



ADVANCE SHEET – March 14, 2025

President's Letter

The notion that “a page of history is worth a volume of logic” has something to be said for it. G. K. Chesterton once observed that ‘it is unwise to try to reform something without first learning how it came to be what it is.’ These observations are called forth by legislative proposals, endorsed by Governor Moore, to supplant local authority by a state-wide law allowing beer and wine sales in chain and other grocery stores.

Governor Moore has a tendency to march with the big battalions and is no champion of particularism. It will be recalled that he began his administration with a \$1 million cut to the tiny BOOST program aiding textbook purchases by the private schools utilized by nearly 10% of Marylanders, while endorsing an unfunded plan for billions of new money for public schools. If he has reservations about current efforts to extirpate Carroll County’s distinctive approach to sex education in elementary schools, he has not expressed them. In the alcoholic beverage context, the usual cries about ‘balkanization’ are raised, and it is pointed out that Maryland’s policy restricting most beer and wine sales to specialty liquor stores is followed in only 4 or 5 other states.

Maryland’s history on this subject, however, is an instructive one. Maryland’s Governor Albert Ritchie, who served from 1916 to 1935, was the nation’s leading opponent of alcohol prohibition, and under his rule Maryland for a time was the only state refusing to allow its law enforcement authorities to be conscripted for its enforcement. As a recent excellent history (Sean Beienburg, *Prohibition, The Constitution and States’ Rights* (2024)) notes, Governor Ritchie, a foe of lynching whose positions on race relations were enlightened for his time, had a passion for states’ rights that was far more consistent than that of Southern Dixiecrats, who were far more hungry than he for federal appropriations. His position on prohibition earned him a hero’s welcome at the 1932 Democratic convention, at which he was offered the Vice Presidency by Franklin Roosevelt, which he unwisely refused. The book above referred to notes that the rhetoric of Justice Scalia in *Printz v. United States*, 521 U.S. 898 (1997) the leading case advancing the so-called anti-commandeering doctrine now being invoked by so-called ‘sanctuary cities’ in the context of immigration law owes much to Ritchie. When prohibition was repealed, Ritchie was a champion of localism, which informs Maryland’s alcoholic beverage laws; prohibition’s lesson, for Ritchie, was that laws not rooted in local opinion must fail. Maryland’s current alcoholic

beverage laws derive in large part from his address to the General Assembly after the repeal of prohibition in 1933. They require (as in most states) a three-level system of distribution as a check on loss-leading with its possible contribution to intemperance, but otherwise leave much to local discretion. Baltimore City restricts Sunday sales; Montgomery County presides over a county-owned liquor monopoly. Elsewhere, the general thrust is toward preservation of small family-owned liquor stores. The survival of small-scale retailing in the United States is otherwise rare. Two entities, Amazon and Wal-Mart account for 40% of wholesale and retail employment in the United States. Amazon accounts for 80% of bookselling and on occasion has suppressed titles of which it disapproves; three drug chains, which did not cover themselves with glory in the opioid crisis, account for nearly all pharmacy sales.

Our liquor laws are an insulated survival of the politics of the 1930s which protected retailers through the fair trade laws, the Robinson-Patman Act and chain store taxation, programs generally undone by activist courts, not by legislative action. A dissenting opinion of Justice Brandeis in *Liggett Company v. Lee*, 288 U.S.517 (1933) invoked the values sought to be protected, lamenting “making independent tradesmen into clerks, suppressing the resources, the vigor and the hope of the smaller cities and towns... it is only through the participation by the many in the responsibilities and determinations of business can Americans secure the moral and intellectual development essential to the maintenance of liberty”. I do not claim that Brandeis’ preferences, or mine, are shared by our Board or our readers in an age in which left-wing egalitarian ideologies and right-wing theories of ‘consumer welfare’ hold sway, but I do think all will benefit from Marion Elizabeth Rodgers’ speech at the Bar Library on Mencken and Ritchie and in Ritchie’s speech to the General Assembly in 1933.

George W. Liebmann

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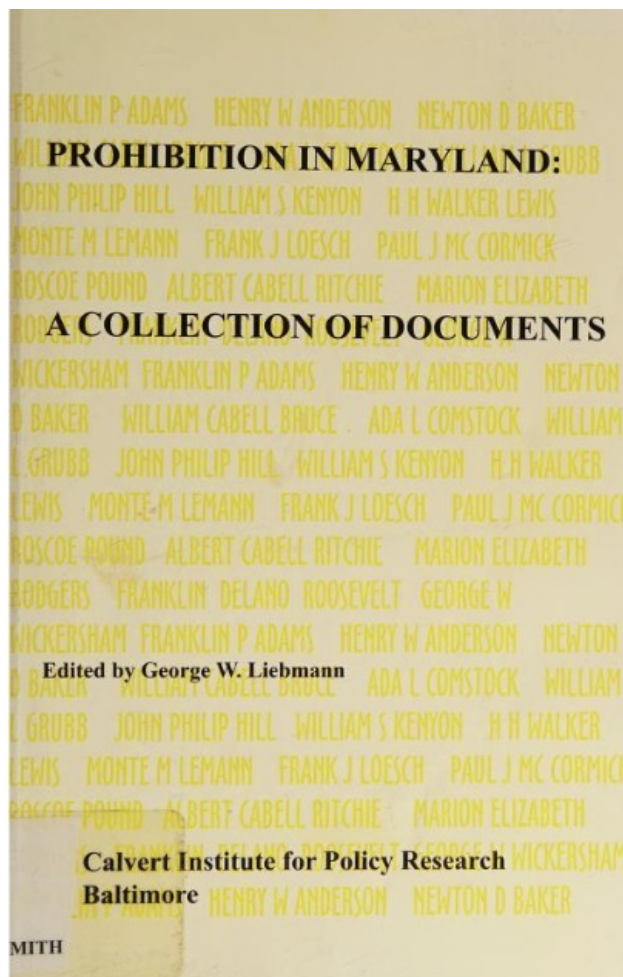


