

TWENTY-EIGHTH DAY

(LEGISLATIVE DAY OF MONDAY)

MORNING SESSION.

TUESDAY, February 27, 1912.

The Convention met pursuant to recess with the president in the chair.

Mr. KING: I offer the following amendment.

Mr. ANDERSON: I rise first for information.

The PRESIDENT: The member from Erie [Mr. KING] offers a substitute amendment.

Mr. ANDERSON: A point of order. The gentleman from Montgomery [Mr. ROEHM] has the floor.

The PRESIDENT: No; he yielded it last evening.

The substitute was read as follows:

Strike out all after the word "proposal" in Proposal No. 151—Mr. Anderson, and all pending amendments thereto, and substitute therefor the following:

To submit substitute for section 9 of article XV, otherwise known as section 18 of the schedule of the constitution—relating to licensing the traffic in intoxicating liquors.

Resolved, by the Constitutional Convention of the state of Ohio, That a proposal shall be submitted to the electors to amend the constitution by substituting for section 9 of article XV the following:

SECTION 1. At the time when the vote of the electors shall be taken for the adoption or rejection of any revision, alterations, or amendments made to the constitution by this Convention, the following articles, independently of the submission of any revision, alterations or other amendments submitted to them, shall be separately submitted to the electors in the alternative in the words following, to-wit:

FOR LICENSE.

License to traffic in intoxicating liquors shall hereafter be granted in this state, and license laws shall be passed to regulate and restrict the said traffic and shall be operative throughout the state, provided that where the traffic is or may be prohibited under laws applying to counties, municipalities, townships or residence districts, the traffic shall not be licensed in any such local subdivision while the prohibition of the said traffic shall by law be operative therein. Nothing herein contained shall be so construed as to repeal, modify or suspend such prohibitory laws or to prevent their future enactment, modification or repeal, or to repeal or to prevent the repeal of any laws whatever now or hereafter existing to regulate the traffic in intoxicating liquors.

AGAINST LICENSE.

No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general

assembly may by law provide against the evils resulting therefrom.

SECTION 2. At said election, a separate ballot shall be in the following form:

INTOXICATING LIQUORS.

	For License
	Against License

SECTION 3. Separate ballot boxes shall be provided for the reception of said ballots.

SECTION 4. The voter shall indicate his choice by placing a cross-mark within the blank space opposite the words "For License" if he desires to vote in favor of the article first above mentioned, and opposite the words "Against License" within the blank space if he desires to vote in favor of the article second above mentioned. If a cross-mark is placed opposite both phrases or neither phrase, then the vote upon that subject shall not be counted.

SECTION 5. If the votes for license shall exceed the votes against license, then the article first above mentioned shall become section 9 of article XV of the constitution, regardless of whether any revision, alterations, or other amendments submitted to the people shall be adopted or rejected. And if the votes against license shall exceed those for license, then the second article above mentioned shall be section 9 of article XV of the constitution.

Mr. LAMPSON: I make the point of order that the proposal is to strike out "pending amendments." That can not be done. They are pending to be voted upon when we reach them.

Mr. KING: That depends altogether on the construction you put upon Rule 56.

Mr. LAMPSON: You cannot strike out anything that is not in a proposal.

Mr. KING: You can offer a substitute for it. The rule provides that you can have an amendment and an amendment to the amendment and then an additional amendment by way of substitute.

Mr. LAMPSON: That makes three amendments that may be pending. We have two amendments pending, as I remember. The first one was in the form of a substitute. I am not certain about that, but I would like to have the journal read on that. I make the additional point of order, first, that there is a substitute amendment pending and consequently a substitute amendment being pending and an amendment, a third amendment by way of substitute is not in order. Look under the proceedings of Tuesday, February 20, and you will find that the printed journal reads "Mr. King moved to

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amend Proposal No. 151 by striking out," etc. I think the journal was right in referring to that as a substitute amendment. I call for the reading of the journal. I know I have been advising delegates that a substitute amendment has already been offered and also an additional amendment, and that only one further amendment might be offered, not a substitute, but simply an amendment.

The secretary thereupon read as follows:

Mr. King moved to amend Proposal No. 151 by striking out all after the word "proposal" and inserting the following: To submit a substitute for schedule, section 18 of the constitution—

Mr. LAMPSON: It is denominated substitute there, and it is in fact a substitute.

Mr. KING: The gentleman is mistaken. That is the title. Those words are in all other proposals, "substitute for section 18 of the schedule." Not a substitute for the pending motion.

Mr. LAMPSON: The object of the rule is to allow three distinct amendments to be pending at the same time, two in the form of simply an amendment and a third one in the form of a substitute. Now that substitute can not strike out the pending amendment. The first amendment which was offered was the substitute in fact. The second amendment was simply an amendment. The third amendment therefore must be an amendment, making the three in all, but a vote upon any one of them can not be precluded by having it stricken out. Judge King or any other delegate right now can offer an amendment, but not a substitute, and they can not offer anything striking out the pending amendment. They can simply offer an amendment. I do not suppose that anyone would criticise particularly how much that amendment might include or what it would include, but technically that would not be called a substitute.

Mr. DOTY: It is perfectly apparent that it is in order. Certainly, after the discussion we have had on Proposal No. 151 and pending amendments, it is apparent that there have arisen some objections to one or the other of the amendments, or certain provisions of some of the amendments, and that the original proposer of this whole proposition has gathered together all of the objections that he is willing to concede ought to be in his original proposition—that he has gathered them together, as I understand it, into a substitute for the whole matter. It simplifies the whole proposition. It is strictly within the rule as Judge King has quoted it and as the member from Ashtabula [Mr. LAMPSON] has also quoted it, and the whole proposition is simplified and brought to a focus so that we can vote intelligently upon the proposal as amended in accordance with the criticisms heretofore in the discussions. Now, if it turns out that the Convention does not want to vote in favor of the criticisms that have been made, they will vote down the present King substitute or amendment. The whole thing comes back to the confusion that has arisen over what is an amendment and what is a substitute. There is no such thing as a substitute pure and simple. It is but another name for an amendment. Under our rules, as the member from Ashtabula [Mr. LAMPSON] has very clearly pointed out, we allow three amendments to a pending proposition. We allow an amendment and an

amendment to the original or to another amendment—the rules on parliamentary proceedings don't say which. Sometimes when we are all in favor of a thing it is necessary to make an amendment to the original proposition or to a pending amendment to clarify. Those things will arise in the consideration of any question, and to put down a rule that is fast and loose so that you must make all amendments to the original proposition, or must have the second amendment modify the first amendment, or the third only to modify the second, is all nonsense. We could not handle our work that way. We would be stalled half the time. Our rules allow three amendments—I don't care whether you call it a substitute or an amendment, it is still an amendment just the same—and we have pending here two amendments that have caused a tremendous amount of discussion and much criticism both ways, and the attempt of the member from Erie [Mr. KING] is simply to meet those criticisms that appear to have been well made. He says in effect that the criticisms made are well taken, and therefore he embodies them in an amendment which brings the whole thing together in one instrument. It simplifies everything. It simplifies the way to get it, and it helps to come to a conclusion if upon an examination and discussion we think that the new amendment of Judge King is towards doing what the majority of the Convention desires to vote for. It is strictly in accordance with our rules, and any other interpretation of our rules would produce confusion and retard our business. The object of rules is not to retard business, but to simplify business and make it easy to do. This is the fair interpretation—in fact, the only interpretation—that will bring order in considering this proposal or other proposals to come afterwards.

Mr. ANDERSON: I understood the rule to mean this. That we could have two amendments and then a substitute amendment. No work on parliamentary law ever recognized three amendments.

Mr. DOTY: Our rules do.

Mr. ANDERSON: I said parliamentary law. You can see the distinction. Under parliamentary usage—Robert's Rules of Order, Cushing or any authority on parliamentary law—you are allowed an amendment to an amendment. Now under these rules you have permitted another thing, and you call it by a certain name, to-wit, a substitute amendment. I debated the question at the time we were adopting the rules as to what it meant, and the record will show that Mr. Doty at that time interpreted just the opposite to what he does now. I made the point then that there was not such a thing known to parliamentary law as a substitute amendment.

Mr. DOTY: I agree with you on that.

Mr. ANDERSON: Mr. President: Will you please call the gentleman to order and have him rise to his feet and get recognition from the chair if he wants to say anything?

I think it is clearly out of order in that one of these so-called amendments is a substitute. The record shows that the motion made by Judge King at first was a substitute amendment, because he wanted to amend No. 151 by substituting Proposal No. 4, and so the record shows.

Mr. KING: No.

Mr. ANDERSON: I prefer what the records show.

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Mr. KING: Then please have what the record says read.

The PRESIDENT: The member from Mahoning [Mr. ANDERSON] has the floor.

Mr. ANDERSON: If that is a substitute amendment, then the amendment now proposed is out of order. If the first was not a substitute amendment, this is in order, because after we have one substitute we can not have another. Then you follow the rules laid down by parliamentary law of an amendment to an amendment, and nothing more. It would be an endless confusion otherwise. As I understand it, the only question here to be decided by the chair is whether or not the first was a substitute amendment, and the record so shows. If it was there can not be another substitute amendment. Look at the foolishness of it. Take Proposal No. 151 and it is offered as a substitute amendment. Then there is an amendment to that and a substitute for something else, or for the whole thing, and our minds can not follow that. We are finite. There is a limit to what we can do. I quote the journal of Tuesday, February 20, 1912:

Attention of the Convention was called to the special order for this hour, being consideration of Proposal No. 151 — Mr. Anderson, the question being "Shall the proposal be engrossed?"

Attention of the Convention was called to the special order for this hour, being consideration of Proposal No. 4 — Mr. King.

The question being "Shall Proposal No. 151 be engrossed?"

Mr. King moved to amend Proposal No. 151 by striking out all after the word "Proposal" and inserting the following: "To submit substitute for schedule, section 18 of the constitution. — Relating to licensing the traffic in intoxicating liquors."

Now there it says substitute, not amendment. If that read "amendment to the amendment" it would permit of what is offered now, but as that was a substitute it does not. So I insist this substitute is out of order.

Mr. LAMPSON: I read Rule 56: "But one amendment to an amendment shall be allowed to pend at one time, except that there may be pending an additional amendment by way of a substitute amendment." My recollection is that the first amendment was put in the form of a substitute, and then another amendment was offered and then another amendment by a rather liberal construction of the rule. So I make two points of order. One is that the first amendment — and the King amendment is a substitute amendment, both in name and effect, and in fact, covers the whole proposition.

The next point I make it that the present amendment of the gentleman from Erie proposes to strike out the pending amendment, which can not be done at all under any parliamentary procedure. In effect they would be stricken out if the amendment of the gentleman from Erie [Mr KING] is adopted. An amendment can not be put in that form, because we have a right to vote on each amendment as it is reached, but if the amendment is voted on first, as it in fact covers all the others, it would have the effect of wiping them out. Still we would go ahead and take a vote upon each amendment

until we got back to the original proposal. There would be three distinct and separate votes, on each amendment in the reverse order under our rules, I think, though that is not material, and on that I call for a reading of the journal.

The part of the journal heretofore read was again read.

Mr. LAMPSON: Now I think that clearly shows it is a substitute. I think it has been referred to in the journal and I know in the debates here several times as a substitute.

Mr. PRICE: Is it not a fact that the language of the journal is against your argument?

Mr. LAMPSON: I think not.

Mr. PRICE: I think the gentleman from Ashtabula [Mr. LAMPSON] is inclined to be fair and he knows parliamentary law. He is simply confused from the reading of the journal. I think the first was an amendment and that this is a substitute and is in order.

Mr. LAMPSON: I think it was in fact a substitute, and it has been carried along in the journal and in our arguments as a substitute. But that is only one point I make. The other point is that you can not strike out amendments already pending. That is the additional point.

Mr. PRICE: If the record states that it was an amendment to No. 151 and then there is an amendment to that amendment, is not this substitute in order?

Mr. LAMPSON: If the first proposition were in effect a substitute covering everything—

Mr. PRICE: Not a substitute. I say if it were an amendment?

Mr. LAMPSON: If it were simply an amendment his substitute now would be in order if it were not for the fact that it undertakes to strike out the pending amendments, which no substitute can do. There are three amendments allowed under the rule.

Mr. PRICE: The third here is a substitute.

Mr. LAMPSON: When we vote upon the substitute we can vote then upon others.

Mr. PRICE: Don't the rules provide for this: An amendment to a proposal, an amendment to an amendment, and then a substitute proposal for the whole thing?

Mr. LAMPSON: They do.

Mr. PRICE: And is not that exactly this situation?

Mr. LAMPSON: No, sir; the gentleman did not notice the wording of the proposed substitute. It proposes to strike out "pending amendments."

Mr. PRICE: Can he not offer anything in the way of a substitute, and can not you amend it afterwards?

Mr. LAMPSON: No, sir; we have a right to vote on each pending amendment providing there are not more than three.

Mr. PRICE: Well, has not he the right to offer a substitute?

Mr. LAMPSON: If a substitute is not pending he can, but I maintain that the first was a substitute.

Mr. PRICE: But is not the record against you on that?

Mr. KING: If the first proposition was an amendment to Proposal No. 151 and then the motion of the gentleman from Defiance was an amendment to that and then the rule allows a substitute amendment, what

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does that mean? It does not mean an amendment to the last amendment.

Mr. LAMPSON: That means a substitute for the entire proposition.

Mr. KING: That is what this is.

Mr. LAMPSON: But the way you put it, you try to prevent a vote upon the other pending amendments by striking them out.

Mr. KING: I don't care to do that. What I mean is to amend my own amendment by substitute, the proposition that I present, but it occurs to me — I don't claim any expertness in the interpretation of these rules or any other parliamentary rule — but it occurs to me that the substitute must be for the whole proposition.

Mr. LAMPSON: Yes.

Mr. KING: If it may be for a part —

Mr. LAMPSON: It cannot be for a part.

Mr. KING: If it must be for the whole, the title I have incorporated here is correct. I could change this as a substitute for the motion made originally to amend Proposal No. 151.

Mr. LAMPSON: Did not the first amendment you offered the other day cover the entire proposition?

Mr. KING: It did. And the amendment of the gentleman from Defiance [Mr. WINN] also covered the whole thing.

Mr. NYE: I beg pardon. The amendment of the gentleman from Defiance [Mr. WINN] did not strike out the whole thing. It left in the first ten lines.

Mr. DOTY: I will read it for you —

Mr. LAMPSON: Just a word more. The amendment of the gentleman from Defiance left in the whole section 1 of the King proposal.

Mr. DOTY: May I ask a question on that?

Mr. KING: Look on page 3. It says "strike out all after the resolving clause and insert in lieu thereof the following: Section 1," etc.

Mr. LAMPSON: It also included section 3 and several others.

Mr. KING: It changed every one of them.

Mr. WINN. Some of the members are evidently laboring under a mistaken idea as to what a substitute is, and seem to be of the notion that a substitute is something different from an amendment. I read from Robert's Parliamentary Rules: "An amendment may be in any of the following forms: (a) to "add" or "insert" certain words or paragraphs; (b) to "strike out" certain words or paragraphs, and if this fails it does not preclude any other amendment than the identical one that has been rejected; (c) to "strike out certain words and insert others," which motion is indivisible, and if lost does not preclude another motion to strike out the same words and insert different ones; (d) to "substitute" another resolution or paragraph on the same subject for the one pending. * * *." That is what we have here. The member from Erie moves to strike out all of the proposal offered by the member from Mahoning and insert in lieu thereof the whole Proposal No. 4, so that it is an amendment coming under the last subdivision (d). It is an amendment of course, but an amendment by substitution. Now go to our rules and our rules say that after such a substitute is offered there may be two amendments offered, but it must be two amendments to the substitute. Now here is one offered

by myself, and, as it has been insisted here, the question is still open, under Robert's Rules of Order and under our rules, for another amendment — not for another substitute, not a substitute for the original substitute offered by the gentleman from Erie, but for an amendment. I think the argument of the gentleman from Ashtabula is very strong. The effect is that if it and other substitutes can be offered, if that would be parliamentary, and then other amendments offered, we would never get a chance to vote on anything. The gentleman from Erie proposes to amend his own original proposal, which was offered as a substitute, by striking out the whole of that substitute and putting something else in place of it, but he says not in place of it, but in place of everything else that has been offered since. Now if that is allowable, we may get into somewhat of a tangle.

Mr. LAMPSON: I desire to read from the journal: "Mr. King moved to amend Proposal No. 151 by striking out all after the word "proposal" and inserting the following," etc. He struck out everything after the word "proposal," so that it is in fact a substitute. It is really the King Proposal No. 4 which is proposed as a substitute.

Now when the delegate from Erie [Mr. KING] offered that, there was no point of order made against it. It was the desire of everybody to have the issue squarely joined, and it was squarely joined by those two amendments, one in the form of a substitute and the other in the form of an amendment. Now to that second amendment the third amendment could be offered, but under our rules and under parliamentary law no further amendment by way of substitute could be offered, and no amendment could be offered that would prevent a vote upon the pending amendment, which is proposed in the language of this substitute now offered by the gentleman from Erie [Mr. KING].

Mr. DOTY: I think the exposition of the gentleman from Defiance was very clear and ought to have convinced him that he was wrong in his conclusion. He stated it right and read it faithfully, but he simply came up to where he ought to have drawn one conclusion and he drew another and the wrong conclusion. He pointed out clearly that the amendment may be in one of several forms, sometimes called a substitute, but still an amendment. That is a proper definition of what a substitute is. The contention of the member from Ashtabula [Mr. LAMPSON] that you can not vote down all amendments —

Mr. LAMPSON: I didn't say that. You can do that, but you can not provide in a substitute that pending amendments shall be stricken out.

Mr. DOTY: That is not in the substitute. It strikes out everything to make place for the substitute.

Mr. LAMPSON: I call for the reading of the proposed amendment or substitute of the gentleman from Erie just offered.

The secretary read as follows:

Mr. King moved to strike out all after the word "proposal" in Proposal No. 151 —

Mr. ANDERSON: "And all pending amendments thereto, and substitute the following," etc.

Mr. LAMPSON: Now it is the words "all pending amendments thereto" that I am objecting to.

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Mr. DOTY: Yes; but you are confusing yourself and some of the rest of us by saying that that striking out is in the substitute. It is not in the substitute. The member from Ashtabula [Mr. LAMPSON] knows that the Convention can do something else with an amendment except vote on it. I can make a motion right now, which if seconded and carried, would put those amendments on the table, and you wouldn't have any vote on them.

Mr. LAMPSON: Yes, you would. You would have a vote on them when the motion was made to put them on the table.

Mr. DOTY: And if you vote this amendment in, you are voting on those other amendments in voting them down.

Mr. LAMPSON: But it is an unheard of parliamentary proposition.

Mr. DOTY: We have been doing it here for twenty years.

Mr. LAMPSON: Never in the world.

Mr. ANDERSON: Does the gentleman yield for a question?

Mr. DOTY: Which one?

Mr. ANDERSON: Is not the description understood?

Mr. DOTY: Not coming from you—oh, go ahead.

Mr. ANDERSON: You admit that this would dispose of two amendments by tabling it?

Mr. DOTY: Yes.

Mr. ANDERSON: Do you mean that this takes the place of them all?

