sion find, a profit to the Treasury, whatever else it may be called; and as the Report continues:—

> Loans granted under such circumstances are in reality another means of adding to the revenue of the State, and instead of being set down as special advantages given to the country where they more largely prevail, they should be entered on the opposite side of the account as additional sources of revenue derived from that country.*

I have now shown that the dealings of the Treasury in regard to the loan account between Ireland and the Imperial exchequer afford substantially no set-off to the system of overtaxation inaugurated in 1853, and continued to this day.

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IV.—*The Struggle between the State and the Drunkard.* By E. D. Daly, Esq.

[Read Tuesday, 23rd February, 1897.]

No one can be competent to discuss the Drink Question unless he has thought over it sufficiently to realize how complicated the subject necessarily is. It is intimately interwoven with details of economic laws which pursue their course regardless of preacher and moralist; and under which causes generated by want of work, vile housing, and widely spread ignorance move on to degradation and drunkenness as their effects. Even beneath such a reign of law, however, human character may struggle and be helped upwards by the influence and example of friends, neighbours, and teachers of all kinds; while State interference through Parliament can do much to repress the forces of evil and secure at least fair play for the weak and the struggling. Thus the great cause of national sobriety is open to and requires many different lines of social inquiry and action, and no paper such as this could possibly deal with all of them.

I have selected one particular channel along which practical effort might be pursued; first because it has I think been overlooked to a very disastrous extent; next because I happen to have had some special opportunity of studying it; and finally because of the Royal Commission on the Licensing Laws now sitting which affords an opportunity for influencing practical legislation in the direction I am about to speak of unlikely to occur again for many years.

Let me at once set aside what is outside the scope of my present purpose, and at the same time guard myself against the supposition that I underrate the importance of what I refrain from dealing with.

First of all then, this paper is not concerned with the various forms of organising moral influence. I do not treat of total abstinence pledges, blue ribbon societies, coffee palaces or temper-

* Report, par. 52, p. 13.

ance associations, or happy evenings for the people. I do not in any sense underrate the immense value of such work to help men against the drink craving, and to compete with the publican in offering reasonable enjoyments to those amongst us who are not well-to-do, and I have the highest respect for my friends who, in the present state of life amongst the poor, want to spread total abstinence amongst them and others who may be in circumstances of special temptation.

The interested policy of the liquor trade, although it seems to me to be within legitimate bounds, and is I think open to no vituperation, is after all in its best aspect a mere pursuit of business self-interest, and has nothing noble about it to affect us in comparison with the unselfish energy of temperance enthusiasts. But granting all that, there are bounds in case of the drink question as in case of every other social problem, within which it would be unreasonable to tolerate *State interference,* however wholesome and desirable *organised moral influence* may be. What those bounds are must be left to the common sense of each existing generation, for no other practical standard is available. I think we have ample evidence that the existing generation of these kingdoms does not approve of interference by law to enforce total prohibition of the liquor traffic, or total abstinence on those who rightly or wrongly think proper to use intoxicating liquor as an article of diet or indulgence. On the other hand there is evidence, it seems to me, that State interference has been accepted in principle as just, and may be wisely encouraged and increased: (1) In so far as direct injury or risk to others, or prejudice to public order can be traced to a drunkard or to a trader found abetting drunkenness; (2) in so far as drunkenness becomes a disease akin to lunacy, and (3) in so far as dealing in drink, like dealing in explosives or medicines, is shown to cause excessive risk or danger to the community, unless in the hands of carefully selected persons in a limited number of places.

Now, this paper is wholly concerned with *State interference* within those generally accepted bounds. I want to show that within those bounds State interference, as now carried on, is like a bankrupt business, so ill managed that the shareholders do not receive the expected or possible benefit; that in the drink question the old platitude "We cannot make men good by Act of Parliament," is used as if it were equivalent to declaring that Acts of Parliament are not of much use in deterring men from criminal practices, a notion which violates all common sense and experience; and that whoever can concentrate public attention on this over-looked side of the drink question, will do something of practical value in promoting national sobriety.

### *The Birth and Development of the Drink Question.*

Three wholly distinct lines of thought have modified social action in this matter, and have become almost inextricably entangled together. In my opinion, we must disentangle and keep them apart

from each other in separate statutes before any great national effect can be achieved. A short notice of their origin will perhaps best illustrate the separate nature of each.

Amongst the mischief-makers described in old records as "evil-doers in the Commonwealth," the Common Law of England took notice of the "Valiant and Sturdy Beggar or Vagabond," "the Common Drunkard," and the "Keeper of a Disorderly Tippling House."

That was long before Acts of Parliament ever appeared in print —before either whiskey or justices of the peace had come into existence—when beer represented intoxicating liquor, and ecclesiastical courts, under an archdeacon, administered something like police law, with penance in place of imprisonment as a punishment.

The valiant vagabonds have since then disappeared, and no longer rove about in bands. The State was in earnest about getting rid of them, and used punishment in a most determined fashion. Old Acts direct that when "whole and mighty" in person a vagabond shall be tied to a cart and whipped with "whippes till his body be bloudy." Between that and the Poor Law, State interference has been too much for the poor chaps who probably had never the chances we have had; and we know them no more, save as casual and isolated street beggars.

Their companion, the drunkard, is as lively as ever; and however you reason about the fact—there can be no doubt of the fact itself —that up to this the law of these countries has never made much attempt to punish him, and has not yet succeeded in getting rid of him.

In the early days just spoken of every one was at liberty to sell intoxicating liquor for profit as freely as any other commodity; complete free trade in drink prevailed. There was no excise, and there were no restrictions on purchase or consumption. But whoever became a habitual drunkard or brawler, or any alehouse keeper who permitted drunkenness and bad company, was often prosecuted and punished. Here, then, is the genesis of the first important principle I ask your attention to, viz., that even though mere drunkenness or dealing in liquor, like the use of firearms, may not be deemed a crime *per se*, each nevertheless becomes a crime authorising the State to interfere, whenever coupled with danger, hurt, or injury to other individuals or to public order.

As years went on, however, the nation ceased to think free trade in drink a safe arrangement. So far back as the fifteenth century, by which time justices of the peace had been created, such justices were given a power to prohibit the opening of an alehouse if they objected to it in any locality. In 1552, an Act of Edward VI. speaks of "the intolerable hurts and troubles of the Commonwealth from abuses and disorders in tippling houses." In 1604 another Act declares that "the true use of inns and alehouses has been grossly abused," and that they "were never meant for lewd and drunken folk." And from that down to the growth of the excise, various precautions were taken to limit the trade at large.