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The Address that follows is from *Prohibition In Maryland: A Collection Of Documents*, edited by the Bar Library's President Mr. George W. Liebmann and published by the Calvert Institute for Policy Research (Baltimore). It is available for purchase from the Bar Library for \$15. It was delivered on the occasion of Ms. Marion Rodgers' first of six presentations here at the Library

MENCKEN, RITCHIE AND PROHIBITION

Address given before the Library Company of the Baltimore Bar, February 8, 2011

by Marion Elizabeth Rodgers

Thank you for inviting me to be here this evening, in this beautiful and historic Courthouse. Mencken wrote about this building in 1899, when he was just starting out as a young reporter.

During those days, Mencken worked directly across the street, at the Baltimore Herald, a structure that held its own during the Great Baltimore Fire of 1904, and which Mencken said may have helped save this Courthouse from the flames. As a very young reporter, Mencken roamed the halls of this building, and, as one judge recalled, “pestered me with unanswerable questions.”

So, it gives me great pleasure to be here in this building with all of you tonight. I note that, after this talk, you will also be having a wine reception. On such occasions of happy conviviality, I am reminded of one of Mencken’s favorite doctrines, that “the whole world would be better if the human race was kept gently stewed” – which now brings me to the topic of this evening.

Throughout its history, Maryland has always taken pride in being an independent state. But at no other time was Maryland’s independence better emphasized than during Prohibition. No one fought harder against Prohibition than H. L. Mencken, the colorful author and legendary journalist for the Baltimore *Sunpapers*, and Governor Albert Ritchie, Maryland’s popular governor. Their stand against it made front page news.

Mencken saw Prohibition as a violation of a man’s civil rights. In his arguments against it, Mencken cited the Bill of Rights. During the thirteen years that Prohibition remained in force, Mencken devoted at least 42 newspaper columns in the Baltimore *Sunpapers* to the subject; he wrote about it in his magazines, *The Smart Set* and *The*

American Mercury. Prohibition is mentioned throughout his books, notably in his six volume collection of *Prejudices*.

Governor Albert Ritchie took issue with Prohibition on legal grounds. Ritchie had been a lawyer, then served as Attorney General of Maryland. As Governor, he had improved the school system, balanced the budget and reduced taxes. His stand against the Ku Klux Klan made him popular among immigrants and African-Americans. Ritchie's stand against Prohibition was potentially a politically disastrous step. But it was one of the most dramatic things he had ever done. It raised him overnight from being a local celebrity to a national figure, and almost made him a nominee for President of the United States.

The story of how Mencken and Ritchie together turned the tide against Prohibition is what I will be speaking to all of you tonight.

You will be able to see the full story of Prohibition when Ken Burns comes out with his new documentary on the subject. There is a lot of Mencken in it. Because you should know that for Mencken, Prohibition was a ghastly torture. As Mencken described himself, "I am omnibulious. I drink every known alcoholic drink, and I enjoy them all."

Prohibition, said Mencken, was responsible for ruining classical Maryland dinners. As he put it, you just couldn't eat wild duck without having the proper wines or sherries. Served with water, he said, those meals were "as preposterous as beer without foam."

Another thing. He could hardly relax whenever he took a date to a restaurant – not only because liquor had become so expensive – but because of federal agents. His date was constantly in a state of nerves, thinking that at any moment, there was going to be a raid. As Mencken said, "The first effect of Prohibition will be to raise up impediments to marriage. Absolutely sober men will be harder to snare."

As for dining out at other people's homes – even this was no longer charming. You had to always be worried about the liquor supply of your host. Mencken said, "If drinks are served, one hesitates to gullet them freely." Then again, if drinks were not served, "one wishes one's host were in hell."

Many of the bottles in Mencken's own cellar were bought from his bootlegger in New York, who regularly made his grand entrance into Mencken's New York office and was greeted "like a visiting ambassador."

Bootleggers, wrote Mencken, were now taking on the dignity of well-to-do businessmen. The young men of Harvard, who formerly became stockbrokers, were now casting their eyes at the profession. "If I had a son," said Mencken, "I'd be tempted to let him try his gifts. A life of learning has got me nowhere."

Later, Mencken could be seen walking the streets of New York, toward the train headed for Baltimore, lugging a heavy suitcase of liquor, his body leaning to the side, looking like a boat in full sail, keeling against the wind.

This had its risks, as Mencken well knew. Bags could be searched on trains, people seized. A man might risk losing precious bottles of Scotch – and pay up to \$500 on bail. All because, as Mencken said, "a vast horde of Prohibition spies" had been set loose upon the community – "spies whose livelihood consisted of making themselves a nuisance to their fellow citizens." "I make it a point," said Mencken, "to get up a bottle of 1902 Beaujolais every time I hear that another such slimy fellow has been murdered."

