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Conflicts Over Majority Rule

Condensed from Current History

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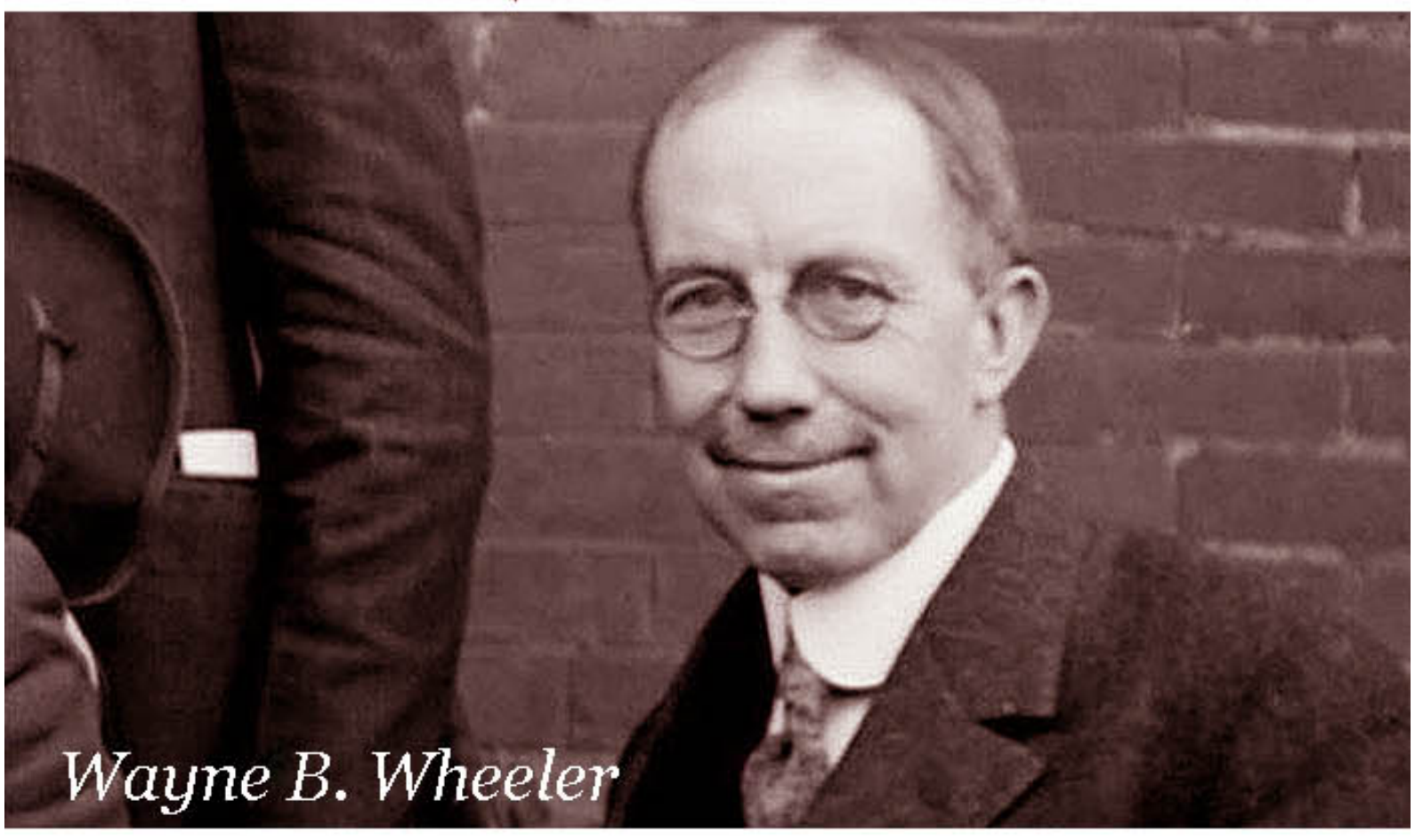
THE amazingly beneficial results of prohibition are obscured in the dust of the present conflict over obsolete theories of government, the cries of personal privilege, or the issue of State rights. Not prohibition, but the right of the majority to rule, which has been assailed from the day we first began to shape our Federal Union, is the real issue.