The former principle of attacking individual wrongdoers necessarily imputes disgrace to each person it deals with. This new principle of dealing with the trade at large as a more or less dangerous one for the public, is as free from any imputation of blame or disgrace as are trade restrictions on those who deal in explosives or medicines. The steady growth of this new idea may be traced as years go by, and we should remember that it was forced on statesmen by the experience of society long before revenue considerations existed to make prohibitions in respect of selling drink of any financial importance.

Leaving the dealer for a moment, let us notice the marvellous history of the drunkard. Generation after generation complains in the preambles of old Acts of all the mischief he does. But it is most difficult to trace any attempt to punish him, or to enable aggrieved persons to do so. In the beginning of the seventeenth century a justice could fine him five shillings. Then came the Civil Wars. Charles I. and Cromwell lived and died; in spite of parsons and puritans and civil war the drunkards flourished more than ever. And an Act of 1736 declares, in terms which might have originated with the Temperance Association that:—

> "Drinking is rendering people unfit for useful labour or business, debauching their morals, and inciting them to perpetrate all manner of vices; and the ill consequences of the excessive use of such liquors are not confined to the present generation, but extend to future ages and tend to the devastation and ruin of this kingdom."

That prophecy is not wholly without fulfilment in our city slums; but strange to say the statute mentioned punished the trader rather than the drunkard.

Meanwhile, as England grew, two new forces began to work, which have most seriously affected the state of the drink question. The excise officers appeared with the revenue from intoxicating liquors which, starting under the Commonwealth, has increased ever since in spite of a popular opposition, clamouring even down to the days of Walpole for "liberty, property, and no excise." The Temperance Party, which the United Kingdom owes to Ireland, began, some say, at Skibbereen in 1817, but at all events a temperance society was established in the Friends' Meeting House at Wexford in 1829, in response to an appeal in the "Belfast News Letter" of August of that year from Professor Edgar, who had just seen temperance work carried on in America. While side by side with excise and temperance energy, a colossus has arisen with the growth of national prosperity, involving almost unlimited capital and innumerable shareholders, and generally known as the interests of the "Liquor Trade."

Since these three mighty partizans took the field, the whole struggle appears to me to have been concentrated about the one question of limiting free trade in drink—while the common law principle of using punishment against the drunken wrong-doer or dealer who abets him has been almost wholly lost sight of. The Excise Commissioners in their nineteenth Report recommend that everyone should as

of common right be allowed to take out a licence on payment of duty, leaving the police to enforce order. That of course is the obvious policy for a revenue department. The temperance party oppose that with a persistence which would almost blot the vine out of nature, and certainly would blot the vintner out of commerce. And the traders, while perhaps not unwilling to enjoy the increased value of existing licences by prohibiting new ones, fight fiercely against further restrictions on their present establishments.

In the midst of the turmoil, as I have said, the drunkard and the disreputable dealer, whether licensed or unlicensed, are not looked after. We might expect the constable to do that, but he, not unnaturally, says it is not his business to mend the law, and that he carries it out so far as it is there to be carried out. One police witness after another has replied in that manner before the present Commission.

This short account, it seems to me, not only will give antecedent probability to much that I am about to state, but it will, by having briefly described their origin and conflict, help to distinguish the hree lines of thought which must, I think, be disentangled from each other in discussing the drink question.

First, there is the purpose of punishing *individual wrong-doers*, whether drunkards, or dealers licensed or unlicensed, a purpose which necessarily imputes blame and disgrace to each person to be dealt with, but not to the trade at large.

Second, the purpose of so limiting the trade as to save the community from undue risk, which *does* apply to the trade at large, but imputes neither blame or disgrace.

Third, the purpose of ensuring legal revenue which is not directly concerned at all about temperance or enforcement of order.

The first alone can be fairly classed as a branch of the criminal law in any sense imputing disgrace or evil-doing. It alone of the three is open to every principle and maxim of legislation used in reference to a criminal class, and our obligation as a State to protect the weak from the cunning or self-indulgence of the wrong-doer. And it seems to me to have been a disastrous fault of tactics in temperance policy to have ever allowed these three completely distinct lines of action to have become mixed up together in statute after statute. The revenue authorities have not fallen into this error. On the whole they have kept to their own purpose in their own Acts, and have made those Acts determined and successful.

In this paper I shall endeavour to follow the same example ; and shall now proceed to consider the dealer in drink and the drunkard, exclusively in circumstances in which they become criminal or quasi-criminal, by reason of conduct prejudicial to public order, or which directly hurts or endangers another person, or which places the drunkard on a level with irresponsible but dangerous lunatics.

## The Common Drunkard.

### *As Wage-earner.*

I suppose, at this time of day, it is unnecessary to urge the

importance of being able to enforce contracts of personal service. Where that is not done, it is the workman and his family who suffer, because capital and wages shrink away. The Employers' and Workmens' Act (1875) deals with all such cases, save that of domestic servants; and enables a Court of Summary Jurisdiction to order the workman to pay damages for breach of agreement by misconduct or otherwise. On failure to pay the amount, the workman's goods may be seized, and in practice no more can be done. By a roundabout and complicated procedure, imprisonment might, in some cases, be imposed; but in practice that procedure is wholly inoperative, and it is safe to say that the only practicable means provided to enforce orders against workmen is to levy a distress.

The steady, decent workman, in a dispute with his employer, has no escape from the grip of the law. His usually neat rooms are sure to have something worth seizing. But the drunkard, with little beyond a bed and some clothes (which are protected from seizure), can deliberately break his contract and feel that he is exempt from the law.

It is true he may be dismissed, and no doubt often is dismissed. That means going home to live on the exertions of his wife or children, and is naturally not so deterrent as a fear of more direct personal inconvenience would be. I happen to recall a few typical cases.

A merchant tailor found a journeyman drunk in the workroom, an empty bottle by his side, and valuable materials half spoiled.

A gentleman in the shipping trade hired men to unload a cargo. He was subject to £25 a day for delay. On receiving the first week's wages the gang went on a spree, loafed about on Monday and Tuesday, declining to work until Wednesday, and no one else could be got to take their place.

A cabinet-maker had a circular saw on his premises, and, accidentally looking into the room where it was, he found the saw whizzing at full speed, and the man in charge in tipsy unconsciousness of the risk. On enquiry these delinquents had no articles which could be seized, in the event of damages being awarded against them for their misconduct, and the employers let the matter drop.

Now, without any occasion to consider all breaches of contract, I find it very difficult to think of any objection to dealing separately with breaches of contract by *drunkenness*, and to having the drunkard placed as much within the grip of the law as the decent man is.

The simple way to do so is to enact that where a contract of personal service is broken by *drunkenness*, and damages are awarded in consequence, imprisonment may, in the discretion of a magistrate, be ordered at once if the damages are not paid as directed.

Then, instead of, merely by dismissal, driving the drunkard home to prey on his family, fear of the law would co-operate with the persuasion of his wife that he should mind his work.

