

AMERICAN CONSTITUTIONALISM  
VOLUME II: RIGHTS AND LIBERTIES  
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Supplementary Material

Chapter 7: The Republican Era – Foundations/Sources/Constitutions and Amendments/The Eighteenth Amendment

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**The Debate over the Eighteenth Amendment: Prohibition (expanded)**

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*Prohibition was the reform cause of the Republican Era. More Americans at the turn of the twentieth century were members of such organizations as the Women's Christian Temperance Union (WCTU) and the Anti-Saloon League than of any other public interest group. Prohibitionists included among their ranks suffragettes, Boston Puritans, rural sharecroppers, and the Ku Klux Klan. During the nineteenth century, members of this coalition fought for state and local laws banning the manufacture, sale, and use of intoxicating liquors. Experience soon demonstrated that state and local laws were easily circumvented when nearby communities remained "wet." Determined to fashion a "dry" America, Prohibition forces began an aggressive push for a national constitutional amendment.*

*Participants in the debate over the proposed Eighteenth Amendment discussed both the powers of government and individual rights. Proponents of Prohibition insisted that federal power was necessary because drinking was a national problem that state laws could not adequately address. In their view, drinking was a vice and a menace to the public good. Opponents of Prohibition raised concerns about police powers that had historically been reserved to the states. Many insisted that Americans had a fundamental right to drink, beer in particular.*

*Prohibition was more popular among the people than among elected officials. Many members of Congress voted for the Prohibition amendment, confident that the text would not be ratified by the required three-quarters of the states. They were wrong. The Senate approved the Eighteenth Amendment in August 1917. The House approved in December 1917. Thirteenth months later, two-thirds of the states had approved. That most of the nation's brewers had Germanic surnames in the wake of World War I furthered the Prohibition cause.*

*When reading the excerpts of the debates below, consider the place of Prohibition in the constitutional politics of the Republican Era. What were the most important differences between supporters and opponents of Prohibition? To what extent did the debates over Prohibition replay other debates over police powers and the proper balance between federal and state power that took place from 1877 to 1932?*

Committee on the Judiciary, Prohibition Amendment<sup>1</sup>

REPRESENTATIVE CHARLES CREIGHTON CARLIN (Democrat, Virginia), "(Majority) Report"

...

There is probably no other constitutional amendment that has been submitted to the States in the past that has been petitioned for so largely, and it would seem that whatever may be the individual views of Members upon the merits of the moral question involved, the legislative duty to submit it is plain. Therefore, the question submitted by this report to the Congress is not whether the manufacture and sale, etc., of alcoholic liquors shall be prohibited but whether the matter shall be submitted to the States for their determination.

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<sup>1</sup> Excerpt taken from Committee on the Judiciary, *Prohibition Amendment*, 65th Cong., 2d Sess. (1917), Sen. Rep. 211.

REPRESENTATIVE LEONIDAS DYER (Republican, Missouri), "Minority Views,"

I am opposed to the report of the majority. Prohibition ought never to be written into the Constitution of the United States. We ought not at this time, for patriotic reasons, even consider the question. We should put aside every discussion and action that will result in unrest among our people.

...

Beer is preeminently the workers' drink. It is cheap, it is wholesome, and, unless used, to the grossest excess, it can not produce intoxication. It is an important aid in digestion, and it imparts a peculiar zest to the coarse and sometimes heavy food which is carried in the lunch bucket of the worker in the shop or factory. Its mildly relaxing qualities enables the worker to recover from the strain of driving labor more readily than any other agent, and at the same time it contains so little alcohol as to be practically harmless.

The growth in popularity of beer has been coincident with the marked decrease in intemperance and the evils related to that vice. Whereas half a century ago drunkenness was not uncommon among the men of every walk of society, today it is universally condemned by all classes. . . .

With the possible exception of Turkey, all of the European nations engaged in the great war have found it necessary to maintain brewing for the benefit of their troops and their industrial populations. Germany and Austria, as is well-known, serve regular rations of beer to their soldiers. A fixed allowance of beer is part of the Belgium soldier's daily food whenever obtainable. France gives rations of light wine to her troops as does also Italy, but brewing for the use of the civil population has been kept up in both countries.

While the conditions in this country are not altogether the same as they are in Great Britain, it is still a fact that many of our important industries find it necessary to permit their men to indulge moderately in beer in order to get the best result from their work. Some important industrial plants have arranged canteens at which beer is sold, in which respect they are following the examples long demonstrated in foreign countries. Others permit the purchase of beer by their men and the introduction of this beverage into the works at stated intervals. There have been several strikes within the last year in plants where attempts were made to prevent the worker from getting his beer as usual. The demand of the worker for beer and his belief that it is necessary to his well being is striking shown in the petition presented recently to the President and to the Congress, which contains resolutions adopted by labor unions and trades councils representing upward of 2,000,000 American wage earners.

