

THE RISE AND PROGRESS

OF

WHISKY-DRINKING IN SCOTLAND,

AND THE WORKING OF THE

'PUBLIC-HOUSES (SCOTLAND) ACT,'

COMMONLY CALLED THE

FORBES M'KENZIE ACT.

BY

DUNCAN M'LAREN, ESQ.

---

**502165**

3. 1. 50

GLASGOW: SCOTTISH TEMPERANCE LEAGUE,  
108 HOPE STREET.

EDINBURGH: WM. OLIPHANT & SONS, SOUTH BRIDGE.

1858.

*Just Published, price One Shilling, post free,*

NEW ISSUE,

**T**ESTIMONIES AND STATISTICS in reference to the Working  
of the Public-Houses (Scotland) Act.

---

*Just Published, price One Penny, or Six Shillings per Hundred, post free,*

**L**ETTER TO HER MAJESTY'S JUSTICES OF THE PEACE  
IN SCOTLAND from the Directors of the Scottish Temperance  
League.

---

*Just Published, price Twopence,*

(Three Copies sent Post Free on receipt of Six Postage Stamps.)

**L**ETTER to the Right Honourable SPENCER HORATIO  
WALPOLE, Her Majesty's Secretary of State for the Home  
Department, by the Directors of the Scottish Temperance League.  
Being a Reply to the Statements made by the Deputation of  
Glasgow Publicans who waited on Sir George Grey and the Lord  
Advocate.

---

GLASGOW: SCOTTISH TEMPERANCE LEAGUE.

EDINBURGH: W. OLIPHANT & SONS, J. MENZIES,  
and OLIVER & BOYD.

# THE RISE AND PROGRESS OF WHISKY-DRINKING IN SCOTLAND.

---

THE Act usually known in Scotland as the Forbes M'Kenzie Act, 16 and 17 Victoria, cap. 67, came into operation May 21st, 1854. The bill, about which so much has been said, as bearing on the cause of sobriety and good order in Scotland, was introduced into the House of Commons by the gentleman whose name it bears; but having vacated his seat before the measure had made much progress, it was watched over, and carried through, mainly by Mr Cumming Bruce. In the House of Lords it was under the charge of Lord Kinnaird, and, as I once stated at a public meeting in Edinburgh, his lordship also did a great deal privately, by his personal exertions, to promote its passing through the House of Commons; and he may thus be said to have been the chief author of the Act. Its short title is 'Public-Houses (Scotland) Act.'

I need not state to the people of Scotland that the leading provisions of the Act are two in number—(1,) That there shall be no selling of intoxicating drinks on Sundays, except to *bona fide* travellers, and (2,) That there shall be no selling of such drinks during any day of the week after eleven o'clock at night. These two provisions are so manifestly just in themselves, and so conducive to the welfare of society, that I am happy to say they have commended themselves to the great body of the people of this country.

There is, however, an active and influential section of the community who have always been opposed to these provisions, and who have been using all the means in their power to get the Act modified or repealed; and they have endeavoured to procure the appointment of a Parliamentary Committee to inquire into the working of the Act, with a view to accomplish their object in this indirect way. The ostensible movers in this cause are a committee of Glasgow publicans and spirit dealers, but they are privately receiving the sympathy and support of influential distillers, and other persons who do not publicly come forward to advocate their cause. They are also supported in their efforts by a portion of the public press, and by a small number of Scotch members of Parliament.

Being always more anxious to know what opponents have to say against any cause of which I have formed a decidedly favourable opinion, than to know what friends say in its favour, I have read and heard much against the 'Public-Houses Act;' and if I understand the objections of its opponents aright, they may be classed under these heads:—

They say that, both as regards the requirements for shutting up public-houses during the entire Sunday (as compared with the former law, which required them to be shut only during the hours of divine service), and as regards restricting the business hours on week-days to 11 o'clock at night, they are novelties in the legislation of Scotland, of a Puritanical character, and interfering with the liberty of the subject; that they are unjust to the persons engaged in the spirit trade; that they have proved injurious in their operation as regards all classes; and in particular, that in place of diminishing drunkenness, they have increased it—causing an enormous increase in the consumption of whisky, amounting to nearly two millions of gallons annually. These allegations have often been made, and those last mentioned were embodied in an official memorial recently prepared by the Glasgow Committee, and presented by them to Sir George Grey, the Home Secretary, with a view to induce him, on the part of the late Government, to appoint a Parliamentary Committee of inquiry.

### THE SABBATH LAW OF SCOTLAND.

In answer to these allegations it may be stated, that, as regards the non-trading on Sunday, this principle has been the law of Scotland for several centuries, except during the twenty-six years from 1828 to 1854. In the first-mentioned year, the Act known as the Home Drummond Act altered the Sabbath law of Scotland, by the insertion of certain words in the schedule appended to the Act, which were not intended to have that operation, as I shall afterwards prove. Now, if these facts be as I have stated, it follows that the 'Public-Houses Act,' in place of establishing any novelty in legislation, only restored the law of Scotland to what it had been from time immemorial, until it was accidentally altered by the passing of the Act of 1828.

To prove my case, I shall have to refer to the ancient legislation of Scotland respecting the observance of the Sabbath. I could easily cite numerous Acts of the Parliament of Scotland on the subject, but will only trouble you with two or three. One of them is the Act of James VI. (1594), and is a fair specimen of the series, exhibiting the broad and distinct grounds on which the Scotch Acts usually proceeded—not singling out publicans or any

one class as special objects of legislation, but laying down broad general principles, briefly expressed, and so comprehensive in their terms as to include all classes of traffickers, and prohibiting Sunday trading of every kind. After ratifying all former statutes prohibiting the profanation of the Sabbath, the Act proceeds thus:—‘That quhasoever prophanes the Sabbath-day *by selling, or presenting and offering to be sold* upon the said day, ony guddes or geare, or *quhatsumever merchandise*, by themselves or any other in their name, and he is three several times lawfully convicted thereof, either before the Provost and Bailies within burgh where the profanation shall happen to be committed, or before certain Commissioners and Justices in every Presbytery to be appointed by the King’s Majesty, with advice of his Privy Council—their hail guddes and gear shall be escheated to his Majesty’s use, and their persons punished at the will of his Majesty with advice of his Secret Council.’

Another Act was passed in the second year of Charles the Second (1661), for the purpose of dealing with the then abounding vice of drunkenness, which is deserving of notice, as showing the prevalence of open drunkenness to a much greater extent than at present amongst the higher and middle classes; and also an account of the stringent manner in which drunkards of all classes are punishable under its provisions:—‘Our Sovereign Lord being desirous that all his subjects within this Kingdom may live a quiet and peaceable life under his government, in all godliness and honesty, and in order thereto, having resolved to curb and suppress all sort of sin and wickedness, *and especially these abominable, and so much abounding sins of drunkenness*, and all manner of cursing and swearing—Declares that each person who shall blaspheme, swear, or curse, and *whosoever shall drink into excess*, shall be liable in the pains following, according to the quality of the offenders,’ (the fines are here stated in our present money,) ‘each nobleman, £1 13s 4d; each baron, £1 2s 2d; each gentleman, heritor, or burgess, 11s 1d; each yeoman, 3s 4d; each servant, 1s 8d; and each minister in the fifth part of his year’s stipend.’

There are many older Scotch Acts than these on the same subject, and many later, down to the period of the Union, which all affirm the same broad, general principle, that no man, be he who he may, in any walk of life, shall buy or sell, sow or reap, or fish, or carry on any business for gain on the Sabbath-day. None of these Acts single out the publican’s trade as one requiring to be specially dealt with, either in a harsher or more favoured manner than other trades. The Acts, in effect, just intimate to every man in plain and distinct terms, ‘Thou shalt not carry on thy business on the Sabbath-day;’ and some

of them specially require the ministers of each parish and their kirk-sessions to see the Sabbath law duly enforced. The ministers and kirk-sessions are, in effect, appointed by Act of Parliament the public prosecutors within their several parishes, so far as regards the enforcement of the Sabbath law.

About the end of last century considerable laxity prevailed in many places regarding the opening of shops and public-houses on Sundays. The church courts took the subject into their serious consideration, and applied for advice to one of the most distinguished lawyers that ever adorned the Scottish bar or bench, Lord President Blair, then at the bar, who gave a clear and decided opinion to the effect stated, in 1794. During that year, as I shall afterwards show, an enormous increase in the number of public-houses took place, in consequence of the passing of an Act authorising licenses to be granted at a very low rate for the sale of whisky alone, and this increase probably stimulated the zeal of the church courts. The opinion is as follows :—

‘The statutes now in force, with respect to the observance of the Sabbath day, appear to me to be sufficient for checking the evil complained of. The statutes which I mean are the following :— Act 1661, c. 18; 1672, c. 22; 1693, c. 40; 1695, c. 13; and Act 1701, c. 11.

‘By these statutes, every person guilty of profaning the Sabbath-day in any manner whatever, is made liable in a pecuniary penalty, *toties quoties*, to be recovered by prosecution before Sheriffs, Justices of the Peace, or any other Judge Ordinary; and the minister of every parish, the kirk-session, or the presbytery, or a person named by them, is entitled to prosecute.

‘There appears, therefore, to be no defect in the law as it stands, if duly executed; and the power of enforcing execution is lodged with the Church Judicatories themselves. Perhaps it might be proper to cause print the above statutes, and transmit copies thereof to the different presbyteries, so that due notification may be given to all concerned.’

(Signed)

ROBERT BLAIR.’

‘EDINBURGH, 24th May, 1794.’

The law at the present day remains as described by the Lord President Blair (the Sabbath clause of the Home Drummond Act, of which I shall afterwards speak, being now repealed), and, therefore, there can be no difficulty in enforcing the law against all Sunday traders, if the parties on whom the Legislature have imposed the responsibility—the ministers and kirk-sessions—perform their statutory duties; and it is important to notice that they are entitled to receive the penalties. I observed in the

newspapers last week that, at a meeting of the Presbytery of Edinburgh, one of the ministers of the city, the Rev. Dr Nisbet, very properly complained of the number of shops which were open in his parish on Sundays; and on his motion, the Presbytery agreed to adopt the following memorial to the Magistrates and Town Council, which I copy from the *Edinburgh Advertiser* of the 2d April :—

‘That your memorialists, being this day duly convened, and having had their attention called to the large and increasing number of shops kept open in many parts of the city on the Lord’s-day, in the prosecution of their usual traffic, cannot but regard this circumstance with regret and alarm, as tending to debase the character, and destroy the best interests of the community, involving, as it does, a systematic violation of the law of God, and tending to foster in old and young those habits of irreligion which provoke His judgment.

‘The Presbytery, in directing your attention to this subject, venture most respectfully to express their hope, that it may receive from your honourable body the consideration which its deep importance deserves, and lead to the adoption of such measures as the laws of the country may have placed at your disposal for securing that decent and general observance of the Lord’s-day for which our country has hitherto been distinguished, and to which, your memorialists believe, it has been pre-eminently indebted for any virtue or prosperity which has blessed it.’

Now, it is quite plain, from the opinion of Lord President Blair, that the reverend doctor here exemplified the fable of the man who prayed to Jupiter to help his cart-wheel out of the rut, in place of applying his own shoulder to the work, and that he is himself to blame for the continued existence of the Sabbath desecration which he so properly laments. Should the President’s opinion ever meet the eye of the reverend doctor, I hope he will remember that ‘to him who knoweth to do good and doeth it not, to him it is sin.’ He will then be in the position of not only knowing to do good, in the moral and religious sense of the admonition, but he will have learned, what it is evident he does not now know, that to the authority of the Divine law has been superadded the imperative requirements of the law of the land, by virtue of which he holds the honourable position of one of the ministers of this city, with all the advantages and responsibilities which it has pleased the Legislature to attach, as the conditions on which the office is held. An important position like his ‘has its duties as well as its rights;’ and there can be no better reason for asking, as he has done, the Magistrates and Council to relieve him of certain unpleasant duties which Parliament has imposed upon him, than there could be for the Magis-

trates asking to be relieved of certain unpleasant duties which Parliament has imposed upon them, for the collection of his stipend.

