

ASSAIL DR. LAW ON CLAUSE FORCED BY HARDING IN SENATE

Seven Year Limit for Ratification by States Held to Invalidate Act.

SUPREME COURT PLEA

President Made Support of Measure Conditional on This Section.

WARNED OF ITS DANGERS

Wets Claim Congress Invasion of Legislative Deliberations of States.

Special Dispatch to THE NEW YORK HERALD.

New York Herald Bureau. Washington, March 21.—The new and unexpected attack on the prohibition amendment that will revive for a short time at least the hopes of anti-prohibitionists was started in the United States Supreme Court to-day.

The assertion is made that section 3 of the Eighteenth Amendment, which originally was proposed by President Harding while a Senator, invalidates the entire prohibition addition to the Constitution. This section provides that to make the amendment operative it must be ratified by three-fourths of the States within seven years after being submitted to them. This time limitation placed on the ratification is unconstitutional and therefore makes invalid the entire amendment. It is contended by the liquor interests.

The new attack is made in the case of J. J. Dolan, arrested in San Francisco soon after the Volstead law became effective because he was transporting a cask of wine without a permit from prohibition officials. Levi Cooke, for several years Washington attorney for the liquor interests, will argue the attack against the amendment and he will be opposed by a woman, Mrs. Annette Abbot Adams, Assistant Attorney-General, representing the Federal Government. The case probably will be argued to-morrow.

Question Is New One.

Briefs filed to-day in the case state that the validity of section 3 was not considered by the Supreme Court when it upheld the prohibition amendment and the Volstead law last June, and that the new question has not been raised on the question raised in the new attack.

Prohibition leaders here have been paying little attention to minor attacks that have been made on the amendment recently, but they gave serious consideration to the arguments presented by the anti-prohibitionists in the present case.

The brief attacking the amendment includes numerous quotations from the Congressional Record while the question was under consideration showing that Senators Borah (Idaho), Brandegee (Conn.), Cummins (Iowa) and Vandenberg (Mich.) insisted that the provision of Mr. Harding would invalidate the entire amendment.

The anti-prohibitionists also argue that many members of Congress voted for it with the Harding section who would not have done so otherwise. In defense of the claim that the court has not passed on this phase of the amendment, it is pointed out that its decision last June the tribunal in quelling the amendments did not quote section 3 and that it declined to advance the case under consideration for hearing with the other attacks on the law.

"Congress has not constitutional power to limit the time of deliberations or otherwise attempt to control what the Legislatures of the States shall do in their deliberations," the brief of the anti-prohibitionists says. "Any attempt to limit is extra-constitutional and voids the proposal."

Senator Harding Quoted.

Section 3 was introduced into the Senate joint resolution on August 1, 1917, by an amendment offered from the floor by the Hon. Warren G. Harding, then a Senator from Ohio. Senator Harding then said:

"Mr. President, I have offered the amendment as representing the judgment of a number of Senators on the floor with a view of placing a limitation on the pendency of the proposed amendment to the Constitution. I do it because that policy is involved in my consent to support the pending resolution."

"Mr. Harding clearly stated that his vote for the resolution proposing the amendment was conditional on the provision being approved. Senator Borah, Senator Brandegee and Senator Cummins insisted upon the inclusion of the provision as being an attempt in the act of submitting a resolution proposing an amendment to the Constitution to alter by mere Congressional action the constitutional rule governing constitutional amendments. Senator Borah then said:

"I would vote for an amendment to change the Constitution of the United States in regard to the machinery provided for the ratification of the proposed amendment because I think there is so much merit in the proposition that there ought to be a time within which constitutional amendments should be ratified; but we cannot change the Constitution of the United States as to the machinery by which ratification takes place by the manner in which we submit a constitutional amendment. In other words, we cannot provide in the submission a rule for ratification of that particular proposal when there is another existing rule in the Constitution."

Mr. Harding's proposal was that the time limitation on ratification should be six years, but later this was increased to seven by the House. The idea of the prohibitionists was to allow a long period, so that in the event the approval of thirty-six States was not obtained promptly no move could be made to withdraw the amendment.

"Without this extra-constitutional provision," the brief continues, "it is impossible to say that two-thirds of a quorum of the House and Senate would have proposed the amendment and we have the positive statement of Senator Harding that his assent to the amendment was conditional upon the limitation to the States being engrained upon the proposal."

Prices realized on Swift & Company sale of carcasses here in New York for the week ending Saturday. Choice cuts, ranging from 12.00 to 15.00 cents per pound and averaged 13.00 cents per pound.—Ad.

NEW MEDICINES WITH KICK VEX DRUG MANUFACTURERS

Flood of Inventions to Relieve Prohibition Parched Throats Has Put Entire Profession in Disrepute, They Assert, Asking Change of Attitude.

