

## TOPICS OF THE DAY

ERUPTIVE CONSERVATISM: MORAL SLAVERY: SOURCES OF ERROR:  
THE "MORAL LAW": LEGITIMATE LEGISLATION: HISTORY'S  
MIRROR: HIRED OPPOSITION.

**R**ADICALISM is simply primeval conservatism in eruption. It is confidence in one's own notions, as opposed to those of one's neighbours, run mad. Conservatism is a blind clinging to what is, because the ordinary person is disposed to believe that what is has always been, and therefore should continue to be. The radical starts with the conviction that his own theories are absolutely right. Consequently, when he has succeeded by hook or by crook in getting them converted into laws, he becomes *in esse* the most dangerous of conservatives, which he was originally *in posse*. He will consent to no amendment or change in his legislation except for the purpose of making it more drastic, no matter what the vices or defects disclosed by it in operation. This is what makes "experimental legislation" so dangerous in practice. Radicalism procures its enactment, and at once develops into conservatism for its permanent maintenance. After a few years, natural conservatism is drawn to the support of what becomes quiescent but obstinate radicalism; and an iniquitous law or evil custom is saddled upon a suffering public indefinitely.

Americans—and Canadians are fast becoming like them—are, at the same time, the most radical and the most conservative people in the world. These contradictory characteristics of theirs are steadily growing more marked and more confirmed. They should not be, but nevertheless look as if they were, symptomatic of our type of democracy, with its ever simmering and frequently ebullient puritanism. The ignorant among us are more concerned about such puritanic "ideals" than about the rights or happiness of their fellow-citizens, or the justice and effectiveness of their country's laws. If they can get their crude imaginings converted into legislation, the after effects seem to matter little to them. This state of mind would appear to be fixed among us, and to be destined long to survive its primary cause. The weakening of faith in old-time theology is not ameliorating it. Women are heard demanding equal "rights" with men in the name of Christianity, while laughing to scorn St. Paul's supposedly inspired dictum to

the contrary. They are even insisting on identical "moral standards" for the sexes. And the community placidly endures all, because of its conservatism in what it imagines to be religion. Thus do radicalism and conservatism interplay, intermingle and co-operate for the suppression of freedom of thought and liberty of action. Radicalism in eruption subsides only to become conservatism *in situ*.

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THE moral force which radicalism exercises by means of holy pretensions, sacred catch phrases and emotional appeals, is its greatest menace to modern society, next to its tendency to consolidate and conserve what it thus secures in the way of legislation or fixed custom. Its tendency is more and more to enslave, and to bind rational public opinion. In this it has been effective to a much greater extent in the United States than in Canada. But it is insidiously and constantly at work here. Unless by a special effort we cast off its tentacles while there is yet time, we shall awake before long to find ourselves no better off than our neighbours, among whom the Ku-Klux-Klan is now busily engaged in uprooting whatever of personal freedom legislation has left untouched. Recently a man was convicted in an American court for having—as a member of that organization, which is a law not merely unto itself but to all whom it can terrorize—participated in the savage whipping of one of his neighbours, because that neighbour had not prevented his daughter, a girl of seventeen, from wearing knickerbockers and riding a bicycle. With such lawlessness in the name of public morality tolerated and even approved, is it any wonder that the United States has become a by-word for law-breaking as well as for absurd law-making? The point is clearly seen by a leading American journalist, who remarks that between the multiplicity of laws and the lawlessness of the United States there is more than incidental connection. The excuse, he says, has become common that the average individual is so hedged about with regulations as often not to know when he is violating law. Many laws are useless; others cannot be enforced; still others are a virtual invitation to their defiance. The mania for law-making involves wasted effort and needless expense both in legislation and in vain attempts at enforcement. There may be need for new laws, concludes this sane American, but there is greater need for the repeal of many old ones, among which he would obviously include Prohibition, made constitutional in a fit of war-time hysterics, and apparently doomed to perpetuation through American conservatism. So

sound an organ of rational public opinion as the *New York Evening Post*, in a similar frame of mind, writes:

Bank robberies and burglary have increased so much in the Mid-West that insurance rates have advanced anywhere from 33 to 150 per cent.. Men cannot be made good by law alone. Something more than law must stiffen mental and moral fibre, keep the finger from the trigger and the hand from the knife or the poison bottle. We have been ignoring such fundamentals as the qualities of conscience, sound morals and moral responsibility. If crime is to be checked, society must turn back and rebuild itself upon these foundations.