Mr. DOTY: It does in a sense, and it does it without bringing about a situation that you and I can not discuss the whole matter. If the gentleman makes the motion and it be put to lay upon the table any one of the amendments, we are precluded from debate. Under this procedure we can discuss it three weeks. This was offered with the idea of clarifying the situation and answering all objections in one document. Now, if the member from Ashtabula [Mr. LAMPSON] will compare the amendment of the gentleman from Erie [Mr. KING] with the amendment proposed the other day, he will find it changes but few words, and he must admit that that would be proper amendment. This attempt simply would put it in the form of a substitute, to get it all in one document and clarify the situation, rather than confuse people, but it is just as much a pure amendment as if he had simply offered an amendment to strike out and insert instead of writing the thing out in full as he has done.

Mr. LAMPSON: How can you strike out something that has not been voted in yet? These pending amendments have not been voted in yet.

Mr. DOTY: Neither has the proposal.

Mr. LAMPSON: It is before the Convention.

Mr. DOTY: But it has no higher standing than the amendment.

Mr. LAMPSON: Very much higher.

Mr. DOTY: Not the slightest.

Mr. LAMPSON: It has been reported to the Convention.

Mr. DOTY: But it has no higher standing.

Mr. LAMPSON: It was a report of a committee—

Mr. DOTY: It was not. The committee never reported it at all.

Mr. LAMPSON: Yes; that is so. As a matter of fact, this particular question is up for engrossment.

Mr. DOTY: And the committee never reported it at all.

Mr. LAMPSON: It was called from the committee under the rule that a member may call his proposal after a committee has had it for two weeks, and that was done in this case; so that this is just as if it were regularly reported.

Mr. DOTY: There is no question about that, but the question of engrossment has never been decided.

Mr. LAMPSON: I admit that.

Mr. DOTY: You also say because we have not acted on the amendment therefore it is not in the same position as engrossment.

Mr. LAMPSON: I say that under our rules there could be three pending amendments to be voted on separately when the debate is concluded, and no amount of parliamentary argument can deceive any intelligent parliamentarian on that subject. It is simply an attempt to get a vote upon a blanket proposition in violation of your own rules.

Mr. DOTY: Of course the gentleman from Ashtabula [Mr. LAMPSON] knows very well that is not true. He knows as a parliamentarian, and there is none better in this house, that if this amendment of the gentleman from Erie [Mr. KING] is voted up and the other two amendments are thereby voted out, he can still offer an amendment to any part of it under our rules. He knows that as well as I do, and he knows there can be no attempt that can be successful to do the thing he wishes.

Mr. LAMPSON: Why not eliminate from the amendment of the gentleman from Erie those words "pending amendments"?

Mr. DOTY: I don't care whether they are eliminated or not. It is a matter of tweedle-dum and tweedle-dee.

Mr. KING: I don't care. It was simply an attempt to offer a substitute for the pending amendment that I offered the other day. But as I read the rules, if I had made it this way, the gentleman from Ashtabula [Mr. LAMPSON] would have had this or some other objection.

Mr. LAMPSON: The gentleman from Ashtabula would not have had any objection that the rules did not entitle him to. The gentleman from Ashtabula has never made any objection that was not founded on a parliamentary rule.

Mr. KING: You have not been able to tell what parliamentary Rule 56 means.

Mr. PRICE: That may be very consoling to the gentleman from Ashtabula [Mr. LAMPSON] and some of these other gentlemen, but it sounds more or less egotistical to me. I claim it is unfair for any gentleman, whether it is according to parliamentary rules or not, to stand on the floor of the Convention and say that some one is trying to run a blanket proposition through. I don't believe that is parliamentary practice at all.

I do not know the effect of the King proposal. I am not concerned at this time as to what it means, but I am concerned in the question of whether or not he has a right to make this proposition, and he has a right to make this proposition if the journal was read correctly. The journal said the "amendment" by Mr. King. It

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did not use the word "substitute". The word used in the journal was "amendment" and the word "substitute" occurs in the body and does not refer to that at all, and what is the use of insinuating back and forth. We don't know what is going to be done with the substitute, but the only question here is on the point of order, whether he has a right to offer it. If the chair will examine the journal he will find Proposal No. 151 was offered and then he will find an amendment by the gentleman from Erie, and then an amendment by Mr. Winn to that; and now this is a substitute which under the rules can be offered. For that reason I think this is squarely in order.

Mr. FESS: I had not intended to say anything upon this parliamentary dispute, but I should like to take time enough to say there are only three ways of amendment. The first is by addition, the second is by division and the third is by substitution. You can strike out something, insert something or strike out all. What I mean by that is you may want to strike out something, or you may want to insert something, or you may want to strike out and insert. These are the three ways.

The second is where the subject contains two propositions where you need to divide in order that you may vote one up and one down. That is the second method of amendment. There are propositions offered here that we do not want to vote for. You will be in favor of one end of the thing and you will be against the other. Parliamentary law allows us to divide the question so that you can vote favorably on one part of it and unfavorably on the other. That is the second method of amendment, and that is the purpose of that provision.

The third method is by substitution. And here is where the dispute arises. Substitution is never allowed in the form of amendment except where you can not by adding to and striking out, or adding to or striking out, or by dividing, change your wording, and at the same time hold the same meaning in a modified form. In other words, you substitute where you can not amend by division and you can not amend by adding and you can amend by subtracting. Now, you can amend by substitution when by no method of adding to or subtracting from or dividing can you still retain and maintain the subject germane to the point of discussion. That is the whole thing in substitution. If it were not for that we would never have a proposition for substitution. That is the purpose of it. Now my good friend from Cuyahoga [Mr. DORY] is too good a parliamentarian not to know the exact status here. When the substitute of the King Proposal No. 4 for Proposal No. 151 was made, he knows that was an amendment only by substitution. It can not be an amendment. It is not an amendment by adding nor by inserting nor by dividing, but it is an amendment for the whole thing, a substitute. You have substituted something entirely new. Proposal No. 151 was to give power to the legislature. You can not modify that to get the King proposal in it in any other form than by substitution. That method had to be used in order to get the whole of the King proposal in. And my good friend from Cuyahoga [Mr. DORY] knows that that is by substitution and can not be otherwise. Now it does not matter to me whether you are going to substitute or not. It seems to me if you do that you are going on in an unending chain. It certainly seems to me

that the King proposal was a substitute for No. 151 and not an amendment that would be allowed, and I would like to have a decision of the chair upon that question.

Mr. ROEHM: What do you call the minority report, which was intended to be either a substitute for or an amendment to the King amendment, or substitute, as you call it?

Mr. FESS: I have been greatly amazed at the bandying of the words "minority report." Now, someone made an objection, I thought, to the minority report being heard before the majority. You can not hear a minority report except before the majority report. A minority report always comes in as a substitute for the majority report and no other way, and it must be heard first.

Mr. ROEHM: You probably didn't understand my question. It is not the minority report, but it follows the language of the minority report. Was not that also a substitute and offered as a substitute?

Mr. FESS: Had to be.

Mr. ROEHM: Not the minority report, but the amendment of the gentleman from Defiance [Mr. WINN]. Then would not we have two substitutes?

Mr. FESS: We should not have.

Mr. ROEHM: But would we not have?

Mr. FESS: If I had been in the chair the proposal the gentleman from Erie [Mr. KING] offered as a substitute for No. 151 would have been declared out of order, as it was from a parliamentary standpoint. It should have been declared out of order; a minority report must always be made as a substitute for a majority report, and I should like to have the decision of the chair on that point.

Mr. ANDERSON: If he can strike out all after the word "proposal" and substitute something else and that can come under the parliamentary definition of "amendment" then could we not have three separate and distinct propositions before the assembly at the same time?

Mr. FESS: I should think we could, but I certainly would not say if you struck out all after the word "proposal" and inserted an entirely new provision that the thing was an amendment. It is not an amendment, but a substitute, and everybody knows that. Now I want the decision of the chair.

The PRESIDENT: The chair will decide that the first amendment, even though it strikes out everything after the word "proposal", could not be in the meaning of the rule a substitute. The rule is that there can be but one amendment to an amendment pending at the same time. We had that situation. The proposal was introduced and an amendment was offered. That amendment was amended. Then the rules go on to say except that there may be an additional amendment by way of substitute. The president decides that this matter is an additional amendment by way of substitute for both the other amendment and the proposal itself.

Mr. FESS: Is the substitute before the house?

The PRESIDENT: Yes.

Mr. FESS: In view of the fact that we are getting this matter confused every step and that if we vote this up or down there is only additional confusion, and we will not know where we are and that it can not possibly jeopardize anything by waiting here until we have voted

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on one of these amendments, I move that we table this last amendment offered by the delegate from Erie [Mr. KING] as a substitute.

The motion was seconded.

Mr. DOTY: And upon that I demand the yeas and nays.

Sufficient delegates joined in the call for the yeas and nays.

The PRESIDENT: The motion is that we table the substitute just offered by the gentleman from Erie [Mr. KING] and the roll call is demanded. The secretary will call the roll.

Mr. DWYER: I rise to a point of order. Does not that carry with it the substitute and everything else?

Mr. DOTY: No.

Mr. DWYER: Doesn't the motion to table carry the entire proposition?

The PRESIDENT: No.

The yeas and nays were taken, and resulted—yeas 57, nays 53, as follows:

Those who voted in the affirmative are:

Anderson,	Harris, Ashtabula,	Okey,
Antrim,	Harter, Stark,	Partington,
Baum,	Holtz,	Peters,
Beatty, Morrow,	Hoskins,	Pettit,
Beatty, Wood,	Johnson, Madison,	Rockel,
Cassidy,	Jones,	Shaw,
Colton,	Kehoe,	Smith, Geauga,
Crites,	Kilpatrick,	Solether,
Cunningham,	Knight,	Stevens,
Donahey,	Kramer,	Stewart,
Dunn,	Lambert,	Taggart,
Eby,	Lampson,	Tannehill,
Elson,	Leete,	Tetlow,
Evans,	Longstreth,	Wagner,
Farnsworth,	Mauck,	Walker,
Fess,	McClelland,	Watson,
Fluke,	Miller, Fairfield,	Winn,
Halfhill,	Miller, Ottawa,	Wise,
Harbarger,	Nye,	Woods.

Those who voted in the negative are:

Beyer,	Halenkamp,	Pierce,
Bowdle,	Harris, Hamilton,	Price,
Brattain,	Harter, Huron,	Redington,
Brown, Lucas,	Henderson,	Riley,
Brown, Pike,	Hoffman,	Roehm,
Cody,	Johnson, Williams,	Rorick,
Cordes,	Keller,	Smith, Hamilton,
Davio,	Kerr,	Stalter,
DeFrees,	King,	Stamm,
Doty,	Kunkel,	Stilwell,
Dunlap,	Leslie,	Stokes,
Dwyer,	Ludey,	Tallman,
Earnhart,	Malin,	Thomas,
Fackler,	Marshall,	Ulmer,
Farrell,	Mathews,	Weybrecht,
FitzSimons,	Miller, Crawford,	Worthington,
Fox,	Moore,	Mr. President.
Hahn,	Peck,	

The roll call was verified.

So the motion prevailed.

Mr. ROEHM: Mr. Chairman, and Gentlemen of the Convention: In making the few remarks I shall have to make on this occasion, I would like not to be interrupted by questions from the members, because instead of getting through by noon it may take me all day if I am interrupted.

I have been referred to in the early part of the meetings of this Convention as being the wettest man in the

Convention. In fact, it was said in a very nice manner, not intended to make me feel badly, that I was so wet that it would be hardly worth while to hang me out to try to dry out. That is possibly a doubtful compliment, and in order that the members may not have any wrong impression about the gentleman from Montgomery [himself] I hope that I may be excused from relating a little bit of how it happened that I am here in this Convention.

I was born of German parentage. Both my father and my mother, my mother as a girl and my father as a boy, came to America during the troublous times in Germany during the forties. They came here with their parents as the result of the exodus which occurred in Germany on account of the attempted revolution when the people of that country desired to form a government similar to this in their country, a government of the people, where they might have religious freedom, where they might have political freedom and where they might enjoy their personal liberty. The men who came to this country at that time—those Germans who left their fatherland and came to this country of their adoption—proved that they were well fitted to be citizens of the United States when the great war of the rebellion broke out. I need not go into the history of the Germans and the part they took in that great struggle. Suffice it to say that they went almost to a man and took part in the struggle on the side of the Union forces, that this country of and for and by the people might live on.

I was born after the war. I was born in the German part of the city of Dayton. I have lived within a mile of where I was born all my life. I have been reared with Germans. At home I received the same kind of rearing that my friend Mr. Ulmer says he gave to his children. I was taught to believe that this was a country of political freedom. I was taught to believe that we must respect the religion of other people, that it is the country of religious freedom. I was taught that religion was a matter for the individual. I was taught that we have some personal rights and privileges. I was taught to be temperate in my habits, in all of those matters that relate to eating and drinking and swearing. I was taught, and I still believe, that prohibition is an infraction of those rights, an infraction of rights of personal liberty, and I do not care how that may be smiled upon; I stand here today believing that when I fight prohibition I am fighting for my rights. In the question before us there can be but one belief, and that is that the ultimate object of the Anti-Saloon League is prohibition. I do not think I need go into that discussion. I take it therefore that anything the Anti-Saloon League may do has a tendency towards prohibition, and therefore is contrary to and against the personal rights which I claim I have a right to defend upon the floor of this Convention.

Personally I have been actively engaged during the past four years in the fights that have occurred upon the question. As between the brewers and the whisky men allowing the matters to go pell-mell on the one side, linking up the business with everything that is bad, and on the other side the Anti-Saloon League and its forces trying to take from the remainder of the people their personal liberties, it seemed to me that those people who believed as I do, those people whom I claim to represent in this Convention—thousands upon thousands in the

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state of Ohio — have been between the upper and the nether millstones. Their rights have been forfeited, and during the past four years I say that those people have taken up the fight and it is as representing those people that I speak upon the floor of this Convention.

I am not here to offer an excuse for the evils that were done in the name of the brewery-owned saloon or any other kind of saloon that was connected up with the evil of the traffic in intoxicating liquors. I am not here to defend them, but I am here to defend my rights, and when I say my rights, I mean the rights of all of those thousands of people who believe in the regulation of the saloon traffic, in the saloon being surrounded by decent regulations and by regulations that will give decent conditions. I believe that those rights should be protected. I believe that this is a difficult problem and that we should look it squarely in the face and meet it. It is one that is going to be with us for years. It is useless to talk about taking it out of politics. No matter what method we adopt, or do not adopt, we shall not take it out of politics. It is going to be in politics for years and years to come, and looking at it in that manner I can not but feel that the only thing before us and the best thing before us is to look the situation squarely in the face and get right down to the point of adopting some kind of means of regulating that traffic. I believe in regulation rather than prohibition, and I believe in it as a matter of principle. I believe in the evolution of this matter as against the revolution of the matter. I believe in the educational features which would tend for the betterment of mankind, whether it relates to his appetite of drinking or to his appetite of eating. Right here, I believe there are just as many people who become sick or who fail to conserve their vital forces by intemperate eating and lack of exercise as by any other methods, though possibly the apparent effects may not be there for the moment. I believe that in educational matters we should adopt in addition to all those safeguards a rational system of physical culture, to make the body strong that it may resist any encroachment of overeating or overdrinking. And you will find under these conditions there will be no tendency towards intemperate habits as some people now have them.

When I got into this fight four years ago I became president of the Personal Liberty League of Montgomery county and I have not been sorry for it since. I became a member of the state executive board of the Personal Liberty League of the state of Ohio, so you may know I have been in the fight for the last four years.

When I became a candidate in Montgomery county to be a delegate in this Convention I stood for certain principles as I expect all of you did. I do not think I would have been elected had I not stood for certain principles. I believe in license as a principle as opposed to prohibition as a principle. When I come in this Convention to vote upon a matter that relates to principle I expect that my constituents expect me to vote my principles. Had I been elected on the prohibition platform, or had I been known as a prohibitionist, or had my principles been that way, I would have expected to come to this Convention and vote my principles, no matter how many people of Montgomery county were opposed to those principles. We come here first to represent our principles, and, second, to represent our own personal views

so long as we do not sacrifice principle, but we are also here to see what is the best for the state of Ohio as a whole. I do not represent Montgomery county alone on the floor. I consider first that I represent my principles, and second that I represent the state of Ohio and what is best for the state of Ohio. Now when I come here, would it be right and just for me to hold up my own individual ideas on a proposition so long as I can compromise on a reasonable basis and do not sacrifice my principles? There is no question about that. No man ever became a successful legislator who stood by and insisted that everybody else should come to him. It is the duty of every man, as I said, to compromise the matter, provided he sees he can not get it his own way, so long as he does not sacrifice his principles.

My own personal desire in the matter is quite different from what might be expressed in the King proposal or any of the substitutes. I want to tell you what I have thought would suit me personally. I believe that there should be a proper license law with limitations as to the number to apply to the territory now dry, but in wet territory, with limitations whereby the number of saloons may be gradually lessened to the point that we may from time to time consider best and proper. I believe in such a license law there should be a fair number of regulatory features, such as selling to minors, drunkards, harboring lewd women about the places, and others along that line that seem proper. I believe in a high-license fee. I believe in a character qualification for those wanting to engage in the business. I believe there ought to be some restrictions on the placing of saloons in the residence districts, but that this could be controlled by a license law better than any other way. I do not believe that the Jones law is really a good law. It may be a good law or it may not be a good law, according to how you will fix up those districts.

I believe in a forfeiture clause, but I believe this should be a sane feature, something that will not work an unnecessary hardship upon those engaged in the business, and in particular something that will prevent interference with a man's business for purposes of enforcement. I believe in taking all of the blue laws off of the statute books — I admit that in that respect I am rather radical — I do not believe in the Rose local option law. It is misnamed, and I consider it wrong in principle. I consider prohibition of any kind an infraction upon the rights of a great number of those in the counties who do not want prohibition. I believe in home rule of municipalities in that respect. Prohibition by counties does not give it.

Those are my personal views about the matter, but when I come to this Convention I find other people have other views and I find that a good many license people with whom I compare my views are in favor of something less radical than I am in favor of, and therefore I am ready to lay aside my personal views for a license proposition that will meet the approval of a majority in this Convention who favor license — the majority in this Convention who favor license and not who favor prohibition — and for that reason I favor the King proposal or something that would meet the objections that have been raised to it, such as the attempted substitute or amendment that was offered this morning.

Now we have the King proposal before us. It is not

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my purpose to discuss the legal phases of the King proposal. The author of that proposal has discussed it on the floor of the Convention. He has ably explained it as to the legal questions and objections raised and is perfectly competent to take care of all the explanation that it needs. I favor the King proposal in substance. As to the phraseology, or if there is a change needed in it, that is a different question. I have not seen any fifteen or twenty lawyers, as some of the members of this Convention have, nor have I gotten any letters from any of the United States judges who may have taken the platform on the wet side of the question — if there are any — but I expect to rely upon my own ideas and common sense in this matter. Take the King proposal and read it with that in view, or take the amendment that is offered and read that, and try to come down to some point where all the license men can agree. I do not want to make my views predominant. I am willing that the views of a majority of the people of Ohio who favor license should be expressed in any of the proposals that we vote upon here in this Convention. When I come into this Convention under these conditions, I come in to consult with the license people. I do not go to the other side, the people who are opposed to my idea in principle, because I don't think they should have anything to do with that proposition. They may have votes here, but I am not going to consult with the prohibitionists as to what kind of a license proposal I shall vote for to submit to the people. They are opposed to it in principle and consequently they would be poor advisers for me, a license man in principle.