Returning from this digression, the Sabbath law remained unaltered till 1828, when the Home Drummond Act was passed, (9th Geo. IV., cap. 58). That Act regulates the mode of granting licenses to public-houses, imposes certain restrictions on them, and enacts larger penalties for the infraction of the statutory rules than were imposed by the ancient Acts. The form of certificate (schedule B), amongst other prohibitions, contains the following—‘And do not keep open house, or permit or suffer any drinking or tippling on any part of the premises, thereto belonging, during *the hours of Divine service on Sundays*, or other days set aside for public worship by lawful authority.’ These words were intended by Mr Home Drummond only to add another special prohibition to the restrictions formerly existing, and to enforce this new prohibition in the manner and subject to the higher pains and penalties which were enacted in the new Statute. This fact can easily be proved from the evidence given before a Select Committee of the House of Commons in 1832 by the late Principal Macfarlan of Glasgow, so long an ornament to, and the father of the Church of Scotland. In referring to the Act, the Principal is asked—

‘You do not consider that the practice of keeping open public-houses on the Sabbath is sanctioned by the Act itself, to which you have referred? Certainly not.

‘The fact of its being lawful to keep open public-houses at any time, excepting the hours of Divine worship, is merely inferred from the certificate to which you have alluded? Entirely so; and if the Committee will permit me to read another short extract from Mr Home Drummond’s own letter, they will see this to be his opinion—“All that the last Act does, is to declare that it shall be a breach of the certificate to permit tippling on Sundays during Divine service, &c., as therein set forth. It does not, *in my opinion*, affect any other legal consequence of Sabbath-breaking, or make it lawful to do anything on Sunday which was previously unlawful.”’

The venerable Principal was, however, mistaken in his view of the law, as was proved by the decision of the Supreme Court. In the same year in which he gave his evidence the Magistrates of Edinburgh had a case tried by an amicable Bill of Suspension, raised at the instance of a spirit dealer, of the name of Macneil, when four of the Judges of the Court of Justiciary decided to suspend the sentence of the Magistrates, on the ground that the words quoted gave the suspender liberty to keep his house open at all hours on Sunday, except during Divine service. One

distinguished judge, Lord Moncrieff, held that the general law of Scotland could not be set aside in this incidental way, and thought the judgment of the Magistrates should be affirmed. The question was thus authoritatively determined, and thereafter Sabbath desecration went on with increased vigour.

This Act introduced into Scotland what had never before been recognized as part of the Sabbath law, a difference between what were called church hours and other hours. This fact was stated by my venerable friend, Principal Lee, whose authority on such a question no man will venture to dispute, in his evidence before the Committee of the House of Commons, to which I have already referred. The Principal was asked—

‘Was not Mr Home Drummond’s Act, at the period when it was introduced, considered a novelty, inasmuch as it recognized what are called in England *church hours*? Certainly it was; I believe, indeed I have been assured by Mr Drummond that it was not so intended by him, nor ought it to be interpreted, so as to legalize the keeping open of taverns on the Sabbath; but, practically, the effect of it has been to induce Magistrates and Justices of the Peace to act as if the law now authorized the keeping open of taverns and other places of entertainment during the greater part of the Sabbath.’

On the same subject Principal Macfarlan said—

‘It forms no part of the law of Scotland, and no part of the ecclesiastical enactment of the Church of Scotland, to contemplate the Lord’s-day as being confined to the hours of Divine service; all the enactments proceed on the principle of the entire Sabbath of twenty-four hours being held as a season of rest. To this I ascribe much; because if we confine it to any given period, then the period, being determined by human authority, is limited by individuals at their own pleasure. I ascribe much to it from our experience of a single enactment proceeding on a different principle. By an Act in 1828, the description of our Sabbath is given as if confined to the hours of Divine service, and it has done great mischief.’

The objectionable portion of this Act, allowing public-houses to be opened at certain hours on Sunday, having been repealed by the ‘Public-Houses Act,’ we have now got rid of all questions respecting canonical hours, and stand not on any law involving novel principles of legislation, but on the ancient Sabbath law of Scotland, by which *the whole* Sabbath was required to be observed, to the extent, at least, of every man abstaining from carrying on his ordinary business for gain on that day. There is, therefore, now no difference between the publicans as a class and any other class of traders, as regards the principle of prohibition. The butcher and baker, the grocer and confectioner, the hatter, and clothier,

and shoemaker, are now placed, as they always were in the legislation of Scotland, (except from 1828 to 1854,) on the same footing as the spirit dealer and publican.

There is, however, a difference in the mode in which offenders of the different classes must be tried and punished under the several Acts of Parliament. The spirit dealers must be tried and punished under the Public-Houses Act. The complainer may be either the Procurator-Fiscal or any other person. All other classes of traders must be tried under the old Scotch Acts, and, as already stated, the ministers and kirk-sessions are specially enjoined to be the public prosecutors. Under these Acts the penalties are smaller than under the modern Act, but the evils resulting from the sale of food, clothing, and other necessities of life on the Sabbath-day, are, in my opinion, also smaller than the evils resulting from the sale of intoxicating drinks. If a distinction were to be made betwixt different classes of traders carrying on their business on the Sabbath, I think that less evil would arise from permitting the opening of shops of all other kinds, provided spirit-shops were shut, than by permitting the opening of spirit-shops and keeping all others shut; but I am opposed to any change whatever on the existing law. I have no sympathy with the cry of hardship raised by a small section of persons engaged in the spirit trade—for I believe four-fifths of those holding spirit-licenses approve of Sunday closing—on the ground that Parliament has now deprived them of the protection from punishment for doing evil, which they enjoyed from 1828 to 1854, but which was enjoyed by no other class of traders. The days of protected interests of all kinds are now happily ended, and there does not appear to be any reason for exempting the spirit trade from the general rule, which prohibits Sunday trading in Scotland.

#### THE RELIGIOUS LIBERTY ASPECT OF THE QUESTION.

We are frequently taunted by our opponents with the allegation that the Act must necessarily be a failure, because it is impossible to make men religious by Act of Parliament; and they appear to think this argument, if such it may be called, quite unanswerable. The friends of the 'Public-Houses Act,' so far as I know, have never held, or expressed the opinion that Acts of Parliament can make men religious; and, therefore, while we are quite ready to assent to this negative proposition, we deny that it proves anything against either the principle or the operation of the Act. We are asked by our opponents whether we can point to legislation of any kind in which penalties imposed have ever been effective in enforcing moral or religious duties. I will answer the question as the late Bishop of London (Bloomfield)

did when examined by a hostile member of the Parliamentary Committee of 1832, to which reference has already been made. The member, no doubt, expected to extinguish the Bishop with this question—‘Is your Lordship aware of any instance in which an enactment of penalties has ever been effective in enforcing moral or religious duties?’

‘I think not; but I take this view of the subject: I am persuaded you will do no good by punishing people for not going to church; but I think you will do a great deal of good by *preventing persons from spreading out those temptations which prevent the people from going to church*. I think that the positive enforcement of religious duties by penalties is a mistake; it is a mistake in the principles of legislation; but I think you ought, if you look on religion as the basis of all sound principles and social order, *to prevent and take out of the way as much as you can those temptations which must check the growth of religion and encourage the growth of irreligion.*’

An attempt was also made in the committee to demolish Principal Macfarlan by a question of the same import, but he appears to have demolished his questioner by an answer of which I cordially approve. The member asked—‘Supposing that new and stricter acts of legislation on the observance of the Sabbath were passed, might it not be deemed a legislating for religion, and thereby not carry the public opinion with it, to the same extent that it might do, were it considered merely a means of preserving the public tranquillity?’

‘In the evidence I have given, and the opinions which I may have taken the liberty of offering, I proceed, not on *religious grounds*, but simply, and altogether, on *general grounds of morality and good order*. It would not be desired, it would not be at all wished for, by either the friends of religion or of public order in Scotland, that any legislative enactment should go to enforce any attendance on religious ordinances. The simple grounds on which we would place our desire that legal enactments should be rendered more strict, are—first, that by the legal enactments, *all who will may rightly observe the Lord’s-day*; it is altogether impossible, without legal enactments, for this to be secured to all, dependent as one part of society are on another.’

Principal Lee also met the objection in his usual clear, logical, and beautiful language, thus:—

‘The young in the neighbourhood are injured by seeing the Lord’s-day habitually treated with disrespect; much disorder is also occasioned in the neighbourhood by the rioting which takes place. . . . These guilty excesses take place chiefly on that day which was mercifully appointed for the rest, refreshment, and improvement of rational beings; and they are committed

under the notice of those young and tender souls, who, at the very moment when their parents should be training them for immortality, are heartlessly kept back from the comforts of this life and the hopes of the next—living without God in the world, whose worship they never see celebrated, and whose name they scarcely ever hear, except in profane execrations and blasphemous oaths. These are some of the concomitants, or consequences of keeping shops open on the Sabbath; the practice is manifestly injurious to the community in another point of view, as it leads to many outrages, which add greatly to the burden of keeping up a police establishment, as well as to the expenses connected with the administration of the criminal law. . . . I cannot help saying, that one of the cheapest and surest modes of establishing a *preventive police*, would be to shut the doors of those mischievous haunts, which are so great a nuisance to all the pious and orderly inhabitants, and which, along with innumerable other evils, occasion an enormous expense to the community.'

To all grumblers about the alleged hardship which the publicans suffer by not being allowed to carry on their usual trade on the Sabbath, and about the hardship involved to their customers who desire to be accommodated on that day, I would appeal by quoting an additional sentence following the extract just read from the evidence of Principal Lee:—'It is very hard, and surely not very equitable, that the virtuous should be taxed to a great amount, that the vicious might not be restrained from the liberty of sinning.' So much for what may be called the religious liberty aspect of the question, which I think has been greatly misunderstood by some, and greatly misrepresented by others.

#### CLOSING AT ELEVEN O'CLOCK AT NIGHT.

I will now notice the complaints of our opponents respecting the enforced shutting of public-houses at eleven o'clock at night. They represent this enactment as being something quite new in the legislation of this country, besides being a great grievance in itself. No greater mistake could be made than to represent fixed hours for the closing of public-houses as a novelty in the legislation of Scotland. It has been the policy of the Parliament of Scotland, from the earliest times, to endeavour to mitigate the evils arising from public-houses, by providing for their being closed at reasonable hours at night. The earliest Acts of the Parliament of Scotland now in existence were passed in 1424; and within five years of that period there was an Act passed for regulating the hours of closing public-houses in these terms (1429):— 'It is ordained that na man in burgh be found in taverns of wine, ail, or beir, after the straike of nine houres, and the bell

sall be rung in, in the said burgh. The whilk is founden (offending), the Aldermen and Baillies sall put them in the King's Prison. The whilk if they do not, they (the Aldermen and Bailies) sall pay for ilk time, that they be found culpable before the Chamberlain, fifty shillings.'

This Act, in effect, compels the closing of all public-houses two hours earlier than is done by the 'Public-Houses Act;' and its provisions for enforcing the rule are certainly much more stringent than the provisions for enforcing that Act. I am not a great admirer of what is usually meant by 'the wisdom of our ancestors,' but I am not sure that we might not copy, with advantage, the spirit of this ancient statute, by enacting that all Bailies, Sheriffs, Justices of the Peace, and Procurators Fiscal, who do not enforce the modern Act, within their several jurisdictions, should be fined in the ancient penalty of 50s 'ilk time that they be found culpable.' And if our opponents insist on having the existing Act repealed, for the purpose of going back to the old laws, we may fairly ask them how far back they are prepared to go, and may hint that if they will agree to agitate for going back to this the oldest of all our restrictive laws, for closing 'after the straike of nine houres,' we may perhaps join them in their agitation for the repeal of the 'Public-Houses Act.'