In other words, radicalism has had its full legislative fling in the United States and, instead of improving social conditions, has made them worse. So far as it has yet been permitted to go, it has produced similar effects in Canada. It is time, therefore, for healthy conservatism and broad liberalism to resume their proper functions of checking radicalism in law-making, instead of prostituting themselves to the preservation of radical-made laws,—at least, of such “experimental legislation” as, after due trial, has proved pernicious instead of beneficial in its effects. Moral consequences of laws are often of much more importance than their immediate legal operation.

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**T**HE main sources of error in law-making are popular ignorance, partisan unscrupulousness, and representative timidity or venality. Ignorance is usually coupled with prejudice; and prejudice, whether in favour of evil or in favour of what is—without due knowledge—considered good, is fatal to wisdom of thought and action. Prejudice in favour of evil is so rare that it may be practically disregarded. It is prejudice in favour of assumed good which usually works evil. One sees a wrong, and impatiently hastens to right it by means of legislation, regardless of possible or even obvious ill consequences. One inspired by worthy motives is prone to misconceive the very nature and province of law. Such a one would legislate against sin or immorality as readily and hopefully as against crime. It is one of the most noticeable and discouraging symptoms of present-day social mentality that this confusion of mind with regard to the proper field and limits of legislation has become popular and almost universal. Yet the distinction is very definite, and should be comprehended without difficulty. Sin is an offence against Deity, and can be properly dealt with only under Divine law, by the Supreme Law-giver. Man, individually or collectively, has to do with it solely as a subject, and not as a

legislator. Morality, as the very derivation of the word demonstrates, is simply established social custom or usage. It occupies what may be called neutral ground between sin and crime. One may be unmoral, or even immoral in certain circumstances or respects, without becoming, directly, either a sinner or a criminal. Neither sin as sin, nor morality as such is within the province of legislation. It is only when either of them passes beyond the limits of its own class into that of crime that the restraining hand of civil jurisprudence can properly be applied. For example, murder, *malum in se*, evil in its essence and nature, is not only sinful and immoral but criminal, made so by absolutely justifiable legal enactment. There are many offences against modern society, with its high complications, which—although only immoralities in themselves—have been removed from that category and placed in a special class by modern legislation as minor crimes or misdemeanors, punishable by positive law. It is in the extension of this class of offences, even to the inclusion of sins against what is assumed to be Divine law, as in the case of Sunday observance, that the greatest danger to our society lies. The modern tendency is to ignore the distinction drawn by the elder jurisconsults between things only *mala quia prohibita* and that which is *malum in se*. The question of Prohibition, in the light of these facts, becomes more interesting through complication, and also more capable of rational determination. Moderate use of alcoholic beverages is admittedly neither a sin nor an immorality. It is sanctioned by Divine example and precept. It has never been classified as an immorality, in itself, even by the most severe. What it is right, or at least not wrong for one to use, it is surely not naturally criminal for another to provide. What justification, then, can there be for State inhibition of the supply while the consumer is left free and considered guiltless? The only possible justification would be the almost unanimous belief of citizens that the consumption of intoxicants by an individual is such an injury to the State as to require its being made a misdemeanor. No sane person has ever ventured to assert or maintain any such proposition. Yet we have the purely empirical attempt to remedy an alleged social evil, not even by treating symptoms, much less by striking at the root of the diagnosed disease, but by undertaking to conceal the symptoms under a thin veneer of law. If neither the drinking nor the sale of intoxicants is sinful or immoral in itself, but if in combination they are so injurious to the State as to demand proscription, why are not both proscribed and placed under a common law? To tolerate the drinking of intoxicants as legitimate while prohibiting their sale, is simply

to invite contempt and disregard of law, which is surely a very dangerous and immoral if not a sinful thing to do.