### *As a Damager of Property.*

Damage to property occurs in two ways. It may be deliberate, or it may be unintentional. A magistrate can only interfere in the first case. (*a*) The remedy for the second is an action. The drunkard is fortified against an action in the way already described. He has no goods whereon to levy damages.

Accidental damage, due to wilful and deliberate drunkenness, accordingly brings no punishment—at least, not on the drunkard, although it does on the party who is not to blame. Here are two examples.

I have known of a drunkard stumbling over a fruit stand and upsetting a poor girl's stock-in-trade in the mud—and of a drunkard in staggering breaking a valuable pane of glass, or the more valuable contents of a glass-case, in a shop he had staggered into and was about to leave.

In each case the drunkard, although charged, was discharged for want of criminal jurisdiction; the girl went away in tears, and the shopkeeper relieved his mind by strong language, each having to pay for drunkenness without having shared it.

Now everyone knows the risk of doing harm while in drink, and there seems no reason why unintentional damage, when caused by wilful and deliberate drunkenness, should not be treated as the law treats wilful damage, so as to send the offender to gaol unless he can compensate the person aggrieved.

### *In Domestic Service.*

Next take the Drunkard in private service. Suppose a stable-hand is found drunk in the stable, and a valuable horse injured through some neglect, or suppose the cook gets drunk in the kitchen. Here again it is the drunkard and not the master who occupies by law the best strategic position.

It would not be a constable's duty to remove either offender for drunkenness, and if the master attempts to do so himself, or by his servant, he risks an action, out of which the cheapest issue is to send at once for the drunkard's attorney and negotiate the minimum of blackmail which will be accepted.

The other day a shopkeeper asked me as I passed to look at a paper in his hand and tell him what to do. It was a notice of action. It appeared that a porter in his employment whom he had previously forgiven for drunkenness got drunk again in his warehouse and would neither remain quiet nor go home. After disturbing the place for an hour and a-half, the master had him put out, hence, the notice of action. Now observe the employer's position. If he does not go to the Court for defence he risks an order against him by default; if he incurs the cost of defending the action *and wins it*, the drunkard, who has no goods, gets off free, and the innocent employer is put to cost and trouble.

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(*a*) 24 and 25 Vic., cap. 97, section 52.

The drunkard risks nothing by such an action, and has a good chance of blackmail. The reasonable remedy would be to make suitors risk imprisonment in lieu of costs when defeated in their proceedings in case of actions taken by those who have no goods, on account of transactions arising out of their own drunkenness.

### *When in Charge of Person or Property.*

Next take the case of persons who wilfully get drunk while trusted with some special charge.

Enormous risks are caused under this heading Until the recent Act for Preventing Cruelty to Children there was no way of punishing a drunken woman for having a baby in her arms as she reeled about.

There is still no way of punishing a nurse who gets tipsy in charge of a patient. I mean no summary or effectual way. I have known a doctor who took to drink do serious, though not wilful, damage in his cups, and there were no means of punishing him in a way to kindle horror at his act. Unless death causes the law of manslaughter to take effect, there is practical impunity for such conduct wherever the delinquent has no property.

Breaches of contract of service which are *wilful and malicious* and at the same time likely to cause danger to person or property, are liable to special punishment by imprisonment under the Conspiracy and Protection of Property Act, 1875. But mere drunkenness is not wilful and malicious. A person drunk in a public place in charge of a carriage, a horse, or cattle, a steam-engine, or loaded firearms, is also liable to imprisonment. But it would pass the wit of man to say why these particular things only, and no others were selected. (*b*)

The obvious necessity is to make drunkenness penal, whether in a public place or not, whenever dangerous risk to others is caused by failure to keep sober while in special charge of anything—whether a child, a sick person, an explosive, a stock of poisons, or a valuable or dangerous machine or animal. What greater danger could be imagined than a chemist's tipsy assistant; yet his own master could not well get him punished under the present law.

In nearly all such circumstances drunkenness, like a charm, shields individuals from the grasp of law, however the innocent and well-conducted may be endangered, short of death.

### *As a Partner in Married Life.*

Now come to more pathetic circumstances, the drunkard in humble married life. If a rich man misappropriates separate property of his wife, High Courts of Justice offer her protection in various ways. A poor man's wife cannot pay for entrance to these high precincts. She has absolutely no redress if a drunken

(*b*) Licensing Act, 1872, section 12.

husband makes off with her wages, and spends the money in a bogus club. She could get a kind of protection order from a magistrate against him if he deserted her, and left her alone to support herself. (*c*) But if, without deserting her, he leaves her to support herself and the children, and insists on being supplied himself with victuals and beer by her also, the law will neither enable her to get rid of him nor protect her earnings from him.

It is tiresome to hear a lawyer exclaim, in answer to such a statement, that the new laws of Married Women's Property enact otherwise. He might as well appeal to the laws of Moses, for the one set of laws is almost as inoperative in humble life to-day as the other. If law gives no remedy in a court of summary jurisdiction, it is worthless in such matters to poor people, and in humble life the drunken husband may do a great many injuries to a woman, without redress, short of maiming or murdering her, although amongst the rich prompt redress would be available. (*d*)

The other side of the question is as bad. I have seen a workingman sit down and cry when told he could not punish his drunken wife for pawning the children's clothing. I once, most improperly, asked such a man why he did not leave her to shift for herself? He said he could not take his little children with him while looking for work elsewhere, and that he could not leave them behind at the mother's mercy, and so affection anchored him to his misery.

If the same wife followed him with abuse in the street, or cut his head with a blow of a potstick, a husband could have her sent to gaol, and often does so; but for the greater harm of ruining his life he has no protection, unless the laws of nature extinguish her drunken energies in death.

Various remedies might be suggested. An American idea would be applicable in many cases. In such cases as those described after conviction of the drunkard at a Police Court, the sober partner could procure a certificate of the conviction and serve a duplicate of it on any or every publican whose shop the drunkard frequents. If after that the drunkard were supplied with drink there, a summons would lie against the publican, and thus at the will of wife or husband a very practical form of local option would close publichouses to a great extent against the particular drunkard in question.

Another idea is suggested by the law of partnership. Formerly one partner could not be charged with larceny by the other, in case of improper appropriation of articles of the joint stock in trade. This law was altered some years ago; and now one partner may proceed against the other, as against any other thief. (*e*)

But in all the world there is hardly a more *bona fide* industrial

(*c*) 28 Vic., cap. 43. There are Acts available in England, but which do not apply to Ireland.

(*d*) Vide 45 and 46 Vic., cap. 75, section 12. A wife cannot have a criminal remedy while her husband insists on living with her, so far as protection of separate property goes.