It is not easy to realize the condition of Scotland at the time of the passing of the Act of 1429. The multitude of important events which have been crowded into the intervening period of 429 years, and the changes which have taken place in the manners and state of the country, cannot easily be conceived. Sometimes we form a more vivid and correct idea of the state of a country by a single incident in its history than from a laboured description. With this feeling I have copied out an Act which was passed only two years before this 'nine houres Act,' and which I shall quote, because it so strikingly indicates to my mind the great difference which exists between the present condition of Scotland and the state of matters which existed at the passing of these Acts. It appears that Scotland was then so overrun with wolves as to require the passing of a special Act of Parliament, ordaining all the Barons and their retainers to turn out, at least four times a year, to destroy ferocious animals of which the race has been totally extinct in Scotland for several centuries; and the penalties for non-compliance were required to be paid, not in money, but in *sheep*. The Act runs thus (1427)—

'It is statute and ordained by the king, with consent of his hail counsel, that ilk baron within his barony, in gangand time of the year, chase and seek the whelps of the woolfes, and gar slay them; and the baron sall give to the man that slays the

woolfe in his barony, and brings the head, twa shillings. And when the barons ordain to hunt and chase the woolfe, the tenants sall rise with the baron, under pain of ane wedder from ilk man not rising with the baron. And that the barons hunt in their baronies, and chase four times in the year, and as oft as ony woolfe beis seen within the barony.'

#### CLOSING AT TEN O'CLOCK AT NIGHT.

The 'nine houres' closing law appears to have remained unchanged for nearly two centuries. In 1617, it was changed for one establishing 'ten hours at night,' as the time after which persons found in public-houses were to be punished; and thus it, in effect, repealed the previous statute. The terms in which it refers to the vice of drunkenness are specially deserving of notice. The Act is as follows:—'For the restraint of the vile and detestable vice of drunkenness, daily increasing, to the high dishonour of God, and great harm of the whole realme, That all persons lawfully convicted of drunkenness, or of haunting of taverns and ale-houses, *after ten hours at night*, or any time of the day except in time of travel, or for ordinary refreshments, shall, for the first fault, pay three pounds, or, in case of inability or refusal, to be put in the jaggies or jayle for the space of six hours; for the second fault to pay five pounds, or to be kept in stocks or jayle for the space of twelve hours; and for the third fault to pay ten pounds, or to be kept in the stocks or jayle twenty-four hours, and thereafter to be committed to jayle till they find caution for their good behaviour in time coming.' It likewise enacts that all ordinary judges and *kirk-sessions* shall have power to *try offenders and to convict them*.

It will be observed that both of these Acts are framed on a different principle from our modern Acts. The ancient Acts punish the men found drinking in the public-houses after the restricted hours, but they do not punish the publicans who furnished the drink. Our modern Acts, on the other hand, punish the publicans who furnish the drink, but do not punish the men who have consumed it after the restricted hours. Here, again, a hint might be taken with advantage from 'the wisdom of our ancestors;' and perhaps a union of the two principles might, in practice, be found the best solution of the difficulty, by dividing the punishment, whether of a personal or pecuniary kind, equally between the consumers and vendors.

We have heard a great deal of late about the alleged Puritanical and Pharisaical spirit which dictated the passing of the 'Public-Houses Act,' and which, it is said, established a new principle in legislation; but both of the restrictive acts which I have

quoted, in effect affirm the same principle as the modern Act, and the first of them was passed when the Roman Catholic religion was established in Scotland, and the second in the full blaze of the Reformation, before the advent to power of the Puritans as a party in England. I do not say this to throw any discredit on the Puritans, for I revere their memory, and wish we had more of the spirit of their ministers in our pulpits, and more of the independent spirit of their Cromwells amongst our ministers of State and members of both Houses of Parliament.

The 'ten hours at night' Act was never repealed until the passing of the 'Public-Houses Act,' establishing 'eleven hours at night' as the rule; but it appears to have been overlooked by the administrators of the law, and to have remained for a long period almost a dead letter. Our opponents might be quietly asked whether, in seeking the repeal of the eleven o'clock hour, they desire to revive the provisions of this Act?

#### THE ELEVEN O'CLOCK HOUR IN EDINBURGH.

As an Edinburgh question, no novelty can be alleged in the eleven o'clock hour, and there can be no hardship, because the inhabitants of this city were so anxious to obtain such a restriction, that, without waiting for a general Act, they, in 1848, obtained a local enactment for themselves, as follows:—'If any person licensed, as aforesaid, shall suffer drinking or tipping within the premises occupied by him, or sell ale, beer, or excisable liquors on any day *after eleven o'clock at night*, or before six o'clock in the morning, [here follow the words respecting closing at certain hours during Sunday,] such person, on being convicted thereof before the judge, *shall for each offence be liable to a penalty, not exceeding five pounds*, and may, besides, in the case of a second or other subsequent conviction, be deprived of his license, provided always that nothing contained in this enactment shall apply to railway refreshment-rooms, licensed and open for the accommodation of passengers only.' This Act worked admirably in Edinburgh, and although it was interpreted—as I think erroneously—to favour large hotels and taverns keeping open after the specified hour, I have no doubt that the known benefits derived from this Act in Edinburgh suggested the propriety of obtaining for other towns the advantage of the same wholesome provision, by the passing of the 'Public-Houses Act.'

#### THE ORIGIN OF PUBLIC-HOUSES.

Having thus given an historical sketch of the state of the law as respects the observance of the Sabbath in Scotland—which,

like all other laws, human and Divine, was frequently violated—and also of the law for restraining publicans from keeping open at late hours, I shall now proceed to notice the rise and progress of the public-house system, and the kind and quantity of intoxicating drinks consumed in Scotland, at various periods of its history. In the first year in which any Scotch Acts which have been preserved were passed (1424), there was one passed which may be considered the germ of the public-house system, and of all subsequent public-house legislation. It is as follows:—‘It is ordained that in all burgh towns of the realm, and thoroughfares where common passages [roads] are, that there be ordained hostillares and receivers, having stables, and chambers; and that men find in them *bread and ale and all ither food*, as weil to horse or men, for reasonable price.’ This Act is a model of brevity and good sense, as many of our old Scotch Acts are. It comes to the point at once. It simply announces the principles enacted, and leaves the judge ordinaries to see these principles properly carried into effect, within their several jurisdictions. It will be observed that, in this Act, ‘bread and ale’ only are mentioned, and that nothing is said about whisky or other spirituous liquors. The same remark may be made respecting the other Acts of a later date—whisky is never referred to. ‘Taverns for ale and wine’ are the words we meet with—for whisky or ‘*aqua vitæ*,’ as it was originally called, was not introduced, except for medical purposes, until a comparatively recent period.

#### ALE FORMERLY THE NATIONAL BEVERAGE OF SCOTLAND.

Ale was unquestionably the ancient and general beverage of Scotland, but wine was also introduced at an early period; and our intercourse and alliance with France, and the cheapness of the wine, appear to have led to its being by no means a rare beverage, even amongst persons of little wealth. It is stated, for example, on the authority of the magistrates and ministers of Edinburgh, in a lawsuit which they had in 1814 respecting the ministers’ stipends, that John Knox ‘drew from his own pipe of claret the day before he died;’ and it is known from the ancient accounts of the city, which are still preserved, that his stipend never exceeded 400 merks, or about £22 4s 5d of our money. That ale was the great national beverage of Scotland until a comparatively recent period, can easily be proved from public documents.

There are accounts in existence which give either the number of bushels of malt consumed, or the materials from which the computation can be made, for each year since 1714; and there are other accounts showing the number of gallons of

whisky consumed for each year since 1724, with the exception of the period from 1786 to 1789. From these documents we can ascertain the quantity of malt consumed during each year. In 1714, the duty was sixpence and a fraction per bushel, and the quantity consumed was 334,320 bushels. In 1718, it fell to 86,695 bushels; and in 1722, to 37,451. In 1725, the trade was nearly at an end, except in the hands of the smuggler, for the quantity fell to 385 bushels, and the total revenue therefrom to £11 2s. During that year a new malt Act was passed by which the duty was reduced to threepence and a fraction; and swarms of English officers of excise were sent down, to the great dismay of the people, vigorously to enforce its provisions. In consequence of these proceedings, the quantity consumed rose to 2,145,233 bushels in 1726, and the revenue derived therefrom to £31,623 17s 5d. During the period from 1726 to 1780, the consumption exceeded two millions of bushels annually, being equal to nearly three bushels for each person of the population (supposed then to average about three quarters of a million), while in 1853 there were only 4,163,830 bushels consumed for a population of three millions, being only one and a half bushels for each person. The following statement shows how the consumption went on up to the present time:—

Years.	Bushels of Malt.	Rate of Duty.
1726	2,145,233	3 <sup>8</sup> / <sub>21</sub> d.
1730	2,151,158	"
1740	1,606,233	"
1750	2,130,000	"
1760	2,632,041	"
1770	1,770,460	4 <sup>1</sup> / <sub>2</sub> d.
1780	2,215,487	8 <sup>1</sup> / <sub>3</sub> d.
1790	1,544,666	8 <sup>1</sup> / <sub>3</sub> d.
1794	1,675,741	"
1796	1,203,023	"
1798	2,085,672	"
1800	876,598	8 <sup>1</sup> / <sub>3</sub> d.
1810	820,294	3s 9 <sup>1</sup> / <sub>4</sub> d.
1820	1,182,208	3s 7 <sup>1</sup> / <sub>4</sub> d.
1830	4,101,946	2s 7d.
1840	4,397,304	2s 8 <sup>1</sup> / <sub>2</sub> d.
1850	4,639,159	2s 8 <sup>1</sup> / <sub>2</sub> d.
1851	4,101,946	2s 8 <sup>1</sup> / <sub>2</sub> d.
1852	3,931,790	2s 8 <sup>1</sup> / <sub>2</sub> d.
1853	4,163,830	2s 8 <sup>1</sup> / <sub>2</sub> d.
1854	3,192,691	2s 8 <sup>1</sup> / <sub>2</sub> d.
1855	1,630,865	4s.

No Duty was charged on the Malt made into Whisky in 1853.

An approximation to the quantity of ale and beer consumed at different periods can be reached only by deducting, from the total quantity of malt consumed, the proportion which was converted into whisky; and this proportion varied in a very remarkable manner at various periods of our history. The quantity of whisky consumed in 1850 was upwards of seven millions of gallons, being equal to about two and one-third gallons for each person; and, during the earlier period referred to, it did not average 300,000 gallons annually, or half a gallon to each person. Thus, although the proportional consumption of malt has now been diminished by one-half, the consumption of whisky has, at the same time, increased from one-half gallon for each person to two and one-third gallons, or nearly fourfold for an equal population. If, therefore, we now consume four times as much whisky per head as we did from 1726 to 1780, and if, notwithstanding, we then used double the quantity of malt per head which we now use, it follows that the quantity of ale then consumed must have been eight times greater per head than the quantity now consumed. In other words, ale was then the national beverage, and our ancestors were not a whisky-drinking people.

Perhaps no better proof could be given of the enormous comparative consumption of ale and beer in ancient times than is furnished by the annual account-books of the city of Edinburgh, which are still preserved. The Corporation had a right to a local custom on all ale and beers made or brought within the city or liberties; and in 1694 this custom was let to the city tacksman for a sum equal to £4250 of our present money. During the same year, another custom on wines and foreign liquors was let for £2055, making a total annual income arising from intoxicating drinks of £6205. This was an enormous sum to have been raised from such sources in that age. The Town Council never had the right to levy any custom on whisky; because all their rights of custom were granted by royal charters and confirmed by Acts of Parliament, long before the drinking of whisky, as an ordinary beverage, was known in Scotland. As a point of comparison, it may be stated that the Town Council was then bound to levy the Annuity tax of six per cent. on the rental of the city for the stipends of six ministers, who ought to have received from that source £111 2s 2d each, in terms of the Act of Parliament; but not more than £600 a-year could then be raised by this tax, although ten times as much was raised from the tax on intoxicating drinks. The same Annuity Tax now produces about £9000 a-year. If the civic customs on ale, wine, and foreign liquors, had still been leviable, which they are not, and a proportional expenditure for these articles, as compared with the expenditure

for house-rent, had still continued, the civic customs on the exciseable liquors would now have amounted to £90,000 per annum!

The number of brewers carrying on business will also assist in giving some idea of the comparative magnitude of the trade in ale about the beginning of last century. When the Act of 1725 enforcing the payment of the new duty on malt, at the sight of the English officers of excise, came into operation in Edinburgh, there was a *strike* amongst the brewers, who refused to brew any longer. Their passive resistance was, however, overcome, and it is related that the defection from the combination was so great that *forty* brewers in Edinburgh, and *ten* in Leith, commenced working within a very short period.

