TOPICS OF THE DAY

JUDICIAL INDISCRETIONS: LAWS AND LAWS: FREE THINKING: YET AND AGAIN: BRITAIN AND COAL.

TO us who are of the day, the times seem out of joint at all their articulations. Extravagance of thought is as marked as absurdity of expression. When one gets hold of, or is got hold of by, what one supposes to be a new social idea, that one at once proceeds to proclaim it as heaven-sent, and to insist on its immediate acceptance and adoption by his fellows, under compulsion if necessary. He organizes a Society, whose weakness is concealed by its noise and the violence of its assertions. Thanks to the opportunities which our partisan political system affords, he can always entertain hopes of success if only he is persistent and insistent enough. The feverish state of the public mind, which the propagandist uproar induces, is the very worst product of modern democracy. The fundamental doctrine of reasoned democracy is majority rule. That doctrine, in practice, is being more and more discredited, and subverted to minority dictation.

Heretofore we have almost invariably been able to depend on sanity in at least one quarter—the Bench. Our Judges have either kept dignified silence or spoken rationally on public questions. Of late, another disposition has manifested itself among them, and in a few cases flagrant offences have been committed. For example, an Alberta high-court Justice, who shall be nameless at present, although named in the press despatches, was compelled to discharge a prisoner owing to a defect in the case for the Crown. In doing so, he is reported to have said when discharging the accused: "If the community in which you live had any respect for itself, it would run you out." The expression, "run you out", needs no interpretation on this continent. As used from the Bench, it conveyed a direct and special invitation and incitement to mob violence against an individual who could not be convicted at law for lack of legal evidence. Admitting this, because it was obvious and undeniable, the learned and supposedly responsible Judge undertook, personally, not only to find the accused guilty but to advise his neighbours to adopt Ku-Klux-Klan measures for his punishment,—in other words, to take the law into their own hands and violate it in the name of public justice. Such a pronouncement,

if it was really made from the Bench, is not merely shockingly improper, not to say indecent, but is subversive not only of law and order but of the very foundations of British justice. It calls for more than public reprobation. It demands official enquiry and serious action from those responsible for the conduct of our courts.

Shortly before the date of the Alberta judicial outbreak, an Ontario Judge, in open court, strongly advocated the use of "the cat" for offenders against prohibition. This was perhaps a less flagrant judicial offence than the other, but it had even less excuse in common sense. Judges are not appointed to advise legislators, nor are they called upon to do so, unless specially invited. Their function is to administer the laws to which they as well as the rest of the community are subject. A Judge mentally and morally capable of seriously advising the lawful whipping of mere statutory misdemeanants proclaims himself so irrational a zealot and so unfit for his position on the Bench that his removal from it could not be too summary. His mental condition is, unmistakably, one of partisan bigotry run mad. It entirely disqualifies him for the proper discharge of judicial functions. The lash has long been held exclusively in reserve for the very worst of criminals. In the eyes of the law, illicit liquor selling is not a crime. It is not even a misdemeanour under the statutes of the Dominion, which permit unlimited importation. It is a mere social offence in certain Provinces, punishable only by fine or temporary imprisonment. The drinking of liquor, although sold illegally, is a perfectly legitimate act, within certain limits. Yet this supposedly potent, grave and reverend, judicial, Ontario signor would have the man who supplies an effective public demand not merely imprisoned and fined but publicly lashed, while the man who buys from him enjoys his purchase in peace and security. Could irrational fanaticism go beyond that?

Prohibition is, and wherever adopted in Canada always has been, minority legislation. By no popular vote has it ever secured more than a majority of *a minority* of the electors. This is a fact constantly forgotten by many, and carefully overlooked by others for their own purposes. Practically half the people have invariably refrained from voting for or against prohibition. They may be assumed to be indifferent. They are more probably hostile or unconvinced. All the efforts to get votes polled have been made by prohibitionists, with their long-standing organizations. And they are thoroughly organized. They have, moreover, received much assistance from the clergy of certain denominations. Those

opposed to prohibition are, and always have been, without effective organization of any kind, and without means of co-operation among themselves. They have sent out few or no public speakers. They have usually allowed the case against their opinions to go by default. Most of them have not taken the trouble to vote, because in the circumstances they believed the result at the polls foregone. Not a few of them have even voted for prohibition—"to see how it would work." They have seen. They have also seen that it is much easier to get undesirable legislation enacted than to effect its repeal. And yet, in the face of these facts, this Ontario Judge ventures to advocate the lash for offenders against a law so procured and so regarded by the general public wherever it is or has been in operation.

