



SHIRLEY MASON, LON CHANEY and CHARLES OGLE in a scene from MAURICE TOURNEUR'S production "TREASURE ISLAND" A PARAMOUNT ARTCRAFT PICTURE

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### WET FORCE HIT BY DECISION OF U. S. SUPREME COURT

Prohibition Amendment an d Enforcement Act Held Constitutional in Unanimous Decision of Justices

#### IS BEYOND A REFERENDUM

Congress and the Several States Should Enforce Law by Appropriate Means, Says Opinion.

Washington, June 7.—The prohibition amendment and the enforcement act were held constitutional by the Supreme Court today in a unanimous decision.

While attorneys for the interests attacking the two measures were granted permission to file motions for rehearings, the decision was regarded generally as striking a death blow to the hopes of the wets.

The court's opinion, rendered by Justice Vandevanter, was sweeping. It held that the amendment not only came within the amending powers conferred by the federal constitution but that it was lawfully proposed and now was the law of the land. While recognizing that Congress has limitations in respect to the enforcement of laws regarding beverages, the court held those limits were not transcended in the enactment of the enforcement act restricting alcoholic contents of intoxicants to one-half of one per cent.

While New York, New Jersey and Wisconsin acts permitting manufacture and sale of beverages of more than one-half of one per cent alcoholic content were not directly involved the decision was interpreted as invalidating them. The court said the first section of the amendment of its own force "invalidates any legislative act—whether by Congress by a State legislature or by a territorial assembly—which authorized or sanctions what the section prohibits."

#### To Enforce Measure.

Concurrent power granted by the amendment to federal and State governments to enforce prohibition, the court further held, "does not enable Congress or the several States to defeat or thwart prohibition but duly to enforce it by appropriate means."

The decision of the court was set forth in eleven conclusions covering seven separate proceedings. These proceedings included original suits brought by the State of Rhode Island directly attacking the constitutionality of the amendment.

The conclusions of the court follow:

"The adoption by both houses of

Congress each by a two-thirds vote, of a joint resolution proposing an amendment to the constitution sufficiently shows that the proposal was deemed necessary by all who voted for it. An express declaration that they regarded it as necessary is not essential. None of the resolutions whereby prior amendments were proposed contained such a declaration.

"The two-thirds vote in each house which is required in proposing an amendment is a vote of two-thirds of the members present, assuming the presence of a quorum—and not a vote of two-thirds of the entire membership present and absent. Missouri Pacific Railway Company vs. Kansas, 248 U. S., 276."

#### Cannot Be Applied

"The referendum provisions of State constitutions and statutes cannot be applied consistently with the Constitution of the United States in the ratification or rejection of amendments to it. Hawke vs. Smith, U. S. Decided June 1, 1920.

"The prohibition of the manufacture, sale, transportation importation and exportation of intoxicating liquors for beverage purposes, as embodied in the eighteenth amendment, is within the power to amend reserved by article 7 of the constitution.

"That amendment by lawful proposal and ratification has become a part of the constitution and must be respected and given effect the same as other provisions of that instrument.

"The first section of the amendment—the one embodying the prohibition—is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts, public officers and individuals within those limits, and of its own force invalidates any legislative act, whether by Congress, by a State legislature or by a territorial assembly, which authorizes or sanctions what the section prohibits.

#### Must Enforce Amendment

"The second section of the amendment—the one declaring "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation"—does not enable Congress or the several States to defeat or thwart the prohibition, but only to enforce it by appropriate means.

"The words 'concurrent power' in that section do not mean joint power, or require that legislation thereunder by Congress, to be effective, shall be approved or sanctioned by the several States or any of them, nor do they mean that the power to enforce is divided between Congress and the several States along the lines which separate or distinguish foreign and interstate commerce from intrastate affairs.

"The power confided to Congress by that section, while not exclusive, is territorially co-extensive with the prohibition of the first section, embraces manufacture and other intrastate transactions as well as importation, exportation, and interstate office, and is in no wise dependent on or affected by action or inaction on the part of the several States or any of them.

"That power may be asserted against the disposal of beverage purposes of liquor manufactured before the amendment became effective, yet as it may be against subsequent manufacture for those purposes. In either case it is a constitutional mandate or prohibition that is being enforced.

#### Recognizes Limits.

"While recognizing that there are limits beyond which Congress cannot go in treating beverages as within its power of enforcement, we think those

limits are not transcended by the provision of the Volstead act wherein liquors containing as much as one-half of one per cent of alcohol by volume and fit for use for beverage purposes are treated as within that power. Jacob Kuppert vs. Caffey, 25 U. S., 264."

While agreeing as to the validity of the amendment and enforcement act, Justices McKenna and Clarke dissented from the majority interpretation of the concurrent power of federal and State governments to enforce prohibition. Chief Justice White held that the court should set forth the reason for its decision. He did this in a supplemental opinion.

Justice McReynolds in a brief statement declared he was of the opinion that it was impossible to say at this time what construction should be given of the amendment. He added that "because of the bewilderment which the amendment creates," he preferred to remain free to consider the multitude of questions which will inevitably

ably arise and demand solution."

The decision set at rest contentions previously laid before the court that the amendment could not affect alcoholic liquors manufactured prior to January 16 when the amendment became effective. The court held that the amendment applied to such liquors the same as any produced after that time.

#### Do Not Apply to Act.

Regarding arguments to the effect that a State having constitutional referendum provisions could not have been said to have ratified the amendment, until it had been submitted to the voters, the court cited its opinion rendered last Monday in the Ohio referendum cases in which it held that such referendum provisions do not apply to the federal amendments.

Only one prohibition case of importance remains undecided. It is an appeal from New York involving the constitutionality of portions of the enforcement act prohibiting storage in warehouses of intoxicating liquors designed for personal use. The case was argued this spring but with the court's adjournment today for the summer cannot be decided before October at the earliest.

### WILL ATTEMPT TO SOLVE BOUNDARY PROBLEMS

Guyaquil, June 5.—Tezanos Pinto, new Peruvian minister to Ecuador, in presenting his credentials at the capital today, said:

"I have been instructed not to forego efforts to obtain a solution of the boundary problems of our countries in an equitable and friendly manner."

His declaration caused considerable comment, since Peru has never been disposed to reach a direct settlement, but has insisted upon arbitration of differences with Ecuador.

### APOLOGIZES TO BRITAIN

Washington, June 7.—Secretary Colby on behalf of the American Government has tendered a verbal apology to the British ambassador for the burning of a British flag here last week by Irish women.

Mr. Colby said this action had been taken pending receipt of an official report on the incident which the District of Columbia authorities have been asked to submit. When this report is in hand a formal apology probably will be made to the British Government.



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# CLARENDON'S OPPORTUNITY

To contribute her share to the fund for the erection of the

## South Carolina Memorial Building

To be erected in Columbia in memory of our State's Heroes who made the supreme sacrifice in the World War.

### The Campaign opens at Summerton, June 13th.

Prominent speakers will outline the plan of the campaign and local committees will be appointed to cooperate in putting Clarendon County over the top.

The Legislature has appropriated \$100,000 toward the erection of this Memorial and many counties have already subscribed their quota.

A building site near the State Capital, on the property of the University of South Carolina has already been arranged for.

Clarendon County is now given this opportunity to express, with her sister counties of South Carolina our State's pride in, and obligation to the men who fell in foreign fields while upholding the cause of liberty and justice.

The opening meeting will be held

**Sunday, June 13th**

Paxville 8:30 P. M.

Summerton Graded School  
4 P. M.

The principal speaker will be

**Ex Gov. Richard I. Manning**



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