(*e*) 31 and 32 Vic., cap. 116.

partnership than that of husband and wife in the household necessaries of humble homes, and where either could show that the other became drunk after pawning children's clothing or other necessaries, the sober partner should, it seems to me, have as much power to punish the other as if the act were a blow in the face.

Without such remedies and others easily suggested, the drunken wife or husband can and does bid defiance to priest and constable, and the sober partner is ruined, while society looks on unmoved.

### *As a Parent.*

It is not right, however, to say that society looks on unmoved. This is what we do. When we can no longer stand the suffering of the drunkard's children we take them off his hands, and pay for them ourselves in an Industrial School, leaving him to chuckle at being relieved of a burden every decent man about him has to bear.

The present law is absolutely impotent to make him feel the least consequent inconvenience, or contribute one penny towards maintaining the children in such schools, and although a Royal Commission pointed that out in 1883, no attempt has as yet been made to act more wisely. (*f*)

### *Street Drunkenness.*

Finally, there has for years been one, and only one, form of drunkenness which the law has consistently punished. Strange to say, it is far less mischievous than any of those I have mentioned. Except a man overcome at supper, who goes quietly to bed, I can think of no form of drunkenness less dangerous to others. The drunkenness I speak of is quiet drunkenness in a public place. It may be disgusting, but is hardly ever dangerous to others. Some bystander is always ready to give prompt protection, if necessary. Even a child could run aside out of the way, and a constable is sometimes not far off.

Having, at all events, singled out this least mischievous form of drunkenness for punishment, while all dangerous and cruel forms are allowed to go free, the next absurdity is that the form of punishment arranged is one that must, of necessity, fall more on wife and children than on the drunkard.

From 1854 to 1872, in many towns in Ireland, a drunkard could be sent to prison without bail or fine for a week. The Licensing Act of '72 repealed that kind of punishment, and substituted fines alone; and now a drunkard cannot be detained in gaol for drunkenness a moment after the fine is tendered. (*g*)

Such an arrangement enables a drunkard to transfer his own

(*f*) At present an order to contribute towards maintenance of child in an Industrial School can only be enforced by distress, which is useless against a drunkard with no goods.

(*g*) Compare 17 and 18 Vic., cap., 103, section 72, with Licensing Act, 1872, sections 12 and 79.

punishment to his family, and go free himself. Wherever it is possible for a fine to release him, the drunkard, if not released at once, will be cruel to the wife who fails to pawn in order to raise the fine.

Weeping women, although aware that no work for the man was to be had, have over and over again told me this as a reason for paying, and without any such statements common-sense could foretell the same.

Another defect is, that although the Act prescribes higher fines for repeated convictions, it does not make them compulsory. Instead of saying that the minimum fine for a second or third conviction shall not be less than the maximum for a first or second respectively, it leaves it open to a Court of Summary Jurisdiction to repeal the whole policy of Parliament by imposing time after time half-crowns and crowns for tenth and twentieth convictions.

The policy of an Act may or may not be mistaken, but to give every Justice in the country power to override it without check is absurd.

In Revenue cases, where the law has always been more in earnest than in the cause of temperance, Courts of Summary Jurisdiction are peremptorily forbidden to tamper with the views of Parliament by putting on penalties which become a joke.

I do not believe, however, in heavy fines for a married drunkard. They are not, as a rule, any punishment for *him*, and it seems to me the jurisdiction to imprison him, without fine, in proper cases ought to be revived, and that power to exact surety for his good behaviour, with imprisonment in default, would also be useful.

Where work was waiting for him, he could be let off either on bail for good behaviour or on payment of a fine.

## Sellers of Drink.

### *Sellers of All Kinds, Licensed and Unlicensed.*

Under these headings we reach a different class from the common drunkard. He belongs to the Tempted. In this class we meet the Tempter. I do not associate myself with any general imputations on the trade at large. As already expressly stated, this paper is concerned with the actions of individuals who are admittedly disreputable, and ought to be assailed no less by respectable traders than by total abstainers.

However, no one, whether belonging to the liquor trade or not, can deny that amongst those who deal in drink for profit, we find the most noted type of the individual Tempter.

And it seems to me an axiom of what legislation to promote sobriety should be, to insist that specially excessive penalties should be arranged for the individual trader who, for profit, directly abets or connives at drunkenness.

But the moment you study Statute Law the exact reverse is found to be the case.

*Licensed Drink Sellers.*

I suppose of all Empires that ever existed, the Empire of the Queen can be least injuriously affected by injury to any particular source of Revenue and most cruelly affected by indifference about enforcing sobriety. Nevertheless, no dealer can be imprisoned without fine however he may abet drunkenness; although the law would use that punishment in some cases if he tampered with Revenue regulations. (*h*)

The offences for which he may be fined fall naturally, from a temperance point of view, into two classes, viz. :—Those which necessarily tempt to or abet intoxication, and those which do not. Revenue offences occur in both classes.

In the first class occur selling drink to drunken persons, or to children to drink, or permitting drunkenness.

In the next class occur delaying for short periods to shut up at night, failing to have the owner's name over the door, failing to produce a licence for inspection, &c., which are offences belonging to trade limitation, but having no necessary connection with drunkenness.

Now, instead of having the heaviest penalties in the first class it is the reverse. Selling drink to be drunk on the premises to a child involves a penalty of only twenty shillings; while neglecting to have the name over the door is ten pounds.

The neglect to provide any penalties for obvious offences against temperance is equally remarkable.

There is no penalty for a mother in a public-house forcing porter down the throat of a child in arms, nor for selling drink in jugs to children, who sip it on the way home, and sometimes add a little water from the fountain to make up for the deficiency.

No matter how often a man may have got drunk in a public house, the publican cannot use the special powers given by the Act to exclude him until he becomes drunk again. Although having reason to know the man has come in to get drunk as usual, the publican cannot use those special powers until the drunkenness ensues or is just about to ensue (*i*).

There is another remarkable class of penalties in the Acts relating to drink, viz. :—Penalties to make sure that liquor is strong and handed out in full measure. If a publican were to try and make friends with God and Mammon, by diluting his beer so that it became less intoxicating, £50 is the fine (*j*). If he handed out a pint of stout in a vessel likely to make short measure pass unnoticed to the drunkard, he would be liable to twenty times as much fine as if he sold it to a child to drink (*k*).

It passes my comprehension to understand how the great Tem-

(*h*) Licensing Act, 1872, section 3.
(*i*) Licensing Act, 1872, sections 7, 11, 13 and 18, and 49 and 50 Vic., cap. 56.
(*j*) 48 and 49 Vic., cap. 51, sec. 8.
(*k*) Licensing Act, 1872, section 8.

perance Party sit down quietly in face of such a state of the law in reference to the most notorious of all tempters—the particular trader who profits by promoting intoxication.

