of 1904, but whatever weight it may still have, it would only be relevant if the licensing system were to be retained on its present lines. But with the licensing system remodelled, as is proposed in the next chapter, the claim for compensation would be effectually barred out in the future.

VI.

THE REMODELLING OF THE ORDINARY LICENSING SYSTEM.

A CHANGE in our method of granting ordinary licenses must be part of any thorough-going measure of reform. The need of such a change has hardly received the consideration it deserves. But a little reflection will show how exceedingly important it is.

We have insisted that it is essential for the community to recover its freedom to deal, as it may think best, with any and every license. It is equally essential that the freedom once recovered should be preserved. The community should be secured an absolutely free hand not only at the expiry of the period of the time notice, but 10, 20, 50 years thereafter. But the preservation of this freedom will be seriously imperilled if the present system of licensing is left untouched. In the course of years the renewal of a license

may again come to be looked on as something the license-holder is entitled to in the absence of misconduct, and, in the future, the community may find itself hampered in carrying out proposals for a sweeping reduction, prohibition, or management, by the same kind of unwillingness to decline to renew licenses without another time notice, as we have to reckon with at present.

Is it possible to secure such a change in the ordinary licensing system as will preserve for the future the recovered freedom of the community, without the risk of the reappearance of the claim for compensation?

The English Licensing Act of 1904—objectionable as it is in its main features—contains the suggestion of a sound system. The following clauses—introduced as amendments upon the original Bill—are worth quoting:

"The justices, on the grant of a new on-license, may attach to the grant of the license such conditions, both as to the payments to be made and the tenure of the license, and as to any other matters as they think proper in the interests of the public; subject as follows:

"Such conditions shall in any case be attached as, having regard to proper provision for suitable premises and good management, the justices think best adapted *for securing to the public any*

monopoly value which is represented by the difference between the value which the premises will bear, in the opinion of the justices, when licensed, and the value of said premises if they were not licensed, etc."

"The justices may, if they think fit, instead of granting a new on-license as an annual license, grant the license for a term not exceeding seven years, and where a license is so granted for a term: any application for a re-grant of the license on the expiration of the term shall be treated as an application for the grant of a new license, not as an application for the renewal of a license etc."

Underlying these provisions regarding *new* licenses there are these two principles: (1) that the monopoly value of a license belongs to the public, and ought to be retained in its entirety for the public; (2) that if a license is granted for a term of years an application for a re-grant should be treated as an application for a *new* license.

These two principles—applicable in the English Act only to new licenses—we propose to apply to the remodelling of our present licensing system in Scotland for the sake of safe-guarding the complete and real freedom of the community.

We do not lay stress upon the particular

methods here proposed. What is essential is the end proposed to be attained by these methods —the preservation of the community's freedom. There may well be difference of opinion as to the most desirable methods of attaining the end.[1]

It is proposed that the tenure of the license shall be not for one year, but for a period of three years or more, and that at the close of this period every application should be treated as an application not for a renewal of license, but for a new license. The licensing authority, having fixed the number of licenses to be granted, would grant licenses for a period of three years, under such conditions as would secure that the monopoly value of the license would accrue to the community and not to the license-holder (or to the owner of licensed property). One method of withdrawing the monopoly value from the license-

[1] An influential member of the Scottish Temperance Legislation Board submits the following suggestion for consideration: "Another method of securing to the community the monopoly value of the license is that the license rental should be fixed by an independent authority appointed by Government for the purpose. It would be the duty of this authority to revise the monopoly rental on the occasion of each periodical grant—say every three years—and to take into account any change of condition arising, such as a reduction in the number of competing houses or an increase in population. It is contended by those who advocate this alternative that it would give the licensing authority greater freedom in selecting suitable and responsible license-holders and in enforcing the proper conduct of the business."

holder would be, to invite tenders for the licenses. The licensing authority would require to be satisfied regarding the character of applicants who were allowed to tender. Additional security might be taken against the illegitimate pushing of the trade by following American precedents, and requiring the applicant to give a personal bond, and to produce other two bondsmen as sureties for his compliance with the law. There are, it must be admitted, objections to license by tender, which are by no means groundless. It may be said that the license-holder might be more tempted than he is at present to push his trade; that it might be unwise to accept the highest tender, and that on the other hand, if the highest tender were not accepted, the door would be opened for corrupt influence; and that the licensing authority, knowing the largeness of the sum paid for the license, might be disposed to be slack in insisting upon compliance with the law. License by tender is not free from dangers, and special precautions would be necessary for guarding against them.

