

LITTLE BLUE BOOK NO. 1256
Edited by E. Haldeman-Julius

Dry-Law Debate

Clarence Darrow

vs.

Wayne B. Wheeler

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INTRODUCTION

Clarence Darrow, Chicago criminal lawyer and liberal, and Wayne B. Wheeler, general counsel of the Anti-Saloon League of America, clashed in a debate on prohibition, April 23, 1927, in Carnegie Hall, New York City.

Mr. Darrow made a frank appeal for nullification of the Eighteenth Amendment and declared it was not only the right but the duty of American citizens, as free men, to refuse to obey the prohibition law. The representative of the Anti-Saloon League, on the other hand, called this "anarchy," and demanded that those who dislike prohibition agree to its enforcement while it is on the statute books, and to work by legal means for its repeal if they so desire.

The two debaters presented a striking contrast in personality. Mr. Darrow, 70 years old, was grim, grizzled, humorous, vigorous in gesture and tone. His dinner coat, his black tie awry, and his forelock of iron gray hair falling over his temple, were symbols of the easy forcefulness which characterized his speech, while Mr. Wheeler's intense seriousness was also symbolized by his full evening dress, his immaculate white tie, his pale, long intellectual face, his ascetic expression, and his meticulous care in speaking.

There was no decision, but Mr. Darrow plainly had the sympathies of the audience, which gave him prolonged and repeated cheers and applause, while it mingled boos, catcalls, jeers, hisses and other derisive noises with the applause Mr. Wheeler received. It was obviously a group in which wets predominated in large numbers over drys. Some of the wets, especially those in the top gallery, kept up an almost continuous series of heckling and interruptions during the time Mr. Wheeler had the floor.

DRY-LAW DEBATE

SUBJECT OF DEBATE

The formal subject of the debate was: "Resolved: That the Prohibition of the Beverage Liquor Traffic Is Detrimental to the Public Welfare." Mr. Darrow had the affirmative and Mr. Wheeler the negative.

Mr. Howe in presenting Mr. Darrow, who opened the debate, said:

"We have seen Mr. Darrow sometimes as the champion of unpopular causes; sometimes again as the leader of popular thought. But he has always appeared as a bold and fearless individualist."

MR. DARROW'S ARGUMENT

Mr. Darrow said:

"I presume that even the prohibitionist would have meant that if a man is to live in this world he ought to have some freedom. There ought to be some things he could choose for himself. Instead of setting everybody to govern everybody else, each man ought to have something to do with the job of controlling himself. And if he has any liberty whatever it seems to me he ought to have a right to say what he should eat and what he should drink!

"Eating and drinking represent two of the most primitive instincts of man, or one, as you may put it. He can't live without them. A large part of his life is made up of it, and there are no two people whom I ever met that had the same taste in either direction. And, therefore, first of all things else, I would say that any degree of individual freedom should leave a man free to choose.

"There are those who by nature and inclination want to settle everything for everybody

else. To them liberty means doing as they please and making every one else do the same thing. To me, it means a dull, gray, uninteresting, cruel and tyrannical world. I would rather see a free society even if it involved mistakes than a cut-and-dried machine-made society where every individual was intent on seeking to rule some one else. The latter seems to me to be utterly inconsistent with any sane idea of living. We can see its marks all down through time. Men have always been intolerant, especially ignorant men, because no one is so sure of their own position as ignorant persons.

ASSAILS BIGOTED OUTLOOK

"As you grow in knowledge and experience more and more you have doubts of things that seem plain before, but the ignorant and the bigoted have always felt so sure that they have been willing to inflict any penalties upon any person who dared to interfere with their mode of thought and life.

"In the past we have had laws against heresy. More men have been destroyed by death in the most horrible forms for the simple right to believe and think and speak as they pleased than for any other crime, perhaps all the other crimes for which men have suffered. The torture, the methods of execution, the cruelties have always been much more severe where some real question or some religious question was involved than where there were plain subjects of criminal statute.

"The world has seen men and women without number executed for witchcraft, due to the zeal and bigotry of religious leaders. These executions have run over a period of four or five years. Even in America, supposed to be free, we have had examples of the hanging of old women for witchcraft in New England, a crime

which all fairly intelligent people know today is an impossible crime. Of course, all women couldn't be guilty of witchcraft. Young ones might. But even with them it should not be a criminal offense. These same people have loaded the statutes of every state with Sunday observance laws, and in the City of New York today is an organization devoted to hunting up the people who have any pleasure on Sunday and passing a law to make it a crime.

"After a while they will look around for babies who laugh on Sunday and try to have a law to stick pins into them because it is wicked to laugh on Sunday.

"They have made it a crime to play on Sunday, to work on Sunday, to go to a theater on Sunday, to run an automobile on Sunday, to go anywhere on Sunday except to church, and the graveyard, and back home again.

