

The eye-opener or the evil fruits of the prohibitory law in Kansas

Section 3, Pages 61 - 90

A pamphlet on prohibition written by Charles Willsie who was a member of the Bar of the state of Kansas. The pamphlet focuses on the challenges prohibition of alcohol can cause society.

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matter what, it is promptly answered. As before said, they are mostly out-of-the-way places, and if the young man wants to gamble he is secretly stowed away with a crowd of men who are as capable of ruining him as any that can be found. His parent or guardian can never find him and even the police are quite often foiled in their search for him.

In the *North American Review*, for September, 1889, may be found a fine description of the evils of the lodging houses of New York City, written by Hon. Thomas Byrnes, chief of police of that city. The "joints" I have been describing are to Kansas what those lodging houses are to New York City; but there is more whiskey and beer consumed in the Kansas joints than in the New York lodging houses. The lodging houses do serve a good purpose sometimes. It appears that the original intent of the lodging houses was praiseworthy, that of furnishing cheap lodgings for the poor and needy. But many of them have been started seemingly to harbor thieves, robbers, murderers and all classes of hardened criminals, who thus come in contact with more innocent and needy persons, and the latter become easy victims.

So it is with the associations into which the young boys are thrown, when they market their bottles. But a few days suffice to make their faces familiar to the loungers. The beginning of a boy's familiarity with a "tough" may be to carry a note for the latter, for which the lad will receive twenty-five cents, or perhaps more. Then and thereafter the boy looks for jobs from men in that vicinity, and if he appears to be a shrewd, trusty little fellow, he will receive an order for three or four bottles of beer to be delivered a short distance, at some point with which he may be familiar. He is paid for that. He begins to look for more work of the same kind and it is constantly furnished. He pleases the gamblers and whiskey venders by his promptness, and he is soon given permanent employment. He quits searching the alleys for bottles and, as he thinks, is promoted to a higher position of work. In a very short time, depending upon the age of the boy, he is as versed and deft in the business as any of them. He sees how the whiskey is obtained. He learns the cost of it. He figures on the sales and the profits. He is electrified by what can be made in the business, and it is not long before he has a barrel of whiskey of his own hid away somewhere, from which he sells on

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the sly to any one who will give him an order. He has now learned all the ropes. He can gain entrance to the gambling rooms and if the card players are thirsty, they will tell him to bring in a half-dozen bottles; he takes pay for it and he has now become a full-fledged "bootlegger" and a confirmed little "tough." His continued association with the men lounging around these places of course does not make the boy any better. When one boy goes wrong and particularly, if his pockets are well supplied with money, it is easier for him to have a following of a dozen or more other lads, than for a man to secure a following of even one man.

It is a fact that too many boys are left too much to themselves. They do not have proper care. Their parents or guardians permit them to wander about with little restraint. They are often out late at nights, prowling and howling around like little demons. Often the parents are poor and probably cannot provide as comfortable homes for their children as they would be glad to do, and the room in the house being needed, the boys are willingly allowed to be on the street. In some cases it may be pure criminal negligence on the parents' part that makes the child a street arab. But whatever the cause, every observing man has noticed that there are congregations of small boys occupying portions of the streets and alleys every night, the year around, who often make night hideous until they are tired out and from sheer exhaustion go home and to bed. This is the class of boys that are very easily led into "bootlegging" whiskey and beer. They are often found around the back doors of saloons until late at night. It is true their parents or guardians and often city authorities are to blame for these nightly assemblages of "kids." But no matter who is to blame for it, I can truthfully say that these boys were not little saloon-keepers, little whiskey-sellers, little cart-wagons for "bootleggers" and other liquor venders before the days of prohibition in Kansas. They were not the trusted little friends of gamblers and "toughs"; they were not allowed to loiter around the licensed saloons or around the card tables before that time. They may have been neglected by their parents or their guardians and allowed to run around and make night hideous, but they were free from the temptation to carry whiskey and beer for pay. They were free from the temptation to "bootleg" whiskey, or to act as accomplices to screen others engaged in the same business.

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My observation during all the years of the prohibitory law in Kansas teaches me that the "joint"—the common every-day "joint," has the effect of turning more boys under twenty years of age into drinkers of whiskey and beer than there were men who drank either whiskey or beer before the days of prohibition. It is not uncommon for one of the boys who make up these night-gathering crowds to have in his pocket a bottle or two of beer or a flask of whiskey, and when in a back alley shaded from the light, or in some vacant shed, or perhaps down on some hillside, the liquor is produced and passed around, and if one in the crowd refuses to drink he is guyed and called "coward," "stuck up," or "too nice"; and taunted with the question: "Say, Jack, you are so darned good you can't take a drop with us boys; suppose you preach us a sermon." Or: "Hullo, Jack, when are you going to lecture on temperance?" And so, each one in the crowd has his jibe and his fling, and if Jack does not drink he has to abandon the assembly, which, indeed, is the only salvation for him. But usually the whole crowd drinks; very seldom is one forced to leave his mates because of his inability to "keep up his end of the string" in whatever is proposed, except when it comes to "chipping in," or taking up a collection to buy a bottle of whiskey; then it may often happen that but few in the crowd have money to pay each his proportionate share.

But, I am asked, how is the prohibitory law to blame for this condition of affairs? In this way: The law is not enforced and never can be, and as long as men cannot sell liquor legally and be protected, they will sell it as sneakingly as possible; and if a "joint" does not exist in a room that may be found by those who look for it, from three to fifty pairs of legs will be substitutes for the room or "hole in the wall," and the youngsters who own these legs are as apt, and if anything, more adept, "bootleggers" than older people. And so long as this class of "joints" are run, it is very easy for the youths to get all the whiskey and beer that they want. It is a very common thing for me to see youths less than eighteen years of age intoxicated. In fact, I believe that now-a-days in Kansas there are as many boys who make a practice of getting "full," as they term it, as men. Almost every day I see one or more of these boys intoxicated in what has the reputation of being one of the most orderly and temperate cities in Kansas—Wellington. I have

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seen the same in every city I visit—Wichita, Winfield, Arkansas City, Newton, Topeka, Kansas City (Kansas), etc.

I have heard men who, I believe, intended to be truthful, say that they have been through the State of Kansas and have never observed what I have tried to describe. That may be true. I have been in St. Louis a whole day at a time and never saw a drunken man. Why? My business called me where drunken men do not frequent. But if I had visited the drinking places in St. Louis it would have been as easy to find a drunken man as it is around the common every-day "joint" in Kansas, but not easier. I doubt if, taking into consideration the difference in population, you will find any more drunken men around the saloons in St. Louis than you might around the Kansas prohibition "joints." Drunken people in St. Louis, as elsewhere, keep off the street as much as possible to avoid the police. Drunken people in Kansas are not so much afraid of the police as they are of their wives and neighbors.

They are ashamed to be seen intoxicated, or under the influence of whiskey. The drunkards of St. Louis have had a lifetime to get used to the police and while they will shun the police, they are not particularly afraid. But the Kansas drunkard has had only nine years to get used to the idea of his wife and family knowing of his drinking habit and is more afraid of them than of the combined police force of his town.

I have known men of local prominence to remain secreted in private rooms for a whole week while getting on and off a drunk, and during that time word would be conveyed to their families, that they had been summoned by telegram to a distant city on business, and had had just time to catch the "Rock Island" or the "Santa Fe" train. During that week a trusted colored waiter would convey to them beer, whiskey, food, glasses, and other articles, desired or necessary. Gladly would they have settled with the police and paid their fines, but the ordeal of facing their family and friends under the disgrace of the "drunk," the Kansas gentlemen cannot stand. They avoid publicity, and the public think that so far as they are concerned prohibition is a success.

A person who does not know much of the habits and customs and manners of men in States where a prohibitory law is on the statute books, might pass through Leavenworth, Atchison, and Wichita and not see a drunken man. The Governor

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has seen proper to say to the citizens of these cities, in substance:

"You fellows are so awfully wicked and have so little regard for sobriety and are so much in sympathy with saloons and the whiskey interest, and in fact, you are such an intolerable set of rumsuckers you cannot control yourselves. I must, therefore, appoint a guardian for you."

And so he has established the commission and police as provided for in the metropolitan police statute of 1887, elsewhere given in full.

Well, the unsophisticated traveler might pass through these cities and even sojourn a day or two in each, and leave with the honest impression that there were no saloons in either of those cities. Why? Because he saw no saloons in public places on the most frequented streets, in the front room of the ground floor with more or less display of stained glass front, with swinging screen doors, which opening, give the passer-by casual glimpses of the bar close to the front with a gorgeous array of mirrors, pictures, glassware and liquors and of men drinking and hobnobbing together, with glasses in their hands. If the poor deluded man had only known where to go, in certain back rooms upstairs, he would have found the saloons and perhaps have also found intoxicated persons stowed away out of sight of the general public. For, it is thus that many of the saloons in the leading cities in prohibition Kansas are situated, and the respectable (!) drunkards are cared for.