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A GREAT deal of erroneous thought and action in connection with recent "advanced" legislation has arisen out of the misunderstanding and misuse of the word "moral." Morality is confounded with righteousness, or even holiness of life. It is wholly distinct from either. Each of them is personal and individual. Morality is exclusively social. Morals are simply social customs or usages made binding by common consent, without legal sanction.

The basis of this popular error very probably is the misconception and misnaming of the Ten Commandments as the "Moral Law," which is exactly what they are not. They have nothing whatever to do with morals properly so called. They are a mixed religious and civil code of positive laws. The mixture was due to the fact that they were promulgated in a theocratic age and country, under a hierarchical government. Indeed, they were in their civil aspect rather a primitive national constitution than even a code, for they formulated the postulates without which organized society could not and cannot exist. When men, outside of the family, come into association, life and property and the rudimentary social relations must be respected and protected if permanency is to be hoped for or expected.

The first three commandments are purely theocratic and hierarchical. The first enjoins loyalty to the Divine King of the Israelites. The second amplifies and emphasizes the first. The third, in the same connection, is meaningless unless one knows that all the gods of the ancients had special names, just as men had and have. "God" was no more the *name* of any of their divinities than "Man" is the name of any one man. The Egyptians, for example, had esoteric and exoteric names for their supreme deity. The most sacred of the former was kept in such secrecy that it was divulged only to the specially initiated and privileged high-priesthood. A less sacred name was made known to the lower order of priesthood, and an exoteric appellation was disclosed to the people. The Israelitish system resembled more or less the Egyptian, and under it the "vain" or blasphemous use of even the exoteric name of their deity was forbidden in the third commandment.

Observance of the Sabbath, a national institution early established for the special benefit of tribal slaves and beasts of toil or burden, was enjoined by the fourth commandment. The fifth



commandment also confirmed a pre-existing institution. It is usually spoken of as "the first commandment with promise." The "promise" was of death to such as disregarded it. The family was the unit of the Israelitish system, as it was of the Roman and many other ancient tribal systems which developed ultimately into national systems. Under the family system, the father, that is, the eldest male in the direct ascendant line, was the absolute ruler, with power of life and death over his descendants. He could, and often did, exercise that power. Under the national system it was restricted. The father, or patriarch, could no longer slay at will, with his own hand, but he still had the right to hale a disobedient son before an assembly of the people and have him stoned to death. It is against running the risk of such a fate that the fifth commandment gives warning, not "promise". It in effect says, "Honour your parents, if you would avoid the penalty for rebellious conduct towards them prescribed by the law." The sixth, seventh, eighth and ninth commandments are simply fundamental civil prohibitions, absolutely essential to the existence of organized society in any place or at any time. The tenth commandment shows a logical and ethical advance under the theocracy. Instead of forbidding an act, it prohibits the state of mind from which the act to be avoided might naturally be expected to flow. It is an instance of legislation against sin, conceivable only in a theocracy. Uncontrolled covetousness inevitably leads to concrete wrong doing; therefore it is forbidden by the commandment. As human legislation it is utterly futile, because the forbidden state of mind can be neither detected nor punished. As Divine law against a particular sin, and not with regard to either immorality or crime, it was, and is, worthy of all respect and obedience. The Ten Commandments, on their civil side, are an illustration of the possible minimum, and a suggestion of the justifiable maximum, in public legislation.