If license by tender were adopted, it might be necessary for the licensing authority to invite tenders for premises as well as for licenses. No one will bid for a license without knowing what he has to pay as rent. The simplest method of

arriving at a low scale of rental would be to put the landlords in competition with each other. That is, let the landlords offer their premises and name their lowest rent. If their premises are selected, they must agree to accept the license-holder selected by the licensing authority. As the suitability of the license-holder would be adjudged by the licensing authority, there would be no reasonable ground for the landlords objecting to undesirable tenants.

Without some such plan, license by tender might open the way for collusion between landlords and publicans, whereby high "house rents" and low "license rents" would give the monopoly value of the license to the landlord.[1]

In addition to objections which may be urged against license by tender, it may be asked: Why substitute a triennial for an annual license? Is not the extension of the period of tenure a sacrifice of the community's control of the license?

[1] There is one point in connection with such a remodelled licensing system which ought to be noticed—the relation of license duty to tender. It might be possible to merge the two into one payment. If there were two payments—a definitely fixed license duty varying according to the probable value of a license, and an additional payment by tender—the two payments might have different destinations. The sums received by tender, as distinguished from the license duty, might go into a national fund, out of which grants would be given for providing counter-attractions to the public house.

We believe not. On the contrary, in comparison with our present system, it is really an increase of control. For it is to be noticed that, at the end of the three years, there would be no renewal of a license, but an application for a new license, which the licensing authority would be absolutely free to grant or refuse.

The ordinary licensing system as thus remodelled, and coupled with the extension of the discretionary powers of the licensing authority in other directions, would provide the community with better machinery for grappling with the evils of excessive drinking. Probably most communities would, for a time at least, be content with it. But some communities would desire to have the option of adopting methods which seemed to them more likely to be effective. It is therefore proposed to grant communities the option of prohibition, and when this cannot be carried, the option of management by a disinterested company.

Even though neither prohibition nor management were adopted, the knowledge that the community had this reserve force at its command would have an important effect upon the administration of the ordinary licensing system. "It would exercise a most salutary influence upon the licensing authority, the police, and the

publicans. . . . The mere existence of this power behind any licensing system—even though it were used to the full extent in only a few places—would have a more beneficial effect than the most stringent regulations."[1]

[1] *Report of Royal Commission*, p. 311.

VII.

THE OPTION OF PROHIBITION.

A LARGE section of temperance reformers, including many of the most influential temperance organisations, is in favour of the option of prohibition, that is, the conferring of statutory power upon communities to decide by a direct vote of the ratepayers whether licenses for the sale of liquor are to be granted within the area in which they live.

In June, 1880, the House of Commons accepted by a majority of 26 the following resolution: "That inasmuch as the ancient and avowed object of licensing the sale of intoxicating liquors is the supply of a supposed public want without detriment to the public welfare, this House is of opinion that a legal power of restraining the issue or renewal of licenses should be placed in the hands of the persons most deeply interested and affected, namely, the inhabitants themselves, who

are entitled to protection from the injurious consequences of the present system, by some efficient measure of local option."

Since the passing of that resolution in 1880, there has been a growing body of public opinion in favour of the principle that the people who are affected by the existence of licenses in their midst should have a more direct power over the granting of them, and this growing body of public opinion has been reflected in the numerous bills introduced into the House of Commons in which this principle has been expressed.

But this principle has been met with vigorous opposition. It has been urged against the idea of a local right of veto, that it involves an unwarrantable interference with individual liberty. What right, it has been asked, has the legislature to give to A and B power to decide that because they do not want to drink, C, who does want to drink, shall be denied the opportunity?

This argument implies the anarchic conception that no law can be passed which interferes with any action of any individual. It is inconsistent with the most elementary principles of social life. There never was a law which did not restrain the liberty of caprice—the so-called liberty of every individual "to do as he pleases." Every Bill introduced into Parliament might be described

in the witty words of Lord Neaves as "a Bill to permit you to prevent me doing what you don't like and I do." The rights of an individual imply social obligations; it is only as a member of a State which imposes obligations that an individual can acquire rights. And no member of a community can possess "natural" rights which are contrary to the welfare of the community.