THE public mind has been so warped and perverted by the specious, emotional appeals of prohibitionists, that men of high intelligence and otherwise good reasoning capabilities are frequently found arguing that because prohibition has been made "law" by statutory enactment, it is a public duty not only to "obey" but to "respect" it. As to obedience, there need be no personal questionings. Laws that are of any potency or give any reasonable expectation of being valuable are always fortified by sanctions, that is, by the provision of punishments sufficiently severe to discourage if not to prevent infractions of them. The sanctions of prohibition are admittedly drastic enough. They consist of heavy fines and long terms of imprisonment. To increase them would, according to all experience, be likely to make them less instead of more effective, by reason of the public sympathy which would probably be aroused for suffering offenders.

The requirements of prohibition are entirely one-sided. It forbids only the selling and not the purchasing or drinking of intoxicants. It is implicitly obeyed, therefore, by the overwhelming mass of the people. It is only the illicit sellers who are breaking the law. What is to be thought of the worth of a law which can neither assert nor defend itself? Why should it put forward claims to public "respect"? Only laws which are working or demonstrably workable are entitled to respect. Laws which are openly disregarded or scornfully flouted can be looked upon only as public nuisances, since their tendency cannot be other than to lower respect for laws in general. The statute books of nearly all the States of the American Union are filled to overflowing with literally tens of thousands of "laws" which have been dead in spirit and letter from the hour of their untimely procreation by mentally

unkempt legislators. Is it a civic duty to "respect" and "obey" them "until repealed"?

It is mere childishness, or "crank"-mindedness to assert that prohibition, as a law, stands on the same footing as laws against crime, because those laws, at times, are also broken. The laws against murder and theft are very rarely broken, and always in defiance of unanimous public opinion. Prohibition is set at defiance daily and hourly, with the free and full consent and even the applause of the public, a majority of whom want what it forbids, and for a long time to come probably will. The seller is popularly regarded as a friend, and not as an enemy. Not a few of those who buy from him are even ready to perjure themselves rather than aid in his conviction for a statutory offence which they do not regard as a moral offence. What analogy can there be between such a law, so regarded, and our inherited laws against crime? And why should people be called upon or expected to "respect" a law to the enactment of which they were opposed, at whose violation they habitually connive, and intend to connive, since they can do so without fear of ill consequences to themselves, or of losing public respect?

The plain and easily comprehended truth is that prohibition is a violent and unnatural attempt to overthrow, by external force, a gastronomic and social habit which is as old as society, as firmly rooted, and as highly sanctioned. None but extremists can see any harm in drinking, apart from excess. The number who at any time have drunk to excess has been monstrously exaggerated, as any ordinary person who candidly questions himself or herself with regard to personal knowledge will readily recognize. It is put at only two per cent. of the population by prohibitionists themselves. Two per thousand would probably be nearer, but still beyond the mark. The number, whatever it may have been, has steadily declined during a century. It has been very rapidly declining in the British Islands of late years, under a general licensing system. Canada was almost won for real temperance before prohibition. It appears to have lost and still to be losing temperance ground wherever prohibition is operative.

How can any thoughtful or moral person "respect" a law which is obviously causing the loss of the clear winnings for moderation and even abstinence which were being made with increasing success and rapidity before its enactment, but which are now falling back into hostile keeping more rapidly than they were made? The public drinking habit had been almost overcome. Business was against it. So was industry. Society scarcely tolerated it. The

womanhood of the country was opposed to it. Open sale had been narrowly restricted. Only the abolition of the public "bar" was requisite for as complete a triumph for temperance as was to be immediately expected. Nearly all would have favoured that. It was precisely at this advanced point that feverish enthusiasts, uninformed sentimentalists and impractical religionists intervened to undo what had been accomplished by sober-minded temperance advocates.

Thousands on thousands of earnest temperance men and women who voted for prohibition, because they were persuaded that it would promote temperance, have had their error revealed to them by practical experience of the law. Many of the clergy, too, have had their eyes widely opened, and are no longer to be withheld from saying so in private, although still constrained by professional loyalty, or what they consider consistency, to uphold prohibition in their public assemblies, because it is asserted to be "the policy of their church", as if the clergy of any church could formulate a policy for its members with regard to what is strictly a secular and politico-social question. There is rapidly accumulating evidence that the revolt of the more thoughtful clergy among its younger as well as among its older and more experienced members, is becoming as general as that of the better-informed laity. It will spread, with the fuller realization that a legislative experiment which they whole-heartedly advocated in the belief that it would advance the cause of temperance is doing the very opposite and doing it rapidly. Dis-"respect" for prohibition is already almost universal.