Now let us look at this minority amendment — I will call it that for the sake of convenience. In lines 10 and 11 it says: "The general assembly shall be authorized to enact legislation providing for the licensing of the liquor traffic." "They shall be authorized." Does that suit the license men in this Convention? It doesn't suit me because I want a license provision. I don't want it left to the general assembly. I want to say to the general assembly you shall do so and so. That is what it means to be a license man for principle. It does not mean to say maybe I want it or not, and then let some one else say whether I shall have it or not. I am opposed to that provision in the proposed amendment to the constitution relating to limitation for two reasons. In the first place, it is not fair in the wet territory even though a legislature should pass a license law instanter. I want to say to you — although a great many of you may not believe it — I believe the saloon men, the retail liquor men of the state of Ohio, have some rights that should be respected. Because they are engaged in the retail liquor traffic does not in my opinion give us the right to forfeit their property. They have a right to be respected in their property and they have a right to be treated properly and decently. I am opposed to it for that reason and I am opposed to it again for the reason that it merely is designed to have a great number of people who at present pay their tax, work against it. That is the only reason why that is put in there by those who come here as an anti-saloon delegation to this Convention. I am opposed to the forfeiture clause as it appears in that proposition because it is not fair. It leaves the matter open to all manner and means of fraud to get a man out of the business. There is a provision making it unlawful

to sell to a minor. Under that claim I might go to a bar in one room and buy a glass of beer and take it in another room and sell it to a minor and that is an infraction of the law. It might not be known to the saloon keeper, but if he were taken before some remote country 'squire the license would be revoked. That is not fair.

That is not all I am opposed to in this substitute proposal. In answer to a question from me as to the effect of lines 19 and 20, the member from Franklin [Mr. KNIGHT] said "Yes, I believe the legislature could enact prohibition under such a clause." As a license man I am against prohibition. Any person who votes for a clause of that kind in the constitution and claims to be a license man does not know what it is to be a license man. He has mistaken his principle. Along that same line of argument I clipped from a newspaper this morning, I think it was the Ohio State Journal, the following:

The incident followed a severe attack on the King proposal by Delegate Woods, and there were insistent rumors that the wet lobby is ready to compromise, fearing defeat of the King proposal. Not, they said, with any knowledge of the wets, eighth congressional district delegates yesterday got behind a substitute which may be presented if the minority report of the Liquor Traffic committee is voted down. It reads:

"SAVE PRESENT LAWS.

"License to traffic in intoxicating liquors shall hereafter be granted in this state and license laws shall be passed to regulate and restrict said traffic and shall be operative throughout the state, provided that nothing herein contained shall invalidate, limit or restrict the provisions of any law now in force, relating to such traffic, or in any way limit the right of the general assembly under its police power to provide against the evils resulting from the traffic in intoxicating liquors."

How can a license man be in favor of a prohibition clause in the constitution? I can not understand it.

It is unfair to give the legislature power to pass a statutory provision for this reason. Those of us who believe at least in the rule of a majority of the people can not subscribe to such a clause, for the legislature — that is, those legislators who may vote for the proposition — to make the law may not represent a majority of the citizens of the state of Ohio in making such a law. They may represent a very strong minority, but far from a majority, and I am opposed to it for that reason. I say it is not democratic, and I say anybody who gets up and defends such a clause is in favor of something that is not democratic. If we want to give the people the right to rule, we must give the majority of the people the right to say what they want, not give a minority represented in the legislature by a majority of the members the right to say what shall be done on those matters without any chance of the majority expressing its opinion. I call attention to the fact that we have not yet, and it may not be presumed that we are going to have, a workable initiative and referendum provision in the constitution.

Now, Mr. President, I have not much more to say, but I wish to call attention to the way I look at the

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thing. I may be wrong and others may be right. But I feel that whether I would come to the Convention as a license man or a man wanting prohibition that I would like to stand by my principles. The member from Holmes county [Mr. WALKER] last evening made a very eloquent address on prohibition. In the first part of his speech he said — I don't undertake to quote the exact language — "How can we compromise with evil?" And yet when asked the question by the delegate from Cuyahoga [Mr. FARRELL] whether he would vote for the Winn substitute he said, "I will vote for it as the lesser of two evils." Now I can not understand that. I would like to have that made clear to me, how a man who is for prohibition can vote for any license clause. The way I see it, if he votes for a license clause it is because he votes for one that will be defeated at the polls. Then I could see how he would vote for it, and he would be voting for it for that reason. And I would give them credit at least for standing by their principles to the extent that they believe when they vote for the Winn substitute they will be voting for something that will be sure to be defeated at the polls. But is it right that the prohibitionist shall come here and vote for a license proposal in order to hoodwink some license man who may not understand what license is? Is it right, and can the license men of this Convention consistently cast their lot with those people who would put something before the people that they know will not be ratified? I do not understand the principles of license if we could do so.

Now, in conclusion, let us be men of principle, not only in voting upon this proposition, but in all we do in this Convention. If you are a prohibitionist stick by your principles. I admire you that much more. I admire the member from Scioto [Mr. EVANS] for the stand he took. It is a consistent stand. I do not object to anybody being opposed to me or having different ideas from those I have. I admire the man who is consistent, and who can stand by his principles. I can recall nothing that would suit the occasion better than the words the immortal Shakespeare put into the mouth of Polonius in his advice to his son Laertes: "And this above all, Laertes, to thine own self be true, and it must follow, as the night the day, thou canst not then be false to any man."

Members, I expect to be with you or against you on many propositions that are to follow. I hope that I shall always feel that when I am with you I am with men who stand by principle, and believing that is the only rule that we as individuals shall go by, I believe, whether we are for license or for prohibition, we should stand by our guns.

Mr. JOHNSON, of Madison: Mr. President and Gentlemen of the Convention: Thus far I have used but little of the time of this Convention in the discussion of the matters at issue — not only from a sense of timidity in the use of the English language, but more from a feeling and knowledge that the things I might say would have but little effect upon the conclusions and the deliberations of this body, and little force in changing votes upon the issues we are discussing. Nor do I feel at this time — and I say it perhaps with some sorrow that the length of debate heretofore made and the discussion had upon the issues have not had much effect upon my conclusions and upon my vote and upon the vote I shall

cast upon this question; nor do I believe, gentlemen of the Convention, that the week's debate we have had upon what we term the majority and minority reports have had any influence in changing the minds of these men upon the matters at issue, but I firmly believe had a vote been taken a week ago upon these matters as they stand before us the result would have been the same as if taken now. Therefore I do not rise before you for the purpose of entering into lengthy discussion in describing the effects or giving my version of either the majority or minority reports, as I term them, but I rise more from a personal privilege, believing that we should look upon this matter in the interest of the people who are really interested and not from some sinister motive.

Therefore, gentlemen of the Convention, in looking at this question it is necessary that we first look at the causes and the effects that have produced the liquor statutes as we now have them in our state; and when we look at it in the position it now assumes, we look at it as being largely a matter of dollars. In the first place, we find our government encouraging the manufacture and sale of the commodity, and we find that a great amount of the revenue that it pays assists in paying the debts of our government and likewise of the state. A great amount of the revenue that both the state and national governments get, comes from the commodity known as intoxicating liquors.

On the other hand, there has been strife for half a century or more by which a certain class of people have been endeavoring to put down the demon rum. They have been setting before the people of our state the great degradation and ruin that come from it, and, failing in their efforts, it seems to me that hitherto they have been using their influence more for the dollars they receive than for a real solution of the problem. Therefore, I would say, gentlemen of the Convention, at this time that we want to look at the real people interested in this proposition to find the real solution for the problem, and in doing that we find that three classes are most deeply interested in the saloon agitation. These classes are:

1. Those who are interested from a financial standpoint in the manufacture and sale of the products.
2. Those people who have for their motives the complete annihilation or prohibition of the manufacture and sale of the commodity.
3. That class of people who are constantly suspended and tossed between the devil and the deep blue sea.

The first class I mention includes the whisky manufacturer, the wine manufacturer, the brewers of the state, the wholesalers and the retailers of the products. We find that these people must necessarily be favorable to that plan of legislation and that plan of basic laws which will perpetuate and best give them the rewards of their industry, and when you look at it in that way it seems to me that we could find in the King proposal the very propositions that that class of men want. I mean it seems to me that no better plan or system could be devised for the perpetuation of the manufacture and sale of liquor, and the sale of it in a larger quantity, than that proposed by the King proposal.

Now, why do I make such an assertion? Because there is very plainly a device in that proposal whereby the manufacture of the article is encouraged, and on the

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other hand the bars are let down whereby free trade is given for the traffic. And why do we find these people doing that? For the simple reason that the brewers today, the manufacturers of the commodity, are the ones who are greatly interested in the sale of their article and to greatly advance the sale of their product they ask the people of the state to let them institute dives and hell-holes for the purpose of carrying on their traffic. Hence, we find in that proposition no proposal to limit the number of saloons in our state or any territory whatever. They want to let the bars down for free trade in the traffic. On the other hand, I am glad that there is a better class of saloon keepers and retailers of this commodity who are interested in restricting the number of saloons that any community can have. Why? Simply because they know that these dives and these institutions manipulated by the brewers are not for the welfare of the trade generally, and they well know that free trade in alcoholic liquors would sooner or later lead to other radical movements that would injure or destroy their business. Hence, I say to you, that the better class of saloon keepers are favorable to a restricted license.

Then on the other hand we find that they do not want the people of the state to have freedom in expressing their wishes on certain questions. They want it so framed that the people cannot easily give to us their real expression. In fact it reminds me of that little ditty that is now going around:

"Makes no difference if he is a houn',
"You got ter quit kickin' my dog aroun'."

Or something to that effect. And so it seems that the issue that confronts us is one in which they do not wish the people to openly express themselves upon their views.

On the other hand, the other class I mentioned are those people who would have the annihilation or destruction of the traffic for the reason that it is evil and that it has evil influences. Be that as it may, we have for fifty years lived in a state without license and have had continual agitation and strife and continual legislation upon the subject. And to my mind we are no nearer a solution of the problem than heretofore. The proposition has been put up to the people of the state for an unrestricted license twice and has been voted down, so we see we cannot proceed on that proposition. On the other hand the people who have endeavored to influence legislation to such an extent that the liquor traffic should be driven from our state have not succeeded; and we are today almost in the position where certain people are using the people of the state of Ohio for the purpose of raising money to maintain salaries for one class of people, to keep up continual agitation upon the liquor question and not desiring to have a solution of it. And it seems to me, although there is a movement here apparently to endeavor to give us a restricted license, yet I fear that a certain class of these promoters are not quite sincere in their position. Instead of being willing to help the people of the state pass a restricted license, they would come out at the proper moment and oppose it and endeavor to defeat it.

By this time, gentlemen of the Convention, you see my position. I am in favor of a restricted license. And I want to say to you when we consider the third class I mentioned — those people who are between the devil

and the deep blue sea — that they constitute the business men and the people of our state generally who are not interested either in the manufacture and sale of the article or in the destruction of the traffic, recognizing that it is here with us, that it is made by law of nature, that it is encouraged in its manufacture by our government and our state, and, therefore, it seems to me that that class of people is today demanding a restricted license. And what do they want in that license?

The people who are interested in that are the people generally of the state, including a large percentage even of the saloon keepers of the state and that class of the Anti-Saloon League who want a solution of the problem and not agitation. They want a restricted clause that will limit the number of saloons. I might change the figures here some, because I fear if the figures are too high the result would be too much bootlegging, but I will leave that to the members here. I am glad to state that the gentleman from Montgomery [Mr. ROEHM] named to you some of the other restrictions I would have in it and added those concerning minors and lewd women and sales at certain hours. On top of that, and above all others, I would add that any saloon maintained or supported by the brewers of the state should have its license revoked. Then, when it comes to the revocation of the license, I say that one of the reasons why the people have arisen in their might has been that too many of these low-dive saloonists who refuse to abide by a single law upon our statute books have been put in business by the brewers. The people therefore have arisen in their might because they could not get justice and right and because they felt these men were overriding the laws and using their influence in a political way for the control of the election of men who would abide by their unlawful doings. Consequently the people of the state are opposed to that class of saloonists, and therefore I would say to you that the constitution is the place to provide for the revocation of the license of a saloonist who will not obey the laws. It would be simply holding up the bars to keep him from carrying on something that he is not permitted to do under the laws of our state — not so much because the laws were not there as from the fact that they would not enforce them.

And now, gentlemen of the Convention, I come to the point that I wish to make and that is this: We have before us two propositions for license, one practically an unrestricted license, couched in such language that we know not what it means. Another with restrictions that don't satisfy most of the people who believe in a restricted license. But when we sift down, there is not such a great bar between the two propositions. It seems to me as was said last night, that any three men — not from the prohibitionists and not from the brewers, but from the people who believe in a solution of the problem — could get together and in half an hour's time could present to this body a proposition that will not only meet the requirements of that better element of inhabitants of the state who believe in the solution of the problem, but would also have favor with the better class of saloonists of the state, and also with the bunch of Anti-Saloon Leaguers who believe in the solution of the problem and that it would carry beyond any reasonable doubt. However, as it stands before us, the proposal

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of the gentleman from Erie [Mr. KING] would not meet the approval of our state. I also hear that the minority report, when presented to the people of the state, would have the saloon keepers fighting it on the one hand and the prohibitionists on the other, and consequently it would have difficulty in passing. But I want to say it would come nearer passing than the one proposed by the gentleman from Erie [Mr. KING], because, as I said before, that same proposition, in similar terms, has twice been voted down by the people of our state and the people are today in a state of agitation thinking that we will again do the same thing.

Now we come to the point as to whether we shall compromise with evil. Gentlemen of the Convention there has never been any great problem before our nation or state under the name of a progressive movement that has been capable of jumping from the depths of the mire up to the level of highest standing. It has to go up by steps, by gradations. Therefore, I say to you a compromise made here, if properly made, will be a step for the better and not for the worse, and it is the only method whereby we can get out of the depths and make our progress upward.

I want to say further upon the compromise proposition, that so far as our national government has been concerned, we find it was a series of compromises that gave us the basic law of our land. We find upon that proposition that people met with different views and different ideas. We had it the other day described to us how Washington strove and toiled with the members of that constitutional convention until finally the different ideas and views were so brought together that our constitution today is a bundle of compromises. I say to you that the best regulation, the best basic laws, are those which have been produced by two radical wings getting together on some plain sensible basis, and I believe that is the best solution we can have of this problem.

Now, gentleman of the Convention, it seems strange to me that in this Convention, in which it has been stated and given to the press there is a sufficient number of men pledged to the initiative and referendum to pass that measure — it seems strange to me that they would come here and not get together and reconcile these two conflicting measures. I am not a member of any caucus; I have not signed any pledge; I have not entered into any agreement or understanding, but I am a believer in the principles of the initiative and referendum and believe there should be something put into our basic laws to give the people of our state direct legislation, and, being a believer in popular government, it is strange to me that that proposition was not the first presented to the members of this Convention. But it was not, and I began to make a little investigation and it seemed that there was some understanding — we will not call it a deal — which said this proposition must be voted upon first. Be that as it may, if you have the force to put in the initiative and referendum, why would it not be proper to leave this matter to that solution? Would not that provide a method whereby the people could say what kind of license clause, if any, they want? I am a believer in popular government, and if you are going to inaugurate a direct plan of legislation then the people of the state will have a voice in saying what kind of a system of

liquor license or no liquor license they are going to have. Suppose you put up the plan of the delegate from Erie [Mr. KING]; it will be voted down, and then the people of the state will arrive at a solution and present and inaugurate a plan whereby the people will get a vote on it. But suppose the minority report is adopted here and is sent out and voted down, the other people having a different plan of license can present it to the people. I say to you that the initiative and referendum if it is going to be part of the basic law, will solve this problem, and I think we should put in some statement that the legislature shall be empowered to legislate upon the subject of the traffic in liquor, subject only to the restrictions as provided by the initiative and referendum, and there you would have a solution for the whole problem. I present that however only as my view or idea, and if there are those who believe in that solution I am with them. If there are not any, then I am in favor of restricted license, but our constitution must name definitely what the restrictions are for the reason that the legislature has made a mess of it for the last sixty years.

Mr. ROEHM: Did I understand that the gentleman understood me to take the stand in my remarks that I was in favor of submitting to the people a proposition containing the restrictions that I mentioned?

Mr. JOHNSON, of Madison: I understood you so to say.

Mr. ROEHM: Will you yield for a short statement?

Mr. JOHNSON, of Madison: Yes.

Mr. ROEHM: I do not think my remarks could be taken that way. I was telling my personal view of what ought to be. It was not my intention — if it was so understood it was a mistake — it was not my intention to convey the impression that I was favorable to those propositions going in the constitution, for the reason that I fear they would be defeated — for the simple reason that I was opposed to the proposition in the minority report.

The delegate from Allen [Mr. HALFHILL] was here recognized by the chair.

Mr. DOTY: Will the member yield for a recess at this time?

Mr. HALFHILL: Yes.

Mr. DOTY: I move a recess until 1:30 o'clock.

Mr. HARTER, of Stark: I ask unanimous consent to bring before the Convention a proposal which I was unable to bring before the house on account of unavoidable absence.

Mr. DOTY: We have a special order.

Mr. LAMPSON: I move that we postpone the order of business one minute.

The motion was carried.

Mr. HARTER, of Stark: I offer a proposal.

By unanimous consent the proposal was read.

Proposal No. 288 — Mr. Harter, of Stark. To submit an amendment to article XV, section 4, of the constitution.—Relative to the filling of appointive offices.

Mr. DOTY: I move that we resume consideration of No. 151.

The motion was carried.

Mr. DOTY: I now move we recess until 1:30 o'clock.

The PRESIDENT: Before that motion is put I desire to announce that word has been received from Gov-

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ernor Johnson, of California, that he will be here to address the Convention Thursday, at 11:30. The chair appoints the following committee to make arrangements for his appearance here: Messrs. Rockel, Collett, Malin, Pettit and Stevens.

A vote being taken on the motion to recess, the same was carried and the Convention took a recess until 1:30 o'clock p. m.

AFTERNOON SESSION.

The Convention met pursuant to recess, the president in the chair.

The PRESIDENT: The member from Allen [Mr. HALFHILL] has the floor.

Mr. EVANS: I would like to make a motion if the gentleman will yield for it.

Mr. HALFHILL: Very well.

Mr. EVANS: I move that this body fix three o'clock tomorrow to close debate and take a vote on these proposals if I can get a second.

Mr. PECK: I second the motion.

Mr. HARRIS, of Ashtabula: I wish to amend to make it 11:30 tomorrow morning.

Mr. EVANS: I accept that.

Mr. PECK: I accept it too.

Mr. EARNHART: There are a number of us who wish to speak on this question and there may be a few who will take up all the time between now and then.

Mr. HARRIS, of Ashtabula: Several days ago it was suggested that we take a vote by the middle of Wednesday. I feel considerable personal interest in having it taken at that time.

Mr. PECK: Until 11:30 is long enough.

Mr. DOTY: Now what are we to understand that we are to vote on at 11:30?

Mr. PECK: All the questions. The previous question.

