

THE ENFORCEMENT OF LAW *

THE question at issue in New York City just at present is much more important than the question of a more or less liberal Sunday excise law. The question is as to whether public officials are to be true to their oaths of office, and see that the law is administered in good faith. The police board stands squarely in favor of the honest enforcement of the law. Our opponents of every grade and of every shade of political belief take the position that government officials, who have sworn to enforce the law, shall violate their oaths whenever they think it will please a sufficient number of the public to make the violation worth while. It seems almost incredible that in such a controversy it should be necessary to do more than state in precise terms both propositions. Yet it evidently is necessary. Not only have the wealthy brewers and liquor-sellers, whose illegal business was interfered with, venomously attacked the commissioners for enforcing the law; but they have been joined by the major portion of the New York press and by the very large mass of voters who put the gratification of appetite above all law. These men have not dared to meet the issue squarely and fairly. They have tried to befog it and to raise false issues. They have especially sought to change the fight from the simple principle of the enforcement of law into a contest as to the extent of the restrictions which should properly be placed on the sale of liquors. They do not deny that

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we have enforced the law with fairness and impartiality, but they insist that we ought to connive at lawbreaking.

Very many friends of the reform movement, and very many politicians of the party to which I belong, have become frightened at the issue thus raised; and the great bulk of the machine leaders of the Democracy profess to be exultant at it, and to see in it a chance for securing their own return to power. Senator Hill and Tammany in particular have loudly welcomed the contest. On the other hand, certain Republican politicians and certain Republican newspapers have contended that our action in honestly doing our duty as public officers of the municipality of New York will jeopardize the success of the Republican party, with which I, the president of the board, am identified. The implication is that for the sake of the Republican party, a party of which I am a very earnest member, I should violate my oath of office and connive at lawbreaking. To this I can only answer that I am far too good a Republican to be willing to believe that the honest enforcement of law by a Republican can redound to the discredit of the party to which he belongs. This applies as much to the weak-kneed municipal reformers who fear that we have hurt the cause of municipal reform as it does to the Republicans. I am not an impractical theorist; I am a practical politician. But I do not believe that practical politics and foul politics are necessarily synonymous terms. I never expect to get absolute perfection; and I have small sympathy with those people who are always destroying good men and good causes because they are not the best of all possible men and all possible causes; but on a naked issue of right and wrong, such as the performance or non-performance of one's official

duty, it is not possible to compromise. Indeed, according to the way we present commissioners feel, we have nothing to do with Republicanism or Democracy in the administration of the police force of the city of New York. Personally, I think I can best serve the Republican party by taking the police force absolutely out of politics. Our duty is to preserve order, to protect life and property, to arrest criminals, and to secure honest elections. In striving to attain these ends we recognize no party; we pay no heed to any man's political predilections, whether he is within or without the police force. In the past, "politics," in the base sense of the term, has been the curse of the police force of New York; and the present board has done away with such politics.

The position of Senator Hill and the Tammany leaders, when reduced to its simplest terms, is merely the expression of the conviction that it does not pay to be honest. They believe that advocacy of lawbreaking is a good card before the people. As one of their newspapers frankly put it, the machine Democratic leaders intend to bid for the support of the voters on the ground that their party "will not enforce laws" which are distasteful to any considerable section of the public. Senator Hill declaims against the board because it honestly enforces the law which was put on the statute-book but three years ago by his legislature and his governor (for he owned them both). This is of course a mere frank avowal that Senator Hill and the Democratic leaders who think with him believe that a majority in the State can be built up out of the combined votes of the dishonest men, the stupid men, the timid weaklings, and the men who put appetite above principle—who declare, in the language of Scripture, that their god is their belly, and who rank every consideration of honor,

justice, and public morality below the gratification of their desire to drink beer at times when it is prohibited by law.