JOY TAKEN OUT OF LIFE

"This organization is just as active today compared with its limited capital to prevent baseball, golf, automobile riding, newspapers, all forms of Sunday activity except going to church, as it ever was. In New England they passed laws making it a crime for one to stay at home from church, and then they passed laws against sleeping in church. Of course, that took all the pleasure out of religion. In New England for many long years it was against the law to go to any theater, and the good Puritan fathers in Boston would pass these laws and then sneak down to New York to attend a theater, not on Sunday, but any day. Why? Because there was joy in it, and this class of people have never been able to distinguish between sin and joy. If a man had a smile on his face it was a sure thing that he had been doing something wicked. If he hadn't he would be sober and solemn and

wait to smile until he came to the kingdom come.

"You can scarce mention any activity that has not been forbidden and as a general rule is not forbidden today on Sunday.

"What has happened? In every city and in every State in the Union these laws have been openly violated. We do have Sunday theaters and Sunday baseball games and Sunday enjoyment and Sunday automobiles and Sunday newspapers and Sunday gasoline and Sunday almost everything. Do you know anything that these people would not lay their hands upon if they but had a chance? I cannot think of anything. By hook and by crook they pass prohibitory legislation providing that you could not get a drink.

NEVER NOTICED ANY DROUGHT'

"Personally I have never yet noticed any drought. And I never expect to. All that has been accomplished is to take beer and wine away from people who can't afford the high prices. That is all. But they are getting around that. They are buying grape juice and letting the Lord make the wine for them. And the amount of grapes, running into ten or twelve times as much and increasing every year, shows that there is hope even in spite of prohibition.

"They ought to be proud of their work. These people do not even believe in a rule by majority. They have taken the Constitution of the United States, which so far as any legislation of this sort is concerned is meant simply for the protection of individual liberty against the majority, for there are some things that even majorities ought not to be able to do, and this Constitution is meant to give some sort of protection to the individual against the caprice and the bigotry of a given majority. But in times

of war, by all sorts of scheming and working and bulldozing and terrorizing, they managed to put through a constitutional provision which said it should be unlawful to manufacture and sell intoxicating liquors anywhere in the United States.

"In the States of New Mexico, of Nevada, of the South, of New England—and I am speaking not of Massachusetts but of Vermont—that these States might forever keep a constitutional provision alive against great masses who live in the great states of this great Commonwealth, six million people out of 150,000,000 people can forever keep this constitutional provision in the Constitution of the United States. No matter how great the majority arose against them, unless it was overwhelming, in a great flood which seldom comes, it would leave this constitutional provision there and then supplemented by the Volstead act of blessed memory.

SCORES THE VOLSTEAD ACT

"An act which went way beyond even the Constitution itself, an act which declared that one-half of 1 per cent of alcoholic beverage was intoxicating when every human being knows that it is not, an act which has provided the amount that can be given by a physician for the treatment of the sick and the amount that can be given by a minister for the salvation of the soul.

"They lay their hands upon both this world and the next. The direst punishments as have been the case all through history have been meted out against those who dare to take a drink if they can get it. But what ought to be a \$5 fine at the most is made a penitentiary offence and every other provision in the Constitution is violated so that they may enforce the Eighteenth Amendment.

"They rejoice in a double jeopardy that under

DRY-LAW DEBATE

a State law they send a man to the penitentiary for selling liquor on the first day of March to John Smith, and he may serve his term and come out, and then he must be sent unto the Federal Government, too. Nothing is severe enough, and even worse than that they stand like a stone wall for poison liquor so that any man who takes a drink of alcohol today may be poisoned without a trial by a jury, without anything, just be poisoned because he dared to take it! They have converted the United States into a land of informers and spies—where every man is watching to turn up his neighbor, where nobody but prohibitionists can be trusted to be placed on guard, and those only for about a month until they fall, too!

“Every other issue of importance to the welfare of man has given place to this mad desire to control individual habits. There is no other question today but this. Judges, laws, everything gives place to this; and against it is the deep, strong, eternal protest from those who love freedom, from those who wish to govern their own lives, from those who are afraid of the tyranny and the superstition that have produced this kind of law in the past.

SAYS LAW CAN'T BE ENFORCED

“It has never been enforced. It can never be enforced! Until the last spark of independence has fled from the heart of the American people they will never consent that an organized body of men shall tell them what they may drink and what they may not drink. There were human beings in the witchcraft days of New England and juries refused to convict until the law was dead. There are jurors today who have too much manhood to sit upon a jury and convict a fellowman for doing exactly what he

has done and is doing! Where is the man in the United States today who doesn't drink or want to? And if he wants to badly enough he does. Juries refuse to convict for doing what they have done, and there are even Judges who refuse to fine and imprison for doing what they habitually do!"