"FREE Thought" has ceased to be the startling term that it was, in religious circles, a generation ago. It has, in fact, almost fallen into disuse, since, among Protestants at least, nearly all have become "free thinkers." Those who declare openly that they have not, are now spoken of pityingly or semi-patronizingly as "of simple faith." Others are careful not to shock them, in the same spirit which moves adults to refrain from disturbing the belief of young children in Santa Claus. "Simple faith" is at present understood to signify implicit acceptance of old-time orthodoxy, that is, the views of the world's infancy concerning eschatology, the "science", or *knowledge,* of the unknown and unknowable. "Free Thought" now implies nothing more reprehensible or shocking than weighing religious propositions for one's self, and forming independent opinions with regard to them. Formerly, "Free Thought" was a synonym for infidelity, and

often even for atheism. To be a free thinker was to be beyond the religious pale. To-day, how many of the Protestant clergy are there who are not free thinkers?

It is a pity that terms of ecclesiastical opprobrium could not be catalogued and accurately defined. The only thing to be feared by the Church would be that they might lose their terrors for the unenlightened. An atheist, for example, is one who denies the existence of God. A Biblical writer quite justifiably and properly calls him a "fool", for how can one who is normal intellectually deny that which is not deniable because it is neither logically demonstrable nor susceptible of disproof? An infidel is one who denies the faith or faiths of other people, no matter what his own faith may be. To the Christian, all who are not Christians are infidels. To the Mohammedan, all who are not Mohammedans are not only infidels but "infidel dogs." The word means simply not holding the faith of another, whatever that faith may be.

"Agnosticism" is a word not nearly so much in use as when science was in its comparative youth, two generations ago; it was considered by many then, and by not a few it is still considered as signifying almost the same thing as atheism. But there is a wide difference between the two. The atheist denies; the agnostic does not deny. He merely declines to accept absolutely what cannot be proved. He is willing to admit all possibilities. He refuses to accept unestablished theories, including even Evolution. His characteristics are distinctively "Missourian"—he "wants to be shown." He attacks nobody's faith. He accepts, off-hand, nobody's beliefs. He respects the feelings and sentiments of all. He may be a profoundly religious person, in an indefinite way, reverencing all that is good or that may be good, including the "simple faith" of his fathers. But he repudiates all dogma. It is only when hard pressed that the true agnostic avows his personal lack of satisfying evidence on any point. He never parades it.

The poor "free thinker", once denounced as an amalgam of all spiritual wickedness, is now recognized as a mere enquirer for and seeker after truth, who is usually, if not driven into opposition, far more desirous of reconciling himself with accepted faith, or accepted faith with himself, than he is of entirely denying or breaking away from it. He is not of the sort that "provides not for his own", that Scripture denounced as "denying the faith" and being "worse than an infidel." It was he whom Tennyson obviously had in mind when he wrote:

> There lives more faith in honest doubt,
> Believe me, than in half the creeds.

He who is not honest, mentally, cannot possibly be a free thinker; he is a mere caviller. That is all that poor "Tom" Paine —at his worst— was, although he is frequently denounced to this day as an atheist. As a matter of fact, he was the most deeply convinced of deists, that is, a firm believer in God. But he caviled at the Scriptures, particularly of the Old Testament, and sought to disprove their supposed divine inspiration—believed to be verbal if not literal in his time—by exposing and harping on contradictions between the authors of different Biblical books, and upon discrepancies of various kinds. It was this which aroused the hatred of the clergy of his day, brought upon him the charge of atheism, and has caused his name to be execrated or despised ever since. The probability, indeed the certainty, is that there are many occupants of Protestant pulpits at present, in all parts of the world, who are not otherwise in their minds and hearts than was Thomas Paine. Those of them calling themselves Christians, who deny the divinity of Christ, are mostly either deists, as Paine avowedly was, or plain liars. Those who declare and teach that the Old Testament is not to be regarded or read otherwise than as ancient Jewish literature, as professors and heads of theological colleges in Canada have publicly done, are but completing Paine's work in that direction. So it is difficult to cast a stone at "Tom" Paine in our country and time, without hitting an accredited, orthodox theologian.