The Congress of the united States should now, as in the past favor genuine temperance and not pay heed to the fanatical and hypocritical cry of those who do not know what temperance is, either in drink or speech.

In the House of Representatives in 1789, Madison, moving to lay a duty of 8 cents on malt liquors, hoped "that this rate would be such an encouragement as to induce their manufacture in every State of the Union."

At the great Federal festival held in Philadelphia July, 1788, celebrating the ratification of the new Constitution by 10 States, American beer and cider were the only liquors used.

Beer is recognized as a temperance agent in Switzerland, and the Dutch and Belgian beers are classified as soft drinks. . . .

The manufacture and sale of beer is a distinct benefit to the cause of temperance. That can not be denied. The proof is ample and at hand. In addition to that the Government derives a great deal of revenue from its sale. With prohibition that is all lost to the Government.

REPRESENTATIVES WARREN GARD (Democrat, Ohio) and HENRY J. STEEL (Democrat, New York), "Minority Report"

...

Men of affairs, practical men, must recognize that the war is to be won quite as much at home as abroad and that the workingman is the man who is to contribute in large measure to the efforts which are to be made for the winning of the war.

The realization must come to legislators that a very large percentage of American citizens, loyal American citizens, do not favor absolute prohibition, and it is unquestionably the proper policy to have people satisfied with living conditions and harmonious endeavor to win the war.

...

The proposed amendment, with the exception of exportation, prohibits merely the sale of intoxicating liquors for beverage purposes and in no way seeks to control the personal use of such intoxicating liquors, no matter how unbridled may be that use.

Under this proposed amendment one may import for his own use the most powerful and noxious of intoxicating liquors and drink the same without legal hindrance, to the possible detriment of himself and those about him, and may give to any to whom he cares to do so any quantity of any intoxicating liquors.

There is no safeguard for the minor or the drunkard, no restriction and no control in the individual use or gift of any intoxicating liquors.

...

Overindulgence in alcoholic drink is an evil which in this proposed amendment is given assistance and, indeed, legal sanction. In staking all against the "sale," there is apparently no thought given any supervision or control to any other matter affecting the use of intoxicating liquors, least of all to protect an erring individual or his hapless companions.

...

Its interference with the police-power of and supervision and control by the several States.

There is no question but what in the administration of any law affecting the sale, manufacture, importation, exportation, or use of intoxicating liquor the power to supervise and control such matters must rest in a definite and decided governing body. In other words, this control must be had either by the individual State or by the United States.

...

With the passage of the proposed amendment all the State police power and its agencies would be done away with and to the United States would be given the duty of inspection of premises and the detection of all violations of the liquor laws.

With all questions relative to making the sale of liquor illegal, this would necessarily result in the United States employing in every State within its borders a vast number of liquor spies and would mean that the heretofore limited jurisdiction of the criminal law of the United States would be extended so as to include every offender, who would be arrested and taken before a Federal examining magistrate, possibly committed to a United States jail, all at tremendous expense of time and money.

It would mean that the regulated and competent machinery of a State to govern its own internal affairs would be taken away and the ineffectual and clumsy machinery of the laws of the United States substituted for it.

Local governments have always, and inherently, had the power of self-protection; yet by this resolution, if it is to be given any practical effect at all, can be substituted the paid espionage of United States agents who, in the proper performance of their duties to determine whether intoxicating liquor was manufactured for sale, would be empowered to enter the home of any person in the land to learn if any distilled or fermented alcoholic beverage had been therein made.

The temper of the great bulk of our people, themselves law-abiding and law-enforcing, will neither relish nor tolerate the inspections and seizures which are not only possible and permissive under this law, but positively necessary if it be enforced at all.

...

Another question of practical importance concerns the paying of compensation to those who have property rights connected with the manufacture and sale of alcoholic liquors.

It will be contended, of course, by those who favor this resolution that every person who placed any amount of money in any industry which had to do with anything pertaining to alcoholic liquors did so with the full knowledge that the business was illegal and that, therefore, he could have no recompense for property rights lost. On the contrary, the United States and the different State governments have recognized this traffic as being a legal one and have granted certain licenses or permits for the sale of alcoholic liquors and have permitted their manufacture, importation, and exportation.

...

Salutary laws and the proper enforcement of them must be the aim in good government.

The cause of temperance is indeed a great one, possibly not as it is properly understood, but a temperance in living, speech, and thought as well as the more material things like eating and drinking.

Without decrying the work of the sentimentalist or reformer, it seems to us that the best work for the cause of temperance is the work of education and example.