WHEELER'S SPEECH IS READ

In introducing Mr. Wheeler Mr. Howe explained that the Anti-Saloon leader was suffering from a severe cold, and that as he wanted to save his voice for his closing speech, when he would dispute Mr. Darrow's arguments, F. Scott McBride would read his first speech, scheduled to take about thirty minutes.

The Chairman, in his introductory remarks, pointed out that Mr. Wheeler was born in 1869 in Brookfield, Ohio, "in a county which was as dry as dust," and that true to the traditions of the locality Mr. Wheeler has remained as dry ever since.

He said it was largely through the personality and initiative of Mr. Wheeler that the Eighteenth Amendment was finally enacted. Mr. McBride then read:

"I assume that no matter how much we may differ about the merits of prohibition, nevertheless as citizens of the United States, we believe:

"1. That every good citizen will obey the Constitution and let it be known that he is opposed to its violations by others.

"2. That those who are opposed to any part of the Constitution or the laws of the land have the right to join with others to bring about their amendment or repeal, but that until they are legally changed or repealed they should be obeyed and enforced.

"3. In determining what should be our course in framing the legislative policy of the nation, the public welfare should come before individual desires or selfish purposes. In our debate tonight we eliminate the discussion on the various kinds of prohibition, because my opponent holds that all kinds of prohibition of beverage liquor are bad. We also set aside the controversy as to its enforcement.

"Mr. Darrow openly advocates what few wets really believe, namely, that prohibition of the beverage liquor traffic is detrimental to the public welfare. Practically all the wets whom I have met—and I have met plenty of them—have felt that prohibition was detrimental to their thirsts, but few have confused that thirst with public welfare. The typical wet is opposed to all the restrictions on liquor, whether under license or prohibition. He finds fault with the definition of intoxicating liquor; urges legalizing beer and wine; talks about the virtues of Government control, but he doesn't really care about any of these things. What he does care about is more and stronger liquor. Mr. Darrow doesn't make those pleas.

"THE POOR MAN'S CLUB"

"When we were driving the saloon from the neighborhood of our homes, our churches and our factories, the typical wet pleaded that the saloon was the poor man's club. When we fought for local option, he opposed it as too local. When we fought for national prohibition, he opposed that as not local enough. He opposed State prohibition on the ground that the State had no right to force dry laws on wet cities, and now he urges State rights as an argument against a dry America. Any backward step was advocated by the wets as a

starting point toward the restoration of drink. This program Mr. Darrow accepts, but replaces the old arguments with his plea that prohibition itself is detrimental to society. What is there in the beverage liquor traffic that aids the safety, morals, health and welfare of the individual or the public?

"Intoxicating beverages have generally been admitted to be harmful to their users and to society. Intoxicating liquor contains alcohol, a narcotic, habit-forming drug or poison of which one can drink five ounces at once and live. Who are injured by this prohibition of the traffic in this recognized evil? Those who do not drink intoxicating liquor are not injured by such prohibition. Those who drink to excess and injure others dependent on them for support are not injured but benefited, as are their dependents also. Those who drink enough to undermine their health or decrease their wealth-producing power will not be injured.

"Who then will be injured or inconvenienced? The one who thinks he can drink moderately, or who desires to make money out of the business? Every moderate drinker runs the risk of becoming an excessive drinker, a risk that far outweighs the pleasure that comes from flirting with a dangerous habit. Surely no one would defend liquor solely that some one can make money out of it. Eliminate the non-drinkers, those who drink to excess when given the opportunity, those who drink moderately but are willing to give it up for the public good, and the remainder who demand the privilege to use intoxicating liquors regardless of the welfare of others is but a small minority. It is for the selfish desires and appetite of that minority that my opponent pleads, while I appeal to you

to safeguard the rights and benefits of the majority who desire the blessings of sobriety.

MORAL OUTCAST BEFORE DRY LAW

"The beverage liquor traffic has never had the standing in decent society which Mr. Darrow has unsuccessfully tried to give it for years. Booze was a social and moral outcast before the Eighteenth Amendment. Its best friends have always been apologetic about it. It was not named by its right name but given fine-sounding titles. It was King Alcohol—a name well chosen because he was the enemy to all that democracy stands for. All that poetry of language or that beauty of color could do was done to mask his real character, but under the fine names and the 'color that moveth itself aright in the cup' there was booze.

"Booze undermined the national health through a century until 13.9 persons out of each 1,000 died yearly. Over 200,000 of these deaths were needless. When booze was banished, with its plague-laden breath, the death rate dropped and 200,000 fewer graves were dug per year. Masquerading as medicine, hiding its wolf's fangs under sheep's clothing, booze hurried the tubercular or the pneumonia patient to the grave while he pretended to give them new life. Its death roll surpasses that of the War God.