Back in Baltimore, Mencken hid his own bottles of booze in a small room, located in the basement of his home at Hollins Street. You can still see that room today – decked out with rows and rows of shelves.

He built in 1919, right before the onset of Prohibition. On the door he hung up a sign that read:

THIS VAULT IS PROTECTED
BY A DEVICE RELEASING CHLORINE GAS
UNDER 200 POUNDS PRESSURE.
ENTER IT AT YOUR OWN RISK.

In 1919, Mencken advised his readers to do the same. "See to your locks and chain bolts, and get a smallpox sign to hang on the door. Hire a confirmed diabetic to mount guard. Fill every third bottle with nitroglycerine, that heaven may swiftly welcome any righteous scoundrel who horns in." As Mencken wrote to Sinclair Lewis, he had enough bottles to keep him stewed for fifteen years.

Now, one should keep in mind, when Ritchie had been first elected governor in 1919, he had never mentioned Prohibition or the matter of states rights. During those years Ritchie's focus was on statistics, as he devoted himself to balancing the state budget.

Meanwhile, a new era had dawned for the Baltimore *Sunpapers*. Mencken had rejoined the staff. He, along with the publisher, hammered out a memorandum about the new direction the paper would go. One section of their memo dealt with "American Ideas" – in it they said how federal bureaucracies had interfered with the common rights of man. They also decided the editorial page would be less cautious from now on.

On January 16, 1920, when Prohibition officially began, Mencken, along with the rest of the staff, decided that every day they would have at least one editorial denouncing the new law. This was unique for that time. Most newspapers had abandoned the fight, thinking opposing Prohibition was a lost cause.

But not the *Sun*, especially the *Evening Sun*, which kept up a drumbeat against Prohibition. So did Mencken. His regular Monday column for the *Evening Sun* achieved national fame, making him, as one critic said, "one of the most volcanic newspapermen this country has ever known." Thanks to Mencken, and the new editorial policy, during

the 1920s the *Sunpapers* had the reputation and cachet that the *Washington Post* acquired after Watergate. It was one of the first newspapers that the President read each morning. It was the out of town newspaper New Yorkers bought each day.

By this time, Ritchie had become a regular visitor to the Baltimore *Sun* offices. Mencken, along with his colleagues, spoke with Ritchie about the extent to which the federal government was destroying the concept of liberty. As one editor recalled, "Ritchie began to seize on these ideas."

Now something really wonderful happened.

Shortly after this, Ritchie attended the Governor's Conference in Washington, D.C. President Harding demanded that, when it came to Prohibition, all the states must enforce the law. All the governors sat silent. Except for Ritchie.

To the surprise of everyone in the room, Ritchie rose from his chair, and directly addressed the President. Prohibition, he said, was a drastic federal infringement on Maryland's state and personal rights. Liquor control was a matter for each state. It had to be settled by the will of its own people.

For this, Ritchie was accused of being un-American, an anarchist, and a traitor. But it brought Ritchie cheers in Maryland.

Behind the scenes, Ritchie used pressure to make Maryland the first state not to give in to the Anti-Saloon League. As a result, Maryland did not have a state enforcement act. Mencken celebrated the governor in his newspaper column, calling Ritchie "the first independent statesman that Maryland had seen since the Civil War," an opinion which, Governor Ritchie said, had truly pleased his mother.

From now on, of the thousands of speeches Ritchie gave, almost 85% of them concentrated on States' Rights. One of Ritchie's most famous speeches was one he gave

at the Jefferson Day banquet at the National Democratic Club. It attracted national attention and was reproduced in the *Congressional Record*.

Now you should know that Ritchie had already begun sharing his speeches with Mencken and other editors of the Baltimore *Sunpapers*. One of the sentences of his most famous speech, describing the “incompetent, extravagant control radiating from Washington” sounds almost Menckenesque, especially the use of the word “radiating.” Though we have no proof that Mencken helped Ritchie write his speeches, he certainly promoted them. “The fame of Maryland has got about the country,” he said. “Governor Ritchie’s speeches, at first sneered at and unattended, have gradually made their way into [various] newspapers. [As I travel across the country] I am asked about him almost as often as I am asked to have a drink.”

Privately, Mencken wrote in his memoirs that much of Ritchie’s success over Prohibition was thanks to the Baltimore *Sunpapers*, which had supplied Ritchie with his ideas.

Well, it is true that the Ritchie’s use of the term, the Maryland Free State, still proudly used to this day, was actually the invention of the editor Hamilton Owens, at the Baltimore *Sunpapers*.

At the height of the debate over Prohibition, a Republican congressman had denounced Maryland as a traitor to the union because it had refused to pass a State Enforcement Act. Owens wrote a mock-serious reply called “The Maryland Free State.” Owens later decided not to print it, but the phrase, “Maryland Free State” was used in other editorials. Mencken took up the phrase. So did Governor Ritchie, who repeated it in all of his speeches in his reelection campaign as governor, and won by an overwhelming majority – the first Maryland governor up until that time to return to a second term. Other newspapers and politicians also picked up the phrase, until the Maryland Free State became common usage.