The person who indulges to excess in intoxicating liquors is everywhere frowned upon; he is welcomed neither in society nor in business.

...

To determine whether a matter wholly within the police power of the State should be a law is best determined by that State, having full knowledge of its people and conditions, and the very best result is thereby obtained.

The thing to be accomplished is a constructive temperance reform, and necessarily this can best be accomplished through educational and possibly legislative measures by men and women who can calmly and sanely speak and teach with knowledge of the experience of many peoples through many years.

Coercion alone will not prohibit, neither will it inculcate temperance, for temperance and indeed prohibition depend upon changes for the better in habits and conditions which are only brought about by a realization of benefit obtained through moral and educational appreciation.

The personal use of beverages containing any percentage of alcohol may be a moral question, but the manufacture and sale of any such beverages and all regulations thereof are matters of government, and therefore we deem it our duty to submit to the House of Representatives for its information this record of our conclusions made after careful consideration, recognizing conditions as they exist and desiring to do that which in this legislation and its enforcement will be best for society.

REPRESENTATIVE JOSEPH WALSH (Republican, Massachusetts), "Minority Views"

...

In my opinion the regulation, or restriction, of the manufacture or sale of intoxicating liquors is not a proper subject for constitutional amendment.

The evils resulting from the use or abuse of intoxicants are unquestioned, but the correction or eradication of this is, in my opinion, a matter solely for legislative enactment. The proposed method will be to convert the Constitution into a mere criminal statute, and we ought not to offer an opportunity for this to be done.

*The Senate Debate*<sup>2</sup>

SENATOR WILLIAM CALDER (Republican, New York)

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... Whisky is the wrecker of homes, the demoralizer of men's minds, and I shall vote whenever the opportunity offers to prevent its manufacture and sale.

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<sup>2</sup> Congressional Globe, 65th Cong., 1st Sess. (1917), 5636-66.



The amendment is of far-reaching importance. It affects the habits and customs of the people. Forty percent, or over 2,400,000, of these residing in the city of New York are of foreign birth; 78 percent are of foreign birth or of foreign or mixed parentage. Only 22 percent of the total of six million odd people of that city were born here of native parents. That same proportion will hold good in nearly every large city in the country.

These people have fixed customs. It is the habit of the great bulk of them, occasionally and moderately, to partake of beer and light wine.

Now, while we are engaged in a great war, to take that from them would, I very much fear, bring serious dissatisfaction and distrust of the good intentions of the Government. A great proportion of our people regard it as a necessity, a part of their everyday life.

Mr. President, we are working out many problems in these days to which all of us must give our very best thought. I am thinking of the contentment of our people. Its importance can not be overestimated. We are organizing and working the great industries and resources of this country so as to produce the greatest and best results. To do that it is all imperative that we have the whole-hearted and enthusiastic help and cooperation of every individual. Will it help, or will it harm, to say to the average man that he shall not have something to which he has long been accustomed, and causes no appreciable if any detriment to his physical well-being? Shall we deny to him something which he honestly believes to be a necessity? Is this going to produce more of all the things we need to prosecute vigorously the pending war? Or will it lessen the interest of our workingman in the product of his toil and his contentment, confidence, and trust in his Government.

...

SENATOR BOIES PENROSE (Republican, Pennsylvania)

...

I shall vote against the resolution, Mr. President, regardless of the merits or demerits of the proposition contained therein. In my opinion the resolution constitutes a radical, revolutionary departure from the fundamental principles of the American Government.

Serious doubt may be expressed whether any amendment to the Constitution may properly be placed in that instrument which, without the consent of all the States, would deprive any one of them of one or more of the several reserved powers. . . .

...

The police power is the most vital of all the reserved powers in the States, but under this proposed amendment certain States in the Union which did not, in 1789, and in all likelihood now, could never be made to surrender the police power to the Federal Government, will find a large part of that power wrenched from them, not only without their consent but in defiance of their wishes.

...

The proposition is intrinsically and radically vicious and intolerable. Legislation of this character, in my opinion, ought to be preeminently and primarily of strictly State concern. There are many States now having prohibition laws where the people acquiesce in them more or less willingly; but if these laws had been handed to them by a mandate from a central authority in Washington, the result in many cases would have been resentment and revolution.

The only practical way to establish prohibition or any other police proposition over an area of country is through the agencies of the States. Otherwise, it would take an American army to enforce it.

...

It, in my opinion, will be inevitable that our system of government will break down if we continue the course which has been followed during the last few years of centralizing everything in the Congress of the United States here in Washington. I believe that the doctrine of State rights, which was once so vigorously maintained by great men in the Senate, and concerning which a great civil war was fought, is more important today than at any other time in the history of the country, in view of our tremendous growth of population and resources and wealth and diversified interests.