The number of maltsters at different periods, also, throws light on the comparative quantity of ale and beer consumed. The maltsters appear to have been first charged with license duty in 1785. There were then 1567 maltsters' licenses issued in Scotland, and the number gradually diminished till 1810, when there were only 169.

#### WHISKY: ITS INTRODUCTION AND PROGRESS.

When whisky was first introduced into Scotland, it appears to have been used only as a medicine, and to have been kept strictly under the lock and key of the medical practitioners, as it now is within those American towns where the Maine Law is rigorously enforced, backed by the sympathy and support of the people. A portion of the medical practitioners of Edinburgh—now the Royal College of Surgeons—in 1505 united in their own persons the rather incongruous duties of surgeons and barbers, and, in that capacity, applied to the Town Council, in accordance with the customs of the age, to be formed into a separate incorporation. The Town Council granted the prayer of 'Thair bill and supplicatioun,' by issuing the 'Seill of cause, granted be the Towne Counsell of Edinburgh, to the craftis of Surregeury and Barbouris,' dated July 1st, 1505. In the spirit of the times, this document—amongst other exclusive privileges conferred on the newly incorporated body—provided and declared 'that na persoun, man nor woman, within this Burgh, *mak nor sell ony aquavite* within the samyn, except the saidis maisteris, brether and freemen of the craftis, under paine of the escheit of the samyn, but [without] favours.' In this way the medical practitioners of that day obtained the control of the whisky bottle, both as makers and sellers of the spirits, as completely as the apothecaries and druggists now have the control of chloroform, spirits of wine, morphia, and other preparations of opium. This and the other privileges granted by the Town Council

to the new medical incorporation were ratified by a Charter of Confirmation granted by King James IV. during the following year; and by another from James VI., in 1613; and, finally, the original seal of cause and the whole of these charters were ratified and confirmed by an Act of the Parliament of Scotland, passed in the reign of Charles the First, 17th November, 1641. The whisky bottle had been in the exclusive keeping of the medical profession for nearly a century and a half, and, by this Act, it appeared to be irrecoverably placed in their hands—the ‘Chyrurgiars and Barbouris of the said Burgh,’ as they are designated in the Act. This potent spirit, however, does not appear to have been retained a very close prisoner by its Parliamentary custodiers. In less than a century after the passing of this Act, it appears to have come into pretty general use.

It may be supposed by some that this monopoly of whisky-selling, on the part of the surgeons, was never really enforced, and that their exclusive privilege was allowed to remain, practically, a dead letter. But this was by no means the case. We find, for example, from the Minutes of the Town Council, of 20th March 1556, that ‘Bessie Campbell’ had been complained of for violating these privileges; upon which ‘the Bailie sitting in judgment ordained Bessie Campbell to desist from making of *aqua vitæ* in time coming, or selling of any, except on the market-day, against the privilege granted to the Barbers in their seal of cause.’ It will be observed that the prohibition in this judgment against *manufacturing* whisky was absolute, while the prohibition against its sale tacitly permitted ‘Bessie’ to sell on the market-day. The probable reason of this distinction was, that the privileges of ‘the Chirurgiars and Barbouris’ were not held to prohibit Edinburgh traders from supplying country people, residing beyond the city and liberties, who, on market-days, came to town to purchase this and other articles of consumption. Whether this conjecture be correct or not, is of little importance, for, whatever theory may be adopted, the principle of restrictive legislation must be admitted to have been carried much farther three centuries since than it is now, under the operation of the ‘Public-Houses Act.’ The principle of the Maine Law thus appears to have been anticipated and enforced in Edinburgh three centuries ago.

Coming down to the period of the Revolution, there is a minute of the Town Council, of 11th April 1690, which ‘appoints the Town Treasurer to furnish fourteen hogsheads of *aqua vitæ*, for the use of the public, at the rate of thirty-two dollars for each hogshead, extending, on the whole, to the sum of £108 8s 3d, sterling money.’ The minute goes on to stipulate that a guarantee for the payment should first be got from the National Exchequer,

before the aqua vitæ is furnished; and it appears from another minute, of 16th April, that the guarantee had been given, and that the aqua vitæ was sent to Glasgow for the public service; but without throwing any light on the special service for which it was required. These facts appear to prove that, so recently as 1690, whisky was still in some way under the keeping, or inspection of the Town Council, so that Government, in supplying itself with fourteen hogsheads, for the public service, required the intervention of the Town Council to complete the transaction. The minutes also prove that whisky was then very cheap—only £7 14s 1½d per hogshead.

The public-house system, originating as we have seen in 1424, does not appear to have been of rapid growth for the first three centuries. This can be ascertained with considerable accuracy from the national accounts, because when the Excise duties were introduced into Scotland our financiers appear to have considered public-houses, and everything connected with them, as fair subjects for taxation; and in this way we can ascertain the number of public-houses from the number of licenses issued at various periods.

In 1743, a license-duty, of £1, was first imposed on all 'retailers of spirits,' and there were then 828 licensed retailers. The population at this period may be assumed to have been little more than three-quarters of a million; in 1801 it was ascertained to have been about a million and a-half; and in 1851 about three millions. This disparity of numbers requires to be constantly kept in mind in dealing with facts of this kind bearing on our past history; and before proceeding farther, it may be here stated, as affording some points of comparison, that there are at present as many licenses issued to spirit dealers in Edinburgh as there were then issued in all Scotland; and that in Glasgow there are now twice as many as there were then in all Scotland. The licensed spirit dealers of 1743, however, appear to have been unwilling payers of the tax, for in the following year the number of licenses taken out was reduced to 346.

During the troublous time of the Rebellion, when the royal authority must have been at a low ebb, the numbers became still smaller. In 1745 there were only 255, and in the following year, 218, licenses taken out. In 1747, when the royal authority was re-established, the number increased to 625. In 1751 the duty on licenses was increased to 40s, and the number issued fell to 344; but they increased in 1760 to 819; in 1770 to 893; and in 1780 to 1358. In 1788 a large increase in the amount of the license-duty took place, graduated according to the rent of the licensed premises, and varying from £4 14s to £7 2s. The number issued at the high rates fell, in consequence, to 1220 during that year, and in 1791 to 811.

## INCREASE OF WHISKY DRINKING IN SCOTLAND.

In 1794 the number of licenses had again increased to 1304, but the Chancellor of the Exchequer does not appear to have been contented even with this great increase. During that year the fatal change was made in the licensing law, from which may be dated the rapid growth of the whisky-drinking propensities of Scotchmen. The enactment referred to permitted licenses to be granted to 'retailers of plain aqua vitæ only,' at the reduced rate of 20s in the Highlands and 40s in the Lowlands, instead of the former graduated high rates. The effect was magical. There were taken out during that year 4397 of these cheap whisky licenses, in addition to the 1304 general licenses which authorised the sale of foreign as well as British spirits. In this way the number of public-houses in Scotland was increased to 5701, or fivefold, in a single year, and each of the new class of publicans became the centre of a circle, from which the people were taught to drink whisky, in preference to all other exciseable liquors.

In 1815 the number of whisky licenses had increased to 5695, and the general licenses to 2774. Parliament then doubled the duty on whisky licenses and the number during the following year fell to 1809—thus clearly proving that Acts of Parliament *have* increased and diminished the number of public-houses, and, consequently, have increased and diminished the means of demoralising the people. The duty on general licenses was at the same time increased on houses under £15 of rent to £7 1s; but the number did not materially diminish, because during the following year the rate was reduced to £5 5s. Matters went on in this way till 1824, when the number of general licenses had increased to 3595, and those for whisky alone to the enormous number of 7539. The two classes were then united at uniform rates of duty. In 1825 the license-duty on houses under £10 of rent, was reduced from £4 14s to £2 2s; and on houses under £20 of rent to £4 4s.

The issuing of these two-guinea licenses, in 1825, gave such an extraordinary impetus to the spirit trade that, in each of the years 1829, 1830, and 1831, the total number of licenses issued exceeded 17,200. This was the climax, as regarded the number of public-houses. Thoughtful people became seriously alarmed at the consequent increase of drunkenness; and great efforts were made in various quarters to induce the Burgh Magistrates, and the Justices of the Peace for Counties to reduce the number of public-houses; and the same feeling led to the Parliamentary inquiry of 1832. A reduction in the number of licenses accordingly took place, but not to any great extent.

In 1835 a change was made by which those who sold above fifty gallons annually were charged 50 per cent. additional; but this distinction does not appear to have worked satisfactorily, for in two years thereafter the former rates were re-enacted.

In 1841, the rates payable by 'retailers of spirits' were finally fixed, as they have remained up to the present time as follows:—

For Houses under £10 of rent,	£2	2	0
“ “ £20 “	4	4	0
“ “ £25 “	6	12	3½
“ “ £30 “	7	14	4
<hr/>			
Sum of these,	£20	12	7½
Average of these,	5	3	2

During the eight years ending in 1839, the number of licensed houses always exceeded 16,000; and during the seven years, ending in 1846, it always exceeded 15,000. The numbers have gradually diminished since that year under the operation of public opinion, until in 1855 they were reduced to 12,591; but the stimulus given to the consumption of whisky by the Acts referred to, reducing the license duty on low-rented houses, and by other causes which will afterwards be noticed, caused the demand for the whisky to go on with irresistible force.

I do not trouble you with the license duty charged on higher rents, because, as a general rule, that class of houses do much less harm in corrupting the people than the low-rented houses. From this feeling, the licensing Magistrates of Edinburgh have, for many years, given a preference, in all cases of competition, to the high-rented houses, and they refuse to issue new licenses to small houses at low rents. Now, look for a moment at what has been done by Act of Parliament, in opposition to this salutary restriction. Our rulers have, in effect, said to the retailers of spirits, 'If you will open a respectable public-house, with good rooms, well ventilated, and in a good situation, where the rent may be nearly £30, we will fine you in £7 14s 4d yearly. If you will take one somewhat inferior, which may be rented under £25, we will restrict the fine to £6 12s 3½d. If you will take one smaller still, we will further reduce the fine to L.4 4s; and if you will oblige us by taking a miserable, small, dark, ill-ventilated house, in a poor neighbourhood, where rents are low, and where the people are most likely to be initiated in drinking habits, we are so anxious to encourage houses of that class that you shall be charged only £2 2s.'

The article sold being already taxed, no fiscal or equitable principle would be violated, either by charging no license-duty to any, or by charging an equal license duty to all—

the right to grant licenses remaining, as at present, in the hands of the local Magistrates. The average duty now payable by these four classes is, as I have already shown, £5 3s 4d, and, if they are taxed at all, I can see no good reason why they should not be taxed equally, at £5 3s 4d each. Such an arrangement could not make much difference to the Chancellor of the Exchequer, and, in my opinion, it would greatly promote the best interests of the working classes, by the gradual extinction of thousands of small public-houses which have done so much evil, and which, under a wise system of legislation, would never have been permitted to exist. When our opponents tell us, as they so frequently do, that we cannot make men sober by Act of Parliament, while we admit the truth of their proposition, we may just hint to them that thousands of sober men have been made drunkards and Sabbath-breakers through the operation of Acts of Parliament, in the way which I have pointed out; and we may add a word to the effect that since Parliament has done so much evil by its unwise acts, surely it may be allowed, without so much violent opposition, to repeal some of its most objectionable enactments, in order to mitigate these evils. Even if it be admitted that Parliament is powerless to promote sobriety, surely we are at least entitled to ask, that it should no longer promote, as it has too often done, by unwise legislation, the demoralization of the people.

