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NATIONAL PROHIBITION—WHAT FORM SHOULD IT TAKE?

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IT has been suggested that the amendment to the Constitution of the United States respecting National prohibition of the liquor traffic should be in such form as to permit Congress to prohibit the traffic at some future date, rather than take a form under which the people prohibit it directly and forthwith—that is, that it should follow the form of the Income Tax Amendment rather than the Slavery Amendment.

This proposition seems to overlook the essential fact that the prohibition issue is inherently akin to the slavery question, but in no sense analogous to the income tax case. The Income Tax Amendment was adopted for the purpose of *allowing* something, but the prohibition amendment is designed to *prevent* something. The income tax proposition is comparable, in terms applicable to the liquor question, to the establishment of a system of license, regulation, and taxation. An amendment involving such aspect of the liquor question, in case such power did not already exist, would of necessity take the permissive form. But the prohibition amendment proposition before the country to-day is headed in the other direction.

The advocates of the permissive form say that the function of a constitution is "the definition, division, and delegation of power"—that is, to permit Congress to pass laws according to a well-defined policy. Then surely the declaration of a fundamental policy of prohibition is proper according to this standard.

Perhaps this attitude is based upon earlier and erroneous conceptions of what a prohibition amendment was likely to be. It would be hopeless to try to define in an amendment the purposes, medicinal, sacramental, chemical, mechanical, etc., for which alcoholic liquors might still be made and sold after its adoption, or to provide the amounts that might be sold to an individual, or the frequency of such sales, or any of the various other things that readily suggest themselves. But the form of amendment actually before Congress is in full as follows:

ARTICLE —

Section 1. The sale, manufacture for sale, transportation for sale, importation for sale, of intoxicating liquors for beverage purposes in the United States and all territory subject to the jurisdiction thereof, and exportation thereof, are forever prohibited.

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Section 2. The Congress or the States shall have power independently or concurrently to enforce this article by all needful legislation.

This merely prohibits the *sale*, and the things incidental to *sale*, for *beverage* purposes, and gives Congress power to pass further legislation consistent with the defined policy of restriction. That is, in fact it both "defines power" as the advocates of the permissive form urge, on the one hand, and "delegates" the details to Congress as they advise, on the other.

This form of amendment, because of its simplicity and reasonableness, was approved by an almost unanimous vote at an open conference of all of the temperance agencies of the Nation, and was adopted by the National Prohibition Amendment Commission created by that conference with power to act. The overwhelming majority of the temperance forces are united on it. The real issue is that amendment or nothing.

The permissive form of amendment which has been suggested would be opposed just as hard by the liquor interests and would keep the liquor question in National politics, making it the dominant issue in the election of members of Congress for years after its adoption, whereas the mere submission by Congress to the States of the amendment above quoted will take the question out of National politics, its ratification being purely a State matter. Further, a Federal statute passed under a permissive amendment could be repealed by the next Congress, and even after the question was supposed to be settled it would still be made an issue in the election of Congressmen by desperate liquor interests seeking to come back, thus side-tracking everything else and bringing into Congress the degree of corruption that exists now in State legislatures, especially in States with big cities.

The securing of a permissive amendment would be an empty victory. It would be like taking prisoners of war and allowing them to retain their guns, for the liquor traffic would still be on the job with its vast corruption funds, buying political bosses, terrorizing candidates, and controlling politics. On the other hand, the adoption of a straight-out prohibition amendment would at once give the advantage of position to the moral element. It would take the Government out of complicity with the liquor traffic. It would destroy the political power of the traffic, and thereby prevent effective organized resistance to the enforcement and supplemental legislation which will be necessary to secure practically perfect results. It would allow the policy of prohibition to be tried out on its merits.

Finally, a permissive amendment, merely allowing Congress to pass a prohibition statute, would be useless and a waste of effort, for identically the same purpose can now be served without an amendment by Congressional action in putting a tax of $1,000 a gallon on alcoholic liquor, since Congress can at any time destroy the liquor traffic by the use of its taxing power.

The main reason why the prohibition amendment is being pressed in its present form is because it is desired, so far as possible under existing conditions, which require ratification by States, to secure "*prohibition with the people behind it*," in order to settle for all time this fundamental question of National morality.

[We agree with Mr. Anderson, one of the most reasonable, practical, and effective opponents of the liquor traffic whom we know, that the Federal regulation of this traffic is a "fundamental question of National morality." The relation of the Federal Government to the business of manufacturing and selling alcoholic intoxicating liquors is no longer a speculative problem of private morality, but has become a public question of growing intensity. It is not merely a problem of prohibition, but it is a problem of how prohibition can be effectively enforced. The attitudes of the Governments of Russia, Great Britain, and France towards the sale of alcohol as a beverage under the stress of war show conclusively that it is a public and not a private question. We are in deep sympathy with those men, like Mr. Anderson, who are fighting the acknowledged evils of the liquor trade. Alcohol is being attacked by railway managers, manufacturers, employers, and leaders of labor because it promotes wasteful, terrible, and expensive individual inefficiency. It is being fought by the Governments in Russia, France, and England because it promotes social inefficiency. We have favored the permissive Constitutional amendment, instead of the prohibitive Constitutional amendment, both because of the Constitutional arguments which Mr. Anderson describes in the foregoing article and because we have believed that the Congress of the United States ought to be more thoroughly informed than it is at present on the subsid-

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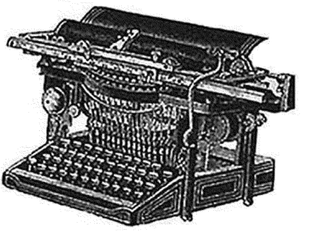
iary questions involved in National prohibition before it endeavors "to settle for all time" the relations of the Federal Government to the liquor trade.

For this reason we advocate the appointment by the President, under Act of Congress, of a small commission, like the Mexican or the Monetary Commission, to study the whole question and make a report to Congress. This was the course pursued in the radical and overturning change from the old National Bank Act to the present Federal Reserve Law, a change which has had a most far-reaching effect upon industry, finance, and society in this country.

We heartily join with Mr. Anderson in wishing that Congress might be able to abolish with a stroke of the pen the untold miseries and crimes which spring from the trade in alcoholic liquors. The problem before the country is clear. The moral forces of the country, as Mr. Anderson says, are united in demanding that the power of the Federal Government shall be brought to bear upon the suppression of the gigantic evils of that traffic. Neither the individual, the public, nor Congress can longer evade the question. It was at one time regarded in this country as a sentimental issue. That time is past. It is a very real and practical issue. But the method to be adopted for the solution of this problem is not yet so clear. When an authoritative commission has made its report, the country will be in a better position to decide whether a permissive or a prohibitive amendment or no amendment is the proper solution. If there appears to be any difference of opinion between Mr. Anderson and us, it is not a difference of opinion regarding the great moral and social principles involved, but a difference of opinion regarding the method to be adopted for the establishment of these paramount moral and social principles.—THE EDITORS.]

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