Had we not better stop all casting of verbal stones at our neighbours, at least until we know more exactly what we are throwing? It never has done and never will do good. It may do infinite harm. "As a man thinketh in his heart, so is he", said "the wisest of the wise." Solomon might have added, "and so does he act." One should be content to judge others by their habitual conduct, not by their supposed beliefs or disbeliefs.

IN considering his utterances and attitude during and concerning the recent general strike in Great Britain, it is not difficult to decide whether it has been Mr. Lloyd George "yet, or again." He has never varied from himself. Such as he was in the beginning, he is now, has been and will be to the end. And the end does not promise to be spectacular in accordance with his, no doubt, ardent wishes. He began as a demagogue, possibly an unconscious one, but still a demagogue. Demagogy opened up a political career for him. He trusted to it for future success, and not unwisely,

for he was specially equipped, mentally, morally and vocally, to practise it.

Not long after his coming into public prominence he entangled himself in doubtful political paths, and succeeded in dragging his party with him. He had almost run his opening course when the war came, to give him a new lease of political life and another opportunity. For that opportunity he was eminently fitted by his special gifts. The nation was in a state of violent emotion. His power of appeal is exclusively emotional. He is an orator of almost unique power. Few if any have ever been able to move the masses more readily than he. The hearts of the people were sinking, in fact had already sunk so low that he was able to mount to power over the prostrate political form of his leader, not only almost without censure but with popular acclamations. What he did with his voice, rather than his mind, after that, needs no recalling. It will always be remembered to his praise while the Empire stands. He inspired and keyed up the national heart to cope adequately with its almost overwhelming task. Possibly none but he could have done that. All praise to him for it!

He was kept closely within his natural sphere by and during the war. When it ended, he was himself, not again, but yet. He bogged himself at once in—for him—inviting political morasses, and has been floundering ever since in vain attempts to reach solid ground. At last he has immersed himself, probably for good, by his wrigglings in the recent general strike. Possibly helping hands might still be extended to him, had he confined his utterances to his native surroundings; but when he extended them to the United States and the outer British world, he committed the unpardonable sin in the sight of his fellow countrymen. Had he been able to keep silence, which his constitution apparently forbade, neutrality on his part might have been overlooked or forgiven. But when, in possibly the most threatening crisis of British history, not even excepting the Great War, he gave open aid and comfort to those who, whether intentionally or not, were working for the overthrow of British institutions in the land of their birth and cradling, and that through outside agencies, he placed himself beyond the pale of public sympathy and further acceptance. Probably he has at last dragged his party down to final ruin with him, but that will not mitigate his offence even in the eyes of the opponents of that party, much less of the nation, for Great Britain still has need of organized Liberalism in its politics.

Yet there is always one excuse for Mr. Lloyd George. He has been beset all his life by the oratorical temperament, an alterna-

tive term for the theatrical temperament, the symptoms of which are love of the limelight and an insatiable appetite for the applause of a multitude, without much concern as to the composition of the multitude, if only it can be got to cheer. It is the superficially emotional temperament, and its appeal is exclusively to the emotions. The orator is even more the slave of his art and of the plaudits of the crowd than the professional actor. He has to make a fictitious presentation of himself to his audience, whereas the actor has merely to represent an external, imaginary character. The one is a real play-actor, the other but an actor of plays. Mr. Lloyd George has been, is, and while opportunity lasts will continue to be, a "play-actor." It was written of him in this section of the January, 1923, number of *The Dalhousie Review:* "If he had retired after the Armistice, he would have carried with him unsurpassed credit and personal glory. If he had quietly withdrawn into private life after his recent political defeat, he would have retained much of his fame and all his dignity. But the orator in him barred the way, and doomed him to continued 'politics'." Now, apparently, "politics" have decreed him banishment as a trustworthy element from public life.

A WELL-INFORMED French observer attributes the British strike to an artificial rise of wages, during a period of unexampled inflation, which the workers hope to retain in spite of hard times and keen competition. It is a struggle, he considers, of men against facts, of politics against economics—a struggle in which men at most can win only the illusion of a victory by destroying their means of subsistence. The question for Britain to-day, says this foreign observer, is whether the shock tactics of the workers in resisting even temporary sacrifice will destroy the permanent foundations of British power. This expression of opinion was delivered while the general strike was on. That was soon ended. The people spoke and acted as unmistakably as decisively against the revolutionary attempt of a section to rule the nation, with the incidental certainty of ultimately, if not immediately, ruining it. But the coal-miners' strike was the basis of the "sympathetic strike", which was never "general", except in name.