WASHINGTON, March 21.—Prohibition has brought in its wake hundreds of mushroom business establishments engaged solely in "the making of booze beverages," speakers declared at a conference here to-day of pharmaceutical manufacturers and manufacturing chemists. The conference was called to discuss the prohibition law and regulations as they affect the manufacture of medicines containing alcohol.

Speakers also charged that the activities of manufacturers who catered to the beverage medicine trade had compelled prohibition enforcement officials to brand all pharmaceutical manufacturers as "potential criminals." Several expressed belief that an injustice had been done them an din order to talk it over with Commissioner Kramer the conference invited him to attend to-morrow's session that he might hear their ideas and plans.

There was some criticism of the Volstead act, but it did not go far. The position of manufacturers was stated by their chairman, W. J. Woodruff of Detroit, was that they desired only to have an understanding with the prohibition officers. They want to work unhindered and they want the prohibition officials to feel that they can be trusted to obey the law, Mr. Woodruff said. He added that resentment existed because the good and the bad had been classed together under the same regulations.

Mr. Woodruff declared that the "legitimate" manufacturer was anxious to obey the law, that he would not knowingly continue the manufacture of a product which was being used for beverage purposes and that he desired to aid the Government in driving out establishments which sought to profit from prohibition.

Dr. Harvey W. Wiley, former chief chemist, one of the speakers, told the manufacturers their troubles all were founded on the "person with a thirst" and that their future service to their trade should be governed by that knowledge. "I'll tell you," Dr. Wiley said, "a thirsty man and a crooked druggist is a pretty bad combination. You produce a concoction because you believe it has medicinal value, but some of the druggists into whose hands that may come may not have the same sense of justice and the person with the thirst comes in. That completes the case."

The conference developed much discussion on technical questions coming under the prohibition regulations on which the members of the meetings were not agreed. They, therefore, appointed a committee to frame their grievances in statement form to be put to Mr. Kramer or whomsoever he designates to hear their plea. Whether the instructions to the committee paved the way for a classification of preparations which serve for beverage uses as well as for medicinal purposes was not certain.

ALARM ROUTS THIEVES; LEAVE \$100,000 GOWNS

They Get Only \$4,000 in Loot From Broadway Shop

Enterprising burglars had bundled up gowns valued at about \$100,000 in the Le Leon Gown Shop, 338 Broadway, when one of them stepped on a trap door under a rug, setting off a burglar alarm at 6 o'clock yesterday morning. They fled taking with them \$4,000 worth of frocks.

The gown shop is in a one-story building between Forty-fifth and Forty-sixth streets, which Loew's skyscraper State theatre building is being erected. The burglars entered by sawing a hole through the first window of the new structure into a wood enclosed fitting room in a gallery of the gown shop. They had no through three layers of flooring and a metal ceiling, and the police say it must have taken them at least four hours. The fitting room is enclosed so the burglars could not be seen from the street. The gowns, which were found done up in neat bundles, had been taken from racks in the gallery and from the rear part of the main floor.

GIVES HUSBAND CHANCE TO OPPOSE HIS DIVORCE

Justice Insists on Hearing His Side of Case.

"Before I grant a decree of divorce in this case I want the defendant brought before me so I can examine him to prove that he was properly served and to show there was no collusion."

That statement was made yesterday by Supreme Court Justice Morschauser at White Plains after testimony had been given in the divorce action brought by Mrs. Esther Lowenthal against Bernard Lowenthal, merchant, of 205 Fifth avenue, Manhattan.

Mrs. Lowenthal testified that she married the defendant at Waco, Texas, October 20, 1911, and they have one daughter, Muriel, who is two years old. Defendants testified that on February 24 last they trailed Mr. Lowenthal from his Fifth avenue office to the Hotel Commodore, where he met a young woman and later registered as "J. Epstein and wife." The defendant was not represented in court.

B. Altman & Co.

The Hosiery Department

has assembled for the Spring season, and with a special view to the Easter demand, a very large collection of imported and American-made

Half-hose for Men

a collection which embraces practically everything new and desirable in foot-coverings for men of discriminating taste.

In regular stock at the prices quoted:

- Men's Half-hose in black, white, gray, navy or Cordovan Silk, with lisle tops and soles, per pair \$1.10
- Silk, with lisle soles; very durable per pair \$2.50
- All silk per pair 3.25

(War Revenue tax additional)

Also

Men's French Lisle Novelty Half-hose and Imported GOLF HOSE, reasonably priced

(First Floor)

Madison Avenue - Fifth Avenue 34th and 35th Streets New York

NO HOPE FOR WETS IN RELEASED BOOZE

Langley Ends Optimism That Followed 'Big Leak' From Warehouse.

LID IS TO STAY ON TIGHT

New Dry Director in Washington to Return With 'Punch in Fist.'