Mr. DOTY: I don't care what it is, just so we all understand it. Do we vote on the main question, have the whole thing disposed of, or will we be allowed to offer other amendments?

Mr. PECK: We want to vote as far as we can on all the things.

Mr. HARRIS, of Ashtabula: As far as I am concerned, I want it to include the whole matter, the two amendments and the proposal.

Mr. ANDERSON: Do I understand the proposition to mean this, that if we fix the time for voting that that which comes up first will be voted on first, and then no debate on the next proposition, and clear on through?

Mr. DOTY: Exactly.

Mr. PECK: Exactly.

Mr. ANDERSON: In other words, there is an amendment to an amendment and a substitute, and then you cannot bring in any other amendment? Do I understand after one of these amendments is disposed of that then you are precluded from offering any other amendment?

Mr. LAMPSON: I don't think you would be precluded from offering any other amendment after one was voted down, but we would be precluded from debating it.

Mr. ANDERSON: I am a little selfish. I expect to have all the time I want and I would like to give every

man who wants to talk an opportunity to do so. I believe the same consideration ought to be given to this question that will be given to every other question that comes before us. I do not think there should be an exception. For instance, good roads was changed and was then changed back again, and then by unanimous consent an amendment was put in and by unanimous consent something was taken out. Why should an exception be made in respect to this and not have it the same as to the others?

Mr. THOMAS: There was no exception; unanimous consent was given.

Mr. HARRIS, of Ashtabula: If this follows the usual order it will be engrossed and after that time it will be read a second time and you can offer an amendment then. The member from Cuyahoga [Mr. DOTY] and I understand that clearly.

Mr. ANDERSON: Mr. President: I thought I had the floor. I may be wrong and it may be because I have not been a lawmaker, but I believe the last word will be said upon this question when this debate is closed here now. I do not believe we will care to take up this proposition to discuss it later on, although we may have an opportunity after engrossment; but I do not believe any amendment will be successful, no matter however meritorious. I hope the delegates will vote to give all the time necessary for discussion, not for me, for I will have all the opportunity I want, but I want every delegate to understand fully the situation here and I want every delegate to have an opportunity to express his views on this matter.

Mr. FESS: If this motion goes through, I think we ought to limit debate so that everybody who wants to speak will have an opportunity to say something. If you are willing to limit speeches from this on until 11:30 o'clock tomorrow I will vote for it; otherwise I will oppose it.

Mr. PETTIT: There is no question that will come before us of the importance of this question we are now considering. The time that we have occupied shows the feeling of all the members of this Convention. It is a question of good government in the state of Ohio and I don't know who authorized any of these gentlemen to enter into any agreement to shut off debate. I know I did not.

Mr. DOTY: There was no agreement.

Mr. PETTIT: There seems to have been some agreement entered into with the understanding that the debate should close.

Mr. DOTY: No.

Mr. PETTIT: If that is not true, why this motion? I want to speak myself on this question before the debate closes, because it is a paramount question. I have suffered, God knows, and I want to tell the Convention what I know about it, and I am absolutely opposed to any gag rule here on this question or any other.

Mr. HARRIS, of Ashtabula: I will withdraw the amendment.

Mr. DOTY: All that we can do is to close the debate on the question of engrossment. We know when this will be read a second time. It naturally comes two days after engrossment. It may come two days afterward or it may come two minutes afterward. All that we can do if we close debate is to order the engrossment or pass

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on the engrossment, which is the main question before the house at the present time.

Mr. ANDERSON: Does this mean if this motion carries that we will proceed to vote without any further debate when the hour arrives?

Mr. DOTY: Yes.

Mr. ANDERSON: Then I want to suggest this point of order: How can you have the previous question unless you have two-thirds vote in favor of it?

Mr. HARRIS, of Ashtabula: I find myself once more agreeing with the member from Cuyahoga — a delightful situation to be in. It is simply a question of closing debate on engrossing the proposition. It must then be offered a third time and amendments can be offered ad libitum.

The PRESIDENT: The question is on closing the debate on engrossment.

Mr. ANDERSON: Can I get a ruling on my point of order? I say it is out of order because the debate can only be closed by the previous question and that requires a two-thirds vote.

The PRESIDENT: The point of order is overruled. The gentleman from Richland is recognized.

Mr. KRAMER: I have listened carefully for seven weeks and I have said about seven words in the seven weeks. I hate to see this debate shut off at this time. I know what it means. None of us will be able to say anything after this closes. We don't want to debate it after engrossment. I don't think it should be shut off until everybody has said what he wants.

Mr. JONES: As has been suggested this afternoon, this question is probably the one that more people in the state of Ohio are interested in than any other question that this Convention will deal with. It has been said upon this floor, and it is simply reiteration of what has been said elsewhere, that if it were not for the liquor question this Convention would not have been called. That being so, it does occur to me that this Convention ought not to adopt as its maxim in reference to this all-important question, how soon can we get through, but rather the maxim, how well can we deal with this problem, and for us to undertake to say now that further debate cannot come in for enlightenment on the subject is equivalent to saying in a modified form, it is true, at the beginning of this discussion that debate would not be enlightening to anybody; in other words, that all the members already have their minds made up and it is futile to undertake to debate the question further. We have all had the opportunity to observe with reference to the King amendment. It has been conceded by the proposers of the amendment already that they were mistaken in some of their views in regard to it. That has been the result of the debate so far. What may be the result of further debate on this question no one can now tell, but it does occur to me that we haven't reached the point where all that can be said on the question on the one side or the other has been said. The question is susceptible of discussion from phases and views that have not yet been presented on either side. Now, in consideration of the all-importance of this question, it does seem to me that we should not undertake to close debate by three o'clock tomorrow. That means that only three or four men can speak if they undertake to discuss

it with thoroughness, if they undertake to give us the results of any exhaustive study they have made.

Mr. EVANS: I withdraw the motion.

The delegate from Allen [Mr. HALFHILL] was recognized.

Mr. HALFHILL: Mr. Chairman and Gentlemen of the Convention: Just before the war of the Revolution broke upon this country there was a meeting held in the fields near the city of New York at which Alexander Hamilton, then a mere youth, attended. After the meeting he said the speakers spoke eloquently and well, but they did not argue the question.

Many speeches that we have heard here have been well spoken and eloquently spoken, and they have argued the question, but the question has so many angles and the issue is so likely to be obscured, that it is almost impossible in a space of anything like ordinary time to make a clear discussion of this great question.

Ever since the first man discovered that the sugar-bearing juices of the vine and the fruit of the tree could, by fermentation, be converted into alcohol and carbonic acid, the temperance question has been a question for consideration by all people. I presume it would be a fair statement to say that about this question more laws have been passed, more sermons have been preached, more books have been written, more judicial opinions have been announced, than upon any other subject that has dealt with the weal or woe of the body politic; and I presume it would be a fair statement to make that if those cousins of the Hebrew race, equally as intelligent and great of intellect, the Arabians, had not discovered the art of distilling spirits, we would not have to deal with so grave a temperance question as since that time has confronted a great portion of the human race.

It is a fact that during all the years of the earlier ages, when only fermented liquors were made and drunk, that the ravages of intemperance did not affect the people the way they do now and the way they have for some hundreds of years. It is a fact that distilled spirits were not known to the western nations until probably the thirteenth century, and the old alchemists and the doctors thought they had conferred a great boon on mankind when they distilled from the vine a certain substance which they called aqua vitæ, which name it still bears. That means water of life. But it is a known fact also that when distilled spirits came into general use as a beverage that then the greatest ravages of disease ensued, and those of you who think that in this day and age we have a great temperance question no doubt will be enlightened upon that point by examining the temperance question as it existed among our ancestors in England in the eighteenth century.

Now, before the middle of the eighteenth century, as related by Smollett, the public bars in London where spirits were sold put up sign-boards inviting the public to be drunk for a penny, dead drunk for two pence, with straw for nothing to sleep off the effect.

In 1743 Lord Lonsdale, speaking in the house of lords said:

In every part of this great metropolis whoever shall pass along the streets will find wretchedness stretched upon the pavement, insensible and motionless, and only removed by the charity of pas-

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sengers from the danger of being crushed by carriages or trampled by horses or strangled with filth in the common sewers. These liquors not only infatuate the mind but poison the body; they not only fill our streets with madness and our prisons with criminals, but our hospitals with cripples. * * * Those women who riot in this poisonous debauchery are quickly disabled from bearing children, or produce children diseased from their birth.

Public men had to take notice of those extreme conditions, and at that time most extreme remedies were undertaken in the way of legislation. License laws of the strictest character were then passed and enforced, and are yet passed and enforced, in the home of our ancestors in England and Great Britain.

There was a further result from that condition, which became so bad that it cried out to Heaven for remedy, in the formation of temperance societies, and the movement has a very definite connection with the constitutional convention of Ohio in 1851, and I would like to trace that movement for just a little way. It commenced in Ireland under Father Theobald Matthew, of Cork, or rather, the work was taken up by him and carried to a very successful completion. It is said that from the year 1838 to the year 1842, the net result of the work of Father Theobald Matthew in Ireland alone was that 4,647,000 people became abstainers from the use of intoxicating liquors. That is more people than there are in Ireland today. It was said immediately prior to 1851, and quoted in this country, that the work of Father Matthew reduced the consumption of liquor, and consequently the drink bill in Ireland, from 10,815,000 gallons to 5,290,000 gallons. That was one of the economic conditions that affected the people at the time they framed the constitution in 1851. They overlooked the fact, however, much as the credit should be ascribed to Father Matthew for his valiant efforts, that those years when he labored in Ireland were the years of famine and hard times and from that standpoint alone, following an economic law that never fails, the consumption of spirits and intoxicating liquors would fall off. Now I want to verify that by the figures we have in our country and in our own time and within the memory of every man here present. You all recall the panic of 1893, do you not?

Well, in the years 1892, 1893, 1894 and 1895, the drink bill of this country fell off and the consumption of wine fell off in those years as follows: In 1892, .40 of a gallon; 1893, .27 of a gallon; 1894, .25 of a gallon; 1895, .22 of a gallon per capita. That was for wine.

And of beer during the same years the consumption was, respectively, 13.5 gallons; 12.8 gallons; 12.6 gallons; 13.2 gallons per capita.

And of spirits during the same years the consumption was, respectively, 1.27 gallons; 1.12 gallons; 1.95 gallons; .84 gallons per capita.

And then you will find from the year 1896, when the panic was over, up to the year 1904, being the last statistics I could command, there ensued a gradual increase in the consumption of wine, beer and spirits, and that continued until the year 1908, which immediately followed the panic of 1907, which was a small panic, by

the way, but it demonstrated the actual existence of the economic law. Now all of these laws enter into a discussion of this question. It is not all a question of morals. It is not all a question of laws when you talk about the drink bill, no difference how you view it from a moral standpoint, because, as a question of economics, long before the drink is consumed many have converted their labor and the products of the soil into channels against which no one could object, be he ever so moral or be he ever so such opposed to the liquor business in any form.

Now that was the condition which surrounded the makers of the constitution of 1851, to-wit, a tremendous impetus to the temperance movement in Ireland which was followed over in this country by Father Theobald Matthew himself in the year 1850, and by virtue of his efforts the Sons of Washington and other great temperance societies brought their influence to bear upon the makers of the constitution of 1851. Then what happened? Before Ohio had been a state and since its admission into the Union, it had been perfectly legal under the constitution of Ohio and of the United States to manufacture and sell intoxicating liquors. It had been perfectly legal to manufacture and sell it at retail in quantities of more than one quart by anybody in the state of Ohio. But it had been illegal from the year of 1831 for anybody, except he be a licensed vendor of intoxicating liquors, to sell by the drink to be drunk on the premises where sold. And, therefore, that of itself was a class distinction, because the licensed dealer in intoxicating liquors was simply the tavern keeper and he became a class to himself, and people generally did not like the idea of having some special privilege conferred upon the tavern keeper, and that, accentuated by the great temperance movement of the years preceding 1851, helped the makers of the constitution take the position they took in that convention, and as a result we have a "no license" clause in our existing constitution.

Now I want to read some history from the briefs of eminent counsel who appeared to argue the validity of the Pond law when the constitutionality of that law was attacked before the supreme court of Ohio, because that was the first serious attempt made to tax the liquor business after the enactment of the constitution of 1851. I have condensed somewhat:

Is the excise imposed by the statute the grant of license within the meaning of section 18 of the schedule? Ordinarily the term "license" imports liberty or privilege. As employed in revenue parlance it generally imports a special tax arbitrarily imposed on some trade, profession, business or calling. The sense in which it was employed by the convention of 1851 can best be determined by ascertaining in what sense the previous legislation of the state had employed it, and what was sought to be accomplished or inhibited by its use in the constitution then under consideration.

The earliest exercise of the power to license the traffic in intoxicating liquors antedates the first constitution, and was continued in the legislation under it until the adoption of the second. It was exercised in 1782. 1 Chase, 115, —3-6; 1795, *Ib.* 165, —6, 7; 1800, *Ib.* 293; 1803, *Ib.* 369, —2; 1805, *Ib.* 467, —1, 3, 8; 1810, *Ib.* 669,

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—1, 3, 8; 1819, 2 Ib. 1046; 1820, Ib. 1142, —5, 6, 10, 17, 18; 1824, Ib. 1427, —2-11; 1829, 3 Ib. 1617; 1831, 3 Ib. 1825.

The act of 1831 continued with successive modifications until 1847, when the principle of local option was asserted (2 Cur. 1338) and the granting of license within any township made dependent on the annual vote of its electors, which was repealed in 1848. Ib. 1388.

Except as occasionally authorized by municipalities, licenses were usually granted by the common pleas court to none but keepers of taverns or public inns, after notice given of intended application, and generally on the petition of twelve reputable landholders of the township, and upon the testimony of witnesses in open court that the applicant was worthy, of good reputation, had suitable accommodations, and that a public inn or tavern was necessary at the place proposed. The title to the act of 1831 was "An act granting license and regulating taverns." The maximum charge for the license was \$50, which was equal to five times that sum at present. The only privilege conferred by the license was that of selling at retail, to be drunk where sold. The prohibition of the successive statutes uniformly was against selling without license, to be drunk at the place where sold, or in quantities less than the statute prescribed; the maximum penalty for which was \$100, collectible by indictment, or, under previous law, by information without indictment. It was made the duty of the court to give the act in charge to the grand jury, and of the prosecuting attorney to bring to their notice all violations of its provisions. The provisions of section 15 of the act of 1831 present so clear and distinct an idea of the ancient license that I quote it:

If any person shall keep a tavern, or retail spirituous liquor; or shall vend or sell any spirituous liquors of any kind whatever, to be drunk in the place where sold; or shall vend or sell such spirituous liquors by less quantity than one quart, without being duly licensed as a keeper of such tavern; each and every person so offending, shall forfeit and pay for each offense, any sum not exceeding one hundred dollars; nor less than five dollars, to and for the use of the county in which the offense shall have been committed; to be recovered, with costs, by indictment in the court of common pleas of the proper county.

A curious provision in the act of 1839 (1 Cur. 548) prohibited licensed tavern-keepers from selling "in any cellar, room or place, to be drunk where sold other than the bar-room usually occupied as such for the reception of travelers."

The sense in which the convention of 1851 must have understood "license to traffic in intoxicating liquors" is thus deduced from the previous legislation which had employed it in connection with the same subject and to prevent which was the purpose of section 18 of the schedule. It was a distinctive and special privilege granted to a select few, over whose acts were thrown the immunity of law, to sell intoxicating liquors to be drunk at the place where sold, all others who did the same act without the immunity of such special privilege being denounced as criminals therefor and punishable as

such. It was a privilege not equally accessible to all; not purchasable at pleasure by every one who might desire what is called a government license under the revenue laws.

The subsequent authorization of such special privilege by license legislation, the convention in section 18 of the schedule plainly intended to prohibit. License, in the sense in which it had been previously employed, must be the sense in which it is employed in this section. In regard to what effect the prohibition might have upon the traffic opinion as well as intention was divided, extremists of both classes hoping that what they desired would result—by the one the extinction of the traffic, by the other its entire liberation. The result has disappointed both, and the irrepressible conflict, antedating in its origin the existence of the state, still goes on. But the indubitable and unchanging sense in which the convention employed the word license remains. Within its meaning this statute (the Pond law) accords no immunity, confers no special privilege, grants no license. It illegalizes no branch of the traffic, nor legalizes any, abrogates no statute, disturbs no adjudication.

What then was the net result of the convention of 1851? To get our bearings on that point we will read the provision in the constitution as it exists: No license to traffic in intoxicating liquors shall hereafter be granted in this state, but the general assembly may by law provide against the evils resulting therefrom." So that at that particular time the convention of 1851, urged forward as it was by the great temperance movement of this country to which I referred, and further urged on by the consideration that there was being conferred special privilege on a few which was detestable to the many, and believing no doubt if they refused a license to sell intoxicating liquors the sale would cease, they put this provision into the constitution. How badly they were mistaken is a matter of history with which a great many of us are entirely familiar. We know as a matter of law that the statute of 1831, which forbade the selling of liquor to be drunk on the premises where sold, did continue in force and effect as a statute in Ohio up to the year of 1883, but it was not observed and it was just as easy for anybody to purchase a glass of liquor and drink it on the premises as it was to purchase crackers in a grocery and eat them on the premises. There was absolutely no distinction in effect so far as the practical application of it was concerned, although the law said it was illegal to thus traffic in intoxicating spirits.

I can easily see how a great many good people are misinformed at this present time about the legality or illegality of selling liquor under our existing laws. When in 1851 the men who framed that constitution said they would not license the liquor traffic, there was in force a statute which forbade the selling of liquor by the glass to be drunk on the premises except by licensed tavern-keepers, and the people at that time supposed, it being illegal to sell liquor and drink it on the premises and no license being permitted to issue therefor, as a consequence liquor could not be sold at all to be drunk upon the premises; and for a great number of years the selling of liquor by the glass, although it was the custom of the entire state for the dealers to sell it to be drunk by the glass and upon the premises where sold, was an illegal act and subject to fine and punishment

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of severe kind. Yet the fine and punishment did not follow, because like all laws not enforced by a strong public sentiment they become dead letters. And it is a fact, my brethren, you who speak about the enormity of a license being allowed at the present day because it legalizes the traffic in intoxicating liquors — it is a fact that you are mistaking the condition that exists in the state of Ohio now for the condition that did exist in the state of Ohio from the year 1831 up to the year 1883, and when anybody talks to you or to me after we have investigated the situation and know what the law is on that point, it sounds very strange indeed to hear good people urge as an argument against the passing of a license law that thereby you are taking into your own embrace the traffic in intoxicating liquors, are putting around it the protecting arm of the law, and becoming a partner with it. It sounds strange, I say, because when the Pond law was passed, which was declared unconstitutional in the case of the State of Ohio vs. Hipp, reported in 38 O. S., they did attempt to pass a law which would tax the traffic yet left in existence upon the statute books a law which forbade the traffic. Such was the strange contradiction of the law at that particular time. To prove this I read you a curious provision of the Pond law passed in 1882, which was the first law enacted in this state where an attempt was made to tax the liquor traffic. You will find the law copied in full in the case of State vs. Hipp, 38, O. S., and the section from which I read is on page 204:

Section 15. Nothing in this act shall operate to repeal, supersede or impair any existing statute or any provision thereof; nor shall anything in this act be construed or held to authorize or license in any way the sale of intoxicating liquors.