#### QUANTITY OF WHISKY CONSUMED ANNUALLY.

The quantity of whisky consumed at various periods has undergone the most extraordinary and unaccountable changes. In 1725 the consumption was 145,602 gallons, and during the next eleven years was always about 200,000 gallons. In 1736 and 1737 it increased to above 500,000 gallons, and in 1741 it fell to 351,707 gallons. During the whole of this period the duty was so low as from 3d to 6d per gallon. In 1745, during the Rebellion, the consumption increased to 598,469 gallons, and in 1751 and 1752 to upwards of 800,000 gallons. During this period the duty varied from 6d to 1s 3d. In 1758, 1759, and 1760 the consumption fell to about 60,000 gallons, or less than one-twelfth part of what it had been a few years before. The duty during this period was 1s 2d and 1s 7½d. In the five following years it varied from 1s 2d to 1s 10½d, and the consumption again fell, averaging only about 55,000 gallons. In 1770 it increased to 69,068 gallons, the duty being the same as before. As a point of comparison with the consumption during these twelve years, it may be noticed that the present consumption by a town of 30,000 inhabitants (such as Leith, for example) is

about 70,000 gallons, so that the average annual consumption, during the period referred to, in the whole of Scotland, was not equal to the present consumption in a town of 30,000 inhabitants. Nothing could more clearly show that the Scotch were not then a whisky-drinking people. In 1780 the duty was increased to 3s 5½d and 4s 1½d, and the consumption was 194,242 gallons; in 1786 the duty was 2s 7½d, and the quantity consumed was 824,988 gallons.

Coming down to more recent times, the consumption and duty were respectively as follows:—

Year.	Gallons.	Amount of Duty per Gallon.
1800	1,277,596	
1810	1,748,140	5s 9d.
1820	1,863,987	6s 2d.
1825	5,981,459	2s 4d, 3s 4d.
1830	6,007,631	2s 10d, 3s, 3s 2d.
1840	6,180,138	3s 4d, 3s 8d.
1850	7,122,987	3s 8d.
1851	6,830,710	3s 8d.
1852	7,172,015	3s 8d.
1853	6,534,648	3s 8d, 4s 8d.
1854	6,553,239	4s 8d, 5s 8d, 6s.
1855	5,344,319	6s, 7s 10d, 8s.

No duty is now imposed on the malt made into whisky, at the 8s duty. The above figures all refer to the usual financial year *commencing* on the first of April, and are taken from the first Report of the Commissioners of Inland Revenue. It will be seen from these figures that the diminution in the number of public-houses had not, up to 1852, reduced the consumption of whisky; but that, on the contrary, it went on steadily increasing till it reached its highest point during that year.

It is, however, right to state that a large portion of the increased consumption shown in the table from 1820 to 1830, was probably owing to the reduction in the rate of duty. The comparatively high duty previously imposed had the effect of encouraging smuggling, which was carried on to such an extent that, in the opinion of the Commissioners of Inland Revenue, one-half of the whisky consumed in Scotland during that year was furnished by the smuggler; and it is well known, from other sources, that smuggling to a considerable extent existed in Scotland for a very long period prior to 1820. In 1823 the duty was reduced to 2s 4½d, and in two years thereafter the quantity which paid duty had increased nearly threefold.

## DIMINUTION OF THE NUMBER OF PUBLIC HOUSES.

I have always been of opinion that if we diminish the number of public-houses, and do nothing more, we do not thereby *necessarily*, and at once, diminish the amount of consumption; for existing drunkards have their habits so formed, and many of them have such an intense desire for spirits, that they will obtain it in spite of all the barriers of this kind which may be put in their way. A single gin-palace may swallow up many small public-houses, and yet do as much business in one establishment as was formerly done in many smaller ones; and thus no *immediately* perceptible decrease in the quantity of spirits sold can be expected to arise from the operation of this cause alone. But the diminution in the number of houses has a tendency to stop the progressively *increasing* trade in spirits, because every house suppressed is the removal of a snare for entrapping and enlisting the sober persons of its neighbourhood into the ranks of the drunkards; and there can be no doubt that, from the operation of this cause, there would have been a still greater increase in the quantity of spirits sold, if the number of these houses had not been so much diminished. Death rapidly removes the existing generation of drunkards, and, if we can prevent a new generation from rising up, from the young and sober classes of society, to fill the places of those who, from intemperate habits, have been carried to a premature grave, we may then look for a large diminution in the quantity of spirits consumed, and for other beneficial results which will assuredly follow. It is in this way chiefly that the suppression of small public-houses, especially in low neighbourhoods, does so much good. Every such house is in effect a mission station for implanting evil habits, having a fixed staff whose interest, and even livelihood, depend on their being able to make their neighbours *good customers*, or, in other words, to make them large consumers of whisky. If you wish to Christianize low neighbourhoods, all experience proves that you can do it most effectually by planting mission stations in their midst. If, on the other hand, it were desired still farther to demoralize them, experience equally proves that it could be done most effectually by planting low public-houses in their midst. Holding these views, and knowing the other great social evils which are frequently connected with such houses,\* I rejoice with my whole heart at every diminution of their number.

\* On this subject the following remarks were made at the Hull Sessions on the 3d April, 1858, by the learned Recorder, Mr Samuel Warren, M.P., :—

‘As for intemperance, very strenuous efforts are being made to deal with those pest-houses called beer-shops, and other places where intoxicating liquors are almost the recognised incentives to crimes of every description. A deputation of great influence

## CALLS FOR RESTRICTIVE LEGISLATION.

After 1850 the agitation for a restrictive law to close all public-houses at eleven o'clock at night, and during the whole of Sunday, went on with much vigour. About 200 members of the Edinburgh Abstinence Society united with other friends of the cause, to watch and record the number of persons who entered all the public houses within the City of Edinburgh during one Sunday; and the number of visits was found to be 41,796. The number of visitors to certain houses was put down at such incredibly large figures, that the public doubted the accuracy of the returns. In these circumstances, the Magistrates ordered the same houses to be watched by the police, on the following Sunday, and the number of visits to be recorded, when the numbers were found to be rather larger than those previously taken by the members of the abstinence society. These proceedings produced a great impression in the city in favour of restrictive legislation, as did the continued efforts of this Society in support of the cause. The Magistrates of Edinburgh, in 1852 and 1853, made a great step in advance to promote the cause of Sabbath observance, by inducing a large majority of the spirit dealers within their jurisdiction voluntarily to close their houses during the whole of the Sabbath. The good effects of this movement were so apparent in Edinburgh that no candid man ventured to call the fact in question. The experience of Edinburgh increased the desire formerly existing, in other places, for a general restrictive law for this purpose. The cause was likewise greatly promoted by certain Parliamentary returns, moved for by that indefatigable friend of the people, and, in my opinion, the best member Scotland ever had—Joseph Hume. These returns, going back, as they did, for a series of years, showed such an appalling amount of drunkenness and crime, especially in Edinburgh, Glasgow, and other large towns, that it was found to be impossible any longer to resist the calls

waited the other day on the new Home Secretary, Mr Walpole, and their well-founded representations and earnest recommendations were not made in vain. The Home Secretary let fall one valuable suggestion—that he should communicate with all the judges of assizes and sessions, in order to ascertain to what extent the evidence in criminal cases connected the offence with beer-houses. Gentlemen, he is welcome to look at my notes during the six years of my sitting here; and he will find almost every case—at least every other case—directly disclosing either the concoction, or the actual perpetration, of crime at these infernal scenes of guilt and degradation—where all seeds of virtue are consumed in the excitement of intemperance, and crime itself arrayed in hues of attraction and pleasure. I do most earnestly hope to see a measure shortly laid on the table of the House of Commons having for its object to bring these scenes of abomination—these moral charnel-houses—more effectually within the control of the authorities, without carrying interference too far. The last of the three sources to which I referred has come latterly into mournful prominence, as the vice of the age—and whatever other sources it may have, in the execrable wickedness of our sex—of either sex—who can deny that it is fed from those other two sources to which I have referred?’

which were made for restrictive legislation; and, accordingly, the 'Public-Houses Act' was introduced and carried through during the session of 1853, in the manner already described, without much public opposition. It came into operation, as already stated, on the 21st of May 1854, and has been productive of an incalculable amount of good.

After the Act had been in operation for three years, Mr Murray Dunlop, M.P., at the request of friends of the cause in this city, moved for a return, showing the working of the Act in all the towns having a population exceeding 5000, during the first three years of its existence, and also during the three years immediately preceding the passing of the Act. These returns have not yet been issued by the House of Commons, but copies of those for several of the large towns have been published by the local authorities; and the favourable change which has taken place under the operation of the new law, in reducing the amount of drunkenness and crime, has greatly exceeded the most sanguine expectations of the original promoters of the Act.

Mr Murray Dunlop likewise moved for a return showing the quantity of spirits consumed in Scotland during each of the six years referred to. This return has been issued; (March 1, 1858) and in place of showing an increased consumption of nearly two millions of gallons, as was stated to be the case in the memorial recently presented by the Glasgow Committee to Sir George Grey, it shows a large decrease. There is no doubt or difficulty respecting the figures of this return as regards the first four years of the six, but there is a difficulty as regards the fifth and sixth years (1856 and 1857) which requires to be explained. In these two years the duty on whisky in Scotland and England was equalised, and, in consequence of no separate account having been kept for the two kingdoms, no return could be got for Scotland except one showing the number of gallons on which duty had been paid *in Scotland*; and this return necessarily included all the whisky manufactured in Scotland, which was afterwards sent to, and consumed in England.

During the first four years of the series separate accounts were kept, and the average yearly quantity then sent to, and consumed in England, was thus ascertained to have been 2,333,217 gallons. If it be assumed that England consumed neither more nor less during 1856 and 1857 than the average annual amount of its consumption during the four preceding years, the true consumption of Scotland will be accurately ascertained by deducting this average number of gallons from the quantity stated in the return as having *paid duty in Scotland* during these two years. This operation I have performed, and the following figures give an accurate view of the results:—

THREE YEARS UNDER THE OLD LAW.			
Years ending 31st May.	Whisky.	Brandy, Gin, and Rum.	Totals.
1852	6,764,863	246,675	7,011,538
1853	7,134,327	271,869	7,406,196
1854	6,822,261	263,720	7,085,981
	20,721,451	782,264	21,503,715
THREE YEARS UNDER THE NEW LAW.			
Years ending 31st May.	Whisky.	Brandy, Gin, and Rum.	Totals.
1855	6,442,047	235,075	6,677,122
1856	5,658,108	191,105	5,849,213
1857	6,582,862	236,122	6,818,122
	18,683,017	662,302	19,344,457
The General Results condensed are as follows :—			
Years ending 31st May.	Total Consumption Under Old Law.	Years ending 31st May.	Total Consumption under New Law.
1852	7,011,538	1855	6,677,122
1853	7,406,196	1856	*5,849,213
1854	7,085,981	1857	6,818,122
Totals,	21,503,715		19,344,457
Decrease under New Law,			2,159,253

It appears by this mode of computation that, in place of an increased consumption of nearly two millions of gallons yearly, there has been an actual decrease on the three years of 2,159,253 gallons. My own opinion is, that, looking to the facilities now enjoyed for sending any quantity of whisky, however small, to England, and to the fact that nothing less than 20 gallons could formerly be sent, the real quantity consumed in England must have increased considerably beyond this average; and if this be the case, the decrease in the consumption of Scotland must be

\* In 1853, 1854, and 1855, the duty on whisky was advanced five times, and the intention somehow got abroad, and led to very large speculative purchases on which the lower duty was paid before the advanced rates took effect. The large stock thus accumulated in the hands of traders served for the consumption of a portion of the following years, and hence the *apparent* reduction to the enormous extent of 1,556,983 gallons during 1856, as compared with 1853, and of only 267,859 gallons during the succeeding year. If the average of both sums were taken for each year, it would probably be more correct in fact than the figures given in the table.

considerably greater than is assumed in this calculation. I do not, however, attribute the same importance which some do, as a test, to any rise or fall, during a few years, in the quantity of spirits consumed; and the foregoing figures are produced mainly to disprove the assertions of the Glasgow Committee, that the 'Public Houses Act' had occasioned the enormous additional consumption of nearly two millions of gallons of whisky in one year. Many circumstances modify the apparent consumption of whisky shown in the Excise returns during particular years; as, for example, speculative purchases made, and duty paid on them, in anticipation of an increased rate of duty being imposed; the higher and lower prices of grain; the higher and lower rates of duty on malt and whisky; and the ability of the working classes—the great consumers—to spend more or less of their earnings in the purchase of spirits. All these circumstances will, to some extent, affect the apparent consumption of particular years, and therefore it is unsafe to draw sweeping general conclusions from isolated facts. It is equally our duty to act properly whether the result of our efforts shall be to produce a small or a large return to those whose benefit we are anxious to promote.