It seems to me that whatever use the Licensing Code may be to enforce trade limitations, so far as the disreputable dealer goes, we may dismiss it with contempt for want of energy against him.

### *Unlicensed Selling.*

Here we encounter in the Licensing Code the influence of an authority which always shows itself determined. The Inland Revenue forbids sale without licence, and has succeeded in practice in keeping it checked by penalties with which there can be no trifling; such as imprisonment without the option of a fine and fines exceptionally high.

In the Licensing Act of '72, the police penalty for illicit sale was raised from a possible £2 to a possible £50 for a first offence.

I have no criticism to offer on the determined methods of the Inland Revenue. They succeed where they want to succeed.

The Temperance Party is, I think, less successful than it might be if it resolved to try the policy of the Inland Revenue.

### Co-operative Drinking Associations.

Modern legislation against excessive drinking rests on the implied assumption that a drinking-house can only be carried on in practice by means of retail *sales*; and that, accordingly, if sale without licence could be suppressed, unlicensed drinking-houses would be suppressed also.

Recently the drunkard and his abettors have discovered that a drinking-house can be carried on without any *selling* at all; and Judge after Judge has confirmed the legality of the new method.

The result is that legislation, although still quite effective against *selling* without a licence, has become suddenly and completely impotent against a new class of drinking-houses, carried on without licence or supervision, and which make themselves objectionable by drunkenness and disorder.

It so happened that most of these drinking-dens had christened themselves "Clubs;" and now other people have christened them "Bogus Clubs," in order to distinguish them from places known also by the designation "Club," but to which disorder has not been traced.

The use of the word "Club," however, has introduced needless confusion of thought into the discussion.

The question has never been, to any competent lawyer, whether a particular house or institution was a "Club" or not a "Club," in considering whether a conviction for *sale* without licence would lie or not.

There is no such thing as a Club licence or a Club privilege to sell intoxicating liquor as "*Club.*" The question always has been

whether a particular *Association* (whether loosely spoken of as a Club or not is wholly immaterial) *is so constituted as to make each member a joint owner* to any degree in whatever liquor was supplied to each on the premises of the Association.

If the Association be so constituted, procuring drink on the premises is no sale; and where there is no sale, law gives no right for police to enter, and no penalty for drunkenness, however extensively practised.

Some Clubs *are* Associations so constituted; other Clubs *are not* A precisely similar statement might be made about an infinite variety of Associations not usually called Clubs, from a boarding house to a brotherhood.

Whether the particular Association where the drinking goes on is or is not a Club, is about as material to this question as the colour of a doctor's hair is to his qualification for a diploma.

Another way of stating the point at issue is this:—

Existing law is quite effective in reference to any person or persons supplying drink for payment to others who are *not in association with* him or them, under a definite *mutual agreement.*

Law only breaks down when those who distribute and those who consume drink are *associated by a mutual agreement,* under which each consumer is a joint owner of the drink distributed. Of course it is a little puzzling to be told that in such a case you can pay for an article and take it, and yet not buy it, but such is the law beyond doubt.

The word "Club," accordingly, should be banished from the controversy, except as an arbitrary name chosen at will by this Association or that. The real question is how to deal with drinking-houses whether Clubs or not, where persons can procure drink for money without purchase. In case of such drinking-houses, I propose to use "*co-operative drinking Associations*" as a convenient term to connote the essential fact of association coupled with joint-ownership in each member.

Whether or not, the purpose of the Association is drinking alone —or drinking *plus* billiards and beds—or drinking *plus* books and politics—is wholly immaterial. If drinking *plus* joint-ownership be included in the other conditions, existing law becomes impotent.

Now, there is no public evidence of mischief against Associations like the Kildare Street or the United Service Clubs, although they carry on co-operative drinking, such as there has been against certain co-operative drinking Associations which disturb the slums.

And I suppose most people will admit that however our difficulties are to be dealt with, there cannot be one law for the rich and another for the working man. Whatever privilege or restriction is established for the slums must be forced on Kildare Street.

Bearing all this in mind, it appears to me that if we set aside some of the ablest witnesses examined up to this before the Licensing Commission, such as Sir H. Poland, Mr. Digby, Mr. Mallon of Dublin, and some others, the main proposals for dealing with the Associations mentioned, are some form, more or less indefinite, of what witnesses call *Club Registration or Licensing.* Mr. Mallon

wishes to ground the attack upon proof of habitual drunkenness or disorder, which seems to me the only practicable method. Sir H. Poland wholly objects to police supervision. Able Inland Revenue witnesses see great difficulty about defining a Club, but a number of other witnesses suggest Licensing or Registration as the only methods open.

Now, first of all, it must be evident that no matter what you want to regulate, whether it be the use of fire-arms, or intoxicating liquor, or short petticoats as in America, a system of permission, whether you call it registration or licensing, must be wholly abortive unless accompanied by a system of prohibition.

The system of prohibition may, like that in the case of Friendly Societies, be based on withholding privileges such as cheap law, &c., or it may be based on penal arrangements as in the Licensing Act; but whatever it is based on, unless there be an effective system of prohibition, there can be no effective system of licensing or permission for any purpose whatever.

It must also, I think, be quite evident once it has been pointed out, that it is mere waste of time to discuss the expediency of such schemes until it has been stated clearly:—

First—What inconvenience or interference the system of prohibition is to carry with it.

Second—Over which of the numerous forms which Associations in private life may take is the system to extend.

Now, those whose proposals I have read about licensing or registration for co-operative drinking Associations completely break down in one of two ways. They either fail to explain what supervision or interference the Permitted class is to be subjected to—or what penal treatment the Prohibited class is to endure.

Or else if they explain a theoretical system in these respects, they hopelessly fail in defining the classes over which it is to extend; so that after considering their suggested definition, you find a system of Police thrust upon forms of private life which would not be tolerated out of Russia.

A most remarkable instance of this is a very elaborate draft statute passed by a Temperance Assembly in 1895, under the presidency of Mr. Courtney.

The system suggested was, as applicable to Dublin, to allow the Recorder and Police Magistrates to give permission each year to any Association they saw fit, to carry on co-operative drinking, under the designation Club. That Tribunal could penalize or permit, at will, the use of drink in the United Service or any other Club which was an Association. Then came the prohibitory section as to those who had no such permission, and it was so worded that if Dean Dickinson and a bachelor brother had a joint housekeeping fund, to which each by agreement subscribed, and used sherry at dinner, each would be liable to £50 as a penalty unless they had the Recorder's certificate.

Then, as to any permissive system, it is difficult to see what use it would be to combat drunkenness or disorder without police

supervision of a kind which in times of political excitement might become intolerable in many ways.

I would not like to say that some use might not be made of a system of registration, although I, myself, cannot see how.

