



The Eighteenth Amendment and National Prohibition, Part 2: The Colonial Era

June 26, 2023

This Legal Sidebar post is the second in a seven-part series that discusses the [Eighteenth Amendment to the Constitution](#). Prior to its [repeal](#), the Eighteenth Amendment prohibited the manufacture, sale, or transportation of “intoxicating liquors” for “beverage purposes” within the United States. Section 2 of the Amendment granted Congress and the state legislatures “concurrent power” to enforce nationwide Prohibition by enacting “appropriate legislation.” The Eighteenth Amendment was partly a response to the Supreme Court’s pre-Prohibition Era Commerce Clause jurisprudence, which limited [the federal and state governments’](#) power over the liquor traffic. As such, the Eighteenth Amendment’s history provides insight into the judicial evolution of the [Commerce Clause](#), which operates as both a positive grant of legislative power to Congress and a [limit on state authority](#) to regulate commerce. Additional information on this topic will be published in the [Constitution Annotated: Analysis and Interpretation of the U.S. Constitution](#).

Alcoholic Beverages in Colonial America

Early colonial Americans drank, imported, and manufactured [large quantities](#) of alcoholic beverages. Shortly after arriving in the New World, the settlers of Great Britain’s American colonies brewed beer and cider, believing these beverages to be safer to drink than water. By the mid-18th century, commercial [distilleries](#) in New England were producing large quantities of rum. At taverns and other establishments that served alcoholic drinks, Americans gathered to socialize, debate politics, and organize protests against British rule. After the Revolutionary War, for patriotic and practical reasons, many 18th-century Americans [preferred](#) to drink whiskey distilled from corn and grain, particularly on the Frontier.

Like other early Americans, several Founders drank, bought, sold, or produced alcoholic beverages. For example, Thomas Jefferson, an avid wine connoisseur, once [wrote](#) that the “light and high flavored wines” were a “necessary of life” for him. At Jefferson’s Monticello plantation, [Peter Hemings](#), an enslaved person who worked as a cook and tailor, [brewed an ale](#) for family and guests. During the Revolutionary War, George Washington, who served as commander-in-chief of the Continental Army, [wrote](#) that “there should always be a sufficient quantity of spirits, with the army to furnish moderate supplies to the troops.” After fulfilling his duties as the nation’s first President and retiring to his Mount

Congressional Research Service

<https://crsreports.congress.gov>

LSB10986

Vernon estate, Washington [operated](#) one of the largest and most profitable distilleries in the nation, which once produced 11,000 gallons of whiskey in a single year.

Although moderate alcohol consumption played a prominent role in many Americans' lives during the Founding Era, some of the nation's earliest leaders opposed the excessive consumption of distilled alcoholic beverages (e.g., whiskey or rum). For example, George Washington, in a [1788 letter](#) to a French diplomat, wrote that an increase in Americans' consumption of French wines and brandies would "be more innocent to the health and morals of the people, than the thousands of Hogsheads of poisonous Rum which are annually consumed in the United States." Alexander Hamilton, while serving as the nation's first Treasury Secretary, wrote in a [1790 report to Congress](#) that the "consumption of ardent spirits . . . no doubt very much on account of their cheapness, is carried to an extreme, which is truly to be regretted, as well in regard to the health and the morals, as to the economy of the community." Acting on Hamilton's recommendation, Congress enacted a tax on whiskey distillation, which led farmers in western Pennsylvania to rebel unsuccessfully against the federal government.

Another Founder, the physician Benjamin Rush, warned the American public about alcoholism's dangers. A politician and social reformer who signed the Declaration of Independence, Rush wrote a pamphlet, first published in 1784, titled [*An Inquiry Into the Effects of Ardent Spirits Upon the Human Body and Mind*](#). In his pamphlet, Rush identified some of alcoholism's symptoms and suggested potential remedies. One of Rush's remedies, which helped to inspire the early 19th-century temperance movement, was the cultivation of a "practical belief in the doctrines of the Christian religion." Rush aimed to reduce the consumption of distilled alcoholic beverages (e.g., whiskey or rum) but did not oppose moderate consumption of less potent alcohol beverages (e.g., beer or wine). Rush challenged the popular belief that drinking benefited society, warning of alcohol addiction's negative effects on individuals' health and the nation's future.

Click [here](#) to continue to [Part 3](#).

Author Information

Brandon J. Murrill
Legislative Attorney

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.