#### DRUNKENNESS AND CRIME IN GLASGOW.

The statistics of drunkenness and crime which the order for Mr Murray Dunlop's return has already brought to light would, to me, be a tempting subject on which to dilate at length, but for the space which these observations have already occupied, and therefore I shall not go deeply into the general question at present, but hope to have some other opportunity of expressing my sentiments on the subject after the returns shall have been issued by Parliament. In the meantime I cannot resist the pleasure of briefly referring to the returns for Glasgow and some of the large towns, in the shape in which they have been published in the Glasgow and other local newspapers.\*

The following are the total number of cases of drunkenness in Glasgow for each of the three years ending in 1853, under the old law; and for each of the three years ending in 1856, under the new law. The population, according to the best authority,

\* From inquiries which I made, by letter, while these sheets were passing through the press, I find, by an answer received, of date 10th April, from the respected superintendent of Police in Glasgow, Captain Smart, who has done so much to promote the cause of sobriety, that the returns for the six years, as printed in the Glasgow newspapers, were for the six years ending in 1856, whilst those given in Mr Dunlop's Parliamentary returns, are for the six years ending 1857, and hence certain discrepancies. All the Glasgow returns are for the natural years, ending respectively on 31st December, and thus only two years and seven months of the period embraced in the returns which follow (ending in 1856) were, strictly speaking, under the operations of the new law.

Dr Strang, the City Chamberlain, was 329,026 in 1851, and 391,400 at the close of 1857, making a difference of population between these two periods of no less than 62,374.

**TOTAL NUMBER OF CASES OF DRUNKENNESS.**

Year.	No. of Cases under Old Law.	Year.	No. of Cases under New Law.
1851	24,019	1854	19,434
1852	23,788	1855	16,266
1853	23,841	1856	17,446
<hr/>		<hr/>	
71,648		53,146*	

Here there is a real decrease of 18,502 cases of drunkenness under the operation of the Public-Houses Act, during the first three years. Taking the cases of drunkenness on Sundays apart from the other cases with which they are mixed up in the first view, the following are the results:—

**SUNDAY DRUNKENNESS.**

Year.	No. of Cases under Old Law.	Year.	No. of Cases under New Law.
1851	1525	1854	464
1852	1339	1855	481
1853	1218	1856	521
<hr/>		<hr/>	
4082		1466	

The decrease here is enormous—from 4082 cases of Sunday drunkenness, under the old law, to 1466 cases, under the new.

We come next to the cases of drunkenness and crime combined—that is, cases of persons who were charged with the ordinary run of criminal offences, great and small, or with offences under the Police Act, and who were drunk when they were apprehended. This classification, of course, excludes all the helpless, inoffensive drunkards who were carried to the Police-office merely for their own protection, and who were discharged without being brought before the Magistrates:—

**DRUNKENNESS AND CRIME COMBINED.**

Year.	No. of Cases under Old Law.	Year.	No. of Cases under New Law.
1851	13,328	1854	6787
1852	10,985	1855	6058
1853	10,659	1856	6525
<hr/>		<hr/>	
34,972		19,370	

In this class of cases there is likewise an enormous decrease—from 34,972 under the old law, to 19,370 under the new.

It has thus been proved to you that, in the great city of the West, the chosen battle field of our opponents on all occasions, the total number of cases of drunkenness was 33 per cent. greater under the old law than under the new; that the number of Sunday cases was about 200 per cent. greater under the old law than under the new; and that the *crime* committed under the influence of drunkenness was 84 per cent. greater under the old law than under the new. It must be remembered that this last division consists of the class of offenders referred to in the evidence of Principal Lee, already quoted, in which he so justly states that great injury and suffering is inflicted on innocent persons, and much trouble and expense is entailed on the community, in the apprehension, trial, and punishment of the offenders. Among this criminal class it has been shown that there was a decrease, from 34,972, under the old law, to 19,370, under the new—a diminution of 15,602 cases of crime combined with drunkenness, under the operation of the new law. Had the Public-Houses Act done nothing more than this, it would have been a most valuable enactment; but other towns have derived equal advantages from that excellent measure, which I, therefore, hope the Legislature will maintain in all its integrity.

I am anxious to impress on those who enter on this question, the great importance of giving effect to the increase of population in Glasgow during the last six years, in so far as it bears on the working of the Public-Houses Act. We are apt to talk of an increased population of 62,374 without attaching any very definite meaning to this large number. To enable you to have some idea of the vast number of people represented by these figures, who have been added to the former population of Glasgow during these six years, I may state that it is equal to the united population of all the towns within a wide circuit around the city of Edinburgh. Include in this circuit, Leith, Portobello, Musselburgh, Haddington, Dalkeith, Lasswade, Queensferry, Linlithgow, and Stirling, and, according to the census of 1851, you will have a population nearly equal to *the increase* in the population of Glasgow during the last six years. If then, you wish to make a perfectly just comparison respecting the amount of drunkenness and crime which occurred in Glasgow in 1857, pass over the five years immediately preceding, and take the amount of drunkenness and crime for the sixth year, counting backwards, (1851) as your point of comparison. Having ascertained the amount of drunkenness and crime during that year, then add the amount of drunkenness and crime for the same year which occurred in all the towns named, and the aggregate amount should be equal to the drunkenness and crime

which would have existed in Glasgow during 1857, if the Public-Houses Act had not been passed, and if no similar measure had been brought into operation to repress what is described in one of the old Acts before quoted as 'the vile and detestable sin of drunkenness.' It will therefore be seen that, in addition to the *absolute* decrease of crime shown in these tabular statements, there has been a large *additional* relative decrease, which these tables do not represent; and the same remarks apply, more or less, to the increased population of all the other large towns.

We come next to the prison returns for Glasgow, in which we likewise find an extremely favourable result:—

Daily Average Number of Prisoners under the Old Law.		Daily Average Number of Prisoners under the New Law.	
Year.		Year.	
1852	675	1855	573
1853	606	1856	491
1854	589	1857	462

#### DRUNKENNESS AND CRIME IN EDINBURGH.

Edinburgh, within the limits of its Police Act, contained in 1851 a population of 165,000, and is supposed to have increased about 15,000 during the six succeeding years. The Returns for Edinburgh have been made in compliance with the orders of the House of Commons, for each of the last six years, ending respectively on the 31st May; and the number of cases is as follows:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	9670	1855	8561
1853	9792	1856	8018
1854	9443	1857	7324
<hr/> 28,905		<hr/> 23,903	

There has been a total decrease of 5002 cases under the operation of the new Act; so that under the old law the total number of cases of drunkenness was about 20 per cent. greater than under the new.

Taking the cases of drunkenness on Sundays apart from the others, the following are the results:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	701	1855	159
1853	704	1856	153
1854	604	1857	176
<hr/> 2009		<hr/> 488	

There is thus a decrease of 1521 cases of Sunday drunkenness in Edinburgh out of 2009, so that under the old law the proportion of such cases was 300 per cent. greater than under the new.

#### DRUNKENNESS AND CRIME IN LEITH.

Coming now to the neighbouring town of Leith, the population in 1851, within the limits of its Police Act (which are smaller than those of the Parliamentary Burgh) was about 26,000; and the total number of cases for each of the last six years, ending respectively on the 31st May, was as follows:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	850	1855	666
1853	651	1856	497
1854	727	1857	523
<hr/>		<hr/>	
2228		1686	

The decrease was thus 542 cases out of the former number of 2228,—so that the number of cases under the old law was about 44 per cent. greater than under the new.

Taking the cases of Sunday drunkenness by themselves, the numbers are—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	95	1855	32
1853	102	1856	14
1854	109	1857	21
<hr/>		<hr/>	
306		67	

The decrease has thus been 239 out of 306 cases; in other words, the number of Sunday cases was about 250 per cent. greater under the old law than under the new.

#### NUMBER OF PRISONERS FOR EDINBURGH AND LEITH.

We naturally go to the prison from the police-office, and there we may, with advantage, watch the fearful results of drunkenness and crime combined, as they existed both under the old law and the new. The great prison situated within Edinburgh, contains all the prisoners belonging to Edinburgh, Leith, and the other portions of the county; and the average daily number of these, during the six years ending respectively on the 31st May, was as follows:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	Average daily No. of Prisoners.	Years.	Average daily No. of Prisoners.
1852	634	1855	395
1853	620	1856	380
1854	495	1857	331

This table shows that, comparing the first year of the series with the last, the average daily number of prisoners was nearly 100 per cent. greater under the old law than under the new. With reference to the decrease in the number of prisoners in 1854, as compared with 1853, I may state that, having then been chief Magistrate of the city, the other Magistrates and myself 'refused licenses to all Sunday traders who were convicted of other offences—in effect established the principle of the Public-Houses Act over a large portion of the city before it was enacted by Parliament as the general rule for Scotland; and hence arose the great decrease of prisoners in 1854, as compared with the preceding year.' The value of the principle embodied in the Act was thus practically established in Edinburgh before the Act was passed.

I cannot avoid referring to certain returns respecting the Prisons of Edinburgh just issued, made up to the first day of April, 1858. From these returns I have taken the average daily number of prisoners for the quarters ending on the first day of April, during each of the last eight years. The comparison is one of the fairest which could be made, because four of the years compared are those immediately before the passing of the Public-Houses Act, and the other four are those which followed immediately thereafter.

NUMBER OF PRISONERS FOR THE EIGHT QUARTERS, ENDING  
ON 1ST APRIL.

Year.	Average Daily Number of Prisoners.	Year.	Average Daily Number of Prisoners.
1851	589	1855	380
1852	589	1856	379
1853	617	1857	310
1854	487	1858	317

It will be seen from these figures that, although, during the first *three* of the quarters, there was an extraordinary degree of uniformity in the daily average number of prisoners, there was, on the corresponding quarter of the *fourth* year, a considerable decrease. This decrease was clearly traced, at the time, to the measures already referred to, by which the great majority of the spirit dealers were induced voluntarily to close their places of business on Sundays during the whole day. In short, the people of Edinburgh partially anticipated the Public-Houses Act by one year, and therefore enjoyed a portion of the fruits a year earlier than was done in other places.

So great was the amount of crime in Edinburgh before the passing

of the Act, that the accommodation in the prison was found quite insufficient for the number of prisoners; and on the representation of the Prison Board, the sum of £12,000 was actually voted for the purpose of building an addition to the prison of Edinburgh. All *that* money we should have had to pay, had this Act not been passed; but it caused such a decrease in the number of prisoners that, at the instance of the Town Council, it was agreed not to proceed with the contemplated addition to the prison. When any person attempts to throw discredit on these statistics, by saying that the Public-Houses Act has not been the cause of this decrease in crime, ask what has been the cause?—Insist on getting a distinct answer to the question why, when the numbers had been going on increasing, or remaining stationary, they have now fallen down to about one-half? There must have been *some* cause for this; and if any one declines to agree with us, in attributing it to the operation of the Public-Houses Act, he is bound by all the principles of consistency and sound logic to give his own theory of the cause of decrease.

#### DRUNKENNESS AND CRIME IN DUNDEE.

In Dundee, the cases during each of the six years, ending respectively on 31st May, stood thus—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1851	1208	1854	1186
1852	1042	1855	987
1853	1416	1856	1002
<hr/>		<hr/>	
3666		3175	

The decrease was thus limited to 491 out of 3666 cases; in other words, the number of cases in Dundee under the old law, was only 14 per cent. greater than under the new.

As regards the Sunday cases in Dundee, the Act appears to have been more strictly enforced than in cases occurring during the other days of the week; and hence the results of the Sunday cases more nearly approach those of the other towns.

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE OLD LAW.	
Years.	No. of Cases.	Years.	No. of Cases.
1851	95	1854	43
1852	107	1855	45
1853	112	1856	56
<hr/>		<hr/>	
314		144	

The decrease in Sunday cases was thus 170 out of 314; in other words, under the old law the cases were about 120 per cent. greater than under the new.

## DRUNKENNESS AND CRIME IN PAISLEY.

Taking Paisley next in order, *the number of commitments* for crimes of all kinds, including cases of drunkenness, was as follows, for each of the six years, ending respectively on 31st May :—

COMMITMENTS.		COMMITMENTS.	
THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	797	1855	716
1853	977	1856	781
1854	878	1867	587
	<hr/>		<hr/>
	2652		2084

The decrease shown is 568 out of 2652 cases. Thus the total number of *commitments* was 25 per cent. greater under the old law than under the new. It is explained in the return that the number of commitments was unduly increased during 1856, as compared with 1855, by the fact that 135 soldiers were committed for military offences during 1856, and are included in the numbers for that year.