But our casual, though no doubt, conscientious, observer actually goes away, and reports to the world, like the school teachers, that there is not a saloon in the State of Kansas. Such a reporter is as blind as the metropolitan police force, who stand around industriously, making a bill of expense for the citizens to pay, while a hundred saloons are running within a stone's throw of them every day; and all sorts of crimes are concocted in the "joints," while they are ignorant of the existence of a "joint" in the city, and remain so until the exposure of some crime leads the authorities and citizens to investigate. Then, of course, the knowing metropolitan police officers recollect that they have seen suspicious characters pass in and out of that place for some time past, and have had their eyes on that place for quite awhile. It was none the less a saloon because they were ignorant of its existence, and if all the saloons should be enumerated

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that have been carried on in the cities under the noses of these metropolitan policemen, with the names of their keepers and their help, the list would fill a book.

There are features about these "joints" that are not generally understood by a great many who visit them, drink beer in them, and sometimes gamble in them, but which are perfectly well known to those who have closely investigated them and to lawyers who have been called upon to either prosecute or defend the proprietors or their assistants for conducting the illicit traffic.

One of these features is that the real proprietor is seldom, if ever, known to the customers of the "joint," much less to the public. He rents the rooms through some irresponsible party, furnishes them, and then engages his help. Quite often this is a stranger who has not lived in the city, frequently one who has been on the "tramp," has had a hard time of it, and sees nothing wrong in selling whiskey, except the danger of detection and the consequent penalties. The proprietor agrees to pay the young man a stated salary to sell for him and if he should be arrested, to bear all expenses, his attorney's fees and fine, and if, on conviction, he is sent to jail, to pay him a certain sum for each day of his incarceration. There are thousands of young men who are glad to accept such a proposition. And it is quite frequent, when the boys are arrested and before the real name of the proprietor has been disclosed, that the proprietor skips out with all the profits of the concern and leaves the young man to defend his own case and suffer the penalties of his offense as he best can. If the "jointists," proprietor and seller, learn that a complaint has been made against them, or against one of them, they will leave and go to some other county, where they are unknown and there start up their "joint" again, running it as before until again compelled to move on. And thus, the proprietor of this itinerant saloon goes from county to county, most always evading the penalties of the law. During the last three years I have known one man to conduct a saloon on that plan three different times in one city. His bartender would be ostensibly the proprietor until an arrest would be made, and then the name of the real proprietor would be disclosed, and he would be gone. After an absence of ten or twelve months, he would be running a "joint" in the same city several weeks, perhaps, before many outside his own clan

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would know of his presence in the city. The farce of the preceding year would be re-enacted and again he would be gone "to fresh fields and pastures new," for another temporary sojourn. And so he keeps going the rounds.

Almost any hardened "bootlegger" has the nerve and daring to engage to this class of saloon-keepers, and deliberately make calculations for the worst, if it comes. An attorney they expect to be provided for them; their fine they expect their employer to pay; and, if it is winter, or if the weather is not too hot, the term in jail is not dreaded. The disgrace of the imprisonment is not thought of. The jail has neither terror nor shame for them. There are none of the finer feelings left in their composition and they have forgotten what shame is. They have lost, if they ever had, the self-respect and pride of young manhood.

This was not the case ten years ago in Kansas. Then, it was a rare thing for any one, young or old, who had been in jail over one night, not to feel the stinging disgrace so keenly that he would willingly make almost any sacrifice to wipe it out. It is said that when one is lost to shame, he is lost to all better influences around him. While I do not accept this as absolutely true in all cases, observation has taught me that it is true in a majority of instances. But what is it that causes the boy or man to be lost to shame, to be careless of the odium incurred by his incarceration in jail? What will have that effect? What can so work upon the natural disposition of the boy or man, so stunt or benumb his moral nature, so sear and deaden his self-respect, and cause him to appreciate only the gratification of his animal nature and the coarsest enjoyments of life? Was it the case with so many young men, or old men, who were bartenders, or saloon-keepers, or gamblers in the days of licensed saloons? I candidly declare that never, before the days of prohibition in Kansas, had I seen a man, old or young, but that felt it a disgrace to be cast into jail. Men of previous good character have been known, through depression of business, heavy losses, bad health, or some other cause, producing recklessness, temporary mental or moral derangement, or sudden passion, to commit crime—theft, forgery, or even murder, but even the thief, the forger, the murderer, or any other criminal, feels the disgrace of going to prison. But here are men who deliberately and premeditatedly take the chances of being arrested and sentenced

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to jail for from thirty to one hundred and twenty days and even longer, and who have no more repugnance at the thought of being that length of time in a prison cell than they would at that of stopping at a hotel. The inconvenience of detention there and the loss of the money they might make during the time, selling whiskey, were they at liberty, are the only considerations that give them a single moment's uneasiness. The thought of their parents', brothers', or sisters' feelings in view of their disgrace, the idea that they will have lost in the public estimation and will be looked upon as degraded when they again appear on the streets, never disturbs them.

But this is what they think—I know it because I have heard them express it: they believe that most of the people will be glad to see them released, and will consider it a shame that a man or boy should be imprisoned for such a reason; that the law ought to be wiped out. “The idea of putting a person in jail for selling a man a pint of whiskey for his wife, when she was supposed to be dying and could not get it elsewhere! Merely because that man did not happen to be a druggist and have a permit, he had to pay a fine of one hundred dollars and go to jail for thirty days! It is a shame—that is what it is!”

The peculiar circumstances which cause a man or boy to thus lose his self-respect to the extent of feeling no disgrace at being in jail, may be a subject for debate. It is true that when he engages in the “bootlegging” business he is not apt to think so much of himself as he did before, and his surroundings have no tendency to increase his self-respect. He constantly hears the affairs of the business discussed among his associates, and learns of this one and that one caught, convicted, and jailed. And he finally settles down to the determination as a matter of fact and of business that if caught he will submit to the consequences. It is simply a business risk to be run.

I have heard them reason that when their trade is good, they can make more in a week than they could in a whole year working at ordinary labor by the month. And they say:

“If I can just run a week before any one gets onto me to shut me up, I will take a trip; and if some fellow gives me away, it won't hurt me more than it does the other fellows to be in jail awhile.”

In this business-way they figure upon detection, arrest, trial, conviction, and imprisonment. Dollars and cents are the factors

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and the results they calculate with and upon; shame and disgrace cut no figure in the problem—are never thought of.

In fact, these men often run undisturbed for months and sometimes for more than a year. I remember one man who started up a "joint" in 1884, in a little out-of-the-way place in what was supposed to be one of the best cities in the State; he run his stand for just fourteen days and netted \$1,700.00. He ran a "blind tiger" and quit before he was raided. Then he changed his field of labor and has not been at that place since, not because he is afraid, for the statute of limitation has run against offenses long since, but presumably because he has more permanent and profitable business elsewhere. I mention this case as an illustration of the temptations that the prohibitory law provides for that class who do not like to work, or want to make money faster than they could by labor, or are inclined to be "sports."

The men who are incarcerated in jail do not pay their fines and costs, one time in ten. They simply go to jail and stay there until they escape, are pardoned, or released. In some of the jails of the State there are dozens of men confined for selling whiskey, but that does not stop the sale of whiskey. They are like flies; one is caught in the spider's web, but a dozen more come right around, and apparently there is no limit to their number. So, one "bootlegger" or one "jointist" may be caught, convicted, and sent to jail, and a dozen others stand ready to take his place.

And when one man is discharged from jail, if he does not go to selling whiskey in the very same city or county, he goes to another and there resumes the occupation. I do not like to use men's names in giving illustrations, but when I can do so without injury to anybody, it is better to do so, because, the circumstances being known to hundreds of people, it may add to the force of the statement. In 1882 a man by the name of David lived in Sumner county. He was a shrewd fellow and would sell whiskey in spite of everything. He was prosecuted several times and imprisoned for non-payment of fine and costs. There was then no jail sentence attached to violation of the law. Finally he removed into Cowley county and engaged in the sale of liquor there. He was prosecuted early in 1887, convicted, and sentenced to jail for one hundred and eighty days. He was convicted, as I understand, on six counts. Now, almost any one

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would suppose that such a sentence as that would break a man from selling whiskey. But it did not! He has sold, as I learn from men who have an opportunity of knowing, in the year 1889, not less than six carloads of liquor in Arkansas City. He became prominent in the business and run a jobbing-house, supplying smaller places in the country, and was supposed to have become quite well-to-do. Why not? Six carloads of liquor at prohibition prices! And, according to his own statement made to me, since January 1, 1890, he has sold three carloads of liquor every month!