These facts indicate unmistakably that the Ten Commandments were in no respect "Moral Law", and that they had little or nothing to do with morals apart from religion. They were in the same class as the Twelve Tables of early Rome, and the probable original of the Brehon Laws of Ireland. They were for the service of a people just emerging from the primitive family stage of progress, through the tribe into the nation. But by constantly hearing the Ten Commandments spoken of as the "Moral Law," and regarding them as such, without understanding their origin and actual content, modern Christian society has come to regard them as a model to be imitated in social legislation with respect to morality or even

sin. And so we are losing in individual liberty where the ancients retained absolute personal freedom, and greatly increased their social security. Words and phrases are exceedingly dangerous weapons on the lips and in the hands of the ignorant.

**T**HE legitimate functions of civil government are the prevention of crime, the preservation of order and the administration of justice—a wide enough field, surely, when the infinite extensions and complications involved are considered. What need is there for legislation to exceed bounds, and meddle with personal morality, which is the concern of unorganized society, or with religion, which is the exclusive domain of the Deity? Sometimes, however, the State does justifiably exercise certain moral prerogatives. It does so by means of judicial decisions, when the courts confirm as positive law popular customs tested and justified by immemorial usage. Or again, by direct legislation, when it makes misdemeanors of special acts found to be inimical to the well-being of society at large.

This latter is the field in which error is easiest, and is most frequently fallen into. It is the chosen field of the "practising reformer" and the chronic "uplifter." These are they who believe that every wrong here below can be summarily righted by legal enactment; and that they are the special depositories of knowledge as to what wrongs should be righted, and when, and how. These are they who go about founding organizations—and usually securing for themselves salaried positions therein—for the enactment into law of some fad or notion of their own, and of a limited number like them. It is they who are skilled, through practice, in taking advantage of the lack of conscience of partisanism, and the weaknesses of politicians, for the accomplishment of their own purposes. The exhibition which we are now witnessing in Russia of how a mere handful of closely organized extremists can dominate and tyrannize over millions on millions of their fellow-countrymen should be a warning to the western world of the perils to be incurred in allowing too much play to group-developed "movements". The better-named the "cause" adopted as an organization specialty, the greater the need of being on guard against it, for a "holy sound" goes far towards moving in a wrong direction masses of people who have never learned to think properly, or are incapable of so thinking. Professional "uplifters" and their "movements" have done more than all besides to bedevil public opinion in the United States, to enslave the popular mind, and bind legislative burdens upon men's shoulders which they are not only unwilling but unable to bear. They are so

brought to contemn and despise law in general, even when legitimate and salutary.

If democracy is ever to be made safe for any part of the world, it must, first of all, be freed from group-domination and direction. No group that can be conceived is at all likely to be wiser or better-motivated than the mass from which it springs, and which it plans to sway by schemes of its own devising. The people, as a whole, of any civilized country are always quick enough to recognize their own interests and take the right steps to protect them. They perceive without difficulty and without extraneous instruction when they are wronged, and know well how to secure their rights. They also know how to shield themselves against ordinary public nuisances, even without the assistance of legislation. When, if ever, it is desirable that any parliament should exceed its proper limits in legislation, and invade the moral or religious domain for supposed exceptional reasons, that parliament may rest assured that untutored public opinion, without any special propaganda, will, if left to itself, promptly advise it. Until such advice is unmistakably forthcoming, all parliaments would be wise to restrict themselves closely to their constitutional duties of regulating individual conduct only in accordance with strict public requirements, while steadfastly refraining from interference with private liberty in purely personal matters, such as what men shall eat, what they shall drink, and wherewithal they shall be clothed.