The number of cases classed in Paisley as ‘drunk, assaults, and disorderly,’ were as follows during the same period :—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	308	1855	297
1853	459	1856	241
1854	414	1857	209
	<hr/>		<hr/>
	1181		747

The decrease in the cases classified as ‘drunk, assaults, and disorderly,’ has thus been 434 out of 1181; in other words, the number of cases under the old law was about 56 per cent. greater than under the new.

The average daily number of prisoners in Paisley, was as follows during each of the six years :—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	111	1855	102
1853	141	1856	92
1854	124	1857	73

Thus the average daily number of prisoners was about 50 per cent. greater during the first year of the series than during the last.

### DRUNKENNESS AND CRIME IN GREENOCK.

Going onwards to Greenock, the total number of cases of drunkenness is stated to be as follows.

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	2199	1855	2887
1853	2608	1856	1905
1854	4235	1857	1495
<hr/>		<hr/>	
9042		6287	

The decrease in Greenock has therefore been 2755 cases. Thus the total number of cases under the old law, was about 45 per cent. greater than under the new.

The Sunday cases of drunkenness in Greenock, taken apart from the others, were as follows:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	276	1855	221
1853	303	1856	129
1854	426	1857	131
<hr/>		<hr/>	
1005		481	

The decrease in the Sunday cases of drunkenness in Greenock was thus 524 out of 1005. The number of cases under the old law was therefore about 110 per cent. greater than under the new.

### DRUNKENNESS AND CRIME IN ARBROATH.

In Arbroath the number of cases of drunkenness for each of the six years was as follows:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	528	1855	277
1853	553	1856	234
1854	454	1857	202
<hr/>		<hr/>	
1535		713	

Arbroath thus holds the distinguished pre-eminence in progressive sobriety; the decrease in the number of cases has been 822 out of 1535. Under the old law, therefore, the total number of cases was 115 per cent. greater than under the new.

The Sunday cases in Arbroath show still more delightful results, thus:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	20	1855	3
1853	12	1856	4
1854	20	1857	0
	<hr/>		<hr/>
	52		7

There is thus a decrease of 45 cases of Sunday drunkenness out of 52; the proportions being, that under the old law the number of Sunday cases was 600 per cent. greater than under the new.

#### DRUNKENNESS AND CRIME IN INVERNESS.

Going onwards to the capital of the Highlands, we find a great improvement in Inverness:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	300	1855	202
1853	295	1856	159
1854	256	1857	132
	<hr/>		<hr/>
	851		493

There is thus a decrease of 358 out of 851 cases in Inverness. The number of cases under the old law was 70 per cent. greater than under the new.

The result of the Sunday cases of drunkenness in Inverness is still more remarkable, and stands next in order to that of Arbroath, as follows:—

THREE YEARS UNDER THE OLD LAW.		THREE YEARS UNDER THE NEW LAW.	
Year.	No. of Cases.	Year.	No. of Cases.
1852	63	1855	22
1853	45	1856	7
1854	46	1857	8
	<hr/>		<hr/>
	154		37

The decrease in Inverness has been 117 out of 154 cases; under the old law the decrease was 320 per cent. greater than under the new.

After these sheets were in type, the Return for all the towns, obtained on the motion of Mr Murray Dunlop, and printed by order of the House of Commons, (24th March, 1858,) reached me. Not to go over the ground again in detail, I have condensed the Results into three tables. The Return is for the six

years ending on the 31st May, 1857, being three years under the old law, and three years under the new.

Several of the burghs have sent incomplete returns, and some have sent none.\* The following Abstract shows the population of each burgh from which complete returns have been obtained; the total number of cases of drunkenness alone, and of drunkenness combined with crime, which occurred in each burgh (1) during the last three years of the old law, and (2) during the first three years of the new. I am happy to observe that in all the towns, except two, there is a large decrease in drunkenness and crime under the operation of the new law. The two towns which thus stand out in bad pre-eminence are Ayr and Elgin. It would be very satisfactory, for their own credit, if some explanation could be given of this damaging fact.

	Population.	Total Cases under Old Law.	Total Cases under New Law.
Glasgow, . . .	329,097	66,993	53,755
Edinburgh, . .	160,302	28,905	23,903
Dundee, . . .	78,931	9,598	8,330
Aberdeen, . . .	71,973	13,744	10,357
Paisley, . . .	47,952	2,054	1,527
Greenock, . . .	36,689	9,042	6,287
Leith, . . .	30,919	2,228	1,686
Perth, . . .	23,835	2,274	1,862
Arbroath, . . .	16,986	1,538	715
Montrose, . . .	15,238	1,140	1,089
Airdrie, . . .	14,435	1,765	1,594
Stirling, . . .	12,837	1,851	1,191
Inverness, . . .	12,793	1,081	697
Port-Glasgow, .	6,986	1,214	920
Cupar, . . .	5,686	213	135
The two following towns } show an increase:			
1. Ayr, . . .	17,624	1,503	1,660
2. Elgin, . . .	6,337	223	393
	<hr/>	<hr/>	<hr/>
	888,620	145,366	116,101

The population of these towns in 1851 was 888,620. As the town population of Britain increases, on an average, at the rate of  $2\frac{1}{2}$  per cent. per annum (and in Glasgow and Dundee at a higher rate), the total increase since 1851 will thus be 15 per cent., or 133,293; and the present population will therefore be 1,021,913. The total number of cases of drunkenness and crime during the three years, under the old law, was 145,366;

\* The three abstracts which follow I allowed to appear in the *Daily Express*, in order that the import of this valuable Return might be generally known as early as possible, without waiting for the publication of this pamphlet.

while, under the new law, with a larger population, the number fell to 116,101. The decrease thus amounted to the enormous number of 29,365 cases during three years, the number under the old law being 22 per cent. greater than under the new, without taking into account the subsequent increase in population.

The next abstract has reference to the Sunday cases alone—separating them from those which occurred during the other days of the week—and the results are certainly far more favourable than even the most enthusiastic friend of restrictive legislation could possibly have dreamed of. The first column of the table shows the number of cases during the last three years in which the old law was in operation, ending 31st May, 1854; and the second column shows the number of cases during the first three years in which the new law was in operation, ending 31st May, 1857. The comparison is therefore so fair, that no possible objection can be raised to it, either by the friends or the opponents of the Forbes M'Kenzie Act.

CASES OF DRUNKENNESS AND CRIME ON SUNDAYS.

	Three Years under the Old Law.	Three Years under the New Law.		Three Years under the Old Law.	Three Years under the New Law.
Glasgow,	4082	1466	Airdrie,	509	178
Edinburgh,	2009	488	Stirling,	511	188
Dundee,	1031	444	Inverness,	219	71
Aberdeen,	797	485	Port-Glasgow,	96	59
Paisley,	210	114	Cupar,	40	22
Greenock,	1008	481	Ayr,	147	18
Leith,	306	67	Elgin,	14	7
Perth,	263	58			
Arbroath,	93	27			
Montrose,	136	126			
				11,471	4299

It thus appears that, under the old law, when the public-houses were open on Sundays, there occurred 11,471 cases of drunkenness alone, or drunkenness combined with crime; and that during the same period of time, under the operation of the new law, when the public-houses were required to be shut during the whole of the Sundays, the number of cases fell to 4299. The number of cases of drunkenness alone, and drunkenness combined with crime, was thus 165 per cent. greater on Sundays, under the old law than under the new, in the chief towns of Scotland, now including a population exceeding a million; and in every town in the table, without exception, there has been a considerable decrease. I trust that after this exposure of the mis-statements of the publicans and their abettors, respecting the alleged great increase of drunkenness on Sundays, through the operation of unlicensed shebeens, we shall

hear no more of their complaints; and, should they be imperious to all higher motives, that a feeling of shame may induce future silence.

As regards that portion of the return which refers to the Prisons of Scotland, it appears that the average daily number of prisoners in each of the burghs, with two exceptions, shows a large decrease. The two burghs thus *distinguished* are Airdrie and Forfar. The total daily average number of prisoners during the first of the three years, under the old law, was 2315, and during the last year of the new law, 1434. There is thus the gratifying fact apparent, that the daily average number of prisoners in Scotland has been diminished under the operation of the new law, by 881. The number of prisoners maintained daily at the public expense was, in fact, 60 per cent. greater in 1852, under the old law, than in 1857, under the new, as the following table will show :—

	No. of Prisoners in 1852.	No. of Prisoners in 1857.		No. of Prisoners in 1852.	No. of Prisoners in 1857.
1. Glasgow,	675	462	14. Lanark,	21	11
2. Edinburgh,	634	331	15. Dunfermline,	18	13
3. Dundee,	196	94	15. Montrose,	18	8
4. Paisley,	108	73	17. Banff,	16	11
5. Stirling,	106	71	18. Kilmarnock,	14	12
6. Perth,	94	56	19. Stranraer,	14	9
7. Aberdeen,	80	62	20. Elgin,	10	8
8. Ayr,	70	45	On the two following } prisons there has } been an increase: }		
9. Cupar,	52	25			
10. Dumfries,	49	26	1. Airdrie,	23	31
11. Hamilton,	42	28	2. Forfar,	16	18
12. Greenock,	32	29			
13. Inverness,	27	11			
			Totals,	2315	1434

For any discrepancies betwixt the returns printed in the local papers, and those printed by the House of Commons, I am not responsible, as I have carefully copied both sets as they appeared in the several publications. All the returns respecting Glasgow (including both sets), are for the natural years, ending 31st Dec., whilst the order of the House of Commons was for returns for the years ending on the 31st of May. In this respect, the Glasgow returns are not in strict conformity with the order of the House, although this does not appear on the face of the paper as printed; and they come down one year later than those published in the Glasgow newspapers. The effect of this change in the month during which the years terminate is, that the first three years, ending 31st Dec., 1854, included in the House of Commons returns, and which were intended to show the operation of the *old* law, were not all under its operation. The period of seven months and ten days, from 21st May to 31st December 1854, having been under

the operation of the new law, the comparison between the working of the two systems has not been fairly made. The amount of drunkenness and crime intended to have been shown under the *old law*, has, for these seven and one-third months, been under the *new law*, and therefore has been unduly diminished, *so far as regards the purposes of this comparison*, although the figures are no doubt quite correct as regards the six years which they represent. Still these six years not being for the period ordered by Parliament, without this explanation, erroneous inferences would inevitably be drawn from them. The year 1854 must either be omitted in any correct comparison, or considered as one under the new law, seeing that only four months and two-thirds of it were under the old law, and seven months and one-third under the new law.

For these reasons, it will be apparent to all who carefully consider the question, that the following analysis will more correctly show the real comparative advantages of the new law over the old, than either the comparison made from the six years which were published in the Glasgow newspapers, or the six years which are included in the returns printed by order of the House of Commons. The following figures are taken from Captain Smart's letter to me of 10th April, 1858; the arrangement is my own:—

	Years ending 31st Dec., respectively.	No. of Cases of Drunkenness.
Under the Old Law,	{ 1851	24,019
	{ 1852	23,788
	{ 1853	23,841
	Sum of these	<hr/> 71,648
4 $\frac{2}{3}$ Months under Old Law, and 7 $\frac{1}{3}$ Months under New,	{ 1854	19,434
		<hr/>
Under the New Law,	{ 1855	16,266
	{ 1856	17,446
	{ 1857	20,043
	Sum of these,	<hr/> 53,755
Decrease under the New Law,		<hr/> 17,893

By this strictly correct view, the decrease has been 17,893 cases out of 71,648; or taking the question of proportion, the number of cases was 33 per cent. greater under the old law than under the new.