It is plain, then, that the principle underlying the proposal to grant communities the option of restraining the issue of licenses cannot be summarily set aside on the plea that majorities have no right to coerce minorities. But having disposed of this preliminary objection, let us now take note of some practical considerations which may be urged on behalf of the option of prohibition.

In the first place, the option of prohibition does not really introduce a new principle, but only carries further a principle already acknowledged and in operation. Unfettered freedom to obtain drink at the times and places most convenient to the individual does not exist at present. The principle underlying the option of prohibition is already in force, in as far as drink can only be obtained by the individual on fixed days, within fixed premises, and at fixed hours.

In the second place, the reasonableness of

allowing residenters in a locality a voice in determining whether a license is to be granted in the district in which they live has been already recognised by the legislature: "Any person or the agent of any person owning or occupying property in the neighbourhood of the house or premises in respect of which any certificate or renewal of any certificate shall be applied for may object to the granting or renewal of such certificate . . . and if such objection shall be considered of sufficient importance by the court . . . and shall be proved to their satisfaction, the said certificate shall not be granted or renewed."[1] That section of the Licensing Act declares explicitly that the persons most affected by the presence of a public house in their midst are the persons most entitled to be heard, as to whether it should be set down or continued. Another short step would bring us to local veto.

In the third place, it is not denied that, in addition to other and more serious results, financial burdens are thrown on the community through the crime and pauperism due to excessive drinking, and if the community is entitled to protect itself against the spread of disease by the enforcement (say) of the Vaccination, Infectious Diseases, and Sanitary laws, even at

[1] Licensing (Scotland) Act, section 19.

the expense of the restriction of the liberty of the individual, is it anomalous to entrust it with powers to protect itself against the mischief inflicted upon it by the drink traffic?

In the fourth place, through the action of landlords, there are (it is said) 183 parishes in Scotland—sparsely populated they may be—in which there is no public house. The restrictive action of the landlords has been attended with no such evil results as to lead to a popular demand that the legislature should step in and deprive them of their power. Why should this right be allowed to landlords and denied to the community?

In the fifth place, if the restrictions placed upon the facilities of an individual for obtaining drink were to issue in the hampering of human development, the argument against the option of prohibition would have more validity. This is the assumption which seems to be lying somewhere underneath John Stuart Mill's argument in his book on Liberty. But is there any substance in the assumption? The motto which Mill prefixes to his book is taken from Humboldt: "The grand leading principle towards which every argument unfolded in these pages directly converges is the absolute and essential importance of human development in its richest

diversity." But will it be seriously contended regarding the 60,000 people housed on the Toxteth Park estate in Liverpool, in which no public house is to be found, that the absence of opportunities for drinking is a hindrance to their "human development in its richest diversity"? Is it not rather the desire for "human development in its richest diversity" which has been a determining element in their selection of a house in a prohibition area?[1]

The objection in *principle* to granting a community the power of prohibition does not seem to be well founded. The *expediency* of the adoption of prohibition by any community may be more open to question. If prohibition, when carried, is not backed up by a very strong public opinion, there is danger lest excessive drinking may be carried on in places which are more withdrawn from police supervision than the present public houses, and produce no less, or even worse evils than those from which we now suffer. Account must be taken of the number of persons in the community, whose craving for drink is so strong that they will resort to almost any expe-

[1] It must be said, on the other hand, that the absence of licensed houses in a district like Toxteth Park may lead to a larger number of licensed houses in the adjoining districts, and to "hindrance to development" there.

dient to obtain it. The number of such persons may be so great as to render prohibition unworkable, especially if they know they can count upon the silent support of other citizens, who regard prohibition as an unwarrantable interference with the rights of minorities.

It is not easy to predict how prohibition may work in this country. There are experiments to appeal to in the United States, Canada, and Scandinavia, but what succeeds or fails in one country may not succeed or fail in a country whose circumstances are not the same. To let the experiment be tried in our own country under reasonable conditions is the only effectual way of settling the question. Its success or its failure in the communities which make the experiment will be a guide to other communities. Should the experiment fail, the community will have power to retrace its steps.

As to the machinery necessary for giving effect to the option of prohibition, it is proposed that towards the close of each specified period (three years or more) the licensing authority shall have power to take a plebiscite, and if a request is made by one-twentieth part of the electorate, it shall be obliged to take a plebiscite on the question, whether any public house licenses are to be issued.