I must not close this chapter without mentioning the "Floodwood Club," a novelty which has sprung up under the operation of the prohibitory law. It generally appears in a town when the "joints" have been raided by the police and the "bootleggers" have been temporarily scared from their vocation, or when the supply of drinks for some other reason is short, or too expensive. Twenty-five, fifty, or one hundred, or even more, persons will make up a general fund sufficient to procure by express two, five, or more kegs of liquor, depending upon the number of expected consumers. Sometimes a large hall, oftener a vacated barn, and not infrequently a vacant piece of ground away from the most public thoroughfares, is the club room. Besides the liquor and the required number of glasses or tin cups, a supply of bologna sausage, crackers, and cheese is provided. The membership being all present, the festivities begin. There is no drink sold. There is no drink bought. No statute is violated; the letter of the prohibitory law is strictly complied with. No false statement is signed. No physician has prescribed, and no pharmacist has dealt out, the beverage as a medicine. The members of the club simply drink their own liquor and eat their own provisions.

And so the lover of liquor, who under the license system, would probably have gone into a saloon occasionally, drank his glass of beer, and gone off about his business, at one of the "Floodwood Club" meetings developed under the pressure of prohibitory law, consumes as much beer in an afternoon, as under the former circumstances he probably would in one or two weeks, besides doing his digestive organs more harm in one half-day by gorging than he ordinarily would have done in a lifetime.

These "Floodwood Clubs" are organized in nearly every city in the State of Kansas, and their meeting-places are substituted

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for saloons as often as the temporary suppression of the business of the "jointists" and "bootleggers" may appear to require. They also occur frequently in the country. The police sometimes make a raid upon their meetings and disperse the crowd, when they get somewhat noisy, but that does not stop the men from drinking their liquor any more than the prohibitory law does.

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CHAPTER X.

INCREASE OF CRIME AND INSANITY UNDER PROHIBITION.

I know it is contended by some of the advocates of the prohibitory law that there is a decrease in crime in the State since that law was passed in 1880; and in their rostrum-talks they tell us that the penitentiary and prisons of the State are empty, and they even claim that the number of inmates in the penitentiary is less now than when the prohibitory law was passed, while the increase in the population of the State has been nearly fifty per cent. Now, a candid investigation of this matter reveals to us a different state of facts. On the 1st day of January, 1881, there were 713 prisoners in the State penitentiary, and on the 1st day of January, 1890, there were 891 prisoners in the State penitentiary.

There was no reform school in Kansas prior to 1880 and boys who had been convicted of felonies and were under the age of sixteen years were then sent to the penitentiary, the same as though they were older, but since 1880, a boy under sixteen years of age, cannot be sent to the penitentiary, but must be sent to the reform school, if convicted. This reform school was provided by the same legislature that submitted the prohibition amendment, whether from a prophetic inspiration of coming events or not, is not clear. To show the true state of facts as to juvenile criminals in the State, I here copy a letter I have from the Superintendent of the State Reform School:

OFFICE OF SUPERINTENDENT STATE REFORM SCHOOL, }
TOPEKA, KANSAS, Feb. 1, 1890. }

CHARLES WILLSIE, WELLINGTON, KANSAS :

The Number admitted to date.....	547
Discharged.....	338
Expelled.....	26
Dismissed.....	11
Remaining.....	172 = 547

These figures do not amount to very much as statistics, from the fact that during the past six years there have been boys lying in jail, waiting for admittance.

The last legislature gave us a small appropriation for current expenses, which necessitated a reduction in numbers.

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All who were in the school on last July, admitted under the Third clause of Section Four, were discharged and none have been received under the clause of the law since ; but applications have been received for many such. Consequently it would be a difficult matter to say whether the number would be on the increase or not. Of the number who are now in the school, eighty-five were idle, or not in any employment at the time of arrest.

Respectfully,
J. F. BUCK.

In the light of the information furnished by Superintendent Buck's letter, I am unable to understand how a computation of the crime committed in the State can be correctly made showing that it is decreasing. But, if we look at it from the chosen standpoint of the prohibitionists, crime is increasing many fold. They are pleased to tell us that there is no crime greater than selling whiskey ; and that the sale of whiskey is increasing in the State, I do not suppose any one will seriously deny. But from as careful an estimate as I can make, there are not less than three thousand (and it is nearer six thousand, including police court cases) persons convicted every year for unlawfully selling whiskey. And it makes no difference in the grade of the punishment whether it is a felony or a whiskey misdemeanor, except as to the duration of the punishment to each individual. The minimum punishment for a felony is one year in the penitentiary, and the minimum punishment for selling beer, or for a whiskey misdemeanor, is one hundred dollars fine and thirty days in the county jail ; and of the two places, the penitentiary, for the same length of time, is preferable.

Now, assuming that there are but three thousand convictions a year for selling whiskey and but thirty days jail sentence given to each man, then there are three thousand months imprisonment, or what is equivalent to two hundred and fifty years imprisonment, each and every year ; or what would be equivalent to two hundred and fifty persons imprisoned for one year each. If we take the number of present inmates in the penitentiary and add to that the number of boys lying in jail waiting for a beneficent legislature to make an appropriation sufficient to take care of them in the home provided by the State, then add to the result the number of those persons who are convicted of whiskey misdemeanors each year, or, if you please, only a small fraction of them—and then, for a moment, survey our prisons, we will see if we can figure out a decrease of crime under the prohibition law.

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When I was a small boy attending school, I often saw a great, big, overgrown, burly teacher going into the school-room with from one to six large sticks, too large to drive oxen with, every morning; and with those gads that brute of a teacher would drive around the scholars with the same brute force that you would drive cattle into a car. That man was ostensibly there to teach school. He did teach, but principally, he taught the boys to fight. The scholars partook of his nature and it was not an uncommon occurrence that, when this great brute became too obnoxious with his sticks, two or three of the larger and more muscular boys would join together and thrash the master, to the infinite joy of the whole school. Well, these school day experiences compare very favorably with the experiences of Kansas prohibition days. Such a rough, uncouth, tyrannical teacher by his action developed the mettle that would have been always quiet and peaceable in the boys, until they felt that the tyranny was intolerable and then they rebelled and destroyed the governor. With the same spirit of intolerance as that with which the "scrapping" schoolmaster tried to handle the school, do the prohibitionists, through the prohibitory law, attempt to govern the people: "You sha'n't do this!" "You sha'n't drink that!" And this law is having the same effect upon the people as the tyranny of those brutes of teachers had upon their scholars. The mettle of the people is warming up and it will soon get to fighting heat, and as sure as it does, the schoolmasters will get whipped again.

But we have further evidence that crime is on the increase and has been since 1880. Even felonies are increasing in number. Instead of the penitentiary becoming vacant, it is filling up. *There were one hundred and seventy-eight more inmates in the penitentiary January 1st, 1890, than there were January 1st, 1880. The number of felons received in the penitentiary from January 1st, 1870, until January 1st, 1880, was 1,808. The number of felons received in the penitentiary from January 1st, 1880, to January 1st, 1890, was 3,683. Does this look as though crime was decreasing under the moral influences of the prohibitory law?*

All things being equal, crime should decrease many per cent. now-a-days. From 1870 to 1880 were the principal rough years in Kansas. The border counties were then being settled and those were the palmiest days ever known for cattle-drivers in Kansas; cowboys of the very roughest class were

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on the border by the hundreds, and everybody familiar with their habits knows the trouble they caused on the frontier during those years. The border-counties of the State were raiding posts for the roughs of Missouri, Indian Territory, and Texas, as well as those of Kansas. The Indian Territory was a country of refuge for them; there were hundreds of things during those times practiced on the border that precipitated crime, but which are now easily prevented or corrected by law; high-handed and desperate deeds of violence were common then, that people do not have to contend with now. Under the same laws we had then, crime should have decreased during the last decade; but it did not under prohibition law.

And to prove more fully that it does not, I here publish a letter which I received from the clerk of the Kansas State Penitentiary:

KANSAS STATE PENITENTIARY,
S. O. McDOWELL, CLERK,
LANSING, LEAVENWORTH CO., KANSAS, March 15, 1890. }

CHARLES WILLSIE, WELLINGTON, KAN.