All that was true of the wider strike is true of its surviving nucleus. The principles and the dangers involved have not been materially altered by the formal withdrawal of the miners' "sympathizers" in other employments. It is still a struggle of men not against theories but against facts, of labour "politics" against

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natural economics, a struggle in which scarcely even an illusion of victory is to be won by men through the destruction of their own means of life. If the miners win, the mines in greater part must close, because they can no longer be worked except at a loss to the owners or to the nation or to both, as was the case before the strike. If the strike is persisted in to the bitter end, the nation as well as the mine-owners and miners will find themselves so impoverished that they, whatever their possible remaining good will—and there will probably remain little but ill will—will lack the means of helping one another.

The continuing strike of the miners is, on the whole, probably more menacing than the general strike, which had no public sympathy, while the miners have. The way had been carefully prepared for them by their propagandists, with great ability and skill. They were constantly pictured as deplorably underpaid and suffering dreadfully in consequence. The truth is that the mine-workers are not suffering at all in proportion to the industry which they serve. There were sharp ups and downs in coal-mining after the war, but 1923 was a prosperous year. During it, the demand for export coal was 80 million tons, as compared with 50 million tons in 1925—an enormous decline. In 1923, a highly prosperous year, a new agreement between workers and employers was entered into, under which the miners secured an advance of eleven per cent. in wages, which they were paid up to the commencement of the strike on May First. Moreover, hours of labour have been materially lessened. The fact was carefully overlooked by propagandists that production of coal had fallen off in excess ratio with the reduced hours of labour, thus seriously affecting the profitableness of mining in general. If the miners were suffering so severely as was alleged, it seems more than strange that they would not gladly have consented to work at least as long a day as they worked in 1914, and as most other workers still have to do, so as to produce more, to earn more and to encourage the operators to keep up wages.

Owing to the cunning with which their side of the case has been presented and kept before the public, there can be no doubt that the miners have with them much public sympathy. As a leading London daily puts it, "Pity the poor miner" makes a strong appeal to every generous heart. The public imagines the miner as down in the pit, stripped to the waist,—hewing in the darkness by the glimmer of a Davy lamp the coal which brightens domestic hearths; and when the idea is skilfully conveyed that the proposal is to lower the minimum wage of these industrial

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heroes, people exclaim quite naturally that it is a barbarous proposal. "Now the truth", says the London paper, "is that only about a third of the men in the Miners' Federation are so employed. A very large proportion of the workers called miners never go down the shaft. They are pithead and screen men, coal-washers and surface labourers, most of them unskilled, some of them women, and many of them boys. It is only by lumping all these people together that the averages are obtained which mislead the public." We in Canada understand the trick, and how it can be worked, sometimes by one side, sometimes by the other. But the ineluctable fact for both capital and labour remains that mines can be operated only on the income from their output, which depends entirely on the effective co-operation of all concerned. If mines cannot be operated profitably, they must be closed, capital abandoned, and labour thrown out of employment.

It is an undenied and undeniable fact, established beyond dispute by the report of the Royal Commission on Coal, composed of the best qualified and most trustworthy men available in Great Britain, that not only have scarcely any of the mines been making a profit, but most of them have been operating at a loss. It cost the British taxpayers many million pounds to keep them in operation at all last year. Apart from the subsidy, the Report sets out that "over 70 per cent. of the coal raised in the great majority of mines is raised above the selling price", that is, at an initial dead loss. Yet, although there is no immediate, and very little remote, prospect of any improvement in the British coal trade likely to affect favourably existing conditions, and the only hope of avoiding complete and disastrous failure in the industry is to increase the quantity and reduce the cost of production, the miners utterly refuse to permit any addition to the length of their six or seven-hour day of labour, or to accept any diminution of wages. They prefer to continue a senseless struggle in which they have all to lose and by which, as the French writer above quoted points out, they "can only gain the illusion of victory by destroying their means of subsistence." It is a pitiful situation so far as the rank and file of the miners are concerned, a worse than provoking one for the mine-operators, and a most melancholy one for the British people.

W. E. M.