SENATOR WILLIAM KENYON (Republican, Iowa)

...

No one rises on this floor or elsewhere to defend the American saloon directly. The American saloon has no conscience. It never did a good act or failed to do a bad one. It is a trap for the youth; a destroyer for the old; a foul spawning place for crime; a corrupter of politics; knows no party; supports those men for office whom it thinks can be easiest influenced; has no respect for law or the courts; debauches city councils, juries and everyone it can reach; is powerful in the unity of its vote, and creates cowards in office.

It flatters, tricks cajoles, and deceives in order to accomplish its purpose, is responsible for more ruin and earth than all the wars the nation has ever engaged in; has corrupted more politics, ruined more lives, widowed more women, orphaned more children, destroyed more homes, caused more tears to flow, broken more hearts, undermined more manhood, and sent more people to an early grave than any other influence in our land.

Its day has come. No subterfuge can long save it. It will be drafted into the open, the influences behind it stripped of their masks. A mighty public conscience is aroused, moving on rapidly, confidently, undismayed, and undeceived. Behind it are the churches of the Nation—Protestant and Catholic—schools, colleges, and homes. This public conscience is not discouraged by defeat or deceived by any cunning devices, by any shams or pretenses. Its cause is the cause of humanity, of righteousness, and God Almighty fights with it.

It has no desire to injure the saloon keeper. It would help him, but it asks no quarter of the saloon and it proposes to give none. The forces fighting the saloon are no composed of mollycoddles. The most far-seeing business minds of the country are in the ranks.

Men will have to take their places in this fight. They can not sit on the fence. This fight is no place for the political coward to stand between the lines. He will be shot from both directions.

No denunciation, no slurs, no jests on the floor of the Senate, no hurling of epithet, no cheap ribaldry in the cloakrooms will stop this fight. It is going on in Congress, and it is going on in the Nation until the tear-producing, orphan-making home-wrecking, manhood debauching, character-destroying, hell-filling saloon is just as certainly doomed as slavery was doomed.

A saloonless Nation means an efficient Nation, better able to cope with any problem threatening it from without or within.

SENATOR ATLEE POMERENE (Democrat, Ohio)

...

... I believe that the principles of democracy are best conserved when we deal with all subjects in a spirit of moderation rather than by following the extremist on either side of any question. ...

...

In my judgment the result will be much more satisfactory if this question is left to the people of each individual State to determine the kind of legislation they want upon the subject. ...

SENATOR HENRY MYERS (Democrat, Montana)

...

There are many things which are now on the statute books of our country by virtue of national legislation which in the beginning of our history were not considered proper subjects of national legislation. Pure-food control, sanitation, child-labor regulation, limitation of hours of labor for men, women, and children—all these things were attained in the face of intense opposition. It took time and toilsome effort. The people in attaining them were fettered by traditions of the dark ages of the past, but by persistent effort they emerged and came out in the bright sunlight of a better day.

I believe that the people of this country, through an enlightened conscience and a sounder public opinion, have about arrived at a point where they are ready to adopt by a national constitutional

amendment national prohibition of the manufacturer and use of liquor. The time has come to strike for it. The people are ready to pass on it. They want a chance. It is the sense of an enlightened public, sustained by the best professional and scientific authorities, that the use of liquor has no merit in it, neither as food nor medicine. It is a palpably evil, socially, physically, morally, politically, economically. The progress in this reform has been slow, but steady and sure, and I believe the day for marking the milepost of that achievement is finally at hand.

...

SENATOR ALBERT CUMMINS (Republican, Iowa)

...

Many things have become national, Mr. President, since our forefathers adopted the Constitution in 1789, and this is one of them. Every vital matter of legislation, every question which now deeply concerns the people of the United States, finds its way eventually to the Congress of the United States. It is for the Federal power to give this country stability or confer upon it weakness. The General Government is vastly more concerned in the habits of the people, in their strength, in their sobriety, in their efficiency, than any State government can be.

SENATOR JOHN WEEKS (Republican, Massachusetts)

... [I]t must not be forgotten that while there are two distinctly differing interests in this matter—those who are constitutionally opposed to the sale of liquor, believing it to be without excuse, and those engaged in the liquor business—yet, as a matter of fact, these two classes comprise a very small part of the population of the country, and it is unfair and unreasonable to include those who oppose this measure—a measure which is of momentous importance in connection with our organic law—among the exponents and protectors of the liquor traffic. There are millions of people in the United States who do not sell liquor, but who do occasionally like to drink it; there are other millions who are quite indifferent to drinking, but who believe it unwise and inexpedient to interfere with the action of other citizens in such matters, and they honestly believe that national compulsion in a matter of this sort, where every State wishing to be dry is now fully protected in its rights, is a disastrous blunder.