Section 16. This act shall take effect and be in force from and after the first day of May, 1882.

So that the very first law attempted to be passed to in any way put a tax upon the traffic in intoxicating liquors after the adoption of the constitution of 1851, had that very peculiar provision at the end whereby it sought in a certain measure to legalize the traffic by putting a tax upon it and yet leave in full force a law upon the statute books which had been there for many years that did not allow the sale of liquor by the glass to be drunk upon the premises.

Then, what happened? That law was declared unconstitutional. Immediately after the Pond law was declared unconstitutional the Scott law was passed, and by that time the people who were honestly endeavoring to place some restrictions on the liquor traffic in the state of Ohio by the enactment of a valid tax law, found that this provision of the constitution was a stumbling block at every turn; they found that they would either have to get rid of the statute of 1831 and subsequent statutes, and permit the sale of liquor by the glass to be drunk on the premises, and thereby legalize it, or they would never get a law which would pass the scrutiny of the supreme court. So when the Scott law was passed in 1883, you will find by investigating that law that it expressly repeals that section of the statute which had so long been in force, and thereafter anybody in the state of Ohio who paid the tax could legally sell whisky

or wine to be drunk on the premises where sold. That was the condition they had come to in order to get a tax law that was good and valid, and in order to avoid the stumbling block of the constitution.

So, my brother, when you get up in your righteous indignation and declaim against the enactment of a license law because it legalizes the liquor traffic you are speaking unadvisedly and you are not aware of the existence of statutes by which we are all bound, because liquor is now sold legally and the state is in partnership with the business, and it has the worst end of the partnership. That is what I am talking about.

Now just to be sure on the point I am making that we now legally sell liquor in Ohio by the glass to be drunk on the premises, I want to call attention to the opinion of Judge Okey, in 39 O. S., page 423, when he delivered a dissenting opinion in the case involving the constitutionality of the Scott law. Judge Okey says:

But the great and important change made in the legislation on the subject is that the provision against the sale of spirituous liquors by the drink, which had remained in force so long that no man now living can remember when it was enacted, is in terms repealed by the act of 1883. If that act is valid, it will hereafter be as lawful for one taxed as a dealer in liquors to sell brandy to be drunk as a beverage at the place where it is sold, and if it is true that there are five thousand such taxed persons, it follows that there are to-day five thousand places in Ohio where spirituous liquors are lawfully sold by the drink, whereas, for more than thirty years before the passage of this act, there had not been one such place in all the state.

Meaning that there had not been one place in all the state where liquors were legally sold to be drunk on the premises.

Mr. WINN: Are you referring to the dissenting opinion of Judge Okey as establishing the law in Ohio?

Mr. HALFHILL: I am referring to the dissenting opinion of Judge Okey because the reasoning is unanswerable, but believing that somebody might raise a question about that establishing a rule of law, I will quote another, and I refer to the case of Adler vs. Whitbeck, in 44 O. S., page 561, as a part of the opinion of the court delivered in that case by Judge Minshall.

This opinion that I quote from is a case where the constitutionality of the Dow law was attacked, and wherein the court held that the Dow law was constitutional. The Dow law is the law that is on the statute books today, save and except as it has been amended by the Aiken law, and therefore the statutes in the state of Ohio are exactly in line with the construction given in the case of Adler vs. Whitbeck, in which Judge Minshall says:

It is further argued that the law is a license itself. It is true that under this law liquor may be sold to be drunk on the premises where sold. In this respect a part of the traffic has been legalized that was illegal before.

So I would like to have any gentleman in Ohio, be he lawyer or layman, point out to me where the passage

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of a license law will legalize the sale of intoxicating liquors more than it is legalized at the present day and has been since 1883, when the Scott law was declared unconstitutional. It cannot be.

Mr. DWYER: A saloon keeper can collect a liquor bill the same as a dry-goods man under the law. They can go into court and sue and collect the bill.

Mr. PETTIT: Then why clamor for a license law if they have the same privilege now under the statute?

Mr. HALFHILL: I will get to that in a few minutes. I just wanted to get away from the brushwood that has been thrown into some of our paths from time to time, when it is held up to some of us who believe that a license law is the best way to regulate the evils resulting from the traffic in intoxicating liquors—I say it is thrown into our paths and into our faces that we are endeavoring to legalize a traffic which in fact has been legalized by the law of the land, and by the supreme court of Ohio held to be a legal traffic ever since the Scott law was declared constitutional in 1883.

Now, before I deal with that branch of the subject which was pertinently suggested by the member from Adams county [Mr. PETTIT], I beg your indulgence while I read a portion of a letter that was written for the press of Allen county by myself during the late campaign. If there were any other way to get these matters as clearly before you as I hope to get them by leaving out this letter, I would not read it, and I regret the personal note that it brings into this discussion. I have never had any connection, personal, professional, financial or otherwise, with the liquor traffic in the state of Ohio or any place else. I believe in temperance. I have been an advocate of temperance all my life, and I trust that my conduct of life has squared with that doctrine, but I have observed some things about the regulation of the liquor traffic and from my observation and experience I have learned, I think, that the constitutional provision that exists in the state of Ohio at the present time is the worst constitutional provision governing that traffic that exists in any state of the Union. I hope to be able to prove it before I get through, and I will do so at least to my own satisfaction. The only reason I have for reading a portion of this letter is to show you the difficulty that an honest man, a temperate man, but a man who honestly believes in a license system of control, has to encounter when he advocates those views and is brought suddenly to a halt by the declaration of those who cannot see matters the way he sees them, and who frequently and unjustly charge him with being an ally of the liquor traffic.

As published on the 19th day of October, 1911, in the Republican Gazette of Lima, I read a portion of a letter addressed to the people of Allen county written over my signature. It was one of eight similar letters, dealing with public questions to be considered by this Convention, which were published seriatim at that time, because I found no time to give to the campaign in the ordinary sense and I knew when I put my statements in black and white and published them there would not be anybody who could with entire and complete success deny my views upon any particular question:

To the People of Allen County, Ohio:

In talking generally with fellow citizens one cannot fail to be impressed by a confusion of ideas

that prevent many intelligent people from fairly grasping and clearly understanding the differences between constitutional law and that general body of rules enacted by the legislature into law and known as statutes.

Gladstone said of our federal constitution that "it is the greatest work of mind ever struck off in a given time by a body of men in the history of the world;" and it is true that this instrument has served as a model for every republic born since the opening of the nineteenth century, and it is likewise the model upon which all of our state constitutions are founded, except possibly the state of Louisiana.

The architects and builders of the federal constitution, and the leading American statesmen of all time, have contended that the organic law should be brief and contain only broad fundamental rules and restrictions. It must always be left to the legislative power to provide those specific rules and laws governing the rights of persons and of property, defining what is right and prohibiting what is wrong. Therefore it would seem appropriate to quote as authority from two of our great scholars, writers and jurists, respectively, Judge Cooley and Judge Storey, giving their definition and idea of a constitution:

"In America the principle of constitutional liberty is that sovereignty resides in the people; and, as they could not collectively exercise the powers of government, written constitutions were agreed upon. These instruments create departments for the exercise of sovereign powers; prescribe the extent and methods of the exercise, and, in some particulars, forbid that certain powers, which would be within the compass of sovereignty, shall be exercised at all. Each constitution is, moreover, a covenant on the part of the people with each individual thereof that they have divested themselves of the power of making changes in the fundamental law except as agreed upon in the constitution itself."

"Our state constitutions are forms of government ordained and established by the people in their original sovereign capacity to promote their own happiness and permanently secure their rights, property, independence and common welfare. They are deemed compacts in the sense of their being founded on the voluntary consent or agreement of a majority of the qualified voters of the state. A constitution is in fact a fundamental law or basis of government and falls strictly within the definition of "law" as given by Blackstone, a rule of action prescribed by a supreme power in a state, regulating the rights and duties of the whole community. It is in this light that the language of the constitution of the United States contemplates it; for it declares that this constitution, etc., 'shall be the supreme law of the land.'"

The burden of every definition of a written constitution as understood in America is that it is a body of broad fundamental rules briefly stated,

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which all the people voluntarily assist in creating, and which, upon a referendum, a majority of the people subscribe to by voting in its favor and adopting it as the organic law of the land. Its rules should not be as rigid as iron, but they should state great principles and not invade the domain of legislation. If inflexible rules are adopted, or the domain of legislation is entered by providing specially for those laws which the people through their legislature might frequently desire to change, the constitution itself becomes a hindrance and not an aid to the people in administering their own affairs.

Our early statesmen appreciated the importance of providing for the amendment of state constitutions, and Thomas Jefferson thought that a provision should be inserted in every state constitution so that after fifteen or twenty years the people could vote as to whether or not they desired to change it. On this point Jefferson in his written works says as follows:

"No society can make a perpetual constitution or even a perpetual law. The earth belongs always to the living generation: they may manage it, then, and what proceeds from it, as they please during their usufruct. They are masters, too, of their own persons and consequently may govern them as they please; but persons and property make the sum of the objects of government. The constitution and the laws of their predecessors are extinguished, then, in their natural course, with those who gave them being. This could preserve that being till it ceased to be itself and no longer. Every constitution, then, and every law, naturally expires at the end of thirty-four years."

When we have the authority of so great a man and statesman as Thomas Jefferson to the effect that no society can make a perpetual constitution or a perpetual law, we see the importance of confining a constitution to broad statements of fundamental principles so that the legislative power has reasonable latitude within which to enact laws and to repeal the same when the expressed will of the people so declares.

Moreover, a constitution is the bridle which a majority of the people voluntarily places on itself, so that the rights of a minority shall be respected in matters of state-wide moment. This is not inconsistent with giving the right of local self-government to every municipality, township or county of the state, these being the local political subdivisions of the entire sovereignty of the state.

Therefore, in dealing with any one of the many great subjects that go to make up the total sum of rules embodied in a constitution, it would be exceedingly well to bear in mind that the province of legislation should not be invaded, but the legislature should be controlled and guided only by fundamental rules clearly stated. A most striking instance of the attempt to inject into the body of the constitution something that should be done only by the legislature is the present frequent and illogical discussion of what should or should not be done to minimize the evils arising from the li-

quor traffic. To me it seems an easy task to prepare a section for a constitution which would plainly state the respective positions of the contending forces in this campaign, the one providing for prohibition, and the other providing for license of the liquor traffic, with the reserved right of local option in the latter, so here is a draft of each, which I deem suitable and appropriate, viz.:

To prevent the evils arising from the liquor traffic the manufacture or sale of spirituous, malt or vinous liquors is forever prohibited within the state of Ohio; provided always, this restriction shall not apply to cider made of the pure juice of the apple or unfermented wine made of the pure juice of the grape.

To mitigate the evils arising from the liquor traffic the legislature may restrict the sale to one licensed dealer for a given number of inhabitants and prescribe the amount to be charged and all rules for conducting such traffic; provided always, that no license shall be issued in any political subdivision of the state where a majority of the voters declare against licensed traffic in intoxicating liquors.

The foregoing is my understanding of what constitutes the ideas of each of the contending forces in this campaign; and I see no reason why either one or both of the same should not be printed upon a separate ballot, voted in a separate ballot box and counted separately and apart from the vote cast on the main body of the constitution. If I were a member of that Convention and could have my way about it and govern the Convention by my own best judgment as to what would eventually set at rest this contention for a period of time, I would want both the foregoing propositions submitted upon a separate ballot; but there is no determining in advance what the Convention in its best judgment will decide upon as the proposition or propositions to be submitted, or whether such proposition or propositions will be separately submitted. The chances are remote that any such a sensible plan as submitting both those alternative propositions to a vote of the people will ever be adopted, owing to the extreme and radical views of the contending forces.

Therefore it is impossible for me to state my own position any more clearly or definitely than I have already done, except to reaffirm that I could not vote for any constitutional clause regulating the evil arising from this traffic that did not reserve to the people of each and every political subdivision of the state the right of local option, and, in addition to this, the right to entirely exclude this traffic from the residential portion of any community, as is at present provided for by the Beatty law.

Such a license clause in a new constitution, as I have drawn and above set forth, if that method of submitting this question is decided upon by the Convention, would leave in full force and effect every local option law that is now upon the statute books of Ohio, and no intelligent layman, much less any lawyer, would deny this proposition.

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Hence, I take it that at least some portion of the criticism directed toward myself to the effect that I am opposed to local option laws, must result from either a hasty reading of my letters or from my failure to express myself as clearly as I should have done and as I have at all times tried to do. Surely no honorable person would intentionally misquote or misrepresent the position of any candidate for this important office.

The right of local option, or local self-government is so ingrained into the make-up of every American citizen, and is so much an established fact as a part of our own institutions, that the most ardent advocate of a license system for the liquor traffic knows full well that it would be impossible to write a provision into a constitution for Ohio with the remotest hope of its adoption that would deny to the people of any community the right to say whether or not the open traffic in intoxicating liquors should be carried on in that community.

The several laws on that subject now in force in Ohio make, first, a community out of a residential district; secondly, a community out of a municipality or township, and, lastly, a community out of a county. Thus the legislature within its province has specially extended the right of local option to every political subdivision of the state, and this is a right which always exists in the legislature so long as the constitution itself would not expressly provide against local option; and I have yet to hear of anybody who is foolish enough to contemplate the possibility of anybody being elected to that Convention from any section of the state that would even introduce, and much less advocate, a license clause for the liquor traffic that might by implication deny the right of local option.

That was as plain as I could make it, and the people in my county understood it, and yet, despite of that, the last day immediately before the election, in addition to writing a number of letters combating my position, the Anti-Saloon League sent this telegram, published in the Times-Democrat, November 2, 1911, under the caption: "License law would destroy local option." Here is the telegram: "Mr. Halfhill's position that a license clause could not destroy local option is clearly wrong. The present license program backed by the liquor interests, if adopted, will destroy every local option law on the statute books and prevent the legislature from prohibiting the liquor traffic. Wayne B. Wheeler."

Now, I submit that was not and is not a fair statement, and I submit that under those conditions, when I took the people of my county into my confidence and stated to them fairly what I did state to them and what I have read to you, that such a statement from the paid attorney of the Anti-Saloon League was neither honorable nor right, and that it is guerrilla warfare, and was intended, as I verily believe, to confuse and mislead a great many good people concerning the situation that is presented here and as it was presented in the election in Allen county

It has been argued here by gentlemen who have talked

against any license proposition of any kind, or who have talked in favor of this minority report, that their position was well known in their own counties. Nobody's position was better known in Allen upon any public question before this Convention than mine, and I do not care what county he hails from. My county was so close on the Rose law local option election that it only went wet by 63. That was two years before the election in which I was a candidate for delegate here, and while it may sound like boasting, I hope you will not consider it that way, my plurality in that county was 2,015, and my leading opponent was a good man and an excellent citizen who stood by the anti-liquor license clause in the present constitution and said so over his signature and made it his platform. I tell you men, the people in the state of Ohio, if they understand the situation, are not in favor of this present clause in the constitution of Ohio. They are in favor of a fair license law if they understand it, and if I could have my way about it the issue that would be presented at the next election would be the alternative of state-wide prohibition or license, and you gentlemen in the minority of the committee on Liquor Traffic, if I may say so, and I love you all, showed the white feather when you failed to bring out such a report; and the gentlemen of the majority of the committee show the white feather when they do not insist upon that being presented as the issue to be determined at the polls.

Mr. WINN: Did you introduce a proposal of that sort?

Mr. HALFHILL: Yes.

Mr. WINN: Did you not send word to the committee that you didn't care to be heard on it?

Mr. HALFHILL: No.

Mr. WINN: That word reached us.

Mr. HALFHILL: It was not sent by me.

Mr. WINN: Did you ever ask for a hearing on that proposition?

Mr. HALFHILL: I did not, but I have one to present to the Convention at the proper time. I did not think there was any use of asking that committee to submit anything upon the question of prohibition, and, with all due respect, I think I would have wasted my time if I had come before the committee and urged the proposal referred to by the gentleman [Mr. WINN] and which went to its long sleep on the committee's recommendation that it be indefinitely postponed. When you stake your reputation for dealing with the liquor traffic in the state of Ohio by taking the present clause in the constitution and then putting over against that clause an alternative license proposition which will be defeated at the polls, you are not doing what I think is a wise or a politic thing to do; and when the majority of this committee comes in here insisting upon a license clause that can not be understood, I don't think it is doing a wise or a politic thing. It may be understood by those who have studied it—it may be plain to them—but what do the last three lines of that license proposition mean? I don't know.

Permit me to read those last three lines: "Nor shall any law be valid which has the effect of defeating or negating directly or indirectly the regulation of the traffic by a license system herein provided for." I do not wonder that a good many people cannot understand that, and Judge King, the distinguished author of Proposal

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No. 4, in his explanation of those lines, says: "The words of this clause mean just what they say. They mean that should the proposal be submitted to and be adopted by the people, a rational, reasonable and workable license plan shall be created and put into operation in "wet" territory, and that no legislature, unfriendly or opposed to a licensing of the traffic, shall be permitted to thwart the will of the people as expressed on submission, by creating a license plan, or amending one already created, which shall be so unreasonable in its provisions as to be prohibitory of the traffic under the guise of obedience to the constitutional mandate."

I submit now that, while a great deal of this Proposal No. 4 is considered the acme of good language and fundamental law as it should be expressed, I am unable to comprehend the meaning, and I am unable to comprehend the reason for those last three lines. If I were alone on that subject I might have some doubts about my mental grasp, but I submit further to Judge King that whenever the legislature gets to the point in the state of Ohio that it makes licensing too easy, or whenever it gets to the point in the state of Ohio that it makes the license so high that it is prohibitive, then, in either case, the state of Ohio is ready to change and face about on the temperance question, and in either instance, provided it arises, you are right up to the point where a constitutional amendment providing for state-wide prohibition of the liquor traffic is due and overdue. So I think that part of that proposal should go out.

Now, for the enlightenment of any member of the committee on Liquor Traffic who did not read my proposal providing for prohibition, I have one here that is very much like the one I sent to that committee, and at the proper time I desire to introduce it. I want to see what this Convention will do with a fair, square question put up to it. The proposal that I introduced before the committee, which, as I remember, was No. 59, was referred back here with the recommendation of the committee that it be indefinitely postponed. And it was indefinitely postponed, and I do not know whether I can offer an indefinitely postponed proposal at any other stage of the proceedings. I am not skilled enough in parliamentary law to know that for a certainty, but the substance of that proposal which was before the committee on Liquor Traffic, and which was reported back as indefinitely postponed, I have incorporated into something else which I hope to have an opportunity to offer as soon as our rules permit, and which I now read by way of information:

Section 1. At such time as the vote shall be cast by the electors for the adoption or rejection of any revision, alterations or amendments made by the organic law, the following alternative propositions shall be separately and independently submitted to the electors, viz:

FOR PROHIBITION.

The manufacture of intoxicating liquors, and the sale and keeping for sale of intoxicating liquors, are and shall be forever prohibited; except, however, that the sale and keeping for sale of such liquors for medicinal and mechanical purposes and the arts, and the manufacture and sale and keep-

ing for sale of cider, or the unfermented product of other fruit, may be permitted under such regulations as the general assembly may provide.

The general assembly shall enact laws with suitable penalties for the suppression of the manufacture, sale and keeping for sale of intoxicating liquors, with the exceptions herein specified.