What the extent of the prohibition area should be—a whole burgh or a ward of a burgh, a county council district, or a parish—is a subject which deserves further discussion. If a ward of a burgh were taken as the area, partial prohibition might be carried, where it would be hopeless to expect prohibition for the whole burgh. It would require the shutting up of only a single public house, to secure prohibition for the Kelvinside ward of Glasgow. But, on the other hand, there are difficulties involved in empowering the electors of a single ward of a burgh to abolish the public house within their own area. The order and sobriety of the prohibition ward might be gained at the expense of the increase of disorder and drunkenness in the neighbouring ward. Prohibition might be carried in the ward where it was least needed, and rejected in the ward where it was most needed, and with the increase of drinking due to the shutting up of public houses elsewhere, the last state of this non-prohibition ward might be worse than the first. There is undoubtedly a difficulty here. Nor is it quite a sufficient reply that a ward, suffering from the spilling over into its own area of the drinkers from the prohibition ward, would be stimulated to adopt prohibition for its own protection. The non-prohibition ward might

still refuse to follow the example of its neighbours, with the result that the districts inhabited by the poorer classes would be rendered centres of greater misery and disorder for the sake of enhancing the orderliness of the districts inhabited by the more fortunate classes.

The question of the majority by which the option of prohibition is to be carried is of great importance. It ought to be a substantial majority, if prohibition is to have a chance of being loyally backed up by a sufficient body of public opinion. If those voting for prohibition are a majority of the whole number of electors on the roll, that would give some security for a public opinion which could be relied on, to see to its enforcement.

VIII.

THE OPTION OF MANAGEMENT BY A DISINTERESTED COMPANY.

THIS second option is not proposed as a substitute for the option of prohibition, but as an additional option, where prohibition cannot be carried. If there were any likelihood of prohibition being universally adopted, this second option might reasonably be dropped. But we may take for granted that many communities, and precisely the communities where drunkenness is most prevalent, will refuse to adopt prohibition. And if a community refuses by a deliberate vote to adopt prohibition, ought it to be forced to put up with the system of private trading, or ought it to have the option of trying an experiment with a system which gives more promise of restricting drinking and diminishing drunkenness? If the latter is a better system than the present, why should a community, in which prohibition is impossible, not have the option of adopting it?

As between the present system of private trading and management by a disinterested company, we find so strenuous a temperance reformer as Mr. Whittaker giving his preference to the latter: "While the system cannot be regarded as a complete or even the best available remedy for the evils of our drinking system, there are, as compared with any ordinary licensing system, a sufficient number of good points about it to render it desirable that where the liquor traffic is to be carried on, the people of the locality should have the option offered them of placing the sale of drink under the control of persons who have no interest in pushing it."[1]

Let us consider what the ordinary licensing system is. From the point of view of those who are interested in the diminution of drunkenness, there are manifest drawbacks in a system under which the licensing authority selects for the management of the traffic persons whose direct pecuniary interest it is to sell as much drink as is permissible under the law. The situation has an element inherently vicious. The very purpose of the existence of the licensing authority and the licensing laws is to restrict drinking. The interest of the present license holder is to extend drinking. The antagonism of

[1] *The Report of the Royal Commission*, p. 325.

conflicting aims is thus introduced into the very principle of the system. It is a grotesque proceeding, to set forth to restrict drinking, and then to choose for this purpose instruments whose tendency is all the other way. What can be expected from such unreasonable provisions but perpetual friction, controversy, and struggle? The conflict which is going on to-day between the nation and the trade is the natural and inevitable outcome.

The mischief of this system is to be seen to some extent inside the public-house. The charges brought against publicans may, indeed, often be exaggerated. For the most part customers demand what *they* want, and drink has the same effect whether supplied by a publican or under company management; and some publicans may conduct their business as "respectably" as such a business is likely to be conducted under any system. But what may be true of some publicans is notoriously not true of all. There can be no question that a large number of publicans—especially in the poorer districts of our cities—push their trade, not only up to the limits of the law, but far beyond it. Drink is supplied to persons who would be refused under a wiser kind of management. There are, besides, various ways in which the

man behind the bar can encourage or discourage drinking amongst his customers, and his tendency is to exert this influence, according as it is his interest to extend or restrict the amount of liquor consumed.