DEAR SIR: Yours of the 12th asking for number of prisoners received at the penitentiary for each year from 1870 to 1890, etc., received. I give you the numbers as follows:

Jan. 1st, 1870, to Jan. 1st, 1871...127	Jan. 1st, 1880, to Jan. 1st, 1881...487
" " 1871 " " " 1872...173	" " 1881 " " " 1882...196
" " 1872 " " " 1873...155	" " 1882 " " " 1883...252
" " 1873 " " " 1874...148	" " 1883 " " " 1884...295
" " 1874 " " " 1875...248	" " 1884 " " " 1885...321
" " 1875 " " " 1876...173	" " 1885 " " " 1886...396
" " 1876 " " " 1877...170	" " 1886 " " " 1887...415
" " 1877 " " " 1878...227	" " 1887 " " " 1888...360
" " 1878 " " " 1879...256	" " 1888 " " " 1889...375
" " 1879 " " " 1880...131	" " 1889 " " " 1890...331*

The total number of prisoners on hands to-day is 891. I cannot without much research give you first-degree murderers on hand, Jan. 1st, 1880; number in prison now, 47.

Very respectfully,
S. O. McDOWELL, Clerk. †

* Since writing this book I received the following:

KANSAS STATE PENITENTIARY,
LANSING, KANSAS, Sept. 2d, 1890. †

CHAS. WILLSIE, ESQ., WELLINGTON, KANS.

DEAR SIR: In reply to yours of the 1st inst., reference to number of convicts received from January 1st, 1890, to July 1st, 1890, would say we have received 218.

Very respectfully,
GEO. H. CHASE, per S., Warden.

† There have been confined in Kansas penitentiary during the last ten years for murder in the various degrees: 59 murder in 1st degree, 75 for murder in 2d degree; 21 for manslaughter 1st degree, 30 manslaughter 2d degree, 24 manslaughter in 3d degree; manslaughter in 4th degree 31, making a total 240.

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These figures do not look very much as though a Christian evangelizing spirit (permeating the air wherever the sun dawns upon a people bold enough to declare for prohibition) was causing the people to forget there was ever a time when prisons were necessary, and to realize that we are living in an age when reform schools are unknown, that criminal courts are deserted, that bad boys are no more, that wives are all blessed with God-fearing husbands, that parents are ceasing to have trouble with wayward children, but are surrounded by happy families! These figures do not look as though we were having the preacher and the Sunday-school teacher in place of the drunkard, the wife-beater, the murderer, and the grogshop-keeper.

The array of figures would rather indicate that when the electors of Kansas voted for prohibition in 1880, they were a much deluded and fooled lot of electors; and it would appear that they have been deluded and fooled every year ever since. With the figures under our own eyes, the prohibition leaders have been successful in making a large number of people in the State believe that prohibition was thinning out our criminals. Oh, deluded people! How long will you cease to exercise a little judgment? How long will you follow false prophets?

In order to properly realize the increase of crime in the State, we will follow this thought a little further, even though it be at the expense of some repetition. In 1880, according to the census returns there were 996,096 inhabitants in the State, and in 1889 there were 1,464,914. So that the population of the State in nine years increased something more than forty-seven per cent. Now, for ten years prior to January 1st, 1880, there were 1,808 prisoners received in the penitentiary, and for the ten years prior to January 1st, 1890, there were 3,683 prisoners received in the penitentiary—more than double, in fact, nearly 102 per cent. of the former number. The population of the State in 1870 was 364,399. The increase, therefore, to 1880, was 631,697. During these ten years there were 1,808 persons convicted of felony and incarcerated in the penitentiary, or, one to every 343 inhabitants of the increase. From 1880 to 1889 there was an increase in the number of inhabitants of the State of 468,818 and during that time there were 3,683 convictions of felony in the State, or one conviction to every 127 of the increase in population.

And yet, in the light of our every-day experience and in the light of figures we are told that crime is decreasing in the State

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of Kansas, as a result of the evangelizing influences of the prohibitory law. And when I listen to the declarations of prohibition orators that "there are no saloons in the State," and that all is bliss and harmony with 1,464,914 people dwelling together in unity, as they bask in the sunshine of their own righteousness, stimulated by the prohibitory law, I can only sigh and secretly exclaim: "How long! oh, how long will this people be allowed to forget their God, and to lie about the effects of the prohibitory law?"

Were the increased number of criminals the only feature of this retrospect to cause your heart to ache, it might yet be possible for us to derive some consolation from the fact that the true object of punishment is the reformation of the criminal. But when, with shuddering amazement, the walls of ignorance and darkness are broken down and the sunlight of information shines fully upon us, and with comprehensive intelligence we behold the awfully increased number of bright minds dethroned and their owners driven to the mad-houses, our very souls shrink within us and, with the bitterest anguish our natures are capable of feeling, we ask our God to spare our friends such afflictions.

From November 30th, 1870, until June 30th, 1880, ten years prior to the enactment of prohibition in Kansas, there were 760 victims to insanity who were received into the State asylum at Ossawatimie. Remembering the allegations in 1880 that licensed saloons filled our penitentiaries and crowded our asylums, we threw aside all personal choices and indulgences, all hope of gain from liquor licenses, and said: "Wipe out the licensed saloon, if this will be the means of saving one of God's bright images from mental dethronement." But, if, from the dispositions, the education, the habits, and actions of mankind, it shall be found that under the prohibitory law, that malady of the mind which causes angels to weep and requires the wisdom of God to recognize, has increased but one in number, then I ask the prohibitionists to sacrifice a little of their domineering spirit, long enough to ask themselves the question: Is it better that we dominate and rule because we have the number to rule, and be the means, by our rule, of adding precious souls to the infirmaries?

From June 30th, 1880, to June 30th, 1890, there were received at the Ossawatimie Insane Asylum 1,479 patients whose reason

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had been lost during the ten years of prohibition agitation in Kansas. And at the Topeka Insane Asylum during the same period of time there were 1,822 of that class of invalids received, making a total of 3,301 persons who have become insane among the hosts of prohibitionists in the State. The population of the State, according to the census returns of 1880 was 996,096. Then the insane of the State of Kansas during ten years prior to the prohibition law was an average of one to every 1,301 inhabitants of the entire population and an average of one insane person to every 830 inhabitants of the increase of the population of the State during the same length of time, as the increase in the population of the State from 1870 to 1880 was 631,697. What has been the result since 1880, during ten years of the prohibition craze? The bitter tears shed over the memory of those whose minds are lost, will never be dried until wiped away by the angels of heaven, who are whispering to us to stop and consider this increased suffering of humanity. According to the census returns of 1889, the population of the State was 1,464,914; 3,301 persons have been declared insane during the ten years prior to June 30th, 1890, hence there is an average of one insane person to every $443\frac{2}{3}$ inhabitants of the State; and as the increase in the number of inhabitants of the State for the past ten years amounts to 468,818, the insane persons average one to every $141\frac{2}{3}$ of the inhabitants of the increase in the population of the State during ten years of the prohibition excitement. And in this figuring, it may be plainly seen that we have not counted the 760 insane persons who were taken from the 996,096 people comprising the population of the State before the prohibitory era.

Then in the light of experience, after ten years of trial, witnessing the desecration of homes, the degradation of men once free from alcoholism—men who give tone to society and mould the character of the rising generation, men supposed to be leading Christian lives—seeing the increase of inebriety, of perjury, of gambling, of hypocrisy, of vice and crime of every kind, realizing with tears in your eyes, and aching in your hearts, the corruption of the youths of our State, the alarming increase of felony and of the number of felons, and the unprecedented number of bright intellects dethroned and their possessors consigned to the mad-house, I ask you, Citizens, Fathers, Mothers, Sisters, Brothers, Wives, Husbands, generations of

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Men and Women, Christians, if it is not an alarming, an awful crime to stubbornly persist in experimenting with impossibilities, merely for the sake of making some believe that "Prohibition in Kansas does prohibit?"

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CHAPTER XI.

CONCLUSION.

Everybody knows what a mighty stream of water the Mississippi River is. From its source to its mouth it is fed by rivers and creeks, flowing into it on both sides, and by living springs, bulging from its bottom. It is kept in being by natural causes and it is one of the perpetual fixtures of God's works. It can be used to profit mankind and bless the world. Its banks can be controlled, and its adjacent bottoms will yield corn and cotton for the millions. Its waters can be used for transporting the surplus corn, wheat, and meat to the markets of the world. Or, its banks can remain unprotected and millions of acres of the richest lands in the world can be allowed to overflow, to the destruction of life and property. But it cannot be dried up. It cannot be dammed. Were it possible to place a dam across it, the effect would be to raise its waters and make them dangerous for navigation. Its current might possibly be changed in places, but its flow would continue just the same. Some of its feeding springs might be dammed or smothered for a few days, but they would break out in other spots, where they would cause freshets and become uncontrollable.

And you might just as well try to stop the flow of the waters of this mighty river as to undertake to stop the use of alcohol. It is contained in all the fruit that grows in every part of the globe. The grape, the apple, the peach, the berry, from east to west and from north to south, are found in abundance, and are gathered by no race of people so ignorant but that they know how to extract the alcohol therefrom; and are gathered by no race of people so ignorant but that they realize that these natural products of the earth are given by the Supreme Being for food and nourishment for mankind, to be used and enjoyed as long as the world shall stand and people inhabit it.