But it is not true, as Mencken said, that all of Ritchie's ideas came from the *Sun*. States' Rights had always been a key factor in Ritchie's life. In fact, until he died, Ritchie had in his possession a speech defending States' Rights that his father had delivered to the University of Virginia Law School in 1856. Ritchie had underlined key passages.

When it came to Constitutional development, Ritchie thought the United States fell into three periods. In the first period, lasting until the Civil War, Ritchie thought the nation had leaned too far to States' Rights. The second, from the Civil War to World War I, was a balanced period. Now, said Ritchie, the growth of federal bureaus and commissions had been a burden on the taxpayer. It threatened to destroy individual rights.

As Ritchie confessed to a reporter during this time, he concentrated on states' rights not only because he believed in them; he thought Prohibition was an issue that could unite Democrats and Republicans alike. As Ritchie well knew, polls showed a majority of voters were for Prohibition's repeal.

With the support of the *Sunpapers* and the people of Maryland, Ritchie continued to defy the federal government, so much so that in Baltimore, the years 1920 through 1933 had a character all of its own. Maryland was now one of the wettest states in the Union.

According to *Sun* reporter R. P. Harriss, Governor Ritchie had announced that places selling alcoholic beverages would not be bothered by state troopers – though they would have to pay state tax. But because speakeasies didn't legally exist, they were declared to be cigar stores. Each speakeasy had a front room, with a glass counter, filled with cheap cigars. There would be a door with a window. When you knocked on the door, all you had to say was, "Joe sent me."

U. S. 1 was full of speakeasies. There were also many between Calvert Street and Broadway. None of them apparently served good wine. Many did provide soda to accompany any whiskey or gin you might have in your hip flask.

Baltimore 42-mile shoreline along the Chesapeake Bay was a perfect port for bootleggers, making it convenient for smuggling Cuban and Canadian liquor. Whiskey in Baltimore was plentiful. It came from illegal distillers in Western Maryland.

Even so, hard liquor was expensive for the average working stiff. There were ways to get around it. They say that if you had a friendly doctor, you could tell him you were feeling really run down. He would give you a prescription for some whiskey, which the druggist would fill out. If you look back at the ledgers of the old pharmacies, you will see that almost everybody during those days was apparently suffering from the same infirmity. But since you had to pay \$2 for the prescription, and another \$2 for the whiskey, well, the average person could not indulge in this remedy too often. You only did it if you were getting tired of bathtub gin. And since only the affluent could afford to drink hard liquor without risking blindness or death, most people stuck to beer.

Mencken began making his own, with the best German ingredients he could obtain, including dried yeast from the Lowenbrau brewery in Munich. On Sunday afternoons in West Baltimore, the German neighborhood where Mencken lived, you could smell malt and hops in the air as neighbors began brewing their beer. Each Sunday, Mencken would shoo his mother from the kitchen and begin cooking away. His very first attempt was bottled too soon, with the result that every single bottle he put out into the garden to cool suddenly exploded like a burst of gunfire, greatly alarming his neighbors.

Mencken and his friends shared their beer-making recipes. They were precise about what type of spring water they used, how much corn sugar to put in. Mencken's careful notes about his beer making still exist. In one entry he describes "a curious flocculent growth" – in other words, *a fungus* – growing on top of his ale. The guinea pigs for Mencken's experiments were his musical friends from the Saturday Night Club,

who often met at Mencken's house to play music, eat crabs – and drink his beer. Sometimes they got sick to their stomachs and other times they got cheerfully boiled. But they drank it all the same.

Ah, life in Maryland was good in those days! As Mencken said, it was a place of sound and comfortable living. And all of this was thanks to Governor Ritchie. Alone among larger cities, Baltimore had little organized crime. Instead, it was quiet and orderly. The police went about their own business. The courts were not jammed with liquor cases. Federal agents were left to enforce Federal enactments on their own. And since the Feds found that they had no police protection in Baltimore, raids gradually became more infrequent.

Maryland, wrote Mencken, was one of the few states in which in the state's courts, the constitutional guarantees of the citizen were jealousy guarded. According to the *Sun*, Marylanders had achieved an ethnic unity. "The people of the Free State asked only to be let alone."

Mencken believed Ritchie's stand against Prohibition had been an influential contribution to the general political thought in the country. It had also encouraged none other than Governor Roosevelt of New York, who, by 1931, was beginning to toy with the idea of running for President.

During this period Mencken and Ritchie began meeting more regularly. They would sit up late, sometimes until 1:30 or 3:30 in the morning, eating pretzels and drinking, discussing Ritchie's possible presidential campaign for 1932. At that time, no one was sure that Roosevelt had the nomination in hand. Mencken advised Ritchie that the way seemed clear.

To help Ritchie out, Mencken renewed his praise for him in the *Sunpapers*. "He has done as much as any man to make Prohibition disreputable, and he has done so sincerely," wrote Mencken. "It is a grand chance. He would make an excellent

President....He is so intelligent as to make a sort of miracle in American public life.” Mencken later said that if Ritchie had been elected President in 1932, the nation’s problems would have been tackled with more common sense.

The 1932 Democratic convention proved to be a turning point for Ritchie. More than one hundred thousand people greeted him when he arrived in Chicago – so many that Ritchie lost one of his shoes in the crush. Fans showered him with confetti. Delegates carried signs: “WIN WITH RITCHIE.” In the hall, people cheered his name. Roosevelt’s manager, James Farley, was so impressed that he offered Ritchie the place of Vice-President on the Roosevelt ticket. Ritchie refused.