FOR LICENSE.

License to traffic in intoxicating liquors shall hereafter be granted in this state, and license laws shall be passed to regulate and restrict the said traffic and shall be operative throughout the state, provided that where the traffic is prohibited under laws applying to counties, municipalities, townships or residence districts, or other local districts, the traffic shall not be licensed in such of said political subdivisions or residence districts, or other local districts, so long as the prohibition of the said traffic shall by law be operative therein. Nothing herein contained shall be construed so as to repeal or modify existing prohibitory or regulatory laws or to prevent their future enactment, modification or repeal.

The general assembly shall enact suitable laws to license, restrict and regulate the traffic in intoxicating liquors, with the exceptions herein specified.

Section 2. At said election a separate ballot shall be in the following form:

INTOXICATING LIQUORS.

	For Prohibition.
	For License.

Section 3. Separate ballot boxes shall be provided for the reception of said ballots.

Section 4. The voter shall indicate his choice by placing a cross-mark within the blank space opposite the words "For Prohibition," if he desires to vote in favor of the article first above mentioned, and opposite the words "For License", within the blank space, if he desires to vote in favor of the article second above mentioned. If a cross-mark is placed opposite both phrases or neither phrase, then such ballot upon that subject shall not be counted as a vote.

Section 5. If the votes "For Prohibition" shall exceed the votes "For License", then the article first above mentioned shall become a part of article XV, of the constitution, regardless of whether any revision, alterations, or other amendments submitted to the people shall be adopted or rejected. And if the votes "For License" shall exceed those "For Prohibition", then the second article above mentioned shall be a part of article XV, of the constitution, regardless of whether any revision, alterations, or other amendments

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submitted to the people shall be adopted or rejected.

Now, gentlemen of the Convention, the reason I want this sort of an issue to come before the people is that we may know what we are voting on, so that when the issue comes up for discussion at the polls next November, we, who are in favor of a license for controlling the liquor traffic where it is permitted to be carried on, cannot be put in the position of being opposed to all that is good and righteous in government. I believe that license is the only way to successfully control the liquor traffic where the traffic is allowed at all, and if you cannot have prohibition, then take license—that is the position I stand in. I do not know whether it would be politic or wise to enact straight state-wide prohibition in Ohio. My own judgment is that state-wide prohibition in Ohio could not be enforced in the great cities. My own judgment would be that a license law with local prohibition would be the best way to control the liquor traffic while it yet exists as an open question in the state of Ohio, because, men, you all know, it takes public sentiment to enforce a law. It does not take as great a man as Montesquieu to tell us this, and he said that if a vigorous one-third oppose the enforcement of a law it cannot be effective, and if one-third of the people of Ohio—or if sentiment is anywhere near evenly divided on the question of state-wide prohibition, it might be very poor policy to vote state-wide prohibition at the present time and in the present generation, but there are a lot of people who do not think the way I do. There are a great many people who will not vote at all on this proposition unless they can vote their sentiments. There are many people who will be misled into staying at home and not voting and so let the whole constitution go unless you present to them a fair and square issue.

That is the way to solve this question and put it somewhat at rest, in my judgment, for the next generation. I am a believer in local prohibition. I believe there is not anything worse in a rural community, away from police regulation, than the existence of a place where they traffic in intoxicating liquors. I think in rural communities where the sentiment is strong and the law is enforced that local prohibition is the greatest safeguard we have. I would not vote for any county license law that did not preserve the right of local control, local prohibition, and I believe that portion of the King proposal does preserve the right to local prohibition. Because this is necessarily a business which, and it goes without the saying, has a great many evils following in its trail; it is a business that requires police surveillance and control. And that can only be furnished in the great centers of population, in the large municipalities and cities. But in the rural districts you undoubtedly can have local prohibition and make it effective. That is the reason why I want a license clause submitted to the people in such plain terms that they will see, if it is adopted, that we will have better means at hand to control the traffic in intoxicating liquors and that we can better avoid the evils of that traffic under license; and I want it so plain that anybody who raises the question of local option being denied or interfered with, would be convinced beyond doubt, provided he only read the proposed amendment. I want it to be so plain that a wayfaring man cannot err

when he reads that the right of local option and local control is in there, because, men, you must know that in dealing with the liquor traffic in Ohio we have made a terrible lot of mistakes, including the mistake of 1851.

You must know from your own observation that it is impossible in the state of Ohio to reduce the number of saloons under the present law. Is there any man here who will stand up and tell this Convention that under the present law you can restrict the number of saloons in Ohio? The present law is a tax law of state-wide application throughout the state. The only way you can restrict the number of saloons in any community is to vote them all out, whether that community is a residence district, a municipality, a township or a county. That is the only way you can restrict. You know any number of men in your own town if they want to go up and pay the tax can do so and there is no restriction possible, absolutely none. Now under a license law it is possible to restrict the number of saloons in any community, and that is why I want a license provision in the constitution that will permit the legislature in Ohio to restrict the number of saloons in any community.

Why, gentlemen, the traffic in intoxicating liquors at retail is a business that is fraught with evils and fraught with danger, and it is not every man who has the price of the tax that ought to be permitted to sell liquor, even assuming it can be sold at all. A felon ought not be permitted to sell liquors, one possibly who would gather around him the dregs of society and make his place a den of thieves. A man who would sell liquor to a drunkard or to a minor ought not be permitted to engage in or continue in the traffic. And what is the situation we find ourselves in today? You cannot under the law of the state of Ohio as it now exists, or any law that you can possibly pass in the state of Ohio under the present constitution, put a man successfully or summarily out of business who is selling liquor in violation of the laws. Does anybody say you can? You can't say it. Under a license law the man must be the proper party. He must be one who will not break the law, and the legislature can say if you do break the law, then after the first or second or third offense, as may be provided, your license is revoked, and you can never again engage in the traffic of intoxicating liquors in the state of Ohio. When you do that the state has put upon that business of trafficking in intoxicating liquors the strong grasp of the law, and the law becomes self-executing to a great extent. That is the way I want a license law. Serious consideration of this subject, from the standpoint of good laws and good morals and right control of this business, demands that we should get absolutely away from this constitutional blunder of 1851 which has harbored us here for sixty years. You ought to make some progress. You ought to permit the people of Ohio to say whether or not they are ready for state-wide prohibition, and if not, give them a chance to accept a provision of the constitution whereby you can successfully control the liquor business, which you do not do now. When you have that sort of an alternative, they will vote at the polls for one or the other, and then we will know for the next few years what the policy of the state of Ohio is.

I am not in favor of leaving it optional with the legislature. I want a mandatory fundamental law. I

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want the legislature commanded, as a part of the policy of the state of Ohio, to take this liquor business, fraught with its evils, and control it. I want it to be controlled by a license and I want the legislature to provide for that license and to fix the terms of it. I do not want, in fact, to put anything into the organic law that at the ensuing election will induce a lot of the very worst element engaged in the liquor business to join hands with the people of Ohio who are conscientiously opposed to that business, and thus help defeat a license provision at the polls. I do not want statutory provisions put in whereby such a condition as that can arise, because I believe if the general assembly of Ohio has the fundamental authority in broad terms, with public sentiment to support it, then the legislature will shape up and pass laws that will meet all requirements. I think the proposal that I have read here for your consideration will solve the situation. You will notice it includes the words "other districts". By those words "other districts" I mean such a condition as was pointed out here in argument—that is to say, that if the legislature of Ohio has made, or will enact, a law that this business shall not be carried on near a county fair, a church, a soldiers' home, a school, or in any other kind of district, where under the police power it is determined this business ought not to be carried on, then the legislature can do it under a proposal of that kind, and it is only where either the legislature, by the exercise of its police power, has not excluded the traffic from that district, or the electors, under their right to vote, have not excluded it from the township, county, municipality or residence district, that this license can be operative, reserving at all times to the people of Ohio in their respective communities the right to local prohibition.

I want to call your attention to another thing: This is the second constitutional convention that has assembled to deal with this subject and other great subjects since the convention of 1851. In 1873, when the third constitutional convention was assembled in Ohio, the supreme court of Ohio had never been called upon to pass upon one of these taxing laws. At that particular time it was a question of moral right or wrong. A great army on one side, yet following the leaders of 1851, said it would be immoral to license the liquor traffic, and yet the convention of 1873, composed of many great minds of the state of Ohio, saw that in the twenty years' time since the adoption of this constitution such evils had arisen which were so incapable of control under the present constitution that there ought to be a change. That was a great convention when you consider the problems that confronted it. Think of the great men in that convention. From Hamilton county you had George Hoadly and Richard Bishop, afterwards governors of Ohio, Rufus King, Judge Hunt and John A. Herron. From Cuyahoga county you had Lieutenant Governor Mueller and Martin A. Foran. There was Francis B. Pond, of Morgan county, afterwards attorney general and who wrote the Pond law. From Toledo you had men like Judge Scribner and Morrison R. Waite, afterwards chief justice of the supreme court of the United States, and from Northwestern Ohio, where I am best acquainted, came men like Judge Thomas Beer, of Crawford county, Judge William H. West, of Logan county, and before that time

member of the supreme court and one of the best statesmen and lawyers that America has produced. You had from my own county of Allen, Theodore Cunningham, a jurist and a great public-spirited and big-souled man, and from Van Wert you had Colonel Alexander, a jurist of more than local renown. There were such men as that, and a great many others I cannot so readily call to mind, but I had the pleasure of intimately knowing a great many of those men in my young manhood, and I have talked with them and learned from them about questions considered in that convention. I had the pleasure and privilege of being a student for two years in the office of Judge West and being sent by him with a letter to Rufus King, then a professor in the law school at Cincinnati and who had been vice-president of that convention, and the first thesis ever assigned to me by Rufus King was to write upon and compare the cases of *State vs. Hipp*, cited here today, and the license tax cases in 5th Wallace.

So I know something about what the men who made up that convention thought about the necessity of a license law to control the liquor traffic. They came to the conclusion that even up to that time, a little over twenty-one years, the organic law of the state of Ohio had been a miserable failure, and they submitted for the consideration of the people of Ohio a license clause in that constitution, but the people of Ohio at that particular time were not as well educated and as familiar with the working of the present constitution as they are today. Since 1873 we have had the Scott law, the Dow law and the Aiken law, all held to be constitutional by the supreme court, so that now we stand in a different position and the people of Ohio have a better understanding today than the men of 1873—great body of men that they were—when they submitted to the people of Ohio the question of license or no license to control the liquor traffic. It is much better understood, and I believe that if this question is now submitted so that the issue is well drawn and well defined the electorate of Ohio will record an intelligent answer that will help solve this riddle of the centuries.

Mr. WEYBRECHT: Mr. President and Gentlemen of the Convention: As a member of the committee on Liquor Traffic who favored the majority report, and who likewise voted in favor of placing the proposal of the gentleman from Mahoning on the calendar for discussion before the majority and minority reports, I desire to say a few words in explanation of the reasons I had in thus differing with a majority of my colleagues on that committee.

Before doing so, however, I deem it proper to pay my respects to the gentlemen of this Convention who follow the profession of the law, and especially to those members of that profession who, for the past week, in the debates on this question, have discussed the proper construction of the language of the majority report, in its syntax, in its mandatory and optional affirmations, in its punctuation, and, as claimed by some, in the subtle and hidden meaning of its provisions. When I think of these criticisms and charges by members of that great fraternity, is it any wonder that we children who seek the light should have serious doubts as to the efficiency of the "King's English?"

When the scholarly gentleman from Franklin [Mr.

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KNIGHT] proposed to embalm and then sterilize the spoken words bandied in debate at so much per em, I voted against the proposition, not so much on account of the cost as through a reverent and charitable feeling for McCauley's New Zealander, who, in the years to come, wandering amidst the broken arches of this building, might attempt, from some old fragments of the Debates of the Fourth Constitutional Convention, to follow and reconcile the conflicting statements of the forty-seven lawyers in this body as to the proper construction of the King proposal.

In conversation with my colleague [Mr. HARTER] shortly after the election last fall, he regretted that at least one of the able and learned members of the bar of old Mollie Stark was not a member of our delegation. Since the introduction of the King proposal I am beginning to appreciate the wisdom of that remark—in fact, I now realize that the electors of Stark county made a mistake in selecting their entire delegation from the Fourth Estate, rather than from those

Who gifted in the legerdmain of law,
Nonplus the rabble with their cant and caw;
Clinging to stilted forms and verbiage, forsooth
That makes fact false and oft conceals the truth;
Who in parliaments make laws, and then in courts the plea
That right is tweedledum and wrong is tweedledee.

In discussing Proposal No. 151, which contains the exact language of section 18 of the schedule, my friend from Mahoning advanced the argument that the ratification of Judge King's proposal might nullify certain regulatory laws now on the statute books—in other words, the adoption of section 18 was necessary to overcome a so-called sleeper in No. 4.

To a layman not versed in legislative lore, the words quicken the imagination and suggest all sorts of terrible things. When the gentleman from Mahoning first mentioned it to me I immediately thought of that insidious parasite that produces sleep, known as the hook-worm.

Shortly after this I received a special delivery from a ministerial friend up in Stark county suggesting that the same proposal was loaded, and a few weeks ago the gentlemanly head of the state Anti-Saloon League informed me that a certain colored man had left his traditional home in the woodpile and had found sanctuary in the King proposal.

For this reason it was my desire that the gentleman from Mahoning be given an opportunity, in the opening of this debate, to analytically point out these defects in the majority report.

I had another reason, gentlemen, personal it is true, to know the legal relation, supported by court decisions, that section 18 sustains to our present regulatory laws, and the possibility of extending or enacting further regulations in the future under its provisions, for, notwithstanding the fact that my name is appended to the majority report, if I were convinced that Judge King's proposal was not all that it pretended to be—a license system applicable only to wet territory, that would maintain inviolate every regulation now in the Code, including the limitation laws, prohibiting the traffic within a specified distance of certain institutions—I want to state frankly to this Convention that my vote would be against the proposal on its final passage. Further, if I had any doubt as to the continued operation of the Rose county

option law, in a county in which the traffic had been licensed, I would vote against it. In short, if I believed that any provision in the King proposal prevented the residents of any county in the state, at the expiration of the period covered by the previous election as to whether the traffic should be prohibited or licensed, my voice and my vote would be against it.

Nothing so far adduced in the discussion of this question, in committee and on the floor of this Convention, has led me to believe that Judge King's proposal is not a sincere and honest declaration of the hopes of the friends of license throughout the state.

Much ado is made over the use of the word "such" in line 15 of the King proposal, where it relates to the four distinct local option laws, the inference being that, inadvertently or purposely, this was written in the proposal for the purpose of negating the enactment of any further variety of local option laws. When we realize that every possible political subdivision below the county, and including the county as a unit, is now covered by option laws, it may well be asked, What other local subdivision can be gathered in the fold? Of course, there still remains the congressional district, which, as an administrative unit, would be a joke, especially when the legislature would undertake to gerrymander the state for wet and dry elections.

The main objection, however, is not so much the insufficiency of the variety of local option laws, as the admitted purpose to omit the mentioning of state-wide prohibition.

Judge King in his statement before the committee and in his address on the floor frankly admitted that if his proposal were ratified by the people the courts would, no doubt, construe that under its provisions the legislature would be stopped from enacting state-wide prohibition. Immediately after the acknowledgement by Judge King, Mr. Wheeler made a statement in which, among other things, he said that if this were consummated Ohio would be the only state in the Union which had a constitutional provision against prohibition.

I might answer this indictment and say that Ohio today is the only state in the Union whose constitution contains a provision that prevents license. But I admit this would not be an answer. I admit that in the realm of chivalric discussion, on the high plane of tolerance and a decent respect for the honest opinion of others, it would not answer the indictment of Mr. Wheeler. If this commonwealth for sixty years has been chained to a sentiment on the no-license clause—to my notion a vagary and delusion that has permitted almost free and unrestricted traffic in liquor—is no excuse why in the year 1912 the hopes and aspirations of thousands of good people throughout the state should be blasted by a fundamental provision that would prevent prohibition, without opportunity of registering their protest.

But let us be fair. When the work of this Convention is completed and the people are addressed to ratify our work, among the separate submissions will be one upon this question: Should the Convention adopt the majority report the form of submission would be "For License," with an alternative proposition "Against License".

I will not, gentlemen of the Convention, attempt to classify into lambs and goats, as did the gentleman from

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Defiance last week, the citizens who will march to the polls to decide that question. In the short span of life that has so far been allotted me by a beneficent Creator I have tried to follow St. Paul's precept, "Faith, Hope and Charity—these three—but the greatest of these is Charity." In my daily walks I have observed that after two thousand years the Pharisee is still kneeling in the temple thanking God that he is not as other men are.

Again, as an American who has an abiding faith in free institutions, the most sacred of which is the ballot box, I have always believed that the humble, the despised and the outcast, in his right to cast his ballot and have it counted, is my equal before the law, and I make no geographical limitation as to this statement, either north or south.

When the electors of the state vote on this license question they will have a choice of propositions and alternatives rarely presented to the people of any state.

1. If they vote for license there will not be a square foot of territory in the state that will not be subject to either prohibitory or license laws.

2. If they vote for license they will have every safeguard, every regulation, now on the statute books. If a bootlegger or speakeasy violates the county option law in dry territory, he will be amenable as now to the fines and penalties existing under that law.

3. If they vote for license no surrender is made of the principle that the people at the end of the prescribed period can exercise their right to expel the saloon. If a municipality, county, or township has operated for three, five or ten years under license, nothing in the submitted proposition will prevent a favorable referendum vote from prohibiting the traffic in such territory. On the other hand, if a vote in dry territory operating under the same law shows an unfavorable vote for continued prohibition, then, automatically, such subdivision comes within the operations of the license clause and such regulations as the legislature may from time to time prescribe.

4. If they vote for license nothing in such clause will prevent the legislature from enacting new or modifying any existing laws deemed inadequate to effectually enforce prohibition in dry territory.

5. If they vote for license the advocates of license have the assurance that the legislature cannot pass laws that will negative or nullify, by ridiculous and unreasonable enactments, the operation of a workable license plan confined entirely to so-called wet territory.

Now as to the alternative proposition, which is in effect a retention of the present constitutional provision. Under this clause, with the exception of a few regulatory laws, the traffic for thirty years was practically unrestricted. I have always believed, and am still of the opinion, that to the voters who ratified the constitution of 1851 the word "license" was the obverse of the word "prohibition". They knew no middle ground. After sixty years of license those who voted against it believed they were actually voting for prohibition. It was no doubt urged that if the right to grant license was eliminated and the traffic made free, the legislature would be forced to adopt prohibition. The clause was therefore submitted as follows:

No license to traffic in intoxicating liquors shall hereafter be granted in the state; but the general

assembly may, by law, provide against the evils resulting therefrom.

In the case of the State vs. Frame, 39 O. S., 408, the court in effect held that the latter clause was inserted to repel the presumption that otherwise might arise from the first clause that the legislature was to be shorn entirely of its general police powers over the traffic. In the case of State vs. Miller, 30 O. S., 475, in even stronger language the court held the legislature could pass what regulatory laws it pleased.

I make these citations at this time to disprove the statement of the friends of prohibition, who maintain that there is no alternative proposition in this proposal that accords to them the privilege of recording their votes in favor of state-wide prohibition.