The right of the majorities to rule is the product of the evolution of America. This lies at the heart of nearly every great contest we have waged. The formation of the Constitution and its adoption offer scores of illustrations of the truth, that the minority must obey when the majority has formally spoken. Rhode Island declined to send any delegates to the Convention which produced the Constitution. But when the Constitution was adopted, Rhode Island submitted to the will of the majority of the States. Two of the delegates to the Convention from the State of New York denied the authority of the convention to adopt any Constitution, and withdrew. But when that document had been ratified, they joined with their fellow-citizens in obedience. Four delegates to the Convention, from three different States, declined to affix their signatures to the proposed Constitution. They exerted to the full their great influence for the removal of certain provisions up to the moment when the Constitution was formally approved by the States. Thereafter they were as loyal champions as they had been honest opponents. So completely did they prove their fealty to the Constitution that they were honored with some of the most exalted positions in the Government. This was especially true of one of them (Edmund Randolph), who became Attorney General of the United States.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As a compromise between factions, the Constitution was not entirely satisfactory to any State. It imposed new laws or customs on long-established Commonwealths where independence, prejudice and jealousy prevailed. Its defects nearly caused its rejection by the States to which it was referred. John Hancock, however, in putting the question of ratification to the Legislature of Massachusetts, put the case for the American people when he said: "The people of this Commonwealth will quietly acquiesce in the voice of the majority, and where they see a want of perfection in the proposed form of government, will endeavor in a constitutional way to have it amended."

There is no record of any of the earnest men who fought in defense of principles, privileges or local rights involved in the Constitution, failing to give their sincere allegiance to that Constitution when it had been made the fundamental law of the land by the majority of the States. And more than theoretic questions were involved in these disputes; they were the burning and vital questions of the day. Prohibitive excise taxes on New England products were fixed by New York. New Jersey levied heavy taxes upon Sandy Hook when New York established a lighthouse there. Sectional hatred made a resort to arms seem unavoidable. Connecticut and Pennsylvania threatened war over the possession of the Wyoming Valley. Whether Vermont should form a separate State, or be a part of New Hampshire, Massachusetts or New York, seemed impossible of decision without a battle. Virginia claimed about all the territory beyond the limits of the original thirteen States. But these difficulties solved themselves when the Constitution had been approved.

The right of the majority to speak

for the nation was challenged soon after the adoption of the Constitution. The Alien and Sedition laws aroused opposition in several States. Kentucky invited other States to join in declaring the legislation of the Federal Government void. None joined in this, however. Again, in 1799, Kentucky frankly presented nullification as a program for State action when it disagreed with the majority of other States.

The Embargo act, in retaliation for foreign decrees affecting shipping, took from many in America their sole means of support. Stimulated by merchants and shipping interests, the Massachusetts Legislature called the Hartford Convention. The nullification of acts of Congress was seriously discussed and even the possible dissolution of the Government "by reason of the multiplied abuses of bad administration." Daniel Webster later declared that as a result of this nullification course advocated at this convention "the Government would very likely have gone to pieces and crumbled into dust."

The press of the day, however, the public sentiment in the country at large, and the more clear-sighted statesmen saw more than a question of restraint of trade or abridgment of some personal liberties, behind the Embargo act. They understood that the right of the majority will to prevail, the unity of the nation, and the authority of the Federal Government were all involved.

The arguments of the wet advocates of nullification today are strangely paralleled by the arguments in the famous South Carolina case in 1832, when a tariff law was attacked on the grounds that it imposed the will of one section of the nation upon another without regard for differences in interests or population; that the Federal Government was invading the rights of the State, and that the measure was in violation of the Constitution. Armed resistance was threatened. But South Carolina withdrew her opposition and obeyed the Federal law when she found no other State would join her in opposing the will of the majority expressed in legal and orderly manner. Andrew Jackson, then President, said of the leaders of this attempt at nullification: "They will be remembered only to be held up to

scorn by those who love our glorious Constitution and government of laws."