Ernest Langley, recently appointed Supervising Federal Prohibition Agent for New York State, let it be known yesterday that the lid which his predecessor, Dan Chapin, clamped down before returning to Chicago is not going to be lifted or even bulged, if he has his way. Reports that large quantities of liquor had been released from the Knickerbocker Warehouse last week created an erroneous impression, he felt. Last there he too much optimism among the thirty, he explained that all the liquor which went back to its original owners had been returned by court order or by instructions from Washington. Undoing the work of his predecessor, he added, was the last thing he meant to do.

Mr. Langley went to Washington on official business last night. An official in his office predicted that when he returns there will be "a punch in his fist."

Federal agents made two arrests and confiscated ninety barrels of wine and five of alcohol yesterday. Agents Krissberg, Fassler and Ernshel seized thirty barrels of wine in the shop of A. Finckelstein, at 17 Broome street, alleging that one of them had purchased a ration in violation of Finckelstein's permit. Finckelstein held a permit for selling wine for sacramental purposes. Sixty barrels of wine and five of alcohol were confiscated at 54-50 Elizabeth street by Federal Agent Stocker and Patrolman Christopher Connelly. The proprietor, John Toranzo, was arrested and will be arraigned with Finckelstein before United States Commissioner Samuel Hitchcock to-day.

Dismissing the case of Frederick Howard, 573 Gates avenue, Brooklyn, who was arraigned in Gates avenue court yesterday on a charge of intoxication and disorderly conduct, Magistrate Dale blamed "rat poison" for the trouble and said:

"There ought to be a brewery on every block and then we wouldn't have such cases. And yet the holier-than-thou Supreme Court Justice Volstead said:

"If I were in her place I would sew him up in a bed quilt, beat him with a broom and make him wash the dishes."

TILDEN HOTEL SOLD

Once Famous Hostelry Brings Less Than \$5,000.

PITTSFIELD, Mass., March 21.—The Wyomanock Hotel, at Lebanon Centre, N. Y., built by Samuel J. Tilden in 1868, at a cost of \$80,000, was sold to-day by Warren Cruikshank of New York for less than \$5,000 to William E. Putnam, a Pittsfield building wrecker.

By this finely constructed three-story brick tavern of a hundred rooms Tilden hoped to boom the Lebanon Valley and he lavishly entertained there politicians and sportsmen of international reputation half a century ago.

The house has been unused for a dozen years. It is on the Pittsfield-Albany highway, within a few rods of the old Tilden homestead.

NEW CARDINAL TO BE GUEST.

James A. Flaherty, Supreme Knight of the Knights of Columbus, received word yesterday by cable that Cardinal Dennis Dougherty of Philadelphia had accepted an invitation to be the guest of honor at a banquet of the Knights in Philadelphia to celebrate his return from Rome, where he recently received the red hat. The dinner will be given a week after his arrival.

PUBLIC WILL CONTROL SALVATION ARMY FUND

Advisory Committees Asked to Oversee Disbursements.

The public, through committees of laymen, is to have a hand in the disbursement of funds of the Salvation Army in the future, it was announced yesterday. The advisory committees will be made up of about fifty representative men and women drawn from the ranks of finance, ministry, labor and the professions. They will make suggestions and cooperate with the army officials.

The Salvation Army in this country maintains fifty-two hotels for men and three for women, five boarding houses for girls where board and meals cost only \$1 a week, eighty-three industrial homes where refuse is redeemed, sixteen slum posts and nurseries, twenty-six rescue homes and maternity hospitals and two homes for children.

The report for the fiscal year ending September 30, 1920, shows that the army furnished 2,569,500 meals and provided beds for 2,486,385, besides giving nearly a million persons relief of various sorts and distributing 3,043,418 pounds of coal and 267,036 pounds of tea. Besides jobs within the army, the organization obtained positions for \$2,219 men and 13,024 women.

GIRL CHASES ARMED BURGLAR FROM HOME

'I'm Not Afraid of Your Gun,' Cried Irene Ahearn.

Miss Irene Ahearn, niece of the late John F. Ahearn, Borough President of Manhattan, chased an armed burglar out of her house Sunday afternoon, it became known yesterday when George Fries of 213 Fourteenth street, College Point, was arraigned in Jamaica Police Court.

Noises in the hallway of the Ahearn home at 243 Madison avenue, Flushing, startled Miss Ahearn, who was upstairs with her sisters. She went to the head of the stairs and saw a man coming up with a revolver.

"Put up your hands and don't scream," the man whispered. "I'm not afraid of your gun," Miss Ahearn said. "Get out of the house."

She started down the stairs and the man wavered, turned and fled.