When such are the fears of our friends and the hopes of our foes, it is worth while briefly to state exactly what the condition of affairs was when the present board of police commissioners in New York took office, and what that course of conduct was which has caused such violent excitement. The task is simple. On entering office we found—what indeed had long been a matter of common notoriety—that various laws, and notably the excise law, were enforced rigidly against people who had no political pull, but were not enforced at all against the men who had a political pull, or who possessed sufficient means to buy off the high officials who controlled, or had influence in, the Police Department. All that we did was to enforce these laws, not against some wrong-doers, but honestly and impartially against all wrong-doers. We did not resurrect dead laws; we did not start a crusade to enforce blue laws. All that we did was to take a law which was very much alive, but which had been used only for purposes of blackmail, and to do away entirely with the blackmail feature by enforcing it equitably as regards all persons. Looked at soberly, this scarcely seems a revolutionary proceeding; and still less does it seem like one which needs an elaborate justification.

To show the nonsense of the talk that it was obsolete or a dead letter, I call attention to the following figures. In the year 1893, four thousand and sixty-three arrests were made in New York City for violation of the excise law on Sunday. This represented a falling off from previous years. In 1888, for instance, the arrests had numbered five thousand eight hundred and thirty. In

1894, the year before we took office, when the Tammany board still had absolute power, the arrests rose to eight thousand four hundred and sixty-four. On Sunday, September 30th of that year, they numbered two hundred and thirty-three; on October 14th, two hundred and thirty; on the following January 13th, they rose to two hundred and fifty-four. During the time that the present board has been enforcing the law the top number of arrests which we have reached was but two hundred and twenty-three, a much smaller number than was reached again and again under the old régime. Nevertheless, by our arrests we actually closed the saloons, for we arrested men indiscriminately, and indeed paid particular attention to the worst offenders—the rich saloon-keepers with a pull; whereas under the old system the worst men were never touched at all, and all of them understood well that any display of energy by the police was merely spasmodic and done with some special purpose; so that always, after one or two dry Sundays, affairs were allowed to go back to their former condition. The real difference, the immense, the immeasurable difference between the old and the new methods of enforcing the law, is not one of severity, but of honesty. The old Tammany board was as ruthless in closing the saloons where the owners had no pull as we are in closing all saloons whether the owners have or have not a pull.

The corrupt and partial enforcement of the law under Tammany turned it into a gigantic implement for blackmailing a portion of the liquor-sellers, and for the wholesale corruption of the Police Department. The high Tammany officials and the police-captains and patrolmen blackmailed and bullied the small liquor-sellers without a pull and turned them into abject slaves of

Tammany Hall. On the other hand, the wealthy and politically influential liquor-sellers absolutely controlled the police, and made or marred captains, sergeants, and patrolmen at their pleasure. Many causes have tended to corrupt the police administration of New York, but no one cause was so potent as this.

When we entered office the law was really enforced at the will of the police officials. In some precincts most of the saloons were closed; in others almost all were open. In general, the poor man without political influence and without money had to shut up, while his rich rival who possessed a "pull" was never molested. Half of the liquor-sellers were allowed to violate the law. Half of them were not allowed to violate it. Under the circumstances we had one of two courses to follow. We could either instruct the police to allow all the saloon-keepers to become lawbreakers, or else we could instruct them to stop all lawbreaking. It is unnecessary to say that the latter course was the only one possible to officials who had respect for their oaths of office.

The clamor that followed our action was deafening; and it was also rather amusing in view of the fact that all we had done was to perform our obvious duty. At the outset the one invariable statement with which we were met was that we could not enforce the law. A hundred—aye, a thousand—times we were told by big politicians, by newspapers, by private individuals, that the excise law could not be enforced; that Mayor Hewitt had tried it and failed; that Superintendent Byrnes had tried it and failed; that nobody could succeed in such a task. Well, the answer is simple. We *have* enforced the law, so far. It is very badly drawn, so as to make it extremely difficult of enforcement; and some of the offi-

cials outside the Police Department hamper instead of aiding the police in their efforts to enforce it. However, we understand well that we must do the best we can with the tools actually at hand, if we cannot have the tools we wish. We cannot stop all illegal drinking on Sunday, any more than we can stop all theft; but so far we have succeeded in securing a substantial compliance with the law.