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**T**O be a Laodicean, that is, neither hot nor cold, with regard to the affairs and interests of one's fellows, may not be considered admirable by the constitutionally enthusiastic. But why one should be definitely categorized among the sheep or the goats, that is, as an "optimist" or a "pessimist", according to one's outlook on the future, it is difficult to comprehend. In the first place, these two words, as now in so many persons' mouths, are modern "journalese", not English. Optimism has nothing to do with the past, the present or the future. It is a matter of faith, and not of assurance. It is a metaphysical creed, not a state of mental or physical buoyancy. In short, it is the doctrine that all things are divinely ordered for the best. Its directly opposite doctrine is pessimism. One might be an optimist, and at the same time one of the gloomiest of beings; or a pessimist, and one of the most cheerful of mankind. One who is to be hanged to-morrow may be a convinced optimist in belief, without contemplating joyously his own approaching execution. Or one may be a rampant pessimist,



and yet look forward with much delight to a good dinner or any other pleasure.

But even when we make application of the words in their popular signification, what is the virtue of the one, or the demerit of the other, except in so far as the present is concerned? One cannot be what either of them implies with regard to the past. Neither can one be intelligently so as to the future, about which we can only conjecture, or guess. Yet one may not look rationally and judiciously ahead, at present, and advise others to make due preparation for what one thinks one sees coming, if one would avoid public reprobation. The simple, though seemingly paradoxical, truth is that one can see ahead only by looking back. It is history alone which tells of the future. The world is like a man fastened with his back to the direction in which the vehicle conveying him is moving. He can see what is ahead of the carriage, and that imperfectly, only if he happens to have a mirror facing him at which he can look, and catch more or less uncertain reflections of what is in front. History is the world's mirror as to the future. Even by means of it, but a short distance ahead can be seen.

What does our available, crooked, cracked and scraped bit of historical looking-glass tell us? We can see, with any degree of certainty, only as far back as the end of the Napoleonic war 110 years ago, or nearly ten years after the close of those wars. What does that fairly sound piece of economic looking-glass reveal? Does it exhibit any other picture than that which the nearly ten years which have followed the Great War have already exposed to retrospective view? There was, first, the momentary collapse after peace; then, the sudden uprising of a one or two-year period of feverish industrial and financial activity, and wild inflation. After that, there came a second flat collapse, followed by long, persistent and deep depression of industry and trade. It was a full ten years before there was any general economic revival; and then but for a brief term. Alternate depression, for relatively long, and expansion, for comparatively short periods, followed one another for nearly half a century. It was not until then that there was any definite indication of the return of general and permanent prosperity. The whole world had been prostrated, and its vital circulation impoverished by war. It had to recover slowly, by industry and economy, with many relapses, due to temporary indiscretions, during its long, slow convalescence.

There is nothing to indicate that the world is in any better economic health or condition to-day than it was one hundred years ago, less than ten years after Napoleon was finally overthrown and

banished. It has spent, relatively, far more money in this war than in that. Many more millions of men are dead or wounded, and far more property destroyed, now than then; industry and commerce have been much more seriously interrupted. It is true that we have vastly greater mechanical means of resuscitation and healing at our disposal than had our grandfathers, but we have indefinitely greater drawbacks than they. We have, for one thing, a radically changed political, social and industrial outlook. The ignorant were then content to be directed by those who knew better. Polite society was God-fearing and restrained, as well as restricted. The kitchen did not ape the drawing-room, nor aspire to enter it on terms of social equality. The labourer was content to work for reasonable wages in accordance with existing economic conditions, and to work honestly for what he received. He had not learnt to keep a constant eye on his employer's purse and account books, to see if he was not being left rather more than the employee could justifiably do without for himself. On the whole, then, are there reasonable prospects of a speedier recovery at present than after the Napoleonic wars—or of as speedy as then? If not, this generation must make up its mind to be as content as possible under an economic cloud, of the permanent or other than temporary lightening of which there can be little expectation during their life-time. If this be "pessimistic," the fault is that of the teachings of history and of sound business.