Instead, he concentrated on his big speech against Prohibition. As Mencken advised, this was the issue on which he would win. The ovation lasted forty minutes. Although Ritchie’s successful anti-Prohibition plank probably helped grease the way for Repeal, after a lot of politicking in the back rooms, as you know the nomination went to Roosevelt. After the general election, Mencken thought Ritchie might win a spot in Roosevelt’s cabinet. Roosevelt never even considered it.

Disappointed, Ritchie later admitted how unwise he had been to reject the role of Vice President. He had been given a golden opportunity. His role in national affairs would not come again.

Meanwhile, in Maryland, the Depression grew worse. Ritchie complained to Mencken that the Federal government was handing out so much money, and so many states were accepting, that he could not see how Maryland could keep resisting federal aid and still be able to balance the state budget – though God knows, Maryland was practically the only state which had done so.

Although Mencken and Ritchie considered themselves lifelong Democrats, as the 1930s wore on, so did their dislike for the New Deal. To the end of their lives, they both believed balanced budgets and frugality were the way to solve economic problems.

As Social Darwinists, both Mencken and Ritchie believed the way to solve the economy was not to interfere. They continued to subscribe to the Jeffersonian idea that the best government was the one that governed least. Neither man ever questioned the harmful effects of too little government intervention. Mencken and Ritchie were of the generation that had lived through the Depression of 1892 and 1893. No one at that time believed that the unemployment was the responsibility of the government.

But their resistance to Roosevelt came at a cost. During the Depression, the popularity of both men suffered. When Ritchie ran for his fifth term as governor, Mencken publicly supported him, for which Ritchie was grateful. "If all the world falls from you," Ritchie wrote to Mencken, "I will still be with you."

After Ritchie's defeat, he returned to practicing law, but not for long; he died a year later. He was mourned in the editorial pages of newspapers across the country. "If Maryland today is seen as a place of freedom and tolerance," they said, it was because of Ritchie's fight against Prohibition, and his championing of what many now regarded as "the lost cause" of States' Rights.

As for Prohibition?

Well, it officially came to an end while Ritchie was still governor, on December 5, 1933. The legalization of beer came even sooner, almost immediately after Roosevelt was inaugurated. The "return to sanity" was set for midnight, April 7, 1933.

In gratitude, a local brewer sent Governor Ritchie several cases of beer, tied in bright ribbons. It arrived in Annapolis by motorcade. Ritchie did not join in the festivities. He remained in the Statehouse, working late.

In Baltimore, the manager of the Rennert Hotel invited Mencken to have the honor of being served the very first glass of legal beer. Across the country, H. L.

Mencken was being hailed as the reporter who had worked hardest to bring about Prohibition's end.

That evening, the Rennert was packed. In the crowd was a young student from Johns Hopkins. He told me he went just because he wanted to see history being made. As the clock struck twelve, the bartender handed the very first glass of beer over to Mencken.

"Here it goes!" said Mencken.

Everyone leaned forward, waiting to hear the verdict. Mencken tilted back his head, and drank it in one gulp.

"Not bad at all," he said. "Fill it again."

Not one arrest for drunkenness was made that night. For those who were there, no New Year's Eve celebration ever equaled that glorious evening. The photograph of Mencken drinking the first legal beer in the Maryland Free State was sent to millions around the world.

It was, as Mencken said, "an epochal event in the onward march of humanity. It is perhaps the first time in history that any of the essential liberties of man has been gained without the wholesale emission of blood."

Marion Elizabeth Rodgers is the author of Mencken: The American Iconoclast (Oxford, 2005, 2007). (c) Copyright 2011 Marion E. Rodgers

Governor Ritchie's Message
TO THE
Extraordinary Session of the
General Assembly
of Maryland

CONVENED NOVEMBER 23, 1933.

Members of the General Assembly of Maryland:

It becomes my duty under the authority imposed upon me by the Constitution to call your Honorable body into special or extraordinary session in order to consider and act upon the following subjects:

1. The regulation and control of intoxicating liquors and beverages within this State, and all questions incident thereto, after the repeal of the Eighteenth Amendment to the Constitution of the United States.
2. Legislation necessary to enable the political units of the State to accept or receive the benefit of any laws or decrees of the Federal Government, now or hereafter enacted or promulgated, on the subject of Public Works and Construction, or Relief of the people from Unemployment, or any subject connected with or related to the Recovery program of the Federal Government.
3. Legislation necessary to enable any political unit of the State to provide for the relief and aid of its people from Unemployment.
4. Legislation to promote and expedite the administration of criminal justice and procedure in the State of Maryland, including all related matters.

5. Legislation on the subject of Banks and Banking made necessary or appropriate by Federal legislation on the same subject.

6. Legislation pertaining to the fiscal affairs and public revenues of the State.

BEER, WINE AND LIQUOR CONTROL IN MARYLAND

Preliminary Remarks

Recently I prepared and distributed certain recommendations relating to the control and supervision of beer, wine and liquor in the State, in the hope that this might be helpful to the members of the Legislature, and furnish the basis of discussion by them and others interested in the preparation of a sound and effective law for Maryland on this very difficult and debatable subject.