But, however I think over the matter, I feel always driven back into this dilemma. Proposals as to Registration or Licensing are either so mild and unobjectionable that they could not interfere with any private Associations—in which case they are *worthless to combat drunkenness.* Or they are so stringent as to be effective against drunkenness, in which case they would, especially during political excitement, *enable the police to become intolerable to a free people.*

Meanwhile the Common Law principle has wholly fallen out of view. Under the Common Law our practical forefathers, instead of puzzling over defined classes of drinking houses, dealt with each case as it arose. And whenever a particular ale-house became associated with excessive drinking or bad company, that particular establishment was made the subject of punishment.

It cannot be disputed for a moment that if summary jurisdiction had existed, in case of carrying on a Co-operative Drinking Association under circumstances of drunkenness and ill-behaviour prejudicial to public order, many drinking dens which have escaped the law could have been suppressed. It therefore seems to me, we must shake off the incubus of Revenue influence and cease to think of *consumption* in connection with illicit *sale* as the only mischief to be prohibited, which is the attitude of existing law now proved to be wholly impotent in the cause of sobriety.

We must begin to concentrate attention on *consumption* under the auspices of various kinds of co-operative Associations, whether called Clubs or not, wherever it is carried on so as to prejudice public order by *excessive drinking or disorder.*

Until we do this Registration will be impracticable or ineffective against intemperance. When we do that it will not be required.

It may be said that an Act penalizing consumption, even when associated with disorder and drunkenness, would be capable of abuse. How, for example, is a man's home to be safeguarded, and who is to define the degree of disorder?

As to the home, no man need allow his home to be used by a drinking *Association*, and if he does he should take the consequences.

As to the *degree* of disorder, where the *kind* includes habitual drunkenness carried on by an Association, it seems to me the degree may be treated as relevant to the amount of penalty, and left to a court of summary jurisdiction, subject to appeal. If that were not sufficient safeguard others might be found.

In case of the Newspaper Libel Acts (*l*) and Bribery of Officials (*m*) Acts, any risk of misusing these stringent measures is safeguarded by selecting an Authority without whose permission in each particular case, the criminal statute cannot be employed.

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(*l*) 51 and 52 Vic., cap. 64, section 8.
(*m*) 52 and 53 Vic., cap. 69, section 4. Note also 34 and 35 Vic., cap. 87.

The general principle remains that whenever a Co-operative Drinking Association promotes drunkenness and disorder, which would forfeit a trader's licence, those who abet the nuisance should be punished; and I thought it might be useful to annex the sketch of a provision which, while by no means to be taken as sufficient in detail, will, I trust, indicate a line which legislation might take, without being hampered by technicalities of sale, and with a perfectly even hand towards rich and poor.

### As a Diseased Inebriate.

It seems to be admitted that this condition can be recognised by medical skill, and that under the circumstances an individual ceases to be responsible; and may bring danger and ruin on others.

A well-to-do man in such a condition may fall into bad company, and squander enormous sums until his wife and family are penniless. The same may, and often does, happen in its degree in humble life to a wife and mother.

The law says to her:—All you have to do is to get *him to consent* to be sent to an inebriate home, and I will keep him out of harm and cure him if possible, if you can pay all expenses.

Can there be anything more against common sense than to base the treatment of a lunatic upon the condition of procuring his own consent to it? (*n*)

Surely when a diseased inebriate becomes dangerous or begins to squander his means, persons in danger or kinsfolk who have a claim for maintenance on him, should be given a right of interrupting his insane career, just as the career of any dangerous lunatic may now be cut short.

There could be no difficulty about defining a competent tribunal.

### *Final Remarks.*

Even though it is difficult to avoid oversight in details when writing about so large and so scattered a branch of law as I have treated, I hope that, on the whole, I may challenge any substantial contradiction so far as regards Irish Acts. Some of my statements would not apply to England or Scotland.

I will now ask you to remember that I am not alleging a general or widely-spread drunkenness. It is concentrated in depressed city areas to which dismissed workmen and idlers gravitate of necessity, although effects are felt far outside in many cases.

We have not now to face drunkenness at dinner-parties, such as prevailed a generation ago. Workmen at large are not drunkards. There is no evidence, in my opinion—even though I do not take statistics as conclusive—that Dublin is worse than, or even as bad as, many other cities.

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(*n*) 42 and 43 Vic., cap. 19, section 10; 57 and 58 Vic., cap. 41, section 11 sub-section (*a*).

On the other hand, cities are more crowded than ever they were, which aggravates the defects of housing, and of every other evil in depressed areas.

What we have mainly in our days to deal with by *state interference* are more or less infrequent diseased inebriates in well-to-do life, and a horrible state of the drink question in depressed city areas.

It is in the large city slums we find overwhelming evidence of the cruelty of allowing drunkards to enjoy impunity.

In speaking of the Labour Laws, I am quite unconcerned about the interests of employers. They can take good care of themselves. I am wholly preoccupied with the wives and families of the wage-earning class; and it seems to me there can be no doubt that the appeals of a poor woman in the depressed areas to keep her husband up to his work would be greatly reinforced if he feared personal inconvenience by law for neglecting it through drink.

The appeal of a good priest to a drunken wife or husband would be reinforced if the law provided some pressure which the sober wife or husband could put on.

The drink-reared children of the slums, undoubtedly more than any other cause, swell our permanent criminal class; and as long as we suffer the existing impunity for drunkards to continue, the drunken areas of large cities must neutralize, to a large extent, the effect of reformatory institutions.

No one, so far, denies any such statements as I have made. But, strange to say, many of my temperance friends seem slow to accept the conclusion from those facts which seem to me inevitable. Many of them say, "We approve of your views, but *our party* ought not to take them up as a party. We will keep to abolishing the sources of temptation. *We will turn off the tap.*"

I have said over and over again that the views advanced in this Paper leave them quite free to turn off the tap by moral influences and trade limitations, if they think they can do so.

I have never suggested any flagging of effort to limit the temptations to drink, or to spread total abstinence.

But, I ask, if, from the Ten Commandments down to the last Corporation bye-law, the method of limiting and abolishing temptation has ever been relied on *exclusively* in dealing with any social evil except the drink question?

No one ever proposed to overcome the habit of thieving solely by prohibiting property, or to stop apple-stealing by abolishing orchards, and making no serious attempt to punish the boys who rob them, and I defy anyone to discover in the pages of social history any great class of self-indulgent mischief-makers other than common drunkards with whom it has ever been proposed to deal, *by avoiding to punish them.*

Of course I understand how hard it is, and for a time must be, to induce editors and other writers and thinkers to realize the nature of the drunken areas of a city as those do who see the actual facts.