Climatic, racial, and social conditions, as well as density of population, vary so greatly that a solution which might logically apply to the smaller and more sparsely settled States would not apply with equal force to the larger States, and especially in those States having cities with great populations, like Boston, New York, Philadelphia, Baltimore, Cleveland, Detroit, Chicago, and St. Louis. . . .

I am now, and always have been, a believer in local option, and firmly believe that this is a question which should be decided by the people of the several States in accordance with their own wishes. The police powers are inherent in the States, and the question of controlling the sale of spirits largely comes within that constitutional provision.

Formerly there was some logic in the position taken by many that if liquor were sold in any States it could be shipped into other States against the wishes of the people of the States that had adopted prohibition. That condition has been cured by the Webb-Kenyon bill, for which I voted, which prohibits the shipment of liquor into dry territory; and the act making this prohibitive has been declared constitutional by the Supreme Court, so there is no possibility of such complaint if the officers of the States are attending to their duties.

...

No law can be enforced unless it accords with public sentiment; in face, when a law does not conform to public sentiment, ordinarily, there is no attempt to enforce it. . . .

Those familiar with Maine politics will justify me in saying that during all this time prohibition has prevailed in Maine it has been one of the campaign issues which, perhaps, has been discussed more than any other question and has prevented in many instances men making their natural political alignments. I personally believe that one of the more desirable conditions in our form of Government is that there shall be two active, vigorous, contesting political parties, divided along the lines of industrial

and other questions forming the usual basis for political differences, and that introducing any questions into our political life which distracts from those conditions breaks down political parties and, therefore, is essentially harmful.

I do not wish to unnecessarily emphasize the financial phase of this question, for if all the people of the country should decide that they prefer to raise the revenue incident to this business in some other way I should not care to advance that argument in any form, but, as a matter of fact, it has been a large factor in our national revenues, and when we return to normal times we shall find some difficulty and a good deal of opposition to substituting other sources of revenue for it. Neither can the revenue question be entirely confined to national receipts; they are important in a local way. All large cities, which vote more or less frequently on the subject and vote for the maintenance of the license system, obtain from this source a very considerable revenue, which will be taken from them against their will if this proposition prevails. Then, again, there is no attempt made by the proponents of this legislation to make provision for any compensation on account of the destruction of a business which has continued to exist during the entire life of the Republic by national license. I am opposed to confiscation of property in any form at any time, whether or not I entirely approve of the individuals engaged in this business or the character of the business conducted. When we propose confiscation we are inaugurating a policy which is likely to be most far-reaching in its effect. Some one may conclude that some other form of business is not entirely for the public interest, and the fact that we have established a confiscation precedent may result in its being extended to other fields.

Finally, it seems to me that the individual has rights which should be protected. The vast majority of those who indulge in stimulants, in these days especially, do so to a very moderate degree. I am not satisfied that the multitudinous statistics which are given out about the harm coming from wines and light beers are well founded. . . .

There are innumerable things in which we indulge which are undoubtedly more or less harmful to individuals, and I think that statement would be equally true in its application to food consumed in unreasonable quantities and at unreasonable times.

When the rights of individuals who are temperate are taken from them, not by those living within the same political division or even by the same number of people in some other political section, it seems to me that the action is illogical, unfair, and from every standpoint undesirable. I firmly believe that the world is advancing satisfactorily in its relation to this question; that the good old times are a myth, as far as it is concerned; that the modern business man or professional man will not tolerate in an associate or employee a failure to observe proper temperance rules; and anyone who observes the social practices of today and compares them with those of 25 years ago must readily admit that gradually we are coming to a real temperance in the use of all forms of stimulants, and a temperance which not only satisfies the individual but does no real injustice to the community. Progressive as we are in this respect, it seems to me particularly unfortunate that what many will consider an unreasonable course is likely to be taken by the National Government. They will resent it, and properly so, in my opinion. I honestly believe that this ill-advised attempt, if it succeeds, will be harmful rather than beneficial to real temperance. I see moderation in the use of stimulants as in all other matters, but I am fearful that the result will be unsatisfactory even to those who are most urgent in pressing this proposition.

SENATOR LAWRENCE SHERMAN (Republican, Illinois)

...  
Drunkenness is the monarch of all human vices. Other evils are its mere satellites. It permeates and poisons and rots every department of life and every avenue and faculty of the human body. Once in a distant age intoxicating liquor was the supposed instrument of fellowship and good cheer. It is now the debased and adulterated instrument for the exploitation for profit and the promotion of personal vices. It has grown to astounding proportions. The longer it continues the greater its evil and the more potent its strength. It has entrenched itself with human avarice and become its ally to exploit the pitiable weakness of humanity to accumulate fortunes. The men who have made it their instrument of pecuniary gain have assumed to control political parties, to threaten candidates, to decide elections, to administer civil



government, to make new laws, to promote profitable evils, and contemptuously to break existing laws they can not repeal.