And no race of people are so ignorant but that they comprehend the evil consequences of its abuse, always realizing that by its abuse drunkenness is caused, and by its proper use life

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may be stimulated. But to stop it, to dam it up, and cut alcohol off from the world is beyond human agencies. God alone can do that. When He changes man's appetite or ceases to permit the growth of the fruit and grain out of which alcohol is made, then you will have prohibition. And then you will have no one to clamor for prohibition, for then, time will be no more.

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APPENDIX.

CHAPTER CLXV.

RELATING TO SALE OF INTOXICATING LIQUORS.

An Act relating to intoxicating liquors, and amendatory of and supplemental to chapter one hundred and forty-nine of the Session Laws of 1885, being an act entitled "An act amendatory of and supplemental to chapter one hundred and twenty-eight of the Session Laws of 1881, being an act entitled "An act to prohibit the manufacture and sale of intoxicating liquors, except for medical, scientific and mechanical purposes, and to regulate the manufacture and sale thereof for such excepted purposes," and amendatory of and supplemental to chapter one hundred and twenty-eight of the Session Laws of 1881, being an act entitled "An act to prohibit the manufacture and sale of intoxicating liquors, except for medical, scientific and mechanical purposes, and to regulate the manufacture and sale thereof for such excepted purposes."

Be it enacted by the Legislature of the State of Kansas :

SECTION 1. That section two of chapter one hundred and twenty-eight of the laws of eighteen hundred and eighty-one, as amended by section one of chapter one hundred and forty-nine of the laws of eighteen hundred and eighty-five, be amended so as to read as follows: Section 2. It shall be unlawful for any person or persons to sell or barter for medical, scientific or mechanical purposes, any malt, vinous, spirituous, fermented or other intoxicating liquors, without first having procured a druggist permit therefor from the probate judge of the county wherein such druggist may be doing business at the time; and such probate judge is hereby authorized, in his discretion, to grant a druggist permit for the period of one year to any person of good moral character who is a registered pharmacist under the law of this state, and lawfully and in good faith engaged in the business of a druggist in his county, and who in his judgment can be intrusted with the responsibility of selling said liquors for the purposes aforesaid, in the manner hereinafter provided; and said judge may at any time in his discretion revoke such permit. In order to obtain a druggist permit under this act, the applicant shall file in the office of the probate judge of the county wherein he is doing business, not less than thirty days prior to the hearing thereof, a petition signed by the applicant and twenty-five reputable freeholders having the qualifications of electors, and twenty-five reputable women over twenty-one years of age, of the township, city of third class, or ward of any other city wherein such business is located, setting forth: First, The city or township and particular place therein where such business is located, and that the applicant is a person of good moral character, and does not use intoxicating liquors as a beverage, and can be intrusted with the responsibility of selling the same; second, that said applicant is a pharmacist aforesaid, and is lawfully and in good faith engaged personally in the business of a druggist as the proprietor thereof at the place designated in the petition, and is well versed in his profession; third, that said applicant has, in his said business, exclusive of intoxicating liquors and fixtures, a stock of drugs, if in any city, of the value of at least one thousand dollars, and if elsewhere, of the value of at least five hundred dollars. Before any such petition shall be heard, or any permit issued to such applicant, he shall publish for at least thirty days next prior thereto a notice published in some newspaper in the township or city where such business is located, or if none be published therein then in some paper of general circulation therein, stating the time and place set by such judge for the hearing of such petition. The applicant shall be required to prove the truthfulness of each and every statement contained in such petition, and the county attorney of such county shall, and any other citizen of the county may, appear and cross-examine the witnesses of the applicant, and may introduce evidence in rebuttal of the evidence offered by the applicant. If satisfied that the signatures to such petition were signed by such persons, and that such petitioners are citizens of such township, city, or ward, and that the statements in said petition are all true, the probate judge may in his discretion grant a permit to the applicant to sell intoxicating liquors for medical, mechanical and scientific purposes only; and such permit shall be recorded upon the journal of

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the probate court, and a certified copy thereof shall be posted in a conspicuous place in the store wherein said business is carried on before it shall be of any validity. Before such permit shall be of any validity such druggist shall file with the probate judge, to be approved by him, a good and sufficient bond to the state of Kansas in the sum of one thousand dollars, conditioned that such applicant and anyone in his employ will neither use, sell, barter, nor give away any intoxicating liquors in violation of law; and on violation of the provisions of said bond the same shall thereby become forfeited, and the conviction of such pharmacist or anyone in his employ shall be deemed *prima facie* evidence of such violation. Any applicant or any citizen feeling himself aggrieved by the decision of the probate judge may within ten days thereafter, upon filing a bond made payable to the state of Kansas in the sum of fifty dollars, to be approved by the probate judge, conditioned that he will prosecute the cause to its speedy determination and pay the costs occasioned by such appeal if the order of the probate judge shall be sustained, prosecute the cause upon appeal or error to the district court. The procedure in any case taken on error to the district court from the order of the probate judge, shall be as prescribed by article twenty-two of the code of civil procedure so far as applicable, and a case or bill of exceptions may be made, signed and certified by the probate judge as in said article provided. If the district court shall find that the probate judge has abused his discretion it shall have power to cause the probate judge to comply with its judgment, otherwise the order of the probate judge shall be by the district court affirmed. No appeal shall be allowed from the order of the district court. If the order of the probate judge shall be reversed, the costs shall be paid by the county. If at any time there shall be filed with the probate judge a petition stating that any druggist, naming him, who has a permit to sell intoxicating liquors, is not in good faith conforming to the provisions of this act or the act to which this is amendatory and supplemental, verified by the affidavit of at least one of the petitioners hereinafter named, and signed by twenty-five reputable men and twenty-five reputable women, all of whom reside in the township, city or ward in which the business of such druggist is carried on, requesting that the permit of such druggist be canceled, the probate judge shall immediately issue an order citing such druggist to appear before him on a day named, not more than thirty days from the issuing of such order, at which time the question of the cancellation of such permit shall be considered. Such examination shall be conducted in the same manner in all respects as is herein provided for the hearing of the original petition for granting such permit, and such probate judge shall, if there are reasonable grounds for believing such druggist is not in good faith carrying out all the provisions of this act, or the act to which this is amendatory, cancel such permit. An appeal may be had from the decision of such probate judge to the district court as herein provided for appeals from the application for a permit: *Provided*, The permit of such druggist shall be inoperative till such appeal is finally decided: *Provided further*, This shall not prevent the probate judge from canceling any permit at any time on his own motion or otherwise. If any probate judge shall issue a permit to any person not registered as a pharmacist, or shall knowingly grant the same to a person in the habit of becoming intoxicated, or not in good faith engaged in the business of a druggist as proprietor thereof, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars; and if any person shall sign the petition as provided herein of any applicant known by such person to be in the habit of becoming intoxicated, or not in good faith engaged in the business of a druggist, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than fifty dollars nor more than one hundred dollars. Before the petition of a druggist for a permit to sell intoxicating liquors shall be heard by the probate judge, the applicant shall pay a fee of five dollars to the probate judge, who shall pay the same into the county treasury on or before the first day of the following month, for the benefit of the general revenue fund. No permit now existing shall be of any validity after the first day of May, A. D. 1887.

SEC. 2. That section four of chapter one hundred and twenty-eight of the session laws of eighteen hundred and eighty-one, as amended by section three of chapter one hundred and forty-nine of the session laws of eighteen hundred and eighty-five, be and the same is hereby amended so as to read as follows: Section 4. Any druggist having a permit to sell intoxicating liquors under the provisions of this act may sell the same only by himself in person, or by a clerk who is a registered pharmacist or assistant pharmacist under the laws of this state, for medical purposes only, upon the printed or written affidavit of the applicant setting forth the particular medical purpose for which such liquor is required, the kind and quantity desired; that it is necessary and actually needed for the particular purpose by the patient to be named; and that it is not intended for a beverage, nor to sell or give away; and that the applicant is over twenty-one years of age, which affidavit shall be in the following form, and subscribed by the applicant, in ink.

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STATE OF KANSAS, COUNTY OF _____, ss:

Date _____, No. —.

I, the undersigned, do solemnly swear that my real name is _____; that I reside at _____, _____ county, state of _____; that _____ of _____ is necessary and actually needed by _____, to be used as medicine for the disease of _____; that it is not intended for a beverage, nor to sell, nor to give away; and that I am over twenty-one years of age. I therefore make application to _____, druggist, for said liquor. _____, Applicant.