But, as already stated, no comparison can be perfectly just which does not give effect to the enormous increase of population during the last six years. Giving effect to this increase, the case may be stated thus:—The population of Glasgow in 1851, was 329,026; and the number of cases of drunkenness arising out of that population was 24,019. The population on

31st December, 1857, according to Dr Strang's official tables, had increased to 391,400. As a question of proportion, the number of cases of drunkenness arising out of this increased population, should have been 28,500, if no change in the law or habits of the people had taken place; but the number of cases during the year ending 31st December, 1857, was only 20,043, showing a proportional decrease of 8,457 cases during that year; or, in other words, the proportion of cases *for a given population*, was 40 per cent. greater under the old law in 1851, than under the new in 1857.

It has frequently, and very properly, been asked, why the number of cases in Glasgow during 1857 has increased so much as compared with the number in 1856; (*not* as compared with any year *wholly* under the old law) and to enable me to answer this question correctly, I applied for information to Captain Smart, who, in the letter already referred to, gives the following very satisfactory explanation:—

‘The cause of the increase in drunkenness is simply that a most determined opposition was made to the Act in the latter end of 1856, and first half of 1857, and clubs were opened all over the city, and oyster stores and other places were opened for the sale of spirits, and kept open all night, and all Sunday, when the licensed dealers were shut.

‘The whole attention of the Magistrates and police was directed to the places, and, after an immense labour and litigation, (some eight or nine cases were suspended,) the law was found too strong for them, and they are now all but extinguished; AND THE CASES FOR THE LAST FOUR MONTHS, WILL, I HAVE NO DOUBT, BE THE LOWEST SINCE THE ACT CAME INTO FORCE!’

But, after admitting the decrease contended for, some parties say ‘still the “Public-Houses Act” must be admitted to be a failure, because there remain so many cases of drunkenness which have *not* been prevented, even where it has been most zealously enforced.’ To these objectors I would answer in the words of the learned Recorder of Birmingham, Mr M. D. Hill, in his ‘suggestions for the repression of crime,’ contained in his admirable ‘charges delivered to the grand juries of Birmingham.’ ‘Can any law,’ asks Mr Hill, ‘be specified which is never broken? What are our courts of justice, our assizes, our sessions, and our police-offices, but so many testimonies that laws are not expected to extinguish offences, *but only to keep down their number* by dealing in the best manner we are able with the offenders. If, then, laws are to be considered as useless because they are not unfrequently broken, our best course will be to put the statutes at large into the fire, turn out the lawyers, and apply Westminster Hall to some new purpose.’ Mr Hill

goes on to quote Archbishop Whately in support of his views, thus—‘It is evident,’ says Archbishop Whately, ‘that every instance of the infliction of a punishment is an instance, as far as it goes, of the *failure* of the legislator’s design. No axiom in Euclid can be more evident than that the object of the legislator in enacting that murderers should be hanged, and pilferers imprisoned or transported, is not to load the gallows, fill the gaol, and people New Holland, but to prevent the commission of murder and theft; and that, consequently, every man who is hanged, or transported, or confined, is an instance, *pro tanto*, of the inefficiency, *i.e.*, want of *complete* efficacy of the law.’ (p. 405.)

I cannot conclude these observations without referring to the conduct of the Inland Revenue department. In all former times it was considered the special duty of that department of the public service, to discover and prosecute all persons who defrauded the revenue by selling exciseable liquors without payment of the license tax. Until within the last few years, this duty was so perfectly performed, that cases were rarely heard of in which the law was not speedily vindicated, by the prosecution and conviction of the offenders. Of late years, however, this department of the public service has so neglected its duty, in this respect, that literally hundreds of persons in our large towns have been allowed to defraud the revenue with impunity, without the Inland Revenue department appearing to take any interest in the question whether this portion of the public revenue was collected or not. This allegation can easily be proved by the fact that the Magistrates of the large towns have fined hundreds of persons for thus defrauding the public revenue, against whom no complaint was ever made by the Inland Revenue department, or by any one connected with it. This remissness is the more inexcusable, because, under the Public-Houses Act, any officer of excise, or other person, can prosecute without incurring the expense of employing a solicitor or counsel. The general belief amongst persons conversant with these matters in Scotland is, that, as regards offenders of this class, the want of all proper attention to the vindication of the law, and the collection of the revenue which now prevails, has had no parallel in Scotland during the present century.

Having thus dealt with the returns ordered on the motion of Mr Murray Dunlop, it might be expected that I should analyze those ordered on the motion of Lord Melgund; but this has been so ably done in an article by the editor of the *Daily Express*, a paper which devotes much attention to the great social questions of the day, that I have preferred printing his article *verbatim* as an Appendix, to writing any thing of my own.

# APPENDIX.

## LORD MELGUND'S PUBLICAN STATISTICS.

THE returns moved for by Lord Melgund, acting as Parliamentary agent for the Scottish publicans, are as unfair and worthless as returns could well be. In the first place, they are for the complete years 1851, 1852, 1853, 1854, 1855, and 1856. As the Public-Houses Act did not come into operation until the 15th of May 1854, it is impossible to institute any comparison that can be satisfactory between the years, without excluding 1854. In the next place, 1857 is not included in the return—the reason being, we suppose, that the longer the Act has been in operation, the more markedly beneficial have been the results, and consequently the more unfavourable to the publicans' arguments. The return gives a statement of the number of persons fined for selling spirits without a license, the number of offences of that kind, the amount of fines exacted, and the number of persons imprisoned for such offences in each of the excise collections in Scotland in the years named; and also a similar statement for Edinburgh, Glasgow, Dundee, Greenock, and Paisley. There is also a statement of the amount of fines imposed on licensed victuallers in each of the five towns named in the years from 1851 to 1856 inclusive, and an account of the disposal of said fines; with a statement of the number of persons taken in charge by the police in each year for each of these towns.

We have not space to give the detailed statement of the number of persons convicted for the illicit selling of spirits in each excise collection for the six years embraced in the return; but we give the total offences of the kind in each year, the amount of fines exacted, and the number of persons imprisoned over the whole of Scotland:—

### ILICIT SELLING OF SPIRITS—ALL SCOTLAND.

	No. of Offences.	Amount of Fines Paid.	No. of Persons Imprisoned.	
1851	174	£637	28	} Old Law.
1852	99	359	13	
1853	122	387	11	
1854	122	685	8	} New Law.
1855	114	696	11	
1856	169	1180	7	

The publicans no doubt hoped that these returns would enable them to make out a case that would frighten her Majesty's revenue officers, by proving how immensely the offence of selling spirits without a license has increased under the new law. But what are the facts as proved by the above return? Why, simply that such offences in 1851, before the Forbes M'Kenzie Act was heard of, were more numerous than in 1856, and that four times the number of persons were imprisoned for them! It is abundantly evident, from the above table, and still more from the one that we shall give next, that wherever the number of convictions for illicit selling of spirits has increased, the increase has been entirely due to the increased activity of the excise, and especially of the police. The amount of fines is greater, simply because, under the new law, heavier fines are imposed than was the case under the old. The following table gives the figures for the five chief towns of Scotland, that are given in the previous one for the whole country:—

## ILLICIT SELLING OF SPIRITS—FIVE CHIEF TOWNS.

	No. of Offences.	Amount of Fines Paid.	No. of Persons Imprisoned.	
1851	55	£235	9	} Old Law.
1852	16	88	1	
1853	15	67	3	
1854	18	71	4	
1855	37	229	7	} New Law.
1856	63	614	6	

The above figures plainly show that, notwithstanding the praiseworthy activity of the police in Edinburgh and Glasgow (to which any increase observable is entirely due), the offences for illicit selling of spirits were only eight more in 1856 than in 1851, while the number of persons imprisoned was a third less. The publicans' case, therefore, so far as these returns—cooked to suit their purposes—can aid them, has entirely broken down.

The returns of the fines inflicted on publicans; the fines for illicit selling, and number of such offences; and the number of persons taken drunk to the police-office in the five towns for each year, from 1851 to 1856 inclusive, are just as little calculated to help Lord Melgund's friends. We have prepared a table for each town. The following is that for Glasgow.

## GLASGOW.

	Illicit Selling. Amount Fines.	No. of Offences.	Fines on Publicans.	No. of Drunk Persons.	
1851	£67	9	£191	24,019	} Old Law.
1852	60	4	198	23,788	
1853	1	1	193	23,841	
1854	0	3	202	19,434	
1855	114	14	836	16,266	} New Law.
1856	338	24	625	17,466	

In Glasgow the increase of illicit selling is most marked. Yet, after all, what does it amount to? With greatly increased vigilance on the part of the police—which, indeed, will account for all the difference—there were just fifteen cases more in 1856 than in 1851, and eleven more in 1855 than in 1854—nearly half of which was under the Public-Houses Act. Compare this with a diminution of nearly a third in the number of public drunkards—there is actually about that difference between the number of inebriates taken to the police-office in 1851 (24,019) and the number taken in 1856 (17,466)—and what is it? Absolutely nothing. It is not to be weighed against it for a moment. It is true that the publicans have had to pay £625 of fines among them in 1856, and £836 in 1855, as against £191 in 1851. This may be thought a hardship; but the remedy is simple. Let them be honest enough to obey the law, and they will escape the fines as completely as if no fines could be exacted. The table for Edinburgh presents similar results:—

## EDINBURGH.

	Illicit Selling. Amount Fines.	No. of Offences.	Fines on Publicans.	No. of Drunk Persons.	
1851	£121	21	£89	9,491	} Old Law.
1852	13	7	205	9,767	
1853	35	8	141	9,730	
1854	14	3	67	8,749	
1855	37	9	143	8,095	} New Law.
1856	198	29	82	7,736	

In Dundee, the law has evidently not been carried out so efficiently as it ought to have been, as the amount of the fines and the small number of illicit selling cases detected plainly show. Yet the results are undoubtedly favourable to the Act :—

## DUNDEE.

	Illicit Selling.		Fines on	No. of Drunk	
	Amount	No. of	Publicans.	Persons.	
	Fines.	Offences.			
1851	£25	19	£11	1,064	} Old Law.
1852	12	4	60	1,151	
1853	31	6	14	1,238	
1854	17	3	91	1,359	
1855	30	6	62	952	} New Law.
1856	25	2	26	1,130	

Of course, Lord Melgund's returns do not give the Sunday cases of drunkenness. The publicans dare not venture upon that ground; the compulsory Sunday closing, since the entire public are in a manner the police in enforcing that, has the most remarkable results where the law has been loosely enforced by the proper authorities. Thus in Dundee, where the totals of drunken cases for three years before and after the Act (according to Mr Dunlop's return) were 3666 and 3175 respectively, or about a sixth less in the latter, the total of Sunday cases for the same periods were 314 and 144, showing a decrease of considerably more than one-half.

To Greenock similar remarks, as regards the carrying out of the Act, seem to apply with almost equal force, though the results of the Act are still highly favourable :—

## GREENOCK.

	Illicit Selling.		Fines on	No. of Drunk	
	Amount	No. of	Publicans.	Persons.	
	Fines.	Offences.			
1851	£10	4	£0	1,936	} Old Law.
1852	2	1	13	2,311	
1853	0	0	89	3,556	
1854	5	2	116	3,813	
1855	48	6	48	2,099	} New Law.
1856	37	5	47	1,580	

The Paisley returns are highly favourable, for the law has evidently been enforced :—

## PAISLEY.

	Illicit Selling.		Fines on	No. of Drunk	
	Amount	No. of	Publicans.	Persons.	
	Fines.	Offences.			
1851	£10	2	£3	738	} Old Law.
1852	0	0	3	760	
1853	0	0	3	845	
1854	34	7	17	786	
1855	0	1	22	477	} New Law.
1856	15	3	16	515	

The production of the return of which we have thus stated and analysed the results, has been a most unfortunate affair for the publicans. Notwithstanding the scheming of these philanthropists to obtain a Parliamentary document which should prove, by partial figures and unfair arrangement, the sufferings of themselves, the revenue, and the public through the obnoxious Public-Houses Act, they have egregiously failed. They have made out no case that can alarm the revenue officials. As regards themselves, they have merely proved what bad subjects they are, and how little they regard the law. While as respects the public, they have proved incontestably—partial and tricky as the figures of their model return are—that an immense social benefit has been conferred upon Scotland by the Act against which they interestedly and wickedly declaim. We strongly counsel the publicans to eschew Parliamentary returns henceforth. The good results of the Public-Houses Act are not to be concealed or perverted into evil by any return, no matter how much cunning or how little principle may be visible in its construction.