I may, perhaps, be excused, after thirty years in a police court, for thinking I am, perhaps, less likely to be wrong in my views

than persons who theorize apart from actual experience of the facts. And it seems to me that until someone can upset the statements as to existing law made in this paper, I have shown reason for new legislation, exclusively and carefully devoted to the quasi criminal phases of drunkenness and drinking establishments, especially for sake of the crowded areas of our large cities.

If that be so, would it not be more effective to have *separate* legislation for this particular side of the drinking question, against which the respectable body of the liquor trade could not reasonably protest, instead of allowing the matter to come incidentally into statutes primarily concerned with limitations against all liquor trading. The very fact of carefully preparing a separate Act against the criminal phases of drunkenness and drinking establishments, just as we have separate Acts against coining or dishonesty or malicious damage, would, it seems to me, help to kindle the feelings of the public against the evil of drunkenness, and I do not see how anyone can deny that in the depressed areas of large cities the practical value of such Act would be untold. We want no statistics to prove the drunkard's reign. The Temperance Party however slow to punish him paint him in the blackest colours. No one denies that throughout the land an army of martyrs is at his mercy. Why not transform that suffering crowd into a host strong to withstand him, by forging legal weapons which all who are aggrieved could use so as to restrain his criminal energies?

The argument that such legislation would be difficult, is more or less irrelevant. Every change is difficult. Free Trade took years. The Education Question is difficult. The Question of Overtaxation is difficult. It is difficult to push a business.

It is very difficult and rather wearying to push such an extremely unpopular notion as the expediency of punishment, even when it is an essential means in order to protect the innocent and weak.

But if you have no personal end to gain, and are in earnest, it is not so much after all to face the personal inconvenience of advocating unpopular opinions. I, for one, shall do my best to advertise to all my fellow-townsfolk what seems to me to be a forgotten side of this important subject, in the hope that if happily their hearts and understandings could be touched, opinion would be evolved sure to influence Parliament, and so create some new aid in Dublin for those whom, week by week, I see cruelly at the drunkard's mercy.

### How to deal with any Co-operative Drinking Establishment when it becomes prejudicial to public order.

So far, where the law has been baffled, three circumstances always existed—

1. The premises in question were frequented by numbers of persons who resided elsewhere.

2. There was always drunkenness or disorder.

3. The fact that baffled prosecution always was the legal necessity of proving a sale.

The method suggested, if it should be adopted, would dispense with any need of authorising systematic Police supervision of Clubs, or of giving any proof of sale.

I.

*Precaution against over-hasty interference with private premises.*

It shall not be lawful to use this Act unless the authority named in the schedule (say the Chief Police authority of a district, or such an authority acting by request from a defined number of Parishioners) certify in writing that he or they are satisfied by inquiry and believe that *

> "Drinking is carried on upon any unlicensed premises named in such certificate so as to cause drunkenness or behaviour prejudicial to public order, and that the ordinary law, irrespective of this Act, is insufficient to enable the mischief to be suppressed."

II.

*Grounds on which to grant right of entry.*

If such certificate be produced to a court of summary jurisdiction, and if by the evidence of two or more Constables it be proved †—

(*a*) That within the previous weeks said premises were frequented on different days by numbers of persons who resided or slept elsewhere ;

and

(*b*) That persons disorderly in conduct or under the influence of drink were repeatedly upon the premises or found coming out;

and

(*c*) That such Constables *believe consumption* of intoxicating liquor is carried on inside,

The court may grant a warrant or warrants to enter, search, etc.

III.

*Grounds of treating Consumption on any given Unlicensed Premises as a Nuisance to be Punished and Suppressed.*

If the evidence (*a*) and (*b*) in Section II. be repeated in open court in presence of a defendant under this Act, and if

Consumption or intended consumption of intoxicating liquor,

or

The presence of intoxicating liquor and means for drinking the same sufficient for several persons

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* In connection with Section I. note 34 & 35 Vic., cap. 87.

† It is open to discussion whether (*b*) in Section II., should not be made a subject of reasonable belief rather than of actual proof.

be also proved; then in case of the premises in question such consumption or presence of drink shall be followed by the penalties and forfeitures consequent on sale of intoxicating liquor by retail without license.

IV.

*All who Conspire together or Share Knowingly in Carrying on the Establishment to be made Liable.*

Where consumption or the presence of intoxicating liquor is under this Act to be treated as sale.

(*a*) The rated occupier,

(*b*) Anyone acting or aiding in charge of the premises or of intoxicating liquors thereon;

and

(*c*) Anyone found supplying or aiding to supply or help anyone to intoxicating liquor on the premises or near its entrance,

shall each be deemed a seller of such drink, and convicted accordingly, unless the court feel satisfied that any such person was employed on the premises under circumstances in which he or she had no knowledge of any drunkenness or disorder.

N.B.—The word "club" does not occur in this draft, although it must hit fatally every so-called "bogus club." The real mischief is directly attacked, viz.: Co-operative drinking plus habitual disorder or drunkenness

# APPENDIX.

THE following sketch is intended to illustrate the kind of Statute which this paper suggests as called for.

To a lawyer many omissions will at once be apparent.

Technical details, necessary definitions, appeal provisions, procedure sections, conditions of misconduct, which should be a bar to wives' protection orders, etc., are avowedly left aside in order to present the main objects to be effected in a form more easily apprehended by non-legal readers.

At present his kinsfolk and neighbours are at the drunkard's mercy. Such legislation as that sketched would arm them against him and so create a new force on the side of temperance.

WHEREAS numbers who are aggrieved or injured in person or property by the acts of drunkards have not sufficient protection by law: Be it enacted as follows:—

If the wife or children of any married man, who in the opinion of a court of summary jurisdiction is proved to be in the habit of intemperate drinking of intoxicating liquor, and has repeatedly been

I.

drunk, is or are exposed to danger of bodily hurt from him; or, if he fails to keep them supplied with necessary maintenance; or, if he is in the habit of procuring lodging, food or intoxicaing liquor for himself by means of or by use of their earnings, such court may grant the wife an order for any or all of the following purposes, viz.:

(*a*) To protect the earnings of herself and her children, or property procured thereby, or property bestowed by other persons on her or them from being taken or used by her husband or by his authority without her permission.

(*b*) To prohibit the husband from residing with her, or to deprive him of right to custody of the children.

(*c*) To order him to contribute a certain sum towards maintaining her or the children or both.

No such order shall interfere with any liability of a husband to poor-law guardians for relief given to wife or children.

Any husband shall, each time that he acts in violation of such order, or neglects to obey it, be liable to imprisonment for one month —either absolutely, or in default of recognizance with surety conditioned for obedienee to said order during ensuing twelve months.

II.