"Surrounded by incomparable natural resources, with potential national wealth unequalled by any other nation, the increasing army of paupers and dependents created by booze became an intolerable burden on America.

"In spite of the blackness of its record, every effort was made to control booze without sentencing it to death. License, regulation, Government control, local option, dispensary sales,

county and State prohibition were attempted. Booze refused obedience to any of these laws. It invaded dry territory, ignored hours and days of closing, sold to minors, did everything which was forbidden.

"Economic law outlawed it; social law ostracized it; moral law excommunicated it. Statute law merely ratified what had already been written. National prohibition became imperative. The only alternative was slavery to the liquor traffic.

"The overwhelming majority of the American people responded to the challenge thrown down by booze. They wrote its outlawry so fully into the fundamental law of the land that it will probably never be repealed.

PROHIBITION PRINCIPLE SOUND

"Prohibition of the liquor traffic is based on sound principles of government. The first of these is the inherent right of the people to better their condition, in any unit of government, large or small, when a proper majority desires to do so and acts in a legal manner.

"The Public Health Department of New York City, in an official bulletin a few years ago, declared it useless to fight disease and crime if the chief cause was untouched, and declared that decreased drinking 'would mean less tuberculosis, less poverty, less dependency, less pressure on our hospitals, asylums and jails.'

"The records of every jail, prison, workhouse or other penal institution support the statement of the Supreme Court that 'the statistics of every State show a greater amount of crime and misery attributed to the use of ardent spirits obtained at these retail saloons than to any other source.'

"The menace of the beverage liquor traffic

to the health, morals and well-being of the people has been settled beyond controversy. Not only have temperance organizations, churches, women's groups and welfare movements declared this, but the verdict of science has affirmed it and the courts of last resort which faced these problems, not as partisans nor as wets or dries, but as unbiased, clear-sighted judges of facts, laws and principles of government have so ruled.

NO INHERENT RIGHT TO EXIST

"The next important principle established is that the beverage liquor traffic is so harmful in its influence and results that it has no inherent right to exist. If evils that destroyed the health and morals of the people had an inherent right to exist the same as things that promote the general welfare, civilization would collapse. The United States Supreme Court said (137 U. S. 86), after calling attention to the character of the liquor traffic:

"There is no inherent right in a citizen of a State or of the United States to sell intoxicating liquor."

"This is not the obiter dictum of a fanatic. Liquor has always been treated differently from useful things. Even in New Jersey the court of last resort said this traffic was 'in a class by itself, to the treatment of which there was no analogy in the law.' Chief Justice White said that the exceptional nature of intoxicants was the basis for sustaining the exceptional legislation and furnished no precedent for applying such legislation to other things.

"No defender of beverage intoxicants can produce a single statement by a court of last resort declaring the liquor habit or traffic a good thing for the individual or for society, but

thousands of decisions agree in declaring it so vicious, corrupting, pauperizing, health-destroying that it stands in a unique position before the courts and the nation.

"The test of democratic government such as ours is, whether the majority will sustain these fundamental principles which make it possible for the Government to endure. Under our form of government, if the majority long maintains a wrong policy, the Government itself will eventually fail. Our forefathers took a chance in determining the form of government under which we live, making the supreme test whether the majority will rule rightly and successfully.

"That test was made needlessly difficult so long as alcohol was legalized. The liquor traffic was strongly entrenched. It relied on the support of approximately 25,000,000 drinkers who spent about two and a half billion dollars yearly for liquor.

ASSERTS MAJORITY FIXED POLICY

"With the rising tide of sentiment against intoxicating liquor, the appeal was made in the name of democracy to allow the majority of the people to determine whether or not they wanted the beverage liquor traffic in that community. This was done. Local option laws were passed for wards, precincts, counties and other subdivisions of the State. Little by little sentiment grew as the question was discussed until there were 2,475 counties out of 3,043 and 11,794 cities and municipalities out of 15,692 in the United States dry before national prohibition.

"The more the people discussed the question the more convinced they became that the beverage liquor traffic was a menace to public health and safety, and so the question of its

prohibition was submitted in many States under State referendum laws or by States' votes, so that twenty-five States were dry by a vote of the people before national prohibition.

"When we add to this the States which prohibited the beverage liquor traffic through action of the State Legislatures and the smaller local option units, we find that 95 percent of the territory of the nation was dry before national prohibition and that 68 percent of the people lived in that territory.

"All of this was simply a test of these two sound principles of Government. First, that the people had the right to adopt this prohibition policy whenever the majority desired to do so, and were convinced that it was for their welfare; and secondly, that both the Courts and the people became convinced that the beverage liquor traffic was such a menace to the health and morals of the people that it had no inherent right to exist. In other words, that the beverage liquor traffic was in a position of trespasser rather than that of an invited guest and whenever the majority wanted to tell it to move on, get out and stay out, it had to do so.