But it is outside of the public-house itself that the mischief of the present system is chiefly to be found. Where the licensing authority considers it for the public good to propose a restriction which is within their statutory powers, the trade is immediately up in arms, using every available method to defeat the proposal. The whole influence of the trade was thrown against 10 o'clock closing in the rural districts and smaller towns, and, more recently, against 10 o'clock closing in the cities, and against closing on certain holidays. And its action was natural, for every restrictive measure means diminished drinking, and diminished drinking means diminished profits. Then there are restrictions, beyond those sanctioned by statute, which public opinion would warrant the licensing authority to impose, but all such restrictions are met by the determined opposition of the trade. Before the passing of the Licensing (Scotland) Act of 1903, the trade fought vigorously against the recommendations of licensing authorities to close licensed premises on New Year's Day, and a similar opposition

was displayed, when the Magistrates in Dundee and elsewhere made recommendations regarding the exclusion of children from the public-house. If this sleepless opposition of the trade were removed, and if the interests of the community alone had to be consulted, the way would be clearer for allowing public opinion to express itself in regulations which are not expressly sanctioned by statute. But under the present system we are doomed to a perpetual struggle between the public good and private interest.

The most serious aspect of the struggle, however, is the growing boldness of the attempts to capture the machinery of our municipal and political life for the protection and aggrandisement of the profits of the trade.

Those who interest themselves in civic life are aware how great a part is played, often unobtrusively it may be, by the trade in the election of Town Councillors. There is no single body of citizens who throw themselves with equal zeal into ward contests, or have an equally perfected organisation for securing the election of the candidate who will best attend to their interests. If there is one thing more than another that degrades municipal politics, and tends to deter some of our most competent citizens from seeking to serve their fellow-citizens in the Town

Council, it is the baneful influence of the liquor trade.

This baneful influence is more obtrusive in imperial politics. The National Trade Defence Association, established in 1888, announces that "its objects are to watch at all times the general interests of the trade as a whole in and out of Parliament; to secure by all legal means, regardless of party politics, the return to the House of Commons and other elected bodies of candidates favourable to Trade interests," etc. The Licensed Victuallers' National Defence League was established in 1872 "to place the trade in the best possible position to defend its interests when assailed, to resist encroachments when attempted," etc. The Beer and Wine Trade National Defence, established in 1873, proclaims as its object: "To promote, support, or oppose Bills in Parliament, and to assist in the return to Parliament of candidates favourable to the interests of the trade."

These and other societies, established in recent years for a similar purpose, have at their command in the publicans a complete network of agents spread over the whole country, who are prepared at every Parliamentary election to subordinate every national interest to the interests of their trade. It is surely a grave danger to

the wellbeing of our national life that we should have in our midst a body of citizens who unblushingly take as their watchword: "Our trade our politics," and, as many recent events have proved, are loyal to their watchword.

There can be no doubt, then, that much would be gained, if the interest of the license-holder and his servant in selling as much drink as possible were eliminated—always provided that new evils were not thereby created. This is the end aimed at by the proposed system of disinterested company management. A leading feature of the scheme is that, if the licensing authority issues any licenses, it should make sure that those who are employed as license-holders and barmen shall have an interest in furthering the main aim of the licensing system—to restrict drinking and to discourage drunkenness. The scheme is based on co-operation between the licensing authority and the license-holder, and not as in the present system on their antagonism. There would be no struggle—at least on the part of the retail seller—against restrictions which the licensing authority is empowered by statute to impose, nor against by-laws which go beyond the statute. The license-holders would cease to vitiate, as they now do, municipal and imperial politics. Those who are entrusted with the sale

of drink would be enlisted not only on the side of law, but also on the side of temperance reform.

There are various ways in which the management of the traffic might be undertaken by those who have no private interest in its profits, and are interested in the restriction of drinking. Amongst these is that of entrusting the management to the municipality. But there are grave objections to "municipalisation." One very obvious objection is the addition of so serious and exacting a task to the already heavy and always increasing duties of the Town Council. Besides, it is essential that the body which is to manage the traffic should be kept absolutely distinct from the body which is entrusted with the supervising and policing powers.

There is a better method of securing disinterested management—which we proceed to indicate in outline, without canvassing the many details which are necessarily involved in it.