MONK'S AUTOPSY SUIT HELD UP

Argument on a motion for an inspection of the Chief Medical Examiner's report of the autopsy performed on Monk Eastman was postponed yesterday before Supreme Court Justice Gagegan until to-morrow. Consent was given by Russell A. Tarbox, Assistant Corporation Counsel, and Alexander I. Rozsa, formerly Assistant District Attorney, and counsel for Jeremiah H. Bohan, who is charged with Eastman's murder. Daniel O'Neill, a relative of Bohan, wants the inspection.

EVERY man who has once worn the Best clothes—merchant-tailored or sturdy imported woollens—knows that they cost no more in the long run and are infinitely more pleasant to wear.

To have the best visit a fine merchant tailor.

And to pay the least for which the best is sold, visit—

**LOUIS BERG**  
Tailor to The Four Thousand  
743 FIFTH AVENUE

Master-Tailored Business Suits Eighty Dollars

KILROE TRIAL OPENS; RAND IS PROSECUTOR

Assistant District Attorney Charged With Conspiracy in Halting Bigamy Case.

LAWYER IS CODEFENDANT

Louis E. Swarts Missing, However, in Action Arising From Admiralty Indictment.

The trial of Edwin P. Kilroe, Assistant District Attorney on an indictment found by the Admiralty Grand Jury charging conspiracy and failure to prosecute Napoleon A. Bourasse, broker, for alleged bigamy, began yesterday before Justice Barrow E. Weeks in the extraordinary term of the Supreme Court. Louis E. Swarts, lawyer, was codefendant with Mr. Kilroe. It became known in court that Bourasse also was indicted at the same time, but that his whereabouts are unknown to the prosecuting attorney, William Rand.

"Neither of them is charged with stealing anything or with bribery," he said. "They are charged with conspiring together with Bourasse to obstruct the administration of justice in that when \$2,000 had been agreed upon as the amount to be paid by Bourasse to Miss Montrose—the young woman who believed that she had been legally married to him—the criminal charge against Bourasse was dropped."

"The \$13,000 was then paid in cash in the Magistrate's Court, after which she and her attorney Mr. Swarts, went to the Great Northern Hotel, where \$1,500 was paid to Mr. Swarts for services. \$2,500 was taken by him for expense to Edward H. Bergen, her former attorney, for services, and \$9,000 was paid over to her. Mr. Kilroe represented to the court that the State did not have the evidence necessary to bring about conviction."

Mr. Rand declared that while charges of a misdemeanor may be "settled" under certain conditions with the approval of magistrates, charges of felony are not open for settlement, but must be prosecuted by the District Attorney. Upon request of Otcott, Bonnyrigg, McManus & Penat, counsel for the defendant, Mr. Rand explained that it was part of the contention to be raised by the defense that the prosecution of Bourasse for bigamy was dropped because it was found that a still earlier marriage of him in Canada rendered the marriage that would have been the basis for the bigamy charge invalid.

**Franklin Simon & Co.**  
A Store of Individual Shops  
FIFTH AVE.—37th and 38th Sts.

For Madame et Mademoiselle

**ORANGE BLOSSOM HATS**

In Which the Blossom that Crowns the Veil With Glory Now Crowns Every Costume With Smartness

IT was not only a whim but an inspiration when Fashion chose the garlands that adorn a woman at the loveliest moment of her life and showered them upon hats to match her gowns and suits for every moment of her life from now on.

In the Colors of Fashion's Costumes With Garlands or Bouquets of Waxed Orange Blossoms



22.00 TO 38.00

FRENCH MILLINERY SHOP  
Fourth Floor

**Franklin Simon & Co.**  
A Store of Individual Shops  
FIFTH AVE.—37th and 38th Sts.

COPIES OF CROSS SADDLE RIDING HABITS FROM BUSVINGS OF LONDON

THESE habits need labels only to identify them from the original for they speak English in the London manner of Rotton Row. Whipcord for durability; brown or Oxford colorings for wearability.

100.00

As English As If They Were



OTHER RIDING HABITS 55.00 TO 195.00

Riding Shirts, Hats, Stocks and Crops that Are Allies to the Habit

FEMININE SPORTS APPAREL SHOP  
Fourth Floor

**Franklin Simon & Co.**  
A Store of Individual Shops  
FIFTH AVE.—37th and 38th Sts.

Modeled by the Hand of Fashion  
Made by One Pair of Hands

Women's Customized Suits  
Reg. Applied for

Custom Made in Their Entirety  
Ready to Wear Immediately

CUSTOM distinction without its uncertainty, custom fit without its delay, custom satisfaction without its price—this is the Customized Ready to Wear Suit, made by us, under our roof, under our eyes, under our guidance, each the production and the pride of one pair of hands.

95.00

Directoire, Gracile or Chinois Models  
Custom Needled, Custom Fitting  
Ready to Wear

WOMEN'S SUIT SHOP—First Floor

An advertisement in the Lost and Found columns of THE NEW YORK HERALD offers a real possibility of recovering your lost property. Telephone Fitz Roy 6000.