SEES ALL LAWS DEFIED

"This national progress in dealing with the liquor traffic in allowing the people to vote in local option units and States would have continued had it not been that the traffic is so unmindful of the public welfare and it defies all laws and tramples upon every rule of common decency in order to make larger dividends out of the vices and weaknesses of its victims. When 95 percent of the territory was dry, the liquor traffic in the small percentage of wet territory was not willing to continue its operations only where it could so legally. Liquor

was smuggled into the 95 percent of dry territory and the people there were denied the right to have their local and State laws enforced. Federal laws were enacted to make it unlawful to send liquor into dry territory, but not only the local but the Federal statutes were defied and the people in the exercise of their inherent right to protect themselves from social evils, were forced to choose between two alternatives: First, to surrender to the lawless traffic and allow their State and local laws to be defied, or to submit the question of prohibition to the entire nation by the legal methods provided in the Constitution and force the liquor traffic out of the 5 percent of territory still wet before the majority of the people in that fraction of the territory were fully prepared for it.

"This represented the greatest moral conflict in the history of the nation. It took two-thirds of both branches of Congress to submit the Eighteenth Amendment, and then the majority of both branches of the Legislatures of three-fourths of the States to ratify it. In other words, one more than one-third of a quorum in either branch of Congress could have prevented the people from having the question submitted to them for decision.

"Had not public sentiment been strong for national prohibition it never would have been ratified by the Legislatures of 46 out of 48 States. Fewer than 200 State Senators in 13 States could have prevented ratification, yet our opponents talk about minorities putting it over. If so, then a wet majority can extract it from the Constitution. It has always been the right of the people to change their Constitution by legal methods, but to attempt to

nullify the Constitution or defy it is anarchy. It is an attack upon the Constitution itself.

DECLARES SALOON WILL RETURN

"If the wets win in this fight the saloon will return. They started with 2 percent beer in Canada, now they have oceans of strong beer and Niagaras of whiskey and wine. When prohibition was halted in Quebec beer stock increased 1,000 per cent in value. When prohibition was killed in Ontario beer stock went up like a sky rocket. The saloon is today anathematized by most wets, yet it was lauded as the safest place in which to sell and drink liquor only a few years ago. After trying out all systems the saloon was acclaimed the solution. Here liquor could be controlled, children and women kept out—it was the poor man's club. What made the saloon a nuisance? It was not the bar fixtures, it was the beer and other intoxicants sold there. Now the wets want to legalize beer and other liquors that made the saloon a nuisance. A beer mug or a whiskey jug in any other place would smell as sour.

"This whole game is not to restore personal liberty to the masses but billions of dollars to the brewers and liquor dealers who are back of the effort to kill prohibition. Booze never benefited any one but the liquor dealer and the renter of liquor property.

"I propose the following questions for Mr. Darrow to answer:

"What kind of system do you propose for the regulation and control of liquor instead of prohibition?

"If the liquor traffic is detrimental to the public welfare and the purpose of the Government is to promote the general welfare, why

do the courts uniformly sustain prohibition laws on the ground they promote the general welfare?

"If the average man is a machine and is controlled by his heredity and his environment, why place the destiny of the race in the hands of those made more irresponsible by the use of liquor?"

"If non-enforcement of the Eighteenth Amendment is advisable, as you argue, what logical objections would you offer to the nullification or non-enforcement of the rest of the Constitution?"

"How can the prohibition or the decreased use of liquor be detrimental to the public welfare? The worst that can be said against prohibition is that it does not completely prohibit, that there are still people who drink liquor, and that all of the evils are not eliminated. The remedy is not to open the liquor floodgates and drench the people in alcohol, but to enforce the laws better and urge obedience to the laws enacted to promote the general welfare instead of encouraging lawlessness. There will be no backward step on this question, self-determinationists to the contrary notwithstanding. The public weal is still dearer to the hearts of the people than the public bar.

"Good results have come in spite of the organized resistance to the enforcement of prohibition. Public drunkenness is rare; drink-caused crime has been greatly reduced; drink-caused poverty no longer drains millions in charity; alcoholism and alcoholic insanity are far below the license year average; drink no longer publicly tempts the weak but has become furtive; industrial accidents are fewer, the billions that once bought delirium tremens,

crime and poverty, now purchase homes, autos, insurance, travel, education, wholesome entertainment, bonds and stocks, with self-respect and happiness.

"The United States of America is headed in the right direction. The majority who believe in prohibition will 'carry on.'"

MR. DARROW'S REBUTTAL

Mr. Darrow then took up the rebuttal. He said:

"My friend Mr. Wheeler is a lawyer, general counsel of the Anti-Saloon League. He asked me why Judges have sustained the prohibition law if it isn't a good law. Well! Well! Well!