Any wife who, in the opinion of a court of summary jurisdiction, is proved to be in the habit of intemperate drinking of intoxicating liquor, and has repeatedly been drunk, and who, without the consent of the husband and after warning from him not to do so, pawns, sells, or exchanges for money or intoxicating liquor, any articles of her husband's or children's clothing, any of his tools or implements, or trade materials, or any articles provided for household use by him, shall be liable, at the suit of her husband, to imprisonment for one month, either absolutely or in default of surety for her good behaviour for ensuing six months; provided such husband satisfies the court that he had kept his said wife duly supplied with maintenance.

Any pawnbroker who, after written notice of a conviction under this section, receives articles of children's clothing in pawn from a wife so convicted, without her husband's written authority, shall be liable to a fine of £2, and to restore such articles to the husband.

III.

Where by reason of habitual intemperate drinking of intoxicating liquor by either or both parents, any child under fourteen is without proper guardianship, such child may be ordered to an industrial school, and the order shall include a requisition on the intemperate parent to contribute a reasonable sum weekly to the maintenance of the child. Whenever such contribution shall be four weeks in arrear, imprisonment under the Small Penalties Act may be awarded in default of payment.

Any such parent who changes his or her residence without notification to the authority empowered to sue for such sums, shall be liable to a fine of not more than £5.

IV.

Any damage to property caused by the act or condition of anyone who has wilfully became drunk, whether such act or condition be wilful or not, shall be liable to the provisions of 24 and 25 Vic., cap. 97, secs. 52 and 53, in case of wilful damage.

V.

Notwithstanding anything to the contrary in the Employers' and Workmen Act, 1875, where the "breach of contract for which damages may be awarded under that Act includes or consists of wilful drunkenness, the court may award imprisonment in default of payment of damages, as if such damages were a sum to which the Small Penalties Act applied.

VI.

Section 5 of the Conspiracy and Protection of Property Act, 1875, shall be read as if the words "or by wilful drunkenness" were introduced after the words "wilfully and maliciously."

VII.

Whoever while in charge of any person, animal, or thing endangers person or property not his own, by wilfully becoming drunk, shall be liable to fine not more than £2, or imprisonment not more than one month.

VIII.

The words "public place" in Section 12 of the Licensing Act, 1872, shall include every place where at the time the public have a right or privilege to be with or without payment.

Any person found drunk in any such place shall be liable to the penalties in the said section; or in case of anyone previously convicted of drunkenness to not more than fourteen days' imprisonment, or if previously convicted and imprisoned under this section to not more than one month's imprisonment.

No court shall in case of any third or subsequent conviction for drunkenness impose a less punishment than the maximum for a second conviction.

If the said place be one in which police have a right to be or to remain without requiring permission from any owner (*e.g.*, a street or thoroughfare), any drunken person may be arrested by any constable.

If it be a place (such as a shop or railway or circus) where police have no right to be unless by permission of an owner, such drunken person may be arrested by any constable called in or authorised to be in such place by any owner or his representative.

When so arrested such drunkard shall be taken as soon as practicable before a court to be dealt with.

IX.

The owner of any premises, not for use by the public, shall be entitled to require a constable to remove any drunken person from off his premises, upon stating to the constable that drink was not supplied by him to such person, and that such person has no right to remain upon the premises without his permission or against his will.

If such statement afterwards be proved to be untrue, the person who made it shall be liable to a penalty of £5 irrespective of any civil liability to the person so removed. The constable shall not be liable to any civil action for removing such person, and he shall detain the drunken person for safe custody until sober and no longer.

X.

If in any action against any master or employer for removal or dismissal for drunkenness, such action be dismissed with costs, the defeated party may be awarded imprisonment in default of paying such costs.

XI.

Where a married person has been convicted more than once of drunkenness, either husband or wife may procure a certificate of the conviction and serve the same upon any licensed person.

Within one month or such other period as a court may direct after any such service if, after the drunkard has been pointed out to the licensed person, or to anyone in charge of his shop the said drunkard is supplied with intoxicating liquor upon said premises, the licensed person shall, at the suit of the person who served the certificate, be liable to a penalty of not more than £10, of which not more than one-half may be awarded to the complainant.

XII.

If any drunken person be found coming out of licensed premises, the same shall be conclusive evidence that drunkenness was permitted therein, unless it be proved that such person had not consumed any intoxicating liquor therein.

XIII.

Any licensed person upon whose premises children under 16 are suffered to enter or be present, shall be liable to the penalties provided for permitting drunkenness.

Every penalty for permitting drunkenness or for selling intoxicating liquor to drunken persons, shall be endorsed upon the licence.

XIV.

*Exclusion of Tipsy Persons.*

The powers and penalties of Section 18 of the Licensing Act, 1872, shall apply in case of anyone who in the opinion of a licensed person, or his manager, is under the influence of drink.

XV

Where a court of summary jurisdiction is given or as any reason to suspect that any person, who not being amenable to any jurisdiction in lunacy, is notwithstanding by reason of habitual intemperate drinking of intoxicating liquor at times dangerous to him or herself or others, or at times incapable of managing him or herself, or his or her affairs, the court may remand the accused and require the opinion of the medical officer of the prison.

If the medical officer reports that in his opinion the prisoner is a diseased inebriate, he or she shall be dealt with as by law may be now or hereafter arranged for such cases.

N.B.—The Small Penalties Act above referred to gives power to dispense with distress of goods, and award imprisonment in default of payment of sums ordered.

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V.—*The Financial Relations of Great Britain and Ireland. The Expenditure Account.* By Arthur W. Samuels, Q.C.

[Read Friday, 26th February, 1897]

THE majority Report of the Financial Relations Commis sion finds—

> "That whilst the actual tax revenue of Ireland is about one-eleventh of that of Great Britain, the relative taxable capacity of Ireland is very much smaller, and is not estimated by any of us as exceeding one-twentieth."

Lord Farrer, Lord Welby, and Mr. Bertram Currie report that—

> "We find from the returns that Ireland's taxation contributed in the year 1893-1894 one-eleventh of the whole tax revenue of the United Kingdom, or £6,643.719 out of £82.439,755. If she had contributed in proportion to her suggested taxable capacity, she would have contributed not more than one-twentieth of the whole, or £4,121,987. In other words, she contributed about two and a-half millions more than she would have contributed if taxed according to what we believe to be her relative taxable capacity." *

Sir David Barbour reports that—

> "Ireland paid in 1893-1894 about two and three-quarter millions sterling more than she would have paid if the total revenue taken from her had been in proportion to her 'taxable capacity.'" †

Mr. Childers, in his Draft Report, states that in 1893-94 Ireland ontributed

> "in round numbers about two and three-quarter millions in excess of that which she would have contributed if taxed according to her relative taxable capacity."

The English Press, with a few notable exceptions, has urged that these findings should be put aside as "vitiated" and "one-sided," and the outcome of the fact that the Unionist Government

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* Final Report, page 45. † Final Report, page 123.