Subscribed in my presence and sworn to before me, this _____ day of _____.

_____, Pharmacist.

And such druggist may sell intoxicating liquors for mechanical and scientific purposes only upon the written or printed affidavit of the applicant, setting forth the particular purpose for which such liquor is required, the kind and quantity desired, that it is not intended to be used as a beverage, nor to sell, nor to give away, and that it is intended only for his own use, and that the applicant is over twenty-one years of age. Such affidavit shall be in the following form:

STATE OF KANSAS, COUNTY OF _____, ss:

Date _____, No. —.

I, the undersigned, do solemnly swear that my real name is _____; that I reside at _____, _____ county, state of _____; that _____ of _____ is required by myself, to be used for _____ purposes, to be used for _____; that it is not intended for a beverage, nor to sell, nor to give away; and that I am over twenty-one years of age. I therefore make application to _____, druggist, for said liquor. _____, Applicant.

Subscribed in my presence and sworn to before me, this _____ day of _____.

_____, Pharmacist.

And there shall be but one sale and one delivery on any one affidavit; but no druggist shall permit the drinking on his premises, nor in any apartment connected therewith and under his control, any of the intoxicating liquors purchased by affidavit or otherwise: *Provided*, Such druggist shall be permitted to sell any of the liquors mentioned herein, in quantities not less than one gallon, to any other druggist within the state holding a permit as provided in this act. The affidavits provided for in this section shall be made before the pharmacist or assistant pharmacist making sale of such liquors, upon proper printed blanks, which it is hereby made the duty of the county clerk of the county in which such sales are made to furnish to such druggists at a cost equal to the actual and necessary outlay made therefor by him. Such blanks shall be in series of one hundred each, numbered from one to one hundred consecutively, and bound in book form, each series being of uniform style throughout, except that no two blanks of the same series shall be of the same number. It shall be the duty of the county clerk to indorse each such book with the date of delivery and to whom made, to sign such indorsement, and attest the same with his official seal, and to keep two exact printed copies, except as to numbers, of the blanks of each series, one of which shall be filed in his office and one in the probate judge's office; he shall also keep a record of the series, and of the number of each series, of such blanks furnished to each druggist, and shall within ten days after the same are delivered to such druggist file a copy thereof, together with a copy of the blank affidavits, in the office of the probate judge of his county. For such services the county clerk shall be entitled to a fee of twenty-five cents for each series of blanks so furnished, to be paid by the druggist obtaining such blanks. All pharmacists and assistant pharmacists are hereby empowered to administer oaths for the purposes of this act, and no such affidavit shall be received by any pharmacist or assistant pharmacist until it shows on its face that it has been properly subscribed and sworn to by the applicant. The affidavits provided for in this section shall be retained by the druggist in the original book form, and on or before the first day of each month shall, together with the affidavit of such druggist that the liquors therein mentioned are all of the intoxicating liquors sold by him during the month, except the liquors sold to other druggists, be filed in the office of the probate judge who issued his permit, where they shall be safely kept for the period of two years from the date of the filing. Before said affidavit shall be received or filed by said probate judge he shall make strict examination of the copies of affidavits and record of numbers thereof furnished him by the county clerk, and ascertain whether such druggist has returned all affidavits furnished him in blank by the county clerk; and if any such affidavit or blank is missing, said probate judge shall require such druggist to file instead thereof his affidavit showing as near as he can what has become of such affidavit or blank. And any person having a permit to sell intoxicating liquors under the provisions of this act shall, each month, at the time he files the affidavit herein provided for, also file with the probate judge an affidavit setting forth the amounts and kinds of liquors, as nearly as can be done, which such person or firm of which he is a member has on hand

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on the day such affidavit is made, as well as the amount and kinds of liquors he has purchased or procured during the preceding month, and the name or names of the persons, companies or corporations, and their place of doing business, from whom and the dates on which such liquors were purchased or procured. For each series of affidavits filed under the provisions of this act the probate judge shall collect one dollar and fifty cents from the druggist filing the same, or the proper proportionate part thereof for the number filed, which shall be paid by him on the first day of each month into the county treasury for the benefit of the general county fund. The probate judge shall receive no fees for his services under this act, except a salary of fifteen dollars per annum for each one thousand inhabitants in such county, the number to be determined by the last annual census return of such county, but in no case shall such salary exceed the sum of one thousand dollars per annum, to be paid by the county commissioners as other salaries. Every person whose affidavit so made for the purpose of obtaining intoxicating liquors shall be false in any material matter shall be deemed guilty of perjury, and shall be punished by confinement and hard labor for a period not exceeding two years, or by confinement in the county jail not less than six months. Any person who shall subscribe any name or character other than his own name to any affidavit for the purpose of obtaining intoxicating liquors as provided herein, shall be deemed guilty of forgery in the fourth degree, and punished therefor as now provided by law for forgery in such degree. Any person who shall sell or furnish any intoxicating liquors so obtained by him upon affidavit or certificate to others as a beverage, or shall use the same as a beverage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty days nor more than ninety days. Every such druggist shall keep a book wherein shall be recorded, daily, all sales of intoxicating liquors made by him or his employees, showing the name and residence of the purchaser, the kind and quantity of the liquors sold, the purpose for which it was sold, and the date of the sale. Such record and affidavits shall be open for the inspection of the public at all reasonable times during business hours, and any person so desiring may take memoranda or copies thereof.

Sec. 3. That section nine of chapter one hundred and twenty-eight of the laws of eighteen hundred and eighty-one, as amended by section six of chapter one hundred and forty-nine of the laws of eighteen hundred and eighty-five, be amended so as to read as follows: Sec. 9. Any druggist or pharmacist, or assistant pharmacist in his employ, who shall fail or neglect to make and keep a record as herein provided of any intoxicating liquors by him sold before the same are delivered, or shall refuse any person an examination of such records, or the taking of memoranda or copy therefrom at any time during business hours; or who shall sell, barter or give away any such liquors at any place not designated in his permit, or upon any affidavit other than those herein provided; or shall make any false affidavit as to any sales made by him or his employees; or shall fail to sign the certificate to the signature of any applicant for such liquor prior to the delivery thereof, or shall sign any false certificate to any such affidavit; or shall mutilate or remove any affidavits from the book to him issued as aforesaid, or shall fail to return the same as hereinbefore provided; or shall sell any intoxicating liquor to any person whom he has reason to believe desires the same to use as a beverage; or sell liquor when he has reason to believe the liquor sold is not a remedy for the ailment described in the affidavit therefor; or shall sell, barter or give away any intoxicating liquor to any minor, any person under the influence of liquor, or who is in the habit of becoming intoxicated; or who shall allow such liquor, sold as a medicine or otherwise, to be drunk on his premises or premises under his control; or in any other manner omit any act required of him herein, or violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and be imprisoned in the county jail not less than thirty days nor more than ninety days, and shall forfeit his permit issued under the provisions of this act, and his right to obtain a permit within five years next thereafter; and in all cases when forfeitures are provided under the provisions of this act, the court shall declare the same in rendering judgment in the action.

Sec. 4. That section thirteen of chapter one hundred and twenty-eight of the session laws of eighteen hundred and eighty-one, as amended by section thirteen of chapter one hundred and forty-nine of the session laws of eighteen hundred and eighty-five, be and the same is hereby amended so as to read as follows: Section 13. All places where intoxicating liquors are manufactured, sold, bartered, or given away in violation of any of the provisions of this act, or where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage, or where intoxicating liquors are kept for sale, barter or delivery, in violation of this act, are hereby declared to be common nuisances, and upon the judgment of a court having jurisdiction finding

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such place to be a nuisance under this section, the sheriff, his deputy or under-sheriff, or any constable of the proper county, or marshal of any city where the same is located, shall be directed to shut up and abate such places, by taking possession thereof, and by taking possession of all such intoxicating liquors found therein, together with all signs, screens, bars, bottles, glasses, and other property used in keeping and maintaining said nuisance, and such personal property so taken possession of shall be forthwith publicly destroyed by such officer, and the owner or keeper thereof shall upon conviction be adjudged guilty of maintaining a common nuisance, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty days nor more than ninety days. The attorney general, county attorney, or any citizen of the county where such nuisance exists, or is kept, or is maintained, may maintain an action in the name of the state to abate and perpetually enjoin the same. The injunction shall be granted at the commencement of the action, and no bond shall be required. Any person violating the terms of any injunction granted in such proceedings shall be punished for contempt by a fine of not less than one hundred nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty days nor more than six months, in the discretion of the court, or judge thereof. In case judgment is rendered in favor of the plaintiff in any action brought under the provisions of this section, the court rendering the same shall also render judgment for a reasonable attorney's fee in such action in favor of the plaintiff and against the defendants therein; which attorney's fee shall be taxed and collected as other costs therein, and when collected paid to the attorney or attorneys of the plaintiff therein.