"It isn't for the courts to make law. They will sustain any law unless there is a direct violation of the Constitution, and I suppose Mr. Wheeler knows it. That the courts have said a prohibition law could be passed or not hasn't anything to do with the question of whether it is worth anything, and as to whether it is just a law or a piece of fanatical bunk.

"Does any Judge know anything more about whether prohibition is a good law than you or I know? Not a thing. So much for that.

"Now, let's see about another one. My friend the Pinch Hitter, read this, that it is the duty of every good citizen to obey every provision of the Constitution and the law. How long do you suppose you would live if you did?

"I undertake to say there isn't a man in the United States who does it or tries to do it. Not one. I am not going to camouflage this. Does Mr. Wheeler believe it? He knows better. Dare he go down among the Southern constituents and tell them to give the Negroes the rights that are guaranteed by at least three provisions?

"I tell you this, there isn't a man of the intelligence of an ordinary moron who doesn't know that people believe in enforcing only those laws that they believe in. For sixty years every Federal provision in reference to the constitutional rights of the Negroes and every law has been notoriously violated in every Southern prohibition State, and no prohibitionist dare raise his voice, and you daren't.

SAYS NEGROES CAN'T GET RIGHTS

"Let me tell you more. They are vitiated in very Northern State. Is there a Negro can get his constitutional rights in any Northern State? Can he get the best service in hotels, in restaurants, in theaters? Can he get the right the Constitution guarantees him anywhere now? And yet these prohibitionists talk about a man being an anarchist because forsooth he does not believe in the enforcement of some laws. They know better. What has the Constitution got to do with this case anyhow? Nothing.

"What about other laws? Any of you people know any laws that are violated? Of course, we all violate the prohibition law. Have you known anybody to stop drinking because of it? I have known them to start, but I never have known them to stop. How many of you have ever violated a Sunday law? If you had any honesty and any courage and any manhood, and you wanted to enjoy yourself on Sunday, you would go out and do it in spite of what some dead bigot said.

"How many of you lie about your taxes? Anybody? The only prohibitionist that tells the truth about his taxes is the man who hasn't any property. Whoever heard of a man return-

ing his personal property for taxation?' Nobody did it, or ever will do it, or ever should do it—because nobody else does.

HIS VIEW ON LIBERTY

"He asked me whether, if I insist on my liberty to do a certain thing, what becomes of the liberty of the other fellow who tries to make me do it? Well, what do you know about that! Damn his liberty, that's what I say! If he can't get enough run for his money by minding his own business without interfering with mine, then let him get along without any fun, as he probably will.

"Whoever heard of the indictment before that has been read in this case against booze, as they call it? Now, I have attended temperance meetings since I was 5 years old. I began in the same county where my friend, Mr. Wheeler, did, an awful dry county. That county made him dry, but it made me wet. That is the way that the same kind of stuff worked on two different machines! But I never yet got so wet that I'd be in favor of passing a law compelling my friend Wayne Wheeler to take a drink. And I'll never let him pass a law that I'll obey if I can help it telling me I can't take a drink.

"Let me tell you something about criminal statutes. No statute can be enforced unless it has a very great majority in its favor. You can't get many men, as you will see by this audience, who can be browbeaten and coerced to do something that their consciences disapprove of. You can't get men to convict other men when they know that the man who is on trial did the act without any consciousness of guilt. Can you?

LAW BORN IN BIGOTRY

"Because a few fanatics want to control me in my personal habits, can they get a jury to convict me if they do exactly the same thing themselves or want to do it? Not so long as we are free people, at least, they couldn't do it while we were free people. And they never will do it with the American people, for all this pettifogging because we won't obey the laws. A law born in bigotry, nurtured by intolerance and lies, preached about until people believed it, that law will not be obeyed by independent men.

"We are told of a list of things that liquor has done. What do you know about that. It made people poor. How do you know? What is the matter with automobiles? They cost ten to one of liquor. What is the matter with tobacco—five to one. Why pick out of the money that a man spends the amount he spends for beer and say that this made him poor in place of the infinite number of things he spends his money for? Bunk! And the whole campaign waged for a hundred years has been bunk, and religious bunk at that.

"Is there more crime now or then? Has crime increased or diminished since prohibition? Are the jails decreasing in population? No. Unfortunately they are not. They are increasing. Hasn't had a thing to do with it.

"Who have been the scientists? The prohibitionists? Oh, no! The witch-burners have been prohibitionists. They did not want any fun on earth because it would spoil their chances of getting to heaven. The broad, the tolerant, the wise, the humane have let other people at least go their own way. I know there are a lot of fool people who drink too much.

They used to be 'soused' in the old days, more of them now. I know it. I know a lot of dry fellows, dryer than a bone, who eat too much. I don't like a drunkard. I don't like the fellows who do too much of anything; even work. But if I had my choice between being a drunkard and a glutton I would be a drunkard."