Why, there has not been a period in the last sixty years that a legislature favorable to the proposition could not, without a vote of the people, enact a state-wide prohibitory law. The general assembly that enacted the Rose county option law, and afterwards the assembly that refused to repeal it, could, if they had been so disposed, have passed such law.

And so I say to those in this Convention, and to those who will in a short time be called upon to pass upon its labor, if you are not in favor of license for wet territory and in favor of state-wide prohibition, don't cloud the issue, but vote for the alternative proposition, and don't say that you have had no opportunity to record your views on these questions.

Don't criticise us for submitting a proposal whose title suggests its purpose—namely, to provide a license system in territory in which the people refuse to accept your idea of prohibition.

Don't criticise us for refusing to endorse a proposal which in one clause provides for local option on license, and in the next clause would vaguely provide for its annulment.

Possibly more has been urged against the majority report because it does not embody regulatory features than all other criticism combined. The gentleman from Defiance [Mr. WINN], who sponsors the minority report, in a letter addressed to the members of the Convention, says in respect to this omission: "The license clause proposed carries with it no regulations or restrictions, and the history of legislation in Ohio shows that if left to the legislature these restrictions for the traffic in wet territory will never be enacted."

Much has been said, gentlemen, as to the use of the word "shall," so frequently used in the proposal before this Convention. Some argue that it has no more binding effect on the legislature than the word "may". The fact remains, however, that wherever it was so used in the present constitution the general assembly regarded it as a mandate and faithfully complied with the letter and spirit of the convention's request.

The King proposal, in line 12, says that "license laws shall be passed to regulate and restrict said traffic."

There are those, however, who for conscience's sake honestly regard any kind of a license as a privilege instead of a restraint, and who will vote against license at the polls regardless of the number and character of the restrictions placed therein. Yet, here, with the cheerful assurance born of a worthy cause, they conceal their

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dual personality by urging the adoption of every kind of restriction, thus assuring its ultimate defeat.

Lord Rosebery, in his admirable biography of the first Napoleon, relates an incident in which the crafty Tallyrand was urging the emperor to adopt some great measure of state which he knew and planned would be his undoing. Napoleon, aware of his duplicity, but admiring his art, summoned the polished ambassador to his presence. "Prince," he said, "if you were a soldier I would order you shot; but as you are necessary to me to deceive my enemies, I forgive you."

The gentleman from Lorain, in his address last week, was questioned if it were not duplicity on the part of license advocates to withhold an elimination clause until after license was ratified, thus depriving many people now engaged in the business of the chance of securing a license. I believe this the first instance recorded in history where a prohibitionist ever evinced any solicitude for a saloonkeeper, and yet this same question and others like it will do more to defeat license than any army with waving banners.

It was so in 1851, and again in 1874, when the no-license advocates joined forces with my friend Winn's hobo army and at the polls effectually defeated the proposition.

However, I am willing to leave to the legislature, if license becomes operative, the task of writing into the Code the restrictions that will make the plan, as I believe, effective and of lasting good to the state. I am willing to leave to a body of men who in the last three general assemblies were almost as puritanical as Cromwell's first parliament. I believe that for years to come, under the present plan of apportioning—at least one member of the house to each county—that the representatives from the rural districts will outnumber the quota from the cities. I believe with such a representation, and the changes that must necessarily be required in a well-regulated license system, that you who reside in no-license territory and we who are compelled to accept different environments will be satisfied.

In closing, I have only one observation to make. The gentleman from Erie [Mr. KING] in closing his opening address last week, divested himself of the habiliments he wears as a member of the Liquor Traffic committee, and favored the Convention with his views of this problem that were, to say the least, instructive and novel. If I may be permitted to indulge in the same phantasy, I would suggest, but not propose, a solution that appeals to me because it is in line with the progressive spirit of the age, and that is this: Why encumber our organic law with provisions in behalf of any avocation or business under the sun? Why mention license or no license, local option or prohibition? Why not emulate the example of our sister states—the old Empire and Keystone states to the east, and the Wolverine state to the north? Let the general assembly assert its prerogative and, under the police powers inherent in all governments, deal with this problem as may seem proper and right.

"Sufficient unto the day is the evil thereof," and if we make a mistake this year, we will do better the next time. But it may be urged that my suggestion would keep the pesky thing in politics! If you mean party politics, this question has not got any; the line of

cleavage was rent asunder years ago and this Convention proves it.

Why, in the olden time it was a badge of distinction to be known as a republican or a democrat; today you delegates are branded as reactionary or progressive, as wet or dry, and the most confusing characteristic of this paradoxical medley is that you cannot determine who is who, either by the county he represents or the company he keeps.

Kipling speaks of the white man's burden as the duty the great Aryan race owes to the submerged of other lands. But Kipling, you know, never undertook to submerge his constituents with arguments as to why he took this or that stand in a constitutional convention on the omnipresent liquor question.

Mr. ANDERSON: The gentleman from Stark [Mr. WEYBRECHT] observed that his county was not properly represented here in the Convention because some attorney had not been chosen a delegate. So far as we have heard from old Mollie Stark we think the gentleman's conclusion is wrong. Not only so far as oratory is concerned, but so far as quoting from the decisions of the supreme court of Ohio. No lawyer could have improved upon the effort of the gentleman from Stark. It will not be long, if the gentleman continues, before that which he quoted will apply to himself, for, assuredly, he will soon be a lawyer in the fullest sense of the word.

I will start where he finished, and may take considerable of your time, but I want it understood that any of you gentleman are at liberty to interrupt me and ask me any questions you please, because we shall get nearer the truth by a discussion of that kind than by any set speech where interruptions are not allowed.

The gentleman asked the question, why should we have these matters discussed here at all? Echo does not answer. This question is upon the floor of this house today by reason of the act of the foreign brewer. Not a local man who is interested in the manufacture of liquor, not a saloonkeeper who is interested in the sale of intoxicating beverages, has been heard. The only voice you hear from the lobby or elsewhere is the voice of the foreign brewer. Let me prove it. I have gone to the trouble to examine the list of lobbyists, and the statements I make will be found true, though I have not in all particulars as yet verified it. The salary or pay of these men who are wet lobbyists is received from and paid by in a large part the foreign brewer. The headquarters is at the Hartman hotel and is kept up largely by the foreign brewer.

In 1851 the framers of the constitution which was then ratified placed in the constitution the prohibition of license. This prohibition of license was not a constitutional question, and if it had not been made part of that document for over sixty years the legislature could have enacted laws sounding any license regulation or prohibition, and if such inhibition had not been placed in the constitution, then, of course, we would not now be discussing this subject, but it must be remembered that the advocates of temperance did not inject this feature into this Convention, but the foreign brewer did. Such foreign brewer did not come here by invitation, and I want to say in this connection, for fear some mistake may be made, that I in no way represent the Anti-Saloon League. I never have; I never shall. I have

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not received a penny from it and I have not given it a penny, and you who were present in the early part of this Convention, and were here for a few days before the Convention convened, had ample evidence, provided you kept your eyes and ears open, that I am telling the truth when I say that the Anti-Saloon League and I have no connection whatever. In fact, if their officers and representatives had been friendly I would have been elected president.

Mr. THOMAS: Can the gentleman give us any idea where the funds come from to pay the lobbyists of the Anti-Saloon League?

Mr. ANDERSON: I cannot. I make no excuse for them. This Convention would be far better off if there were not present any lobbyist on either side. I do say that the Anti-Saloon League did not inject this fight in here, but the foreign brewer did. Have I answered your question?

Mr. THOMAS: I would like to ask you who the foreign brewer is, to make sure.

Mr. ANDERSON: The foreign brewer comes from Milwaukee—Pabst, Schlitz, etc. I will get to that in my speech later on. No; I will answer my friend from Cuyahoga now. The foreign brewer is the same corporation that we fought here in this room when we tried to get the Norris law passed, which law was backed by the Federation of Labor of Ohio, of which you were secretary and representative. You know that I mean the man who represented the brewer and fought the passage of that much-needed law. They are the same men, Mr. Thomas, who wrote those letters to the members of the legislature asking them to vote against this House Bill No. 24—known as the Norris bill—a bill that you worked so hard to pass and in which organized labor was so much interested, and which, since it has become a law, has been of such great benefit, not only to the members of organized labor, but unorganized labor as well. You friend (?), the brewer, worked against you and your organization then and they are still against labor.

Mr. MARSHALL: Can I ask a question?

Mr. ANDERSON: If it is anything about society, I don't want it.

Mr. MARSHALL: Do you claim that every man who has come to this Convention and who will vote for license was sent here by the brewer?

Mr. ANDERSON: You certainly do not think I was sent here by the brewers. I am going to vote for a restricted license clause, and I was not so sent.

Mr. MARSHALL: If you do, I am one that you are mistaken about. I was never sent here by the brewers and I am going to vote for it if I live, and it is not proper for any gentleman to get up here—

DELEGATES: Order, order.

The PRESIDENT: If the member from Coshocton has a question he may proceed to ask it; otherwise the delegate from Mahoning [Mr. ANDERSON] has the floor.

Mr. ANDERSON: I will reply to the gentleman from Coshocton. If the gentlemen wishes to introduce into this record his expense account as he has introduced other matters concerning his candidacy, I am perfectly willing he shall. It ought to be in with the rest of the so-called platforms and statements of his campaign, and I want to say to the gentleman that this was injected in

here in this Convention by the foreign brewers. I mean every word I say. I do not mean your expenses were paid by the brewers. I know nothing about that. Since you say they were not, I take your word for it.

Mr. MARSHALL: You ought not to make charges you cannot prove.

Mr. ANDERSON: Mr. Chairman, every charge I make here or elsewhere I will prove. The gentleman need not get excited. If any reference I make in the few remarks I shall venture makes this gentleman sit and writhe, it is because his bump of egotism is so extremely large. I am not referring to him. In fact I had forgotten him.

Now, let me proceed to the subject of the brewer. In 1851 there was just one sentence put into the constitution. Whisky was not written all the way through that document, as the gentleman from Erie would have it, but just one sentence, and that was: "Hereafter no license to traffic in intoxicating liquor shall be granted in this state; but the general assembly shall provide against the evils arising therefrom." I do not quote the exact words, but that is substantially it. Every court, after 20 O. S., that passed upon this subject held that all of the regulatory temperance laws were constitutional by reason of the last part of that sentence—"the general assembly shall provide against the evils arising therefrom." There is no doubt about that, and before I forget it I want to state that Judge King, in citing authorities the other day, favorable as he supposed to the side he represented, saw fit to read from 3 O. S. An examination of that authority will show that the court held that that which he represents was there designated as a nuisance. In other words, the supreme court of Ohio in that volume held that that which his clients are engaged in comes within the definition of a nuisance and could be abated. Again, Judge King, in reading from 39 O. S., page 409, said: "It has been said that the power of the general assembly over the traffic in intoxicating liquors is to regulate and not to prohibit. With this construction of the constitution we agree." Judge King read that as an authority to show that in Ohio, as the law is now, the traffic in intoxicating liquors as a beverage could not be prohibited, and in justice to the gentleman from Erie I want to state that he read from a brief and not from a book. The person who prepared the brief for Judge King stopped short of the controlling part of the authority, for if he had gone on and completed the quotation it would not have been authority for the brewer, but an authority for the side of temperance. The person who prepared the brief for Judge King must have known this fact, but by omitting it tried to fool the members of this Convention by copying only so far as suited his purpose, thus conveying the idea that our supreme court did not permit, under the constitution of Ohio, the prohibition of the liquor traffic. Now right where the brief ended the following appears: "The general assembly may, by law, provide against the evils resulting therefrom." You will notice that that is the language of section 18. Continuing the quotation, "It seems to us to be fairly implied from these terms that, in the judgment of the framers of the constitution, the traffic in intoxicating liquors might be carried on without resulting in evil, and to that extent it should not be prohibited. Such traffic would undoubtedly embrace sales

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for mechanical, medical and sacramental purposes; and upon such traffic this statute has imposed no burden whatever." You remember the question we are discussing is the sale of a beverage. On the other hand, "If, in the judgment of the general assembly, it be necessary, in order to prevent evils resulting from the traffic, that the sale and use of intoxicating liquors as a beverage be absolutely prohibited, we can see no constitutional ground upon which such exercise of its judgment and discretion can be reviewed."

Consequently, instead of the authority given in Judge King's brief being favorable to his contention, it is against it, for under the last part of section 18 you can prohibit the sale of intoxicating liquors as a beverage in Ohio. I do not believe that we need proceed along legal lines any further, but, at the expense of being tiresome, I wish to state that all of these decisions are predicated and based upon the last part of section 18, which section is here given in this book called "License", gotten out by the brewers' syndicate and distributed among the voters of our different counties before we were elected. An examination of that book demonstrates that whoever wrote it took exactly this same view. Again, I read from page 11 of this "License", under the heading of "A Mistaken Notion":

The advocates of license do not seek to subvert the local option laws by any license system. The present constitution provided, after prohibiting the license of saloons, that the legislature may pass laws to regulate the traffic. [Referring to section 18, that I just mentioned.] The no-license provision and the regulatory clause are part of the same article. Therefore, because the people are seeking the erasure of the no-license clause, it is sought to convey the impression that they are likewise seeking to eliminate the regulatory clause from the constitution.

In other words, this "License" pamphlet says that it was a mistaken notion for any one to believe that the brewer was attempting to take out of the constitution that last part of the sentence contained in section 18, and they then said there is no desire to eliminate that at all, but that was before the election. Now what do you find here? Does the King proposal eliminate that last part? Certainly it does. Does the King proposal agree with that license circular? Certainly not. Did the brewery representatives, in writing this license pamphlet, tell the truth? Certainly not. Some of us may have expected them to be truthful, but some of us who knew them better had no such expectations.

Proposal No. 151 has nothing to do with license, nothing whatever. You can have No. 151 in your constitution and have any kind of license you please. There is no conflict between license and No. 151, and yet a majority of the Liquor Traffic committee tried to send it to the graveyard, but the members of the Convention refused to have it buried so early, and after such refusal it was set for special consideration by the Convention, and then what happened? Judge King made a motion to amend by substituting No. 4 for 151, knowing full well that No. 4 has nothing to do with, but treats of, the same subject as No. 151, provided that No. 4 in no wise interferes with the present regulatory laws of Ohio. I

asked Judge King the question—in fact, I asked it three times and at last he answered it—whether No. 4 in any way conflicted with the regulatory temperance laws, and he said it did not. Consequently, if No. 151 in no way interferes with license, and Judge King is correct when he states that No. 4 in no way interferes with regulatory temperance laws, then there can be no conflict, and he has already admitted that No. 151 in no way interferes with license. Consequently, in his desire to amend by substitution you can draw your own conclusions, and those conclusions must be that if No. 4 prevailed then our regulatory temperance laws will be nullified.

I think a large majority of the delegates to this Convention before they were elected came out in a flat-footed statement and made it clear that we were in favor or separate submission of this question to the people. There is no doubt that eventually it will be thus submitted, but the question is, What shall it contain? The gentleman from Butler [Mr. SHAFFER] the other day stated that he took the position he did because he had promised his people before he came here that he would take that position. I want to take issue with him upon that statement. He promised his people he would be in favor of a separate submission of a license clause, but as to the exact wording or exact phraseology, or as to whether or not it should contain any restriction, I do not believe he made any promise. I do not believe he was asked concerning it. I do not believe there is a delegate here who before election promised definitely as to the exact form in which this license proposition would be submitted. Consequently we keep our pledges to the people if we separately submit some license clause. I will again refer to this license pamphlet. I will read from page 4, under the heading of "What Is License?":

- (1) The limitation of the number of saloons;
- (2) The exclusion from the business of undesirable characters, and
- (3) The ever-present power of license revocation.

In other words, they (the brewers) promised you before the election that if you would agree to separately submit license the form of such license proposition would be in the form of restrictions in at least three particulars—the limitation of the number of saloons, the exclusion from the business of undesirable characters and the ever-present power of license revocation. But we find that a great change has taken place since election. Why the change? From the attitude of the breweries before election, when the voters were deciding who should be elected, and their present attitude, why do they now object to any restriction in the license clause? Oh, they say, it is not organic law. They are terribly afraid that something will get into the constitution that is not organic.

Mr. LAMPSON: I would like you to explain that a little more fully. Some of them seem not to understand it.

Mr. ANDERSON: I happened to be talking with a certain gentleman on this question—he is with the "wets"—and he said, "Anderson, if we are not careful we are going to get some organic law in this constitution." I promised him I would assist in every reasonable way to prevent such a catastrophe, but I have no

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doubt that at this very moment the breweries, unlike the gentleman just referred to, are worrying for fear we may get something not organic in the constitution of the state of Ohio. It seems that a number of delegates on the "wet" side of this question are fearful that the laws that are statutory may be put into the constitution, but this fear on their part is only directed to this proposal. Take your proposal book and go through it and see how much is purely organic law. You gentlemen who come from Cuyahoga county, who want home rule for the cities, how much of organic law have you put in your proposal? And you gentlemen who come from Hamilton county, look at Mr. Worthington's proposal—how much organic law is there in that proposal? How much organic law is there in the Bowdle divorce proposal? And you only raise the question of the fear of statutory law being placed in the constitution when this question is being discussed and none other. If you want to make a constitution of purely organic law, it might admit, by reason of the language being of a general nature, of an interpretation entirely different from what you expect and from what you intend. After the courts would be through with interpreting such an instrument, you might not be able to recognize it as your work. I want to challenge any of the members who talk about the question of organic law and statutory law to find in the constitutions of any other states—I have them all here—purely organic law. Such examination will determine the fact that very many of the provisions contained in the constitutions of other states are more statutory than organic.

I have probably made myself obnoxious by asking so many questions while we have been discussing other proposals. I was looking forward to this debate and to this time. I asked one question of Mr. King when we had another proposition before the Convention, and Judge King's answer was quoted by the gentleman from Holmes [Mr. WALKER]. Judge King's answer was: "You ought to very carefully chain down the legislature." Does the legislature need any more "chaining" on the jury proposition than it does on this license proposition? Then when the question of good roads was up and Mr. Price was speaking on the question of organic law, he made his position plain upon this question. Therefore I want to read what my friend of Perry county [Mr. PRICE] said. I can refer you to the pages of the stenographic report (pp. 564, 565 and 567), for I took the trouble to hunt up what he said in referring to the manner in which the money should be expended for good roads. Just notice these words and see how beautifully they apply to the question we are at present discussing:

It should be so worded that when the representatives here return from this Convention and say "We have issued bonds for public roadways", and they ask "What do we get?", the representatives can answer it and not simply say you will get an equitable apportionment. When you return and give an account of your stewardship, it is quite likely that they will want to know exactly what the distinction is and when I say an equitable apportionment, the next thing a man wants to know is, what does that mean? And when I tell him the general assembly is going to

figure that out and tell him what it means, he will commence to get suspicious and when he ponders over that until the election in November, he will have so much doubt on it that he will say I don't think I will bother about voting.