It is proposed that, before such a system of management is submitted to the electors as an option, a company of public-spirited citizens[1] shall have been formed, prepared to take over all the

[1] Any person, disqualified by reason of his interest in the traffic for sitting on a licensing bench, should be disqualified for being a member or shareholder of the company.

licenses which the licensing authority has resolved to issue. For it is plainly desirable that, before the electors are asked to record their vote, they should know who are to be entrusted with the management of the traffic. If the option of management is carried by the necessary vote, all the licenses in a defined area, whose number (presumably less than at present) and locality would be fixed by the licensing authority, would be granted to the company for a specified period (three or more years). Its directors would be subject to statutory provisions as to (1) inspection of the conduct of the traffic, (2) the destination of the profits, (3) the public audit of the accounts, (4) the creation of a reserve fund to provide for the return to the shareholders of their capital, in the event of the abolition of the company at the end of the specified period, either by a return to the ordinary licensing system, or by the adoption of prohibition. The licensing authority would retain its power of revoking the licenses in cases of abuse.

The directors would have power to frame by-laws, subject to the approval of the licensing authority and the Secretary of State for Scotland. These by-laws might provide for further reducing facilities for drinking in any or all of their premises by, for instance, (1) raising the age under which

young persons are not to be served, (2) closing during hours permitted by statute, (3) refusing to serve persons who are known to be drunkards, (4) refusing to give credit.

The destination of the profits of the company which we propose is a matter of vital importance. Fears are entertained lest the zeal of a community in discouraging the consumption of drink might slacken, if the profits were employed to reduce local rates or to maintain philanthropic institutions. Nor are these fears ill-founded. It is therefore essential to secure such a destination of the profits as will safeguard the community against the temptation to encourage, or to cease to discourage drinking, for the sake of communal profit. To steer clear of any possible danger in this direction, we propose that the profits, after providing a maximum return on the shareholders' capital of four per cent. and a reserve fund, shall be paid, not into any local fund, but into a Scottish National Fund, to be used for the establishing of counter-attractions to the public house. The sums allocated to communities for this purpose would be in proportion to their population, without reference to the amount of their sales of liquor.

IX.

OBJECTIONS TO THE OPTION OF MANAGEMENT.

The proposal to grant communities the option of management by a disinterested company is met with opposition from two very different quarters. It is opposed by the trade, not only by license-holders and owners of licensed property, but also by the brewers and distillers, who foresee the probable effect of the company system in reducing the consumption of drink, and consequently in reducing their profits. Their opposition is natural, but it is less natural that the proposal should encounter the opposition of a considerable section of earnest temperance reformers. The objections of the latter deserve respectful consideration. They spring from generous interest in the public weal, and they indicate dangers which have to be guarded against.

It is not contended that there are no difficulties

in connection with disinterested company management, but it is questionable if any reform was ever proposed or carried, against which no objections can be urged. And the problem which society in its progress constantly presents is that of estimating the relative value of reforms, and of the objections which can always be urged against them.

Let us, then, examine some of the objections most frequently urged against management of the drink traffic by a disinterested company and estimate their weight.

(1) It is maintained that company management involves the complicity of the community in the traffic.

This is quite true, but it cannot be reckoned a valid objection against the proposal to take the management of the traffic out of private hands, and entrust it to a disinterested company. Under the present system we are involved in complicity with the traffic more disastrously than we would be under management, for we are responsible for granting licenses to private traders whose direct interest it is to make as much profit as possible.

Let there be no misunderstanding about the present "complicity" of the community in the traffic. As a community we elect the Town Councillors, who elect the Magistrates. As our repre-

sentatives the Magistrates grant every year licenses to certain persons to sell drink in certain premises, and through the police keep a watch over them in the conduct of the traffic. No temperance reformer[1] proposes that till prohibition is attained this amount of regulation by the community should cease, and any person be allowed to sell drink where and when and how he pleases. We are already managing the traffic,—or rather mismanaging it, inasmuch as our representatives, the Magistrates, give licenses to persons who have a direct interest in defeating the object of the licensing system, which is the restriction of drinking. The thing of which a community should be ashamed is not the management of the traffic, but its inefficient management. And let it be noted, that under a system of more efficient management it will be open to any member of the community

[1] This is said too absolutely. A national prohibitionist party has recently been formed, one of whose bases is a declinature to have anything to do with the regulation or restriction of the traffic under the present licensing laws. It is opposed to any proposal for local veto, on the ground that if prohibition were not adopted, the community, including the members of this new party, would be responsible for the continuance of the traffic. They recognise that the only way to free themselves of complicity in the traffic, is to have nothing whatever to do with it, not even in the way of helping to restrict it. Such an attitude is the logical outcome of the principle that it is wrong to have any complicity in the regulation of the traffic.

to plead that while he is prepared to regulate the traffic as long as it exists, in the best way, he protests against the whole thing.