Few customs or social habits resisted both law and the popular will so long as did dueling—the right to defend one's personal honor. But the tragic result of the Aaron Burr-Alexander Hamilton duel crystallized the sentiment of the majority into an active instead of a passive resistance to this custom, until the duelist, instead of being recognized as a chivalrous hero, was shunned as a potential assassin.

Of all the conflicts of interests which have arisen in the development of our national life, only two have ever become so acute that they have threatened the unity of the country. In each of these the point at issue was not primarily personal liberty, or State rights, but economic. Slavery was profitable to one section and disastrous to another. Its moral bearing was still disputed. It took a civil war to dispose of the argument that one group of States had authority to ignore or overrule the will of the majority. But underneath it all was the portentous economic issue.

Earlier than slavery and most persistent of all issues attacking the right of the majority to determine the social policy of the Government were the liquor problems. Posing as advocates of personal liberty, resisters to unjust taxation, supporters of vested rights, the liquor interests have broken the law and assailed the law-making power since the nation was founded. The first great rebellion of the rum interests occurred in Pennsylvania in 1794, when 7,000 armed and provisioned men, after two years of violence, murders and riots, marched upon the city of Pittsburgh. They were dispersed before reaching Fort Pitt. The rebellion rapidly developed until all law was disregarded. The insurgents were believed to number 16,000 men. President Washington in person traveled to Pennsylvania, and put himself at the head of troops from several states. Only this armed force broke the Whisky Rebellion. The issue which called forth this attack upon the Federal authority was a tax of 7 cents a gallon on distilled spirits. Whisky was then selling at 50 cents

to a dollar a gallon, and a still was part of the ordinary equipment of every farm.

From that time until the present the attitude of the liquor interests has been against any laws that restricted or limited the liquor trade. They persistently refused to obey the excise laws, until public sentiment compelled enforcement. It has always been a notorious fact that saloons have refused to obey the Sunday closing law, while the laws against selling to minors and intoxicated persons were brazenly ignored.

When the "wets" secured control of the New York Legislature they repealed the State enforcement code. To take away the laws by which the Constitution is to be enforced is plain, indefensible nullification of the Constitution, and as unpatriotic as it is for a bootlegger to sell liquor in violation of the laws of the country. For a Congressman to take an oath to support the Constitution and then to vote to repeal the law to enforce it is indefensible, and for an officer to swear to enforce the Constitution and then protect bootleggers is a crime against the Government. A citizen who closes his eyes to lawlessness and aids those who are destroying the law enforcement machinery to enforce the Constitution is guilty of political sabotage.

The excuse given for repealing the laws to enforce the 18th Amendment is that it was put over by a minority. The fact is that it is more difficult to change the Constitution of the United States than the organic law of any other country. Thirteen legislative bodies in 13 States, with fewer than 200 State Senators out of more than 1,550 who compose the membership in the Senates of the 48 States, can forever prevent the change. Unless there is an overwhelming majority for an amendment it cannot be adopted. Two-thirds of Congress and three-fourths of the Legislatures of the States do not represent a minority. There were 93 out of the possible 96 State legislative bodies and over two-thirds of both Federal legislative bodies for the 18th Amendment. The opponents of national prohibition have tried three times to elect a Congress and State Legislatures in harmony with their views, and failed in the nation and in all of the States

but two, New York and Maryland. If the opponents of prohibition had faith in their claim that the people are now opposed to national prohibition they would attempt to change the Constitution by legal methods instead of trying to nullify it.

The citizens of the United States have to choose between law and lawlessness; between civilization and chaos; between orderly government and disorderly government; between loyalty to the Constitution and anarchy.