Since then I have had the benefit of a good many viewpoints in regard to this plan, and there are respects in which it seems to me that the plan can be improved.

The principal changes I would suggest relate to the subject of wines. I think that the light or natural wines should be excluded from the proposed excise tax. This tax should apply to distilled spirits and to the sparkling and fortified wines, but it should not apply to the light and natural wines or to beer.

I think also that provision should be made for retailing light wines along with beer for on-premise consumption, in those political units which wish to have the right to do this, instead of requiring light wines to be retailed with liquor.

Further consideration has also indicated certain changes which should be made in the several license classifications, in order to make more complete and effective the local option privileges which are the basis of the plan.

I am reproducing in this Message my previous recommendations on the subject, with the above and perhaps some other changes embodied.

Even as now submitted, however, the plan and its details are intended to be subjected to thorough scrutiny and con-

sideration at your hands, and to revision where that seems desirable.

I recognize fully that any control plan to be effective must conform to the wants and must receive the sanction of the people of the political unit to which it applies. This is vital, and such merit as the plan here recommended may have, lies largely in the fact that it does away with the innumerable, diverse and often confusing local laws which have hitherto always been resorted to on this subject, and at the same time the plan does enable each political unit of the State to have whatever class or classes of license its people want, under administrative and regulatory provisions which will be uniform with respect to the particular class or classes of license any political unit sees fit to adopt.

THE PROBLEM OF LIQUOR CONTROL

National Prohibition was given a full and fair trial. It failed, and the task now is to work for Temperance, and devise a method of liquor control which will do away with the evils National Prohibition brought about without re-establishing the evils which brought about National Prohibition.

This is no easy task. The liquor problem has been with us through the centuries. There is no magic solution of it. No matter what is done now, there will be many people who will think something else should have been done. On more than one vital point the decision will necessarily be not the ideal one, but the selection of the better of two alternatives. The problem is real, and our approach to it must be realistic.

It may take long to regain the ground lost during the Prohibition era. In that era new conditions arose,—new habits, new temptations, new crimes, new social perils,—which now make the task much more difficult.

Whatever plan of control is adopted, it must of necessity be in some measure experimental in nature. Experience will suggest faults and improvements, and for this reason I recommend that between the close of the forthcoming special session of the Legislature and the regular session which will convene in January 1935 a thorough study be

made of the administration and practical operation of the systems adopted in other States.

One vital lesson to be drawn from National Prohibition is that prohibitions of what people do not consider inherently wrong will not work. The life of law is its enforcement, and law without sanction cannot be enforced. The lack of popular sanction was one of the reasons why National Prohibition failed. The new system should not repeat that defect. It should contain no requirements which do not conform to the standards and social convictions of the people to whom it applies.

The repeal of the Eighteenth Amendment returns the liquor question to the States for each State to decide as it deems best for its own people. The State, however, is not homogeneous enough for one uniform law on this subject. At least, Maryland is not. Half our population lives in the great industrial center of Baltimore City. The other half lives in smaller cities, in towns, villages, rural and county districts, and in the environment of our great expanse of bay and rivers. Throughout these localities conditions differ and popular opinions and sanctions differ. It is not possible to reconcile them.

LOCAL OPTION THE ONLY SOLUTION

I see no possible solution of the liquor question in this State except on the principle of local option. This is in accord with Maryland traditions and practices. In that way only can we adapt the new plan to the needs and conditions of the various localities of the State, and put behind it that sanction of popular approval in each locality which is necessary for its enforcement.

I have considered asking the legislative representatives of Baltimore City and each county to come to the Special Session with their own control plans for their respective political units. I am advised that some of them will do this, but that others may not, and it has seemed to me on the whole best that the Governor should submit to the Legislature a plan for liquor and beer control,—as was done in the case of beer control alone,—which the political units

of the State may, if their representatives so desire, accept in whole or accept in part, rather than adopt a large number of separate, different and unrelated local laws for their own.

EACH POLITICAL UNIT TO HAVE ONLY WHAT ITS PEOPLE WANT

Accordingly, I am suggesting consideration of a plan which will classify separately each of the various kinds of licenses for the sale of beer, wines or liquors, and give the right to Baltimore City and to each one of the counties to adopt all of these forms of license if they so desire, or to reject them all if they desire to do that, or to reject some and adopt others.

The proposed bill will be elastic enough to enable each political unit to select the particular kind of license or licenses which will be permitted within its limits, and the administrative machinery, the license fees, and the provisions for supervision and regulation will all, if acceptable, be on a uniform basis.

To be more specific, the legislation I am proposing will submit the following general forms of license:

1. Manufacturers and Wholesalers.
2. Beer.
Off Premise consumption only.
Consumption on the Premises.
3. Beer and Light Wines.
Off Premise consumption only.
Consumption on the Premises.
4. Liquor, Wines and Beer.
Off Premise consumption only.
Consumption on the Premises.

Assuming the conditions and regulations of the bill to be satisfactory, then its passage will enable Baltimore City and any county of the State to permit all of the above forms of license. Any political unit, however, which is not satisfied with any one or more of these forms of license, can through

its representatives in the Legislature add a proviso to the bill that such licenses shall not be applicable in such political unit, or in some locality thereof, and in that case only the other licenses not excepted would apply. And any political unit desiring none of the specified licenses, can in the same way exempt itself from all of them.