(2) It is said to be demoralising for a community to make profit out of a traffic which is responsible for so much moral and social mischief.

This objection might have some validity under conditions where the sale of drink could be prohibited, but it is not relevant as against the proposed change from the present system. As the result of efforts to discourage drinking, we are already making profit out of the traffic, and this profit we cannot forego without stimulating the consumption of drink. Does any sane temperance reformer propose, for example, that the duty of 11s. per gallon on spirits should be lowered to the figure at which it stood from 1841 to 1852 —3s. 8d. per gallon—or be abolished altogether? However much he may deplore the existence of the traffic, he knows that the high price of spirits, resulting from the high duty, has a beneficial result in restricting the sale. How, then, is it demoralising for a community to have in its possession money, which has been obtained in an attempt to discourage drinking through company management, and not demoralising when this money has been obtained in an attempt to discourage drinking through the

imposition of heavy revenue duties? "Demoralisation" would only emerge, if the object of the community were the mere gaining of profit.

(3) It is said that company management would tend to make the public house "respectable," and so attract to itself persons who are at present disposed to shun it.

The only additional element of attractiveness it is proposed to give to the houses managed by a disinterested company is the diminution of excessive drinking. It is conceivable that the aversion to the public house might in some cases be thereby lessened. That risk has to be run in connection with every provision in our licensing laws for securing the orderly conduct of the traffic. But the existence of that risk has not deterred the majority of temperance reformers from insisting that the licensing authority and the police shall interfere with publicans who supply drink to persons who are already intoxicated. There are, indeed, a few bold people who consider it bad policy to trouble about having the present licensing laws enforced for the diminution of drunkenness. They say that the best public house is the one which is worst conducted, as they believe that the more intolerable are the scandals in connection with the public house, the less it will be frequented by respectable

persons, and the stronger will be the argument for prohibition. Such a cynical attitude is suggestive of the reprehensible policy of doing evil that good may come. But is it not this attitude which is virtually assumed by those who object to disinterested company management on the ground that if the public house is so reformed as to become responsible for less drunkenness and disorder, it may be less shunned than it is at present?

It is, perhaps, however, in another direction that the objectors anticipate mischief in connection with the increased "respectability" of the public house. They fear lest the adoption of management may give the impression that the public house is a harmless institution, worthy of support. But surely that fear is groundless under such a form of management as we propose. If a community adopts management on the express ground that the evils of the public-house traffic are so grave that special measures must be taken for the restriction of drinking, it is difficult to see how such a step should create the impression that the public house is an institution which involves no serious risks for its frequenters.

(4) It is said that company management has been a failure where it has been tried; in the words of a resolution recently adopted by repre-

sentatives of several temperance associations, "that management has resulted in increased drunkenness wherever adopted in any form."

It is frankly admitted, of course, that it has failed to get rid of drunkenness. Its most ardent supporters have never pleaded that it would. All that is said on its behalf is that its results in diminishing drinking and drunkenness are more satisfactory than those of our present system of granting licenses to persons whose direct pecuniary interest is bound up with the selling of as much drink as possible.

It is admitted, also, that any form of management, under which the securing of the profits of the traffic for public purposes bulks more largely with the directors than the restriction of drinking, is objectionable.

But to allege that a system of management under which the directors have been more concerned about restricting drinking and diminishing drunkenness than about securing the profits for public purposes "has resulted in increased drunkenness wherever adopted," is to ignore or do violence to the facts. In proof of this, let the working of the company system in Norway be cited.

The introduction of the "Samlag" or company system was authorised by the Norwegian Parlia-

ment in 1871, when the consumption of spirits was 5.3 litres per head of the population. By 1899 the consumption had fallen to 3.3 litres. Such figures do not indicate that the "Samlag" resulted in increased drunkenness.