SEC. 5. That section eleven of chapter one hundred and forty-nine of the session laws of eighteen hundred and eighty-five be and the same is hereby amended so as to read as follows: Sec. 11. It shall be the duty of the county attorneys to diligently prosecute any and all persons violating any of the provisions of this act in their respective counties, and to bring suit upon all bonds or recognizances forfeited, immediately after the happening of such forfeiture, to recover the penalty, and to pay all money so collected, less his fee for collecting the same, as herein provided, into the school fund of his county. If any county attorney shall fail, neglect or refuse to faithfully perform any duty imposed upon him by this act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, and be imprisoned in the county jail not less than ten days nor more than ninety days; and such conviction shall operate as a forfeiture of his office, and the court before whom such conviction may be had shall order and adjudge such forfeiture of office in addition to the fine imposed as herein provided. And whenever the county attorney shall be unable or shall neglect or refuse to enforce the provisions of this act in his county, or for any reason whatever the provisions of this act shall not be enforced in any county, it shall be the duty of the attorney general to enforce the same in such county, and for that purpose he may appoint as many assistants as he shall see fit, and he and his assistants shall be authorized to sign, verify and file all such complaints, informations, petitions and papers as the county attorney is authorized to sign, verify, or file, and to do and perform any act that the county attorney might lawfully do or perform; and for such services he or his assistants shall receive the same fees that the county attorney would be entitled to for like services, to be taxed and collected in the same manner, except that in all cases where there shall be a conviction, and the attorney's fees as provided for in this act shall not be paid by the defendant within one month after his release from jail, the county where such conviction is had shall then become liable to the attorney general, or his assistant prosecuting such case, for a fee of twenty-five dollars upon each count upon which the defendant shall have been convicted.

SEC. 6. That section five of chapter one hundred and twenty-eight of the session laws of eighteen hundred and eighty-one be and the same is hereby amended to read as follows: Sec. 5. No person shall manufacture or assist in the manufacture of intoxicating liquors in this state except for medical, scientific and mechanical purposes. Any person or persons desiring to manufacture any of the liquors mentioned in this act for medical, scientific and mechanical purposes shall present to the probate judge of the county wherein such business is proposed to be carried on, a petition asking a permit for such purpose, setting forth the name of the applicant, the place where it is desired to carry on such business, and the kind of liquor to be manufactured. Such petition shall have appended thereto a certificate signed by at least one hundred resident electors of the ward of the city of the first or second class, or by a majority of the resident electors of the township or city of the third class, wherein such applicant desires to manufacture such intoxicants, certifying that such applicant is a person of good moral character, temperate in his habits, and a proper person to manufacture and sell intoxicating liquors. Such applicant shall file with said petition a bond to the state of Kansas in the sum of ten thousand dollars, conditioned

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that for any violation of the provisions of this act said bond shall be forfeited. Such bond shall be signed by such applicant or applicants as principal or principals, and by at least three sureties, who shall justify under oath in the sum of seven thousand dollars each, over and above all indebtedness and exemptions, and who shall be of the number signing said petition. The probate judge shall consider such petition and bond, and if satisfied that such petition is true, and that the bond is sufficient, may in his discretion grant a permit to manufacture intoxicating liquors for medical, scientific and mechanical purposes. The said permit, the order granting the same, and the bond and justification thereon, shall be forthwith recorded by said probate judge in the same manner and with like effect as in case of a permit to sell such liquors as provided in this act. Such manufacturer shall keep a book wherein shall be entered a complete record of the sales made, the dates thereof, the name and residence of the purchasers, the kind and quantity of liquors sold, and the price received or charged therefor. An abstract of such record, verified by the affidavit of the manufacturer, and showing that the liquors therein mentioned are all the intoxicating liquors sold by such manufacturer during the preceding quarter, shall be filed quarterly in the probate court of such county at the end of each quarter during the period of such permit. Such manufacturer shall sell the liquors so manufactured only in original packages. He shall sell such liquors to no one except druggists who at the time of such sale shall be duly authorized to sell intoxicating liquors as provided by law. Any rectification or adulteration of intoxicating liquors shall be considered manufacturing under this act.

SEC. 7. Every county clerk or probate judge who shall neglect or refuse to perform any duty required of him under this act, the punishment of which is not hereinbefore provided by this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, and in addition thereto shall forfeit his right to longer hold his office; and the court before whom such conviction is had shall order and adjudge such forfeiture.

SEC. 8. For services performed under this act the probate judge and county clerk shall receive no fees except such as are herein provided for.

SEC. 9. That section twelve of chapter one hundred and twenty-eight of the session laws of eighteen hundred and eighty one, as amended by section seven of chapter one hundred and forty-nine of the session laws of eighteen hundred and eighty-five, be amended so as to read as follows: SEC. 12. It shall be the duty of all sheriffs, deputy sheriffs, constables, mayors, marshals, police judges, and police officers of any city or town, having notice or knowledge of any violation of the provisions of this act, to notify the county attorney of the fact of such violation, and to furnish him the names of any witnesses within his knowledge by whom such violation can be proven. If any such officer shall fail to comply with the provisions of this section, he shall upon conviction be fined in any sum not less than one hundred nor more than five hundred dollars; and such conviction shall be a forfeiture of the office held by such person, and the court before whom such conviction is had shall, in addition to the imposition of the fine aforesaid, order and adjudge the forfeiture of his said office. For a failure or neglect of official duty in the enforcement of this act, any of the city or county officers herein referred to may be removed by civil action.

SEC. 10. That section six of chapter one hundred and twenty-eight of the session laws of eighteen hundred and eighty-one, and sections two, four, nine, twelve and thirteen of chapter one hundred and twenty-eight of the session laws of eighteen hundred and eighty-one, as amended by sections one, three, six, seven and thirteen of chapter one hundred and forty-nine of the session laws of eighteen hundred and eighty-five, and section eleven of chapter one hundred and forty-nine of the session laws of eighteen hundred and eighty-five be and the same are hereby repealed.

SEC. 11. This act shall take effect and be in force on March 30, 1887, and after its first publication in the official state paper.

Approved March 5, 1887.

I hereby certify that the foregoing is a true and correct copy of the original enrolled bill now on file in my office, and that the same was published in the official state paper March 8, 1887.

E. B. ALLEN, *Secretary of State.*

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CHAPTER C.

POLICE GOVERNMENT OF CITIES.

AN ACT providing for the police government of cities of the first class through a board of police commissioners, appointed by the executive council, and also for a similar government of cities of the second class in certain contingencies.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. The executive council shall appoint a board of police commissioners, to consist of three members, for each city of the first class in this state, if considered expedient and upon the presentation of a petition of two hundred *bona fide* householders of such city having the qualifications of electors, or when said executive council shall deem it advisable or necessary for the better and more perfect government of such city. Such commissioners shall have been qualified electors and householders of such city at least three years next prior to their appointment, and one of whom shall be of opposite politics from the other two. The official term of such commissioners shall expire on the first Tuesday of April of each odd-numbered year, but such commissioners, or any one of them, may be removed and the vacancies filled by a majority vote of the executive council at any regular or special session; and at the regular session next preceding the expiration of the official term of such commissioners, or at a subsequent special session in the event of a failure to act at such regular session, the executive council shall make a new appointment of the same or other commissioners for the next succeeding regular term of two years, in case the police government of such city shall continue to be administered under this act, but not otherwise. Before entering upon their duties, such commissioners shall each take and subscribe and cause to be filed in the office of the secretary of state an oath of office, and for the faithful discharge of duty, and if any appointee shall, for ten days after notification, fail to cause such oath to be filed as aforesaid, his appointment shall be revoked and a new appointment shall be made by the executive council, which shall also have power to fill all vacancies in said board. One of said commissioners shall be designated by the executive council to act as president and another one of them as secretary of the board. The annual salary of the commissioners shall be fixed by the executive council, but the same shall not be less than two hundred dollars nor more than three hundred dollars for each commissioner for a city of the second class, nor less than three hundred dollars nor more than four hundred dollars for each commissioner for a city of the first class. But the secretary may be allowed a sum not exceeding two hundred dollars in addition to his salary as a commissioner. Said salaries shall be paid out of the state treasury in like manner as the salaries of state officers.

SEC. 2. The board of police commissioners shall immediately appoint a police judge, whose term of office shall expire on the second Tuesday of April of the next odd-numbered year following his appointment, when the new or reappointed board shall make a new appointment of the same or some other person as police judge for the next regular term of two years. The police judge appointed by the board shall have the exclusive and same power and authority and shall exercise all the rights and perform all the duties under the laws of the state and the ordinances of such city, as the police judge of such city under existing laws.