In this way, any political unit, such as Baltimore City, which wishes to do so, can permit licenses for beer, wine, and liquor, for consumption both on and off the premises, subject to the prescribed regulations. Any county which wants to permit beer alone, can do so by exempting itself from the other license provisions. Any county which wishes to permit the sale of beer and light wines, but no liquor, can do so in the same way. Any county which wants to permit the consumption of beer on the premises, and also the sale of liquor in bottles for consumption off the premises only, can do that by simply exempting itself from the other license provisions. And so on. Each political unit can then have exactly what it wants and discard what it does not want, and the law will be uniform throughout the State with respect to every form of license permitted.

Before submitting the details of the plan herein suggested, certain fundamental questions must be settled.

SEPARATION OF BEER AND LIQUOR

The obvious difference between beer and liquor is recognized in every State control law which has so far been passed, or which is under consideration. It seems to me that it should be recognized in Maryland by providing a low license fee and liberal conditions for the retail sale of beer and a much higher license fee and stricter conditions for the retail sale of liquor.

To this the objection is made that the sale of beer alone is not generally profitable, and that an establishment where beer alone is sold cannot compete with an establishment where liquor is sold, and the former would resort to the illicit selling of liquor.

Strict supervision should reduce any such unlawful practice to a minimum, but aside from that there is no certainty

at all that the practice would prevail. Legal beer has proven a great boon to the people. It has supplanted liquor and eliminated drunkenness and near-beer speakeasies to an amazing degree. It satisfies without harming, and it is quite probable that under liberal conditions such as surround it now the sale of beer alone may prove increasingly popular and profitable. At all events the experience we have had with legal beer has been so healthy and beneficial, that I believe the great majority of people all over the State want the sale of beer to continue on the present basis, and do not want it sold only where liquor is sold. At least a real effort to preserve the benefits which come from the sale of beer alone should be made.

WINES

The natural or light wines are the home drink of a great many of our people, particularly those of foreign origin or extraction. As commonly used they are not harmful, or at least very rarely so, and they should be encouraged.

At first I was concerned whether a workable distinction could be made, particularly from the law enforcement angle, between the natural wines, on the one hand, and the sparkling and the fortified wines, on the other. I was also concerned as to the desirability of permitting the consumption of wine in an establishment which is not licensed to sell liquor, but is licensed to sell beer for on premise consumption. It seemed to me that it might be inadvisable to permit an "On Sale" beer licensee to have the right to sell wines also for on premise consumption, in view of the fact that even the natural wines have a higher alcoholic content than beer.

On reflection, however, I think that both these objections can and should be met.

The distinction between natural and fortified wines is well understood and recognized in law, and need give, I believe, no actual difficulty in practice, with regard to the enforcement provisions of the State law.

The second objection can be met by providing for what may be known as a Beer and Light Wine "On Sale" license, that is, a license which will permit the holder to sell both

beer and light or natural wines for consumption on the premises. Any political unit which does not want this to be permitted, but does want to permit the on-premise consumption of beer alone, can do so by simply exempting itself from the Beer and Light Wine "On Sale" license, and accepting only the Beer "On Sale" license.

The fortified wines and the sparkling wines I would still classify with liquors for "On Sale" purposes.

It seems to me also that not only beer, but the natural wines as well, should be excepted from the payment of the excise tax, so that the excise tax would apply only to distilled spirits, fortified wines and sparkling wines.

RIGHT TO DRINK ON THE PREMISES

This problem is not presented by beer but by liquor. It involves greater differences of opinion than any other problem in the whole subject.

There is no doubt that what are called the "evils of the old saloon" did much to bring about National Prohibition. No one should want to bring those "evils" back again. At the same time we must realize that human nature cannot be changed, and that if the man who can afford to belong to a club or frequent a hotel or restaurant is to get his drink and his sociable and congenial company there,—as he undoubtedly will,—then the man who cannot afford those facilities is going to get his drink and his sociable and congenial company somewhere else and under some other conditions. He will not, moreover, want to be told that he must buy a whole bottle and take it home. I am by no means sure that this would promote temperance, but aside from that a man may want a drink and not a bottle, and he may not have the price of a bottle.

It is vital that this question be approached realistically. To my mind it presents two alternatives. I believe that in certain industrial environments the choice is going to be between a place where the law permits you to drink your drink where you buy it, under suitable and strict regulations and supervision and under decent and proper surroundings, or an unlawful, illicit and unregulated speakeasy or blind

In this situation the answer, I think, is clear. The option to permit consumption on the premises should be allowed in any political unit of the State where the conditions are such that the people desire it. This should only be under regulations which will not revive the evils of the old time saloon, but which will permit the individual to drink his drink where he buys it under legal limitations and conditions, capable of enforcement and actually enforced.

I think the provisions in the proposed bill for "On Sale" licenses in communities which want them, fully meet the above requirements, and I may add that I can see no practical difference between taking a drink sitting down and taking one standing up, and no particular efficacy in requiring one to eat a meal because he wants a drink.

MANUFACTURE

Impressive arguments for State dispensaries and State breweries can be made. The principal ones seem to be that State manufacture would "take the profit out of liquor", so that dealers and retailers could not exploit the public, and the State would get more revenue, and that the quality of beverages would be improved.