The liquor interests have written their own indictment and accumulated the evidence justifying their own extinction. The breweries have been asked for years to cease to promote the disreputable and irresponsible saloon keeper. They have been asked to clear up the vicious resorts that have been a bane and a menace to decent communities. Their reply was a sneer and the statement that it was the brewery's business to make and sell beer. Whisky has been denounced as a dangerous beverage and restraints demanded for more than half a century.

The answer has been opposition or abuse of those who would regulate as well as those who would prohibit. All who have asked that present laws be obeyed have been stigmatized as fanatics, and fresh infractions of regulatory laws have followed every effort for their enforcement. Wine growers have been advised of the evils gathering about their heads. They, too, have been deaf to the developing hostilities of this generation to intoxicating liquors. If they are caught in the whirlpool of an aroused and righteous indignation, they will but suffer the penalty resulting from their indifference or open sympathy with the more culpable of their kind. A business whose system is lawlessness and whose finished product is a drunkard ought to have no lawful abiding place in this Republic. It is an outlaw measured by its practices and a criminal tested by its results. A business that will not be regulated by law must at least be destroyed by law. The traffic in intoxicating liquor has refused to be regulated, and therefore earned the penalty of legislative extinction. Its promises of reformation are to be weighed in the light of its past performances. The breweries efforts to reform the saloon keep are to be measured by their creation of his disreputable kind.

...

SENATOR THOMAS STERLING (Republican, South Dakota)

...

Mr. President, the liquor traffic is an evil, and I think we must all admit it, from the economic point of view. Indeed, it is from that point of view that it is now for the most part being considered; but it is an evil from the moral point of view. It is an evil from the political and social point of view. It is an evil from the physiological, the health, and the medical point of view. . . .

...

Mr. President, it has been said by one great writer and critic of our institutions, still living, and one whom I think sympathizes with and appreciates them as no other foreign critic has done, that the United States disclose a type of institutions, one growing out of the principle of the rule by the multitude, toward which all the rest of civilized mankind have been forced to move as by a law of fate, some with swifter, other with slower, but all with unrelenting feet. A splendid thing it will be in the United States of America, this great Republic of the west, toward which other people have looked as an example of free institutions, they can also look as an example on this great economic and moral question involving as it does the sobriety, efficiency, the happiness of many millions—an example toward which they, whatever their practices and traditions are, may move, "some, indeed, with swifter, others with slower, but all with unrelenting feet."

SENATOR WILLIAM KIRBY (Democrat, Arkansas)

...

I believe this proposal shows a distinct advance in the development of the civilization of our time. This is but another phase of the world-old battle of right against wrong, another phase of that everlasting conflict between the forces which conduce to uplift and upbuild the race against those which tend to tear down and destroy it.

Today I am glad that I can add my voice in support of this resolution, leaving to the people of the States of this greatest of all nations to say whether we shall longer be inflicted with the open saloon and

the liquor traffic, from which we have suffered so terribly in times past, with its innumerable difficulties and obstructions thrown in the way of our progress.

Mr. President, the saloon and the liquor traffic have been convicted at the bar of public opinion of being an enemy to mankind, to the individual, to the family, to the home, the community, the State, the Nation, and the race; and this is but an effort today in self-defense, and I am glad to support it.

We must play the game according to the rules. I have but little patience with those Senators who insist that the people of the State of Arkansas, because it does not have as much population as the State of New York, are not entitled to as great weight in the adoption of this resolution into the national Constitution as other States. The people when we established the Union said that this Constitution must be amended in a particular way, and prescribed the rules therefor, and according to those rules this matter must and ought to be determined.

...  
All of us understand what the liquor traffic means. All of us understand its past. All of us understand that it has been the corrupter of honesty and a destroyer of virtue and a murderer of happiness throughout this whole land. There is no excuse for its longer continuance now, and there never was any substantial reason for its inexcusable reign.

SENATOR WARREN HARDING (Republican, Ohio)

...  
I do think it unwise, imprudent, and inconsiderate to force the issue at this time. I do not question the sincerity or the high purpose of the prohibition forces, but I do believe, and very sincerely, that it is a great imposition on Congress and a great misfortune to the country to divide American citizenship into two hostile camps over this question of personal liberty at a time when we ought to be promoting the concord of citizenship that is essential to win this war. ...