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**D**EMOCRACY has been responsible for many absurdities, but never, until Canada showed the way, for anything quite so anomalous and ludicrous as the express hiring of a man to oppose a Government established and supported by itself. A judge appointing a lawyer to see that one accused of crime gets justice in his court, and a "Devil's Advocate" in an ecclesiastical council, are at least hoary with age, if not otherwise venerable as institutions. A paid "Opposition" leader is something ordinarily so inconceivable under the sun that Solomon might have withheld his dictum that there is nothing new, could he have foreseen it. It is the giraffe of politics. Almost anybody might be pardoned for swearing, "By gum, there ain't no sich animal." If the leader of one Opposition group in parliament is to be paid, why not the leaders of every other present or prospective group, each of whom is certain to "oppose" to the extent of his ability, in the interests of himself and his party?

Opposition in politics is surely a natural and not an acquired taste. At least it does not require special encouragement, like

fancy stock-breeding. Wherever two or three are gathered together in the name of politics, no one need fear that Opposition will not be found there, in the midst of them, fostering dissensions. If hired opposition is good and useful in that representative committee of the people known as parliament, why not apply the principle elsewhere, as in the Church or in business? Why, for example, should not the stock-holders of a bank employ a man to oppose the chosen board of directors? The idea might be applied in a thousand ways, quite as practically and appropriately as in parliament.

But why blame the people for something they did not directly do or approve, which is "frequent" with the people in their "democratic" capacity—almost as "frequent" as wax in tapers, according to Bret Harte? It was the politicians, in the exercise of their "political" and not their representative functions, who did it. The people had no hint that it was coming. They were neither asked nor permitted to express an opinion concerning it. They have been afforded no opportunity of getting rid of it without a revolution. It is apparently with us in perpetuity, short of a miracle, as certainly as the 18th Amendment is a fixture in the American Constitution. But our neighbours, although in the midst of a violent fit of war-insanity at the time, at least had the glorious satisfaction of voting for what was about the last thing in the world most of them really wanted. Our politicians, when they arranged to provide wages amounting to \$10,000 a year *plus* sessional indemnity of \$4,000, for the hiring of a man to tell them how and when they should vote against an executive committee of their own appointment, and which they could replace any day they might choose, were far from out of their normal minds. On the contrary, they were excessively in them. They knew exactly what they were doing, and why they were doing it.

They were not actuated by sentimentalism, though, of course, their political bowels of compassion were naturally moved by the sight of even one among them seemingly doing something for nothing. It was not that they loved the existing or any prospective Leader of the Opposition more, but that they loved themselves twice as much. Nearly every one of them probably hoped, in his secret heart, that he might one day or other fall temporary heir to that \$10,000, *plus*. Yet even that was not the motive. They were all, on both sides of the House, contemplating an immediate and large increase in each of their own respective parliamentary incomes, which are not given but taken. One dissenting voice might blast their plans, particularly if it were that of the Leader of the Opposition, not as yet hired to oppose. So, with absent-minded

thoughtfulness they gagged him on the spot. Besides, the Leader of the Government might some day revert, under the Constitution, to the place of Leader of the Opposition, and their sensitive hearts could not bear the thought that he should ever be paid less for hindering government than for actually governing, particularly for hindering such a political monstrosity as they were sure their opponents would at once set up, if successful in their opposition.

Thus we have a hired man to oppose and obstruct those whom we pay to govern. He is almost worth the money as a curiosity. No other British country, past or present, can boast of the like. His existence makes Canada unique not only within the Empire but among the nations. He exists as a monumental contradiction not merely of our constitutional history and British character, but of the democracy which has to pay him. He exists as a challenge alike to Christianity and patriotism, to both of which, at least by implication, require gratuitous services, at times, to the public as well as to the individual, for the sake of national righteousness and popular welfare. He exists to prolong senseless debates, to lengthen parliamentary sessions, to keep the country in a constant turmoil of mostly baseless agitation and suspicion, and to cost the taxpayers annually at least a hundred times the amount of his salary. But we have him, because we have him; which, as we all know, is an absolutely satisfactory and conclusive reason to democracy as it lives, moves and has its being.

W. E. M.