I do not discount the force of these arguments, but it would be a very radical thing for this State to undertake the business of manufacturing beer, wines and liquor, or to assume the wholesale distribution of them. Personally I am not disposed to recommend the venture, at least until more conservative methods which give promise of success receive a full and fair trial.

What Do You Miss?

With the appearance here at the Library this week of long time Baltimore Sun columnist Dan Rodricks, who retired this year, I realized that what I missed was the newspaper, in particular *The Sun*. I miss it, but obviously not enough to do anything about it such as enter a subscription or buy a copy of it from, I would say a newsstand, but they don't exist anymore, or from a box, but they're not around anymore either, and if they were it would cost you the better part of a roll of quarters to do so.

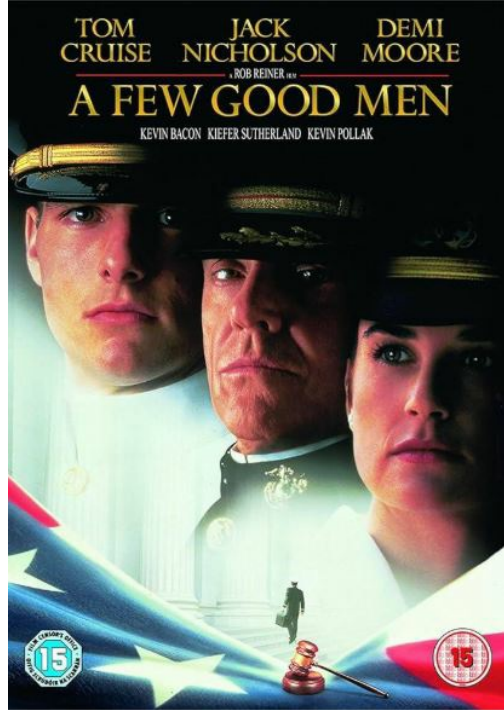
Of course if you are brave enough to face the logistice of home delivery, and I am not sure how that works anymore in an age of dwindling readership, you will see what looks like an advertising circular on your lawn disguised as a newspaper. Talk about shrinkflation.

The real reason for the death of the newspaper in my life is the same reason I suppose for the death of it in so many of yours: it is full of "news" that you are most likely already aware of. Years ago, during one of those Orioles seasons of futility, I had told an older friend of mine that I was done watching until they traded one or both of their remaining stars for prospects. When they finally did, and I read about the trade that had just taken place on MLB.com, I called my friend. His response was that he hadn't read anything about it in the paper that morning. So, in the end it is not a subscription that I need to restore the role of the newspaper to my life, it is in fact a time machine.

Now, some of you are undoubtedly thinking that Bennett has opened himself up this time. If you want to talk about something antiquated, how about a law library? Well, you're right – if you are planning to dedicate the amount of time and effort to your research as you do to reading a newspaper. Otherwise, for depth and completeness it is necessary to use a resource that has what you need to do the job you need to do. The late Judge Lawrence Rodowsky used to say that the law goes back further than your computer. That is still the case. Additionally, what people have personal access to in their offices does not cover all that there is. So, in that everyone wants an advantage, for length and depth of coverage, how about utilizing the Bar Library as that advantage? I am pretty certain in the end your client will be glad you did.

I look forward to seeing you soon.

Joe Bennett



A Few Good Men

Please join us on Friday, March 21, 2025 at 5:30 P.M when the Bar Library film series presents **A Few Good Men**.

A Few Good Men involves a military lawyer tasked with defending two United States Marines charged with murdering a fellow Marine. The defense: they were only following their base commander's orders. The film stars Tom Cruise, Jack Nicholson and Demi Moore and was directed by Rob Reiner.

The film received four Academy Award Nominations including for Best Picture and Best Supporting Actor (Nicholson). Also included in the cast are Kevin Bacon; Kiefer Sutherland; Cuba Gooding, Jr. and Kevin Pollak.


Peter Travers of *Rolling Stone* said, "That the performances are uniformly outstanding is a tribute to Rob Reiner (*Misery*), who directs with masterly assurance, fusing suspense and character to create a movie that literally vibrates with energy." Richard Schickel in *Time* called it "an extraordinarily well-made movie, which wastes no words or images in telling a conventional but compelling story." Todd McCarthy in *Variety* magazine predicted, "The same histrionic fireworks that gripped theater audiences will prove even more compelling to filmgoers due to the star power and dramatic screw-tightening." Roger Ebert was less enthusiastic in the *Chicago Sun-Times*, giving it two-and-a-half out of four stars and finding its major flaw was revealing the courtroom strategy to the audience before the climactic scene between Cruise and Nicholson. Ebert wrote, "In many ways this is a good film, with the potential to be even better than that. The flaws are mostly at the screenplay level; the film doesn't make us work, doesn't allow us to figure out things for ourselves, is afraid we'll miss things if they're not spelled out."

WHEN: Friday, March 21, 2025 - 5:30 P.M

WHERE: The Clarence M. Mitchell, Jr. Courthouse (100 North Calvert Street)
Main Reading Room of the Baltimore Bar Library (Room 618)

COST: Free – Soft Drinks & Snacks will be served.

RESERVATIONS: May be made at the Library, by telephone or e-mail. In order to keep track of attendance, **reservations are required.** For more information telephone 410-727-0280 or e-mail us at jwbennett@barlib.org.



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