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Statewide Referendum

1853: Preventing Traffic in Intoxicating Liquors for the Purpose of Drinking

Background: See referenda of 1847-50. In 1851 Maine passed a law outlawing the manufacture of intoxicating liquor. Vermont's temperance supporters quickly moved to enact a similar law. Sustained agitation over temperance created splits within the State's political parties (notably the Whigs) at the same time anti-slavery sentiment was weakening ties to the national party organizations.

Issue: The Maine law moved the debate from the sale of spirits for beverage use to prohibition against its manufacture. Vermont's population, already divided over whether to license the sale of alcohol, further fragmented over the question of banning its manufacture. After surviving a 91-90 house vote, on November 23, 1852 Vermont enacted the Maine-style Act 24, "An Act Preventing Traffic in Intoxicating Liquors for the Purpose of Drinking."

Referendum: Act 24 called for a referendum to be held on the second Tuesday of February, 1853, with voters asked to choose between two effective dates. If a majority of voters voted "yes," Act 24 would go into effect on the second Tuesday of March 1853. If they voted "no," the act would go into effect the first Monday in December 1853. Since a new legislature would convene in October 1853, the understanding was a no vote would lead to repeal of Act 24 before its December effective date. This was the first use of the mechanism allowing voters to choose between effective dates.

The vote was extremely close, the early effective date being approved by a 521 vote margin, 22,315 to 21,794. There was a clear geographic split, with all counties west of the Green Mountains supporting the early date; of the eastern counties, only Caledonia approved (and that by only 28 votes). The margin

of victory was supplied by the state's larger population centers.

Result: Despite the vote there was an effort in the 1853 legislature to repeal the act. That effort failed and Vermont became a predominately dry state for the next fifty years (an act passed in 1853 clarified that one could give alcohol in one's own home as long as it did not lead to drunkenness). The *Journal of the House of Representatives* of 1853 contains competing committee reports on whether to repeal the law (see pages 534-554).

The new mechanism of providing a choice between enactment dates was unsuccessfully challenged in *State v. Parker* 26 Vt. 357 (1854).

The close vote had continuing political ramifications. Incumbent Governor Erastus Fairbanks, a "dry" Whig from Caledonia County, did not receive a majority in the 1853 elections and the general assembly elected the Democratic candidate who finished second in the general election (see [Failure to Attain A Majority](#)). In 1854 the Republican Party was formed, the Whig Party dissolved, and the Democrats were reduced to minority status for over a hundred years.