I do not think a prohibition amendment will be effective, Mr. President. You can not make any law stronger than the public sentiment which sees to its enforcement. I have watched the progress of this question from the conflict in the hamlet to the municipality, to the country, the State, and the Nation, and while I stand here and freely express my doubts about its practicality, at the same time I recognize that it is growing and insistent and persistent and it must be settled.

Ever since I have been in public life in a small way I have seen men continually measured by the wet and dry yardstick, and the submission of this amendment is going to measure every candidate for public office by the wet and dry yardstick until the final settlement. When I say that, I have expressed my strongest reason for putting a limitation upon the pendency of the amendment. I want to see this question settled. I want to take it out of the Halls of Congress and refer it to the people who must make the ultimate decision. I want to meet the demand for submission, and witness a decision.

SENATOR FRANCIS E. WARREN (Republican, Wyoming)

...  
I can not give my support to the joint resolution, because I believe, and I think my State believes the same way, that the police powers should be provided by State legislation and rest with the people rather than that the United States should usurp those powers.

It has been and is my belief that each State should have unrestricted control of its police powers, and I think the Supreme Court of the United States has held in various decisions that the police powers of a State within its own borders are paramount and can not be lawfully interfered with even by the Federal Government. ...

...  
Control of the liquor traffic is essentially a police power vested in the individual States. We of Wyoming think we know how to exercise that power so as to conform to the wishes of our own people. We do not assume to have the knowledge of conditions and views in, say, the State of Texas to the extent that we should frame the laws of that State in regard to the liquor or any other business which is carried

on within its jurisdiction. At the same time we do not concede that the people of Texas know us well enough to make our Wyoming laws.

...

I have believed and I believe now, that progress can be truly made faster where we go just fast enough in these lines of reform so that our laws are obeyed and administered actively and completely. There are States in the Union that are ostensibly "bone dry" that put to shame, through the use of liquors and through intoxication, some of the States that are under license.

...

SENATOR J.C.W. BECKHAM (Democrat, Kentucky)

...

Alcohol as a beverage has been unmistakably and unanswerably stamped by the medical profession, by other scientists, by the best thought of the age, as a poison. It has been shown by overwhelming evidence that when so used even in moderate quantities it is a positive injury to the human system. It weakens the body, it blurs the mind, it invites disease, and it destroys the soul of man. It produces more pauperism, more crime, more sorrow than all other causes combined. It is the prolific mother of prisons, jails, insane asylums, and almshouses. It has no friends left, except those who manufacture and sell it and make a profit out of the business it is a curse against which widows and orphans and sorrow-stricken people in every community in our land have lifted up their prayers and have petitioned their Government to abolish.

No one can now stand before an intelligent audience and defend the existence of the saloon. That evil institution is now recognized as one without a saving grace and as the chief breeding place of human misfortunes and tragedies. That the saloon is doomed is a fact now generally admitted, and another generation will marvel at the patience and forbearance of this generation in tolerating it so long. No State nor city nor community has abolished the saloons that has not been greatly benefitted in every way by doing so. Prohibition is not only a moral but also an economic blessing to any State that adopts it. As a revenue producer the liquor business is worse than a failure. It gives only a small percentage of the larger sums it takes from the consumers in the support of Government and it weakens the taxpaying powers of the people among whom it is tolerated.

If, therefore, Mr. President, the saloon is bad, what good can there be in the distillery or the brewery whose business it is to manufacture supplies for the saloon? If the one is abolished, why should the other remain? It has been estimated that the amount wasted in this country each year for alcoholic drinks amounts to nearly two and one-half billions of dollars. Think of what an enormous and inexcusable waste of our national wealth, to say nothing of the infinite harm, that its use inflicts upon the people. No good whatever comes from that staggering expenditure, and it is all absolute waste. What a tremendous saving of our national wealth can be accomplished by stopping it altogether. Let the people of this country have the opportunity in the constitutional way to express their wishes in regard to it. Let this Congress at least respond to this unmistakable demand and give the people a chance through their States to ratify this amendment.

SENATOR JOHN SHAFROTH (Democrat, Colorado)

...

It is needless to say, Mr. President, that the use of intoxicating liquor has been demonstrated by the medical fraternity to be most deleterious to health. . . .

Mr. President, a powerful reason why the States should have enacted legislation establishing prohibition is found in statistics which show that the paupers in prohibition States are only 46 to every 100,000 of population, that in the near prohibition States they are 54, that in the 13 partially licensed States they are 123, and in the 9 license States the ratio is 127 paupers to every 100,000 of population.

Statistics taken from the United States census reports show that in prohibition States only 118 are insane to every 100,000 of population; in near prohibition States the number is 150, in partially license States it is 242, and in license States it is 276 insane out of every 100,000 inhabitants.

