

# Governor and a Wet Senate Block Prohibition Ratification

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ment of mileage of members of the legislature. This did not appear to interest the senators. They say they did not expect to draw pay when they came to Lincoln.

Immediately after the Henry resolution was adopted H. R. No. 111, the joint resolution for the ratification of national prohibition, was placed on first reading in the senate. It had been passed by the house and sent to the senate before the senate adopted the Henry resolution. When it was being read by Secretary Waldron, Lieutenant Governor Howard stated that he knew of no better way to dispose of it than to send it back to the house, as it could not be considered by the senate in view of the senate's adoption of the Henry resolution not to consider such matters.

Chappell of Kearney, who had fought all along for the consideration of the federal amendment, appealed from the ruling of the chair. The chair hoped the decision would not be sustained, but he said it was not really his ruling, that it was the ruling of the senate. But this time the chair was sustained by the senate, no roll call being taken on the question.

### Appropriation Bills Killed

The lieutenant governor made a similar ruling when three appropriation bills were placed on first reading. All were directed to be returned to the house, for the reason that the governor had not included such matters in his call for a special session, and under the Henry resolution adopted by the senate that body will consider no business not designated in the governor's call.

Gates of Sarpy voted against sustaining the chair's ruling, declaring the Henry resolution out of order, but he voted for Beal's amendment to permit consideration of the federal amendment if such an amendment is authorized by congress. Then he voted for the Henry resolution and against the McMullen plan to ask the governor to amend his call by including national prohibition.

Howell of Douglas voted to sus-

tain the chair's ruling on the Henry resolution. He voted against Beal's amendment and voted for the Henry resolution and also in favor of McMullen's motion to give the governor a chance to amend his call.

Robertson of Holt, who aided the vote at the 1907 session, and who is himself a "dry," declined to vote on any of the questions that came up, alleging that the Henry resolution would not make any difference, that it would not change the constitution.

Spirk of Saline voted against sustaining the chair's ruling on the Henry resolution, and then declined to vote on the Beal amendment to except ratification of national prohibition. He later voted for the Henry resolution and against McMullen's motion to ask the governor to amend his call.

Wilson of Frontier did not vote on the question of sustaining the chair's ruling, declaring the Henry resolution out of order. He voted for the Beal amendment to the Henry resolution, voted against the Henry resolution, and voted against the McMullen motion.

The other senators voted straight wet or dry on every question. Hager of Adams voted with the dries throughout.

The roll call on sustaining the chair's ruling that the Henry resolution was not in order was as follows:

Aye: Beal, Bushiee, Chappell, Haase, Hager, Hammond, Howell, McAllister, McMullen, Neal, Oberlies, Sandall, Sawyer—13.

Nay: Adams, Albert, Bennett, Buirman, Doty, Gates, Henry, Kohl, Lainers, Mattes, Moriarty, Samuelson, Soost, Spirk, Strehlow, Tanner, Wilson of Dodge—17.

Robertson of Holt and Wilson of Frontier not voting. Douthett of Dawson has resigned and his seat is vacant.

The roll call on Beal's amendment to permit the consideration of ratification national prohibition was as follows:

Aye: Beal, Bushiee, Chappell, Gates, Haase, Hager, Hammond, McAllister, McMullen, Neal, Oberlies, Sandall, Sawyer, Wilson of Frontier—14.

Nay: Adams, Albert, Bennett, Buirman, Doty, Henry, Howell, Kohl, Lainers, Mattes, Moriarty, Samuelson, Soost, Strehlow, Tanner, Wilson of Dodge—16.

### Henry Resolution

The Henry resolution was adopted by the following vote:

Aye: Adams, Albert, Bennett, Buirman, Doty, Gates, Henry, Howell, Kohl, Lainers, Mattes, Moriarty, Samuelson, Soost, Spirk, Strehlow, Tanner, Wilson of Dodge—13.

Nay: Beal, Bushiee, Chappell, Haase, Hager, Hammond, McAllister, McMullen, Neal, Oberlies, Sandall, Sawyer, Wilson of Frontier—13.

The vote on McMullen's motion to ask the governor to amend his call by including national prohibition was:

Aye: Beal, Bushiee, Chappell, Haase, Hager, Hammond, Howell, McAllister, McMullen, Neal, Oberlies, Sandall, Sawyer—13.

Nay: Adams, Albert, Bennett, Buirman, Doty, Gates, Henry, Kohl, Lainers, Mattes, Moriarty, Samuelson, Soost, Spirk, Strehlow, Tanner, Wilson of Dodge, Wilson of Frontier—13.

### Lieutenant Governor Rites

Neal of Nemaha raised the point of order that the Henry resolution was contrary to the provisions of the

state constitution which says joint or concurrent resolutions shall be read on three separate days in each house. In sustaining this point of order Lieutenant Governor Howard gave his reasons as follows:

"While it is not best practice for a presiding officer to express opinion regarding the merits of a subject before the house, still it is best practice, and the accepted authority for this senate (Gregg on Parliamentary Law) so holds, that it is not only the privilege, but instantly the duty of the chair to plainly state his reasons for his rulings. The senator from Colfax has presented a resolution, which is now before the senate.