MR. WHEELER ANSWERS

Mr. Wheeler then spoke in rebuttal as follows:

"I always like to debate with Mr. Darrow, because he says in such a unique way what the wets like to hear, and I like to have them get the enjoyment out of the argument because in this prohibition fight that is about all that they are getting these days when the majority of the American people decide this question.

"The second thing that I want to say is that I agree with what your distinguished Chief Executive said with reference to your duty as citizens to enforce laws. That is a good doctrine for New Yorkers to follow. But the American people will follow the suggestion of your Chief Executive with reference to enforcing law rather than our distinguished brother who comes from Chicago. Second, I agree with your Mayor when he said that prohibition would be a good thing if we had it. Now, stop and think what that means. What is our question tonight? The prohibition of the beverage liquor traffic is detrimental to the public welfare. Now, we are arguing and going on the theory there is prohibition of the beverage or liquor traffic. Now he concedes that if there is that prohibition, then it might be a good thing and he would follow it. If he will come

out to the great West and south and central sections of this country he will find where the majority of electorate live that they have that prohibition well enough to believe in it, and they are going to hold on to it.

CALLS APPEAL TOO LATE

"Mr. Darrow's appeal tonight it a little unfortunate in this respect—it comes pretty late. Appeals have been denied since the death of John Barleycorn by scores of groups and special pleaders that he was not fairly convicted.

"But he has neither gotten his case reopened nor has he made any impression upon anybody that had jurisdiction to open that case. It reminds you a good deal of what is now facetiously proposed over in Greece, that they open the case over there about the trial and the death of Socrates; but 'Soc' has been dead 2,000 years, and that appeal comes so late that it is not going to do him any good; and he can't find any court over there that has jurisdiction for the case. So, in this instance, there is no new evidence that has been presented since we argued this case to the greatest jury that ever sat in judgment upon any case in the world—the American people; and they won that verdict fairly, and if, as my opponent says, 6,000,000 people can prevent any change in the Constitution, why did he not get them together and keep us from putting the Eighteenth Amendment into the Constitution of the United States? All he had to do was to get his one man out of nineteen, for, remember, 6,000,000 is about one-nineteenth of the people of this country, and if that one-nineteenth, according to his theory, can prevent the change, and they were notified as to their power to do it,

and we fought it out in the districts, Congressional districts, in the Senatorial fights in the States, and all down along the line, and if he could not get that one out of nineteen he is coming in with a mighty poor claim, now that the majority weren't in power in this country to put it over.

"They were for it from the beginning and they are going to fight for it by every honorable method until it is repealed by a legitimate majority in this country.

"Let's keep good-natured about this thing and if you have got the argument you will win, but you can't win by trying to say you will do things in violation of the Constitution of the laws of our country.

ASSAILS THE SALOON

"Mr. Darrow pictures a place where liquor is sold and consumed in a way that it would make the mouth of a thirsty man just water, but stop and think what that place is. It was the saloon, the institution that wrecked the theory that he wants to bring back today. We tried in this country every method that there was for trying to reduce or eliminate the evils of the liquor traffic. The people came to the conclusion that if there was any place where liquor could be sold safely it would be in a saloon. Now, what happens?

"After they had tried all those and come to this the saloon was abolished. Do you know of a wet organization today that is willing to go before the American people and say, 'We are for the return of the saloon?' [Shouts of "Yes" from the auditorium.]

"Name it! Every wet organization has in its literature against the return of the saloon,

but they want wine or beer or something else. They are all against it.

CITES WORKING OF LAW HERE

"Let's take your own city here. Your city is under less control from the standpoint of the Constitution than most cities of the United States. Why? You have no State code here to help enforce. Right here in your city where you have a population that is now just about even with London and in London where they have the ideal system over there so that you can get liquor moderately and all be sober and happy, and what happened last year? There were three times as many arrests for drunkenness as there were in New York.

"It shows this: That when you prohibit the traffic, while you may not get a 100 percent result from it, in places where they do not enforce the law, yet you get good results just in proportion as the law is obeyed and enforced in that community.

"Now then, my friends, I thought we could get to an issue on this tonight, a little better by asking these questions. We asked him to tell what kind of theory he had for controlling the liquor traffic. Did he answer it? No, he did not.

"You can't depend upon letting each individual be his own court as a final resort in determining what he is going to do. If there is only one man or woman on earth you could do that. But when others come into being you have got to have some respect for their rights. He told you here that he'd rather die a drunkard than a glutton. Well, now, I'd rather not die either way as far as I'm concerned. Did you ever hear of a man eating so much pie

or cake or anything of that kind that he'd go home and shoot up the family?