The next move of our opponents was to adopt the opposite tack, and to shriek that, in devoting our attention to enforcing the excise law, we were neglecting all other laws; and that in consequence crime was on the increase. We met this by publishing the comparative statistics of the felonies committed, and of the felons arrested, under our administration and under the previous administration. These showed that for a like period of time about one felony less a day occurred under our administration, while the number of arrests for felonies increased at the rate of nearly one a day. During our term of service fewer crimes were committed and more criminals were arrested. In the Sunday arrests for intoxication, and for disorderly conduct resulting from intoxication, the difference was more striking. Thus in the four Sundays of April, 1895, the last month of the old régime, there were three hundred and forty-one arrests on charges of intoxication and of being drunk and disorderly. For the four Sundays beginning with June 30th—the first day that we were able to rigidly enforce our policy of closing the saloons—the corresponding number of arrests was but one hundred and ninety-six. We put a stop to nearly half the violent drunkenness of the city.

The next argument advanced was that Americans of German origin demanded beer on Sundays, and that

the popular sentiment was with them and must be heeded. To this we could only answer that we recognized popular sentiment only when embodied in law. To their discredit be it said, many men, who were themselves public officials, actually advocated our conniving at the violation of the law on this ground—of the alleged hostility of local sentiment. They took the view that as the law was passed by the State, for the entire State including the city, and was not (as they contended) upheld by public sentiment in the city, the officers of the law who are sworn to enforce it should connive at its violation. Such reasoning would justify any community in ignoring any law to which it objected. The income-tax law was passed through Congress by the votes of the Southerners and Westerners, but it was collected (prior to the time it was declared to be unconstitutional) mainly in the Northeast. Any argument which would justify us in refusing to obey the excise law in New York would justify the whole Northeast in refusing to obey the income-tax law.

The spirit shown by the men and the newspapers who denounce us for enforcing the law is simply one manifestation of the feeling which brings about and is responsible for lynchings, and for all the varieties of Whitecap outrages. The men who head a lynching-party, and the officers who fail to protect criminals threatened with lynching, always advance as their excuse that public sentiment sanctions their action. The chief offenders often insist that they have taken such summary action because they fear lest the law be not enforced against the offender. In other words, they put public sentiment ahead of law in the first place; and in the second they offer, as a partial excuse for so doing, the fact that too often laws are not enforced by the men elected or

appointed to enforce them. The only possible outcome of such an attitude is lawlessness, which gradually grows until it becomes mere anarchy. The one all-important element in good citizenship in our country is obedience to law. The greatest crimes that can be committed against our government are to put on the statute-books, or to allow to remain there, laws that are not meant to be enforced, and to fail to enforce the laws that exist.

Mr. Jacob A. Riis, in a recent article, has put this in words so excellent that I cannot refrain from quoting them:

“That laws are made to break, not to obey, is a fact of which the street takes early notice, and shapes its conduct accordingly. Respect for the law is not going to spring from disregard of it. The boy who smokes his cigarette openly in defiance of one law, carries the growler early and late on week-days in defiance of another, and on Sunday of a third; observes fourteen saloons clustering about the door of his school in contempt of a fourth which expressly forbids their being there; plays hookey secure from arrest because nobody thinks of enforcing the compulsory-education law; or slaves in the sweat-shop under a perjured age-certificate bought for a quarter of a perjured notary; and so on to the end of the long register, while a shoal of offensive ordinances prohibit him from flying a kite, tossing a ball, or romping on the grass, where there is any, cannot be expected to grow up with a very exalted idea of law and order. The indifference or hypocrisy that makes dead letters of so many of our laws is one of the constantly active feeders of our jails. . . . The one breaks the law, the other has it broken for him. . . . The saloon is their ally, and the saloon is the boy’s club as he grows into early manhood. It is not altogether

his fault that he has no other. From it he takes his politics and gets his backing in his disputes with the police. That he knows it to be despised and denounced by the sentiment responsible for the laws he broke with impunity all his days, while to him it represents the one potent, practical force of life, is well calculated to add to his mental confusion as to the relationship of things, but hardly to increase his respect for the law or for the sentiment behind it. We need an era of enforcement of law—less of pretense—more of purpose.”

The police board is doing its best to bring about precisely such an era.