The increase of the products of manufacture in States during the 10 years preceding 1909 has likewise shown the advantage of prohibition. In dry States the increase of products manufactured has been 116.3 per cent, in near prohibition States 85.6, in partially license States 82.2 per cent, and in license States 73.7.

The United States census reports also show that the number of crimes committed in prohibition States is far less than in the States where liquor is sold. It is the saloon that attracts the criminal, and it is the saloon that lures so many of the young men of our country to their destruction.

...  
These are some of the reasons why the States took hold of the question and passed the high license and prohibition statutes for cities and towns and finally for the States themselves.

Yet Mr. President, notwithstanding these laws, we have not been able to enforce absolute prohibition. And why? It is because surrounding the States that have established prohibition are States that declare it lawful to sell intoxicating liquors, and it is impossible to prevent the importation of liquor into prohibition States so situated. Consequently, notwithstanding prohibition has been extending until now it is the law in about 26 States, yet it is impossible to enforce absolute prohibition under that system.

...  
The National Government can more certainly enforce its liquor legislation. The federal courts are feared, and hence laws will be observed. As a State can not under our dual form of government establish complete prohibition, any State is justified in urging a national constitutional amendment for prohibition for its own protection. Otherwise 36 States could not protect themselves against 12 Commonwealths. What a great interest, then, has the Nation to see that her citizens are preserved, ready to defend her in all times of stress and need.

SENATOR JAMES VARDAMAN (Democrat, Mississippi)

...  
As has been so clearly and conclusively stated on the floor of the Senate this afternoon, the liquor traffic is probably the most insidious economic enemy to the human race and liquor itself the most destructive poison that ever polluted the blood of men or fired the heart to dastardly things.

...  
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SENATOR WILLIAM STONE (Democrat, Missouri)

... The merits of the proposal [to require "Congress . . . [to] make provision for the ascertainment and payment of damages for the property employed in the manufacture of said liquors resulting from the enforcement of the" proposed Eighteenth Amendment] rest on the eternal, fundamental principle of right that the Congress—aye, even that the people of the United States themselves—can not take private property of private citizens without just compensation. An act of that kind would be fundamentally wrong and violative of public morality.

SENATOR CHARLES CURTIS (Republican, Kansas)

Mr. President, I am opposed to the amendment offered by the Senator from Missouri [Stone]. I see no reason why it should be adopted. The people who are engaged in the brewery and distillery business are engaged in a business that has been declared by the Supreme Court of the United States to be of such character that if the legislature of a State, and therefore if the Congress of the United States, should legislature them out of business, they have no right to claim pay for their breweries and for their distilleries.

...



SENATOR SHAFROTH

...

It is based upon the general police power of the State to prohibit nuisances; and whenever a business is engaged in which, in the judgment of the State, is detrimental to the public health it has a right to prohibit it without any payment of compensation. . . .

...

Everybody who engages in the liquor business knows full well when he enters it that the State or city has the power to impose such high license as will put him out of business and the power to prohibit the sale of liquor without any compensation to him. He therefore takes that into consideration when he establishes his business and relies upon large profits to enable him to take the risk.

SENATOR JAMES PHELAN (Democrat, California)

I was just approached by a Senator strongly in favor of prohibition who believes that distilled liquors—and distilled liquors only—are distinct injury not only to the country in time of war but to the country in times of peace, and that their manufacture consumes valuable foodstuffs. He will favor, however, my amendment. We are in favor of putting a prohibition upon the manufacture of whisky; but the wine of the people, the beer of the people, which has done so much for the Latin countries, the people, which has given perhaps much of the fortitude and valor not only to the French but to the Germans, showing that it can not undermine their ability as fighting men nor undermine their ability in the field of arts and letters, in science, and invention, nor diminish, in the least degree their very great and considerable ability, should not be considered in the same category as distilled liquors.

...

SENATOR JOHN WILLIAMS (Democrat, Mississippi)

...

I heard an argument this morning from the Senator from Montana [Myers] defending the very general proposition of taking slave property from the people of Kentucky and Maryland and Delaware who had never even seceded, without paying for it. History condemns it, and history will always condemn it. Slave property might have been wrong in principle, but the Constitution had granted it, the laws had granted it; and except where a State had seceded and declared war against the United States Government, and therefore subjected itself to the rights of war rather than the rights of peace, you committed robbery and brigandage and stealing when you took their property without due compensation. It rests as stain upon your escutcheon until yet.

...

. . . If you are going to stamp property out of existence [the reference here is to property in intoxicating liquors], you ought to pay for it. You have no more right, as a legislator, to vote for a proposition that does that without indemnity than you have right to take a dollar bill of mine, accidentally left upon this desk, and put it in your pocket.