"He tells us that he is against this authority on the part of the Government, interfering in any way with what he wants to do. I want to say to you that is the theory of the man who is defying the law and who has to face the courts every day for violation of it.

SAYS MAJORITY BELIEVE IN LAW

"He asks us if we have a right to make a thing criminal—that they do not believe it. The majority of the people of the United States do believe in this law. That is the reason why we have got it."

Mr. Wheeler here took up Mr. Darrow's argument which alleged Negroes were unable to get their constitutional rights. He said many such laws passed in the South had been declared unconstitutional. He said he was for enforcement of every part of the Constitution and that practically every person back of the Eighteenth Amendment took the same stand. He asserted that was his theory as to the Eighteenth Amendment and continued:

"Now then about the questions that we tried to get Mr. Darrow to answer. When he came to them he did not take a single question that appertained to them. He tried to juggle some of them but did not take a single one of them and answer it fairly and didn't even state the question. Take the last one, the non-enforcement of the Eighteenth Amendment is justifiable because you don't like that kind of a law and then by that same token why can't we just wipe them all out and just run this country without any law at all?

"He tells us here that the personal liberty

of the individual is the big thing. Well, it is a big thing but you can't have that personal liberty unless you are willing to grant that the other individual has the same right to protect his personal liberty. And if you are going to have liberty in a country and the only kind we have under the Constitution and the kind we have under the Constitution is liberty under law. We stand for it; we will fight for it; and we will win in the future for it.

MR. DARROW CLOSES DEBATE

Mr. Darrow had ten minutes to close the debate. He said:

"I will endeavor to answer Mr. Wheeler's questions which I omitted before. I answered one of them and there are two which I did not.

"He says, if you can violate one law why not another? Well, let's see. It is a criminal statute. Unless nine-tenths of the people believe in a criminal law statute you can't enforce it. It is not simply whether a majority is best. But it must have behind it such a feeling that the man who does the act, if guilty, that the public will enforce it.

"Let's compare it. He says if you won't obey one law you won't obey another. Suppose the question were put to the people of the United States that the law of murder—there isn't one out of 10,000 wouldn't be in favor of the law. Would there be any minority that would possibly violate it? Suppose larceny—not one out of 10,000. Robbery, and one of the ordinary crimes, are supported almost unanimously by the people and they cannot be changed or repealed. The public nullifies a law and always will nullify a law so long as they have any sense of individual freedom

left in them when that law is not sustained by the public opinion of a large majority of the people. That is all there is to it. When people are so browbeaten and degraded and cowardly that bigots can enforce a law upon them, it is about time they shut up shop, and that is all there is to it.

FAVORS ANYTHING ELSE

"He asked me what I would have in place of what we have. Anything. I will modify this. I would have anything except prohibition. I would have Government dispensaries or license laws or many other things that I could think of if I wanted to give the time to it. The question is about this infernal law which has been condemned by almost all the people of the United States. He says if 6,000,000 people could prevent the repeal of a Constitutional provision, why can't you prevent? Let's see how smart this is. I have observed this audience. There are about a half dozen people who applaud everything my friend says, and they applaud that fool thing, I will tell you why.

The 6,000,000 are in States like Arizona, Nevada, New Mexico, Georgia, Alabama, Vermont, North Carolina, South Carolina—dry and nothing but dry. We can't get them and won't try. There are more people in New York State than the whole bunch that could prevent the repeal of the amendment. Let me give you another answer to it and see what you think of it. If the people have any right to pass this rotten legislation, they should have the right to repeal it. People change their minds, where they have any, and where they haven't they change them more frequently. I have seen towns go wet one year and dry the next.

I have seen Canada go all dry and now practically all wet. I have seen the change in the United States until the people who believe in that accursed legislation have one thing and one thing only to rely upon, and that is they can find 6,000,000 people to prevent the repeal of the Constitution and can cajole the people of the United States into the idea that they must have prohibition. That is what they are up against today.

CHANGE IN PUBLIC OPINION

"Is there any reader of current history, is there any man who knows anything about the feeling of the people of the United States, who doesn't know there has been an enormous change in public opinion since that prohibition law has been tried? It has made hypocrites, perjurers, bribe-takers, informers, and it appeals to everything that is the lowest in man. It is the accursed thing in every human relation, and to say that this country, strong and great, cannot get rid of it because of the constitutional amendment, where 6,000,000 people keep it on the books, is to say we are a nation of blooming idiots and weaklings.

"I am surprised at my friend's quibble over the Negro amendment. Just think of it. When a man is a prohibitionist, there isn't another question under heaven except wet and dry. Everybody knows there hasn't been a minute since the slavery amendments have been passed that they haven't been violated in every State of the South and some of the States of the North, yet when they get a prohibitionist to condemn it it is all right. They are dry and that will give them a medal on earth and wings in heaven. I wish they would go and take them."