Nor is such a result indicated, if we look into the actual working of the "Samlag." Take Bergen as an example. In 1877, when the "Samlag" began its operations, the number of bars for the "on" sale of spirits[1] transferred to it was 16. The number was immediately reduced to 12; by 1898 there were only 8, and in 1902 the bars were abolished altogether. Restrictions of various kinds, beyond those imposed by statute, were introduced. The bars were closed on Saturday, first at 5 p.m., and then at 1 p.m., and not opened till 8 a.m. on Monday; they were closed on the Church festival days; they were closed on ordinary days from noon to 1.30 p.m. (the workmen's meal hour) and at 7 p.m.; no credit was given; no persons under 18 years of age were served; and the amount of liquor to be served to a customer was stringently limited. If a system, which makes possible the application of such extra-statutory by-laws as these, results in increased drunkenness, then there is little

[1] It must be borne in mind that it is only of the sale of spirits, not of beer or wine, the "Samlag" has control.

reason why temperance reformers in this country should concern themselves about the reduction of licenses, or the earlier closing of public houses. But, in point of fact, the application of these and similar restrictions has resulted in an enormous diminution in the bar sale of spirits in Bergen, and, it is reasonable to infer, in a diminution of drunkenness due to spirits. In 1877 the bar sale amounted to 2.45 litres per head of the population; by 1899 it had fallen to .96 litre.

It has to be acknowledged that the consumption of beer in Bergen, as elsewhere in Norway, has increased since the introduction of the "Samlag." But as beer is not yet under its control, it may fairly be argued that the increase of the consumption of beer is due to the non-existence of company control in this particular sphere.

There have of course been other influences at work besides that of the "Samlag" for the promotion of sobriety in Norway, but if the "Samlag" had really "resulted in increased drunkenness wherever adopted," it would be impossible to understand why the majority of earnest temperance reformers in that country should be advocates of the company system, as compared with the ordinary licensing system, and that they should be agitating for legislation to

bring beer and wine, as well as spirits, under company control.

(5) It is said that the adoption of company management would prove an obstacle to progress in further restriction of the traffic, and especially to prohibition.

This objection is not valid against the form of management we propose. If the profits gained under the company system were paid into a national fund, and if a power of local veto were maintained and could be used at the expiry of the specified period, it is difficult to see how the traffic could be more firmly entrenched than at present. The experience of Norway points all the other way. It has been through, or at all events in connection with the operation of the company system that the way has been prepared for the prohibition of the "on" sale of spirits in the towns. By 1896 the majority of the towns (fifty-one) had adopted the company system. Under the provisions of a new Act, twenty-six of these towns voted for prohibition (of the "on" sale of spirits), six of these prohibition towns, however, voting five years later for a return to the company system. Facts such as these indicate that the company system may be a means of educating a community for the adoption of prohibition.

There seems, then, to be no great force in the objections usually urged against the option of management by a disinterested company. And there is an important consideration which ought to be kept in view by the objectors. The question is no longer whether company management is to be introduced, but what kind of company management. Company management is already upon us, and may be indefinitely extended, and extended on lines which are not the most desirable. The fear is not ill grounded that, if those who care most keenly for the cause of temperance reform stand aloof, and decline to use their influence in securing a form of management which is safeguarded against abuse, we shall have established in our midst a form of management which is withdrawn from the statutory limitations and supervision which are urgently required.

SUMMARY OF PROPOSALS.

1. That further legislation for the promotion of sobriety in Scotland be based on the principle of increasing local liberty in dealing with the liquor traffic.

2. To enable the community to be *absolutely free* in dealing with the renewal or non-renewal of licenses, and so to clear the way for further reforms, that a time notice of (say) five years be granted to present license-holders.

3. If licenses are withdrawn or surrendered before the expiry of the time notice, for the sake of effecting a reduction in the number, that the money paid to the dispossessed license-holders be raised from the remaining license-holders.

4. That in the remodelling of the ordinary licensing system provision be made for
   (1) Securing the whole of the monopoly value of a license for the public.
   (2) Ensuring that in future years the claim for compensation cannot again be raised.

5. That there be granted to each community a variety of options, including
   (1) The prohibition, by an adequate majority of the electors, of the issue of public-house licenses.
   (2) The management of the traffic by a disinterested company, where prohibition cannot be carried.
6. That such a disinterested company be subject to statutory safeguards, and that its profits, after providing 4 per cent. on capital and a reserve fund, be paid into a Scottish National Fund, and used for the establishment of counter-attractions to the public house.

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