Apply that statement to this license proposal and, say that the King proposal goes through without any restrictions at all written into the constitution—without in any way "chaining down the legislature"—when your constituents ask you on your return, "Do we get license?" you answer, "Yes." "What kind of license?" What will you say? "That is left to the general assembly." Then they will ask you, "Are you going to limit the number of saloons?" And you will answer, "No. That is not organic law." Then they will ask you, "How many can take out a license?" and you will answer, "I don't know. That is not organic law." Then they will ask, "What kind of men get a license?" and you will have to say, "I don't know. That is not organic law. Let the legislature determine that." Do you think that your constituents who are honestly seeking light and who do not belong to the wet "wets" or the dry "drys", who constitute the great and middle class which will decide this license question—do you think they will be more liable to vote favorably under those conditions? Do you think they will be more liable to vote for an indefinite license clause than they would for an indefinite roads proposal, and yet you didn't want the roads proposal indefinite. You didn't want it to go to the legislature unrestricted. Why not use some good sense on this question? Are the breweries to receive more consideration at your hands than the advocates of good roads in Ohio?

At the time we were discussing the good roads I asked Delegate Price this question: "Is it your belief that these matters as to how it should be distributed should be settled by this Convention and not left to the legislature?" and Mr. Price answered, "Yes, exactly. I want to figure out the rules here. I want the plan adopted here."

Then I asked him this question: "Will that be the opinion of the gentleman on every proposal that comes up?" and he answered, "I don't know, but I am willing to say that I am very conceited as to the greatness of this Convention."

I agreed with that. I am also conceited as to the greatness of this Convention.

Is this Convention greater than the average law-making body? I am not in a position to say, but every one who has spoken on this subject says our average is much higher than the average law-making body, and if the brewers can exert enough influence in this Convention, where the delegates were selected in a non-partisan manner, to prevent any restrictions on license, will the brewers not also be successful in accomplishing the same thing with the legislature?

Let me repeat that: If the brewers, the foreign brewers, prevail upon the delegates here, by reason of some hope of preferment, political or otherwise, will they not likewise be able to influence the members of the legislature?

Mr. ULMER: I would like the gentleman to inform us in what shape the brewery influence has been

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felt so far in this Convention? I know nothing about it.

Mr. ANDERSON: I am glad to answer that. I ought not to use the word "influenced", nor have I intended in these remarks to use it in an offensive manner, but I said if they can influence this Convention—

Mr. ULMER: But you did say "they influenced."

Mr. ANDERSON: To the extent that we should fail to put some broad restrictions in the organic law and that they would have more influence over the legislature. They may not have influenced this body in any way, but have they not tried to do it? Do you live at the Hartman?

Mr. ULMER: No, sir.

Mr. THOMAS: Will the member yield for a further question from me?

Mr. ANDERSON: Certainly.

Mr. THOMAS: What organic restrictions have you in Proposal No. 151?

Mr. ANDERSON: None whatever. Have I stated it in such an awkward manner that I cannot be understood? Let me again say that Proposal No. 151 has nothing at all to do with license, consequently it could not be restrictive of license when it has nothing to do with license.

Mr. THOMAS: It is not the intention of No. 151 to give the general assembly authority to license if necessary? Did you not make that statement in the beginning of this argument?

Mr. ANDERSON: If No. 151 stood alone, without anything being submitted to the people later on for license, or without license mentioned in the constitution, it would have that effect, but, remember, the words that control in No. 151 were put in there to safeguard the regulatory temperance laws that we have now on the statute books, so that if license were submitted and carried or not carried we would still have regulatory temperance enactments.

Let us analyze this a few moments. Suppose we submit an unrestricted license clause, and the King proposal is that, and after a while we adopt the constitution and go home; then what happens? The Anti-Saloon League on one side gets busy in state politics, trying to elect this representative or that state senator, writing to ministers in the county and getting to work the so-called "dry" men, so that they will have a majority in the law-making body; the foreign brewer also gets just as busy on the other side to see that no one but wet men are elected. Now one or the other side must win. Either the Anti-Saloon League or the brewers will win. Suppose the Anti-Saloon League wins. They can then dictate a license law. It would be a farce. Say, for instance, the brewers win, what kind of a liquor law would we get? It would be a calamity.

We had with us the other day a very distinguished gentleman. I don't agree with him in politics, but I admire him for his courage. I show him deference because he holds the office of chief executive of the state, and he, upon this question, said to us: "That you should require each man to take out a special permit with qualifications and conditions before he could engage in the business, and it must be plain to those who look the actual situation in the face that the choice lies between

those two courses. It ought to be settled one way or the other by a provision of the constitution."

You will notice that he said it ought to be settled one way or the other by the provisions of the constitution. Was he in favor of writing restrictions into the license law? Yes; for he said that it ought to be settled by this body by writing them into this constitution. That is what Governor Harmon said in reference to license. Permit me to read from the debates of 1851. The liquor interest was there. They had the sympathy of some of the delegates and they insisted that the provision and reference to license was not organic law. They were right. It was not organic law. If you want pure organic law, then you will say nothing about the liquor traffic in the constitution. Mark the people who are so anxious that the constitution shall be purely organic law, who vote against any reference to the liquor traffic being in the constitution, and then they will be consistent. But let me read from the debates of the constitutional convention of 1851:

Gentlemen say that there is no necessity for this provision, because the whole matter is fully within the power of the legislature. Is this not equally true in regard to many other provisions that we have incorporated in this constitution? Why do we say that corporations shall pay taxes upon their property in the same way that citizens are taxed? Is it because the legislature has not the power to do it? Why do we provide that certain sums of money shall be raised to pay off the debt of the state? Is it because the legislature has no power over the subject? Why cannot we leave it to the legislature to say why the state shall or shall not make internal improvements? Is it because the legislature is powerless to do or refrain from doing? We provide that the officers of the state shall be elected by the people; might not the legislature, if it see fit, make the same provision in most cases? And has it been done? Why have we provided against the submission of the acts of the general assembly to a vote of the people for their ratification, or to any other power? Is it because the legislature had not the right to prevent it, or because it had not the moral courage to do so?

I tell you, gentlemen, that this argument concerning the power of the legislature is of no force here. Why, if we were to go to work and cut out of this constitution every thing that is within the province of legislative power, we should have but a small fragment left."

And I want to make a part of this argument those words that were used a good many years ago and repeat them now. Such arguments have no force here. They are only an excuse to help the foreign brewer.

If you want to trust the legislature why then use the word "shall?" If the legislature will do what is right and proper and honest, why do you then say, "You shall?" For Judge King insists that "shall" must be in this proposal. Let me read you what Judge King said:

It is always there when the people impose upon the legislative power of the state their commands.

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They expect them to be executed, and executed in the language of the constitution, without any sneaking and without any hiding and without any getting behind closed doors or secret caucuses.

That is the description by Judge King of an honest legislature, and because he doesn't want any sneaking or hiding or any getting behind closed doors or any secret caucuses is the reason that he insists upon the use of the word "shall". If Judge King is so afraid of the legislature sneaking and hiding and getting behind closed doors and having secret caucuses, then I am equally afraid of the legislature, and consequently I want to put in this proposed amendment particular and definite limitations of the licensing power.

I grant that no limitation of license ought to be put into the organic law of Ohio that will change in the next fifty or one hundred years. In other words, if any of these restrictions we are trying to incorporate into the organic law will change in the next fifty or one hundred years, then they ought not to be put into the constitution. But I do insist that everything that will better it and is not subject to change should be put in, because we don't want "any sneaking" by the general assembly. Let me read you some of the restrictions that I do not think will change in the next one hundred years, for I am going to offer a substitute amendment when the opportunity presents itself, and these restrictions are in that amendment. They are as follows:

"No license shall be granted to any person who at the time of making application is not a citizen of the United States, of temperate habits and good moral character." Do you think that any time in the next hundred years we will want foreigners to come here and start saloons? Oh, you say, you don't want the license proposition voted against; but that restriction alone will not cause any votes to be cast against it, because the foreigner is not a citizen and he cannot vote, so that that argument cannot be used against the restriction.

"No license shall be granted for a longer period than one year." Do you think public opinion will change about that in the future? Does any one think a license ought to be granted for a longer period than one year? Do you think in the next fifty years that it will become expedient to grant licenses for terms of four or five years? Certainly not. Do you think that will lose you any votes, as Mr. Redington suggested the other day? He said, "We don't want to tell those men now that only responsible men can get licenses. We want to make them believe that they can get a license; we want to fool the riff-raff and let them think they can get license." I am afraid the disreputable element will not be fooled, provided we have unrestricted license. I am afraid it will be the good people who will be fooled.

Then in this proposed substitute or amendment I copy from the books in Pennsylvania the clause which eliminates the brewery-owned saloon. Will public opinion ever change in reference to that restriction in fifty years or a hundred years? Do you think the people will ever consent to the brewery-owned saloon? If they do they will be lopeared degenerates. The greatest curse today in the saloon business is the brewery-owned saloon, and we who live in the larger settlements, where population is dense, know it to be true. Up in Cleveland there are

two thousand saloons and eighteen hundred of them are brewery-owned, controlled or operated. Just think of it! and yet these brewery representatives are coming here to ask regulations and say that under the existing laws they cannot obtain regulation. Why, all they need to do to regulate the dives and wine rooms is to lock their own doors and put their own keys into their own pockets. Ninety per cent—I mean what I say—ninety per cent of the dives and wine rooms are owned, operated or controlled in Ohio by the breweries. The brewery owners are the gentlemen who sat down and through their paid representatives drew Proposal No. 4. That was done long before we ever came here. Let me tell you what some of these foreign brewery representatives do in Youngstown, and this is to my certain knowledge. They go into the mill—and we have an army of workers up there—find some man who has a lot of friends—perhaps some roller—and who has been making good money and perhaps has saved some, and they say to him, "If you will consent we will start you up in the saloon business. We will run the place. We will put in the bar fixtures." And a part of the saloon paraphernalia furnished by the brewery representatives is a cash register, of which the brewer carries the key. But they tell the mill man that they want to start him up in business. He is not a business man and never was in such close touch with temptation before. At first the mill man demurs; then he thinks of some saloon keeper who has been successful, has his motor car and his wife wears silks, and finally he agrees to go into the saloon business. Of course they make an iron-bound rule that he must only handle the beer of that brewery and none other. They lock the cash register and the money is deposited, and every day the representative of the brewery comes around and unlocks the till and takes out the amount of money that the saloon keeper owes for beer, rent and the proportionate amount of the \$1000 tax, but the representative of the foreign brewer in no way cares for the amount the saloon keeper may owe a cigar manufacturer or any other one with whom he may deal. Go to our court records and we can show you time and again that the man who was working in the mill and had his little home and was happy with his family, and had a little money deposited in bank, in the saloon business became a failure; that the saloon was taken away from him; that in trying to prevent the business being taken away from him he mortgaged his home and at the end lost his property and was thrown out on the human junk pile, a discard from the deck of humanity.

Take another phase of it. It has happened many times. The brewer rents a building and starts up a business on the street corner. The saloonkeeper obeys the law, closes the saloon on time and makes some money. Another brewery representative comes along and wishes to sell that saloonkeeper his product, and the saloonkeeper says, "No; I cannot handle your product. I have to sell the beer of the man from whom I rent this building." Then the other brewery representatives goes over on the other corner and starts a brewery-owned saloon and they both make some money. Later on comes along another brewery representative; he finds it is a good locality and he causes a saloon to be started on the third corner. By that time the competition has become so great that none of them can make any money

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and the result is that eventually all of the saloonkeepers care only for making money, no matter how. In Youngstown today, with a population of eighty thousand, we have three hundred and sixty saloons. True, every two weeks our pay roll amounts in round numbers to one million dollars. Down in East Youngstown, just outside of Youngstown, a few months ago they had forty-seven saloons and five thousand population. The five thousand population includes women and children and men who don't drink at all. That leaves, therefore, about sixty patrons to each saloon.

And then it is claimed that there are no speakeasies in wet territory—that the speakeasies are a product of dry territory! Why one of the Youngstown daily papers states that on February 9 those who wished to have the law enforced sent a representative from Columbus to Youngstown, and that in two days he went into twelve places and found twelve speakeasies and they were arrested and here are the names published in this paper. He was just two days in Youngstown and found twelve speakeasies and houses of bad repute, and all of them brewery-owned or controlled. Do you want to eliminate the brewery-owned saloon? Will you ever change in reference to it? Do you want to put that elimination into the organic law of Ohio? In my home county the domestic brewers are in favor of eliminating the brewery-owned saloons. The saloonkeepers who own their own places of business are in favor of eliminating the brewery-owned saloons. The ministers of Youngstown passed resolutions asking that the brewery-owned saloon be closed. The good people of our city also passed resolutions to the same end. In other words, there is not one voice raised in their favor. Oh, but you say, you have received many petitions here asking you to support the King proposal. How do they read? Do they not read just the same as those that are received from the dry side? I would like to have you make a test. Cut the name and number off the King proposal and then cut the name and number off Proposal No. 216—the one that I offer—and then present each to the people at your home, the people who signed these petitions, and see which one they will favor. I wish to challenge any delegate to state that there is a single objection in his county to the elimination of the brewery-owned saloon. I will pause for any one to accept this challenge.

Mr. ELSON: Speaking of these petitions, you notice that the ones against the King proposal and the others for the King proposal, both of which must have been furnished by some power that has means and not by any one member of this Convention—now, in bringing up these two, would it not be well to notice the difference in the ultimate aim of securing that expression on that subject?

Mr. ANDERSON: I am coming to that.

Mr. ELSON: Take your time.

Mr. ANDERSON: I will try to answer it now. No speaker or delegate who has come here representing the "wets" has once said one favorable word or one decent thing about the saloon business, with the possible exception of the gentleman from Butler [Mr. SHAFFER]—not one person, and yet we find this thing, which is admitted to be evil, more persistent and more "chesty" than any other interest that has come before us, even to

the extent that their representatives interfere in the election of our officers. When the election was going on the representatives of the foreign brewers circulated among delegates and told them how they wanted them to vote and you know it. In fact, they had their candidate for president. Has the representatives of any other interest, such as good roads, the three-quarters jury, taxation or home rule, interfered in the election of officers or in any way attempted to influence, except in the thing in which they were particularly interested, the action of this Convention? Somebody asked the question, who was back of good roads? Well, whoever may be back of the good-roads movement, they haven't been sending us circulars to ask us to vote against any other proposition that may come up before us.

Mr. BOWDLE: They tied us before we got here.

Mr. ANDERSON: So did the liquor interest. Not only did they tie you once, but three times.

I have not heard the people back of good roads asking that we should sign pledges, at least they did not come to me.

Mr. BOWDLE: We signed up for that before we came.

Mr. ANDERSON: Well, if you did you didn't vote that way. Now let us see. Did the liquor interest do anything of that kind? You all got a pamphlet for which that interest was responsible asking you to vote against woman's suffrage. Any delegate that votes for the separate submission of license and against the submission of woman's suffrage is inconsistent. If you do that you demonstrate that you care more for the breweries than for the home, and more for the beer keg than you do for the baby buggy, because you deny to women that which you grant to the brewers.

Mr. Thomas asked me a question a short time ago; I wish now to more fully answer it. I was attorney for the Ohio Federation of Labor in drawing what you know as the Norris law, House Bill No. 24, which was introduced by Mr. Norris, of Cleveland, and for the passage of which organized labor did splendid work, and it is on the statute books today. When that proposed law was up in the house there was some other bill, proposed by Mr. Dean, also before the law-making body—Dean always means a saloon and saloon spells Dean. Brewers were interested in the passage of the Dean measure. Consequently the representatives of the brewery wrote a letter to the members of the law-making body asking them to vote for the Dean proposition, and also asking them to vote against that which labor wanted, House Bill No. 24.

Mr. THOMAS: I want to ask the member if just as many dry employers didn't send out circulars as wet ones?

Mr. ANDERSON: I didn't say anything about dry or wet employers sending out circulars. Now what reason had the brewers to send that letter? How did it interfere with their interest?

Mr. THOMAS: Are not they employers?

Mr. ANDERSON: Yes; they employ people to drive their beer wagons, and the Norris bill didn't touch them.

Mr. THOMAS: They employ others too.

Mr. ANDERSON: The Norris bill has been a law in Ohio for three or four years and in all that time no brewer has yet paid out one single cent by reason of it.

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Mr. THOMAS: I want to correct the member. I know one brewer who paid something out on that account, because he became liable under it.

Mr. ANDERSON: I am glad of it.

Mr. THOMAS: I don't remember the amount, but it was quite considerable.

Mr. ANDERSON: I am glad of it. I want to say this: That the brewer got busy in trying to defeat the labor legislation, and all the time the brewer has been claiming to have such a great solicitude for organized labor. The worst enemy organized labor ever had is the open saloon. And labor is always talking about "scab" labor! I want to say that no laboring man ever got drunk on whisky unless he got drunk on "scab" whisky, because there is no other kind. Why even on the whisky bottle if you notice the label, you will see that it comes from the scab printer because no such printed label of any whisky bottle has the union label. You can prove this assertion by walking along the streets of Columbus and looking into the windows of wholesale liquor establishments or saloons. If you do not believe me, make the experiment for yourselves. So much, Mr. Thomas, for the friend (?) of organized labor.

Mr. THOMAS: There are glass blowers in the house who can answer that question better than I.

Mr. ANDERSON: What about glass blowers? I didn't say anything about glass blowers.

Mr. THOMAS: You said a scab bottle. I understood you to say that all of the whisky that is bottled is bottled in scab bottles. I tell you that we have a bottle blower in the Convention who can tell you about that.

Mr. ANDERSON: I didn't say that. Men don't get drunk on bottles.

Mr. FARRELL: I would like to ask the delegate if men get drunk on the printing.

Mr. ANDERSON: I said the whisky was scab whisky and that the printing did not bear the union label.

Mr. FARRELL: You said it was scab printing. I refer to the record.

Mr. ANDERSON: Look at the bottles. It is a rule that everything should bear the union label and you can't find any union label on them.

Mr. ELSON: Do the brewers employ union labor?

Mr. ANDERSON: Sometimes they do and some-

times they don't, and when they do it is because they are compelled to.

But to show the manner in which the brewery interests meddle in other concerns than their own, I wish to state the following:

Some years ago, by reason of the wonderful growth in Youngstown, where big iron and steel plants employ thousands and thousands of men, and where the water is supplied both to the city and the mills by the Mahoning river, the Mahoning river went dry. Youngstown city, as a protection to itself and the big plants, through its proper officers, wanted to purchase a sufficient amount of land some miles up the Mahoning river, construct a dam and hold the water in reserve. Nobody but those directly concerned were in any way interested in it. If this water were obtained it meant that the Carnegie Steel Company, the Republic Iron and Steel Company and other large corporations would expend millions of dollars for the building of other mills and making other improvements, which would not be done provided sufficient water could not be obtained. Under these conditions we came to the legislature, for it was necessary to have the law changed in some small particular before we could obtain the necessary land. We had Mr. Kilpatrick introduce the bill. Mr. Kilpatrick, in the general assembly as in this Constitutional Convention, voted on the dry side. The wets, being in the majority and because Mr. Kilpatrick introduced it, killed the bill. We then had to send the bill over into the senate and get a "wet" to introduce it and take Kilpatrick's name from the measure. For although it was entirely a local matter and in no way affected the saloon interests, the brewery lobbyists were against it because Kilpatrick introduced it, but after the "wet" senator introduced it in the senate it was passed.

Mr. WINN: Do you think they killed that bill because there was too much water for a dry man?

Mr. ANDERSON: No, sir; they killed it because we failed to keep step to the brewers' music.

Mr. DOTY: Will the member yield so that I can move for a recess?

Mr. ANDERSON: Yes.

Mr. DOTY: I move that the Convention recess until 10 o'clock a. m. tomorrow. The motion was carried.