"The senator from Nemaha raises the point of order that the resolution is in direct conflict with section 11 of article 3 of the constitution of Nebraska, which plainly provides that 'every bill and concurrent resolution shall be read at large on three different days in each house.'

"In passing upon the point of order raised by the senator from Nemaha shall this chair take at least quasi-judicial notice that the honorable house of representatives has now under consideration certain appropriation bills and certain concurrent resolutions which in the judgment of the house should come under the protection of the command of section 11 of article 3 of the constitution. If the chair shall hold the pending resolution to be in order will not such holding be highly discourteous to the honorable house? The chair hesitates in choosing between two duties — hesitates on the one hand to hold this resolution in order, and thus offend the membership of the honorable house — hesitates on the other hand to hold the resolution not in order, thus challenging the wisdom of the honorable senator who fathers the resolution. If the chair might certainly know that this resolution would, if adopted, work a revocation of the section and article of the constitution here quoted, then it might become the instant duty of the chair to sustain the pending point of order.

"But there is in the mind of the chair another way to reason in favor of regarding this resolution as possibly not receivable here under a fair construction of the chair's constitutional duty in the premises. The government of the United States is now at war with the 'mightiest monarch that ever shook the earth with his footsteps.' The congress of the United States, the President of the republic, together with all members of his cabinet, have declared that the liquor traffic is an instant impediment in the way of the successful prosecution of the war. The federal food administrator, supported by the President of the republic and by the congress, has appealed to the American people to conserve all manner of foodstuffs, to the end that our splendid soldiers and sailors now in battle, or in battle array on land or sea, shall nothing want in the matter of nourishing food. Before assuming the duties of this exalted position he who now occupies this chair took upon himself a solemn and irrevocable oath to support the constitution of the United States and the constitution of the state of Nebraska. Those venerable and sacred documents command the citizen to instant loyalty and zeal in behalf of the government. The adoption of this resolution might work harmful delay in the progress of a document which the congress of the nation has submitted to the legislatures of the states for ratification. Every hour of delay works monstrous waste of foodstuffs now pouring into brewery vats, and now so sorely needed by

the government for the sustenance of both man and beast if this great war is to be won by the armies of America and her associates in the conflict. In the opinion of the chair the resolution offered by the senator from Colfax does attempt to override the section and the article of the constitution of the state of Nebraska here quoted.

"In the further opinion of the chair this resolution does attempt to prevent the lawfully elected members of the house of representatives and such members of the honorable senate as may so desire from taking action which they verily believe will be their own best proof of unswerving loyalty to the government in this hour of the republic's peril.

"In desire to support and defend the constitution of the commonwealth which honors him by placing upon his head the tiara of its magnificent citizenship, and in attitude of homage at the shrine of the memory of the fathers who wrote the constitution which holds together in the fellowship of humanity the people of the mightiest republic under the sun, the chair must hold well taken the point of order raised by the senator from Nemaha."

Moriarty of Douglas said he desired to respectfully appeal from the decision of the chair. The senate by a vote of twelve to seventeen refused to sustain the chair. Beal of Custer then offered his amendment to the Henry resolution, an amendment intended to permit consideration of the national prohibitory amendment.

### Beal's Motion

Sawyer of Lancaster spoke in favor of Beal's motion. He said there are some things the governor can not do and some things the state constitution can not do. Neither can overrule the constitution of the United States or laws based thereunder. He said the constitution of the United States is supreme and it provides that legislatures may ratify federal amendments. Congress has submitted the prohibitory amendment, the legislature has power to act and it is futile for the governor to overrule the constitution of the United States by his inaction.

The Beal amendment was defeated, 14 to 16.

### Henry Resolution

Beal then spoke on the Henry resolution. He charged the senate with trying to defeat ratification under cover. He hoped to have inscribed on his tomb the words, "He never judged."

"And so help me God, I never will," exclaimed Beal. He said he has taken an oath to support the constitution and he would never take an oath to protect the brewers. He admitted that the congress or the President perhaps can stop the use of grain for the making of liquor, but it had not been stopped. For patriotic reasons he favored the national prohibitory amendment.

Sandall of York spoke against the Henry resolution. He indicated that some feared if the Henry resolution were not adopted a resolution against the President or against Senator Hitchcock might come before the senate, but the real thing feared is a joint resolution from the house ratifying national prohibition. While Sandall was speaking he was informed that the house had just passed the resolution by a vote of sixty-six to seven. Frequently in his address he asked who is this Caesar, this power or unseen hand, that influences the governor. He wondered why other states, democratic states and wet states, can ratify the federal amendment, while dry Nebraska can not speak on the subject.

"What power is operating in this

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