SEC. 3. The board of police commissioners shall also immediately appoint a marshal, who shall be chief of police, subject to the orders of the board, and as many policemen as may be deemed necessary, not exceeding one for each fifteen hundred inhabitants. The marshal and policemen shall hold their respective offices until the second Tuesday of April next following their appointment, subject, however, to removal at any time by the unanimous vote of the board, or by a majority vote and thirty days' notice. The marshal and policemen so appointed shall have exclusive power, and it shall be their duty, to serve all process issued by the police judge, and all notices and papers issued by the board or any officer or member thereof. They shall also have and exercise all the common-law and statutory power of constables within the city, except for the service of civil process and all the powers now had and exercised by policemen under the laws of the state and the ordinances of such city.

SEC. 4. The board shall keep and maintain an office at the council chamber, police court room, or some station house, and shall meet in regular session every Saturday evening, and in special session at any other time upon written request of any member to each other member who

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is in the city. Any regular session may be adjourned for a period not exceeding four days. Two members shall constitute a quorum at any regular or adjourned session, or at any special session properly called and notified. The concurrence of two members shall be sufficient to decide any question properly coming before the board. It shall be the duty of the board to fill all vacancies in the offices of police judge, marshal, and policeman. The board shall have the entire control of the police force of such city, its organization, government, and discipline, and entire control of all station houses, city prisons, patrol wagons, books, records, equipments, and all other property belonging to the police department, and shall audit all claims against said department and certify the same to the mayor and council for payment, when correct. It shall be the duty of the board to make general and special rules for its own government, and for the government and regulation of the police department, and to make and promulgate proper orders to the police force through the marshal.

SEC. 5. The board may, on the application of any person or persons showing cause therefor, appoint any number of special policemen, not exceeding in all the number of the regular policemen, to do duty at any designated place or places in the city at the expense of the person or persons by whom such application shall be made; and the city shall not pay any such special policemen so appointed, and such special policemen shall not be required to do duty at any other than the designated place or places, but in all other respects they shall obey all rules and regulations of the board and all orders from the marshal. The board may also, with the consent of the governor of the state, appoint such number of special policemen for general duty in the city as may be deemed advisable, not exceeding the number of the regular policemen; but such special policemen shall not serve longer than seven successive days without new appointments being made in like manner, and they shall not be paid at a rate exceeding that of the regular policemen.

SEC. 6. It shall be the duty of the mayor and council of any such city to provide at its expense all necessary accommodations for the sessions of the board, and to provide a police-court room, station houses, and prisons, and to furnish, warm and light the same; to furnish food for prisoners; to provide for the monthly payment of the police judge, marshal, and policemen, on the certificate of the board as to the amount due each; also for such office expenses, record books, stationery, printing, telegraphing, badges, clubs, and the repair and cleaning of police buildings, as may be necessary—it being the true intent and meaning of this act that all the necessary expenses of the police department shall be borne by the city out of its general-revenue fund, notwithstanding the government of such department is vested exclusively in said board.

SEC. 7. Neither the mayor nor the council, nor any officer appointed by them, shall have any government of the police force; and the city treasurer shall not pay any of the police force, except upon the certificate of said board. Any person or persons who shall in any manner interfere with or interrupt said board, or the police judge, marshal or policeman so appointed, while in the legal performance of duty, shall, upon conviction thereof before the district court of the county wherein such city is located, be adjudged guilty of a misdemeanor, and shall be fined in any sum not less than one hundred dollars nor more than one thousand dollars, or may be imprisoned in the county jail not less than ten days nor more than ninety days, for each offense.

SEC. 8. Every police judge, marshal and policeman appointed under this act shall be a qualified elector of such city, and before entering upon the discharge of his official duties shall take and subscribe, and cause to be filed with the board, an official oath and for the faithful discharge of duty.

SEC. 9. The annual salaries of the following-named officers shall be fixed by order of the board within the following limits, namely: In cities of the second class, the police judge not less than five hundred dollars nor more than seven hundred and twenty dollars; the marshal not less than five hundred dollars nor more than seven hundred and twenty dollars, and the policemen each not less than three hundred and sixty dollars nor more than six hundred dollars; in cities of the first class, the police judge not less than eight hundred dollars nor more than twelve hundred dollars; the marshal not less than eight hundred dollars nor more than twelve hundred dollars, and the policemen each not less than six hundred dollars nor more than seven hundred and twenty dollars.

SEC. 10. All fines and forfeitures collected by the police judge upon charges for the violation of the laws of the state shall be by him paid into the county treasury of the county in which such city is located, for the use of the common-school fund of such county. All fines and forfeitures collected by the police judge upon charges for the violation of city ordinances, and all fees of officers collected by the police judge under any act of the legislature or city ordinance for services, shall be by him paid into the city treasury for the use of the general-revenue fund of such city.

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SEC. 11. The attorney general of this state, or the assistant attorney general for any county, shall have authority to commence and prosecute to final judgment an action in *quo warrantio* or other appropriate proceeding, in the supreme court or in the proper district court, against the mayor and council-men of any city of the second class which by means of licenses pretends to authorize, or by simulated fines or forfeitures attempts to foster and encourage, the illegal manufacture or sale of intoxicating liquors, or which shields offenders against the laws of the state relating to the manufacture and sale of intoxicating liquors, or refuses or habitually neglects to require the police officers to perform their duties under such laws. *Provided*, That no such proceedings shall be commenced until petitioned for by at least fifty householders of such city, or the executive council and shall direct such proceedings.

SEC. 12. Upon the finding of such court that such city has, up to the commencement of the action, either by means of licenses pretended to authorize, or by simulated fines or forfeitures attempted to foster and encourage, the illegal manufacture or sale of intoxicating liquors, or has shielded offenders against the laws of the state relating to the manufacture and sale of intoxicating liquors, or has refused or habitually neglected to require the police officers to perform their duties under such laws, judgment of ouster shall be rendered by such court against the mayor and council of such city, and the police force thereof including the police judge, marshal, and all policemen; and each and all of these offices in said city shall become vacant within ten days after the rendition of such judgment, and their functions and pay shall cease, any other act of the legislature fixing their term of office and compensation to the contrary notwithstanding; and such city shall be adjudged to pay all costs of the action.

SEC. 13. It shall be the duty of the clerk of the court in which such judgment of ouster is rendered to immediately certify a copy of the journal entry thereof, under the seal of the court, to the governor, who shall thereupon, together with another member, forthwith call a special session of the executive council, unless it shall be within two days of the time of the regular session, in which case no special session need be called. At such regular or special meeting the executive council shall appoint a board of police commissioners for such city of the second class, which commissioners shall have like qualifications, powers and duties as prescribed herein for such commissioners in cities of the first class; and thereupon this act shall take effect and be in force in such city until such time as hereinafter provided.

SEC. 14. During the time that the police government of any city is administered under this act, all acts of the legislature and all ordinances of such city, in so far as the same are in conflict or inconsistent with this act, shall be suspended, and shall remain inoperative.

SEC. 15. The police judge appointed by the board shall be the legal successor of the police judge elected by the city, and shall be entitled to the custody of the records and papers of the office, and he may give transcripts, and certify the same with like effect as such predecessor might have done; and when the police government of any such city of the second class under this act shall cease the police judge elected by such city shall be the legal successor of the police judge appointed by the board, and shall be entitled to the custody of the records and papers of the office, and he may give transcripts, and certify the same with like effect as the police judge under this act might have done. And when the government of such city of the second class under this act shall cease, the board shall turn over to the city clerk all the records and papers of the board, and thereafter they shall be deemed records and papers of the city clerk's office.

SEC. 16. Whenever the executive council shall deem it no longer necessary to continue the government of any such city of the first or second class in the manner provided for by this act, the governor shall issue, and cause to be published in the official state paper, his proclamation to that effect, and authorizing the election of a police judge by the electors of such city at the regular city election on the first Tuesday of April of any odd-numbered year; and after such election a marshal and a sufficient number of policemen shall be appointed by the mayor, by and with the consent of the council, in like manner as if this act had never been passed; and the functions and salary of the police judge under this act shall cease and determine upon the election of such police judge and his qualification under such election; and the functions and salaries of the marshal and policemen under this act shall cease and determine upon the appointment of such marshal and policemen by the mayor by and with the consent of the council and their qualification under such appointment. But nothing in this act contained shall be construed to prevent the appointment by the board of police commissioners of any incumbent holding by election or appointment by the city, nor to disqualify any incumbent holding by appointment by said board from election by the city, or appointment by the mayor by and with the consent of the council, nor to prevent his election or appointment. And the prosecution of an action to final judgment, and the placing of the police government of a city under the provisions of this act, shall not be construed as a bar to a subsequent action and further proceedings under this act,