



OXFORD JOURNALS
OXFORD UNIVERSITY PRESS

New Perspectives on the Prohibition "Experiment" of the 1920's

Author(s): J. C. Burnham

Source: *Journal of Social History*, Vol. 2, No. 1 (Autumn, 1968), pp. 51-68

Published by: Oxford University Press

Stable URL: <https://www.jstor.org/stable/3786620>

Accessed: 08-02-2020 15:17 UTC

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



JSTOR

Oxford University Press is collaborating with JSTOR to digitize, preserve and extend access to *Journal of Social History*

NEW PERSPECTIVES ON THE
PROHIBITION "EXPERIMENT"
OF THE 1920's

Recently a number of historians have shown that the temperance movement that culminated in national prohibition was central to the American reform tradition. Such writers as James H. Timberlake have demonstrated in detail how the Eighteenth Amendment was an integral part of the reforms of the Progressive movement.¹ Yet we commonly refer to the "prohibition experiment" rather than the "prohibition reform." This characterization deserves some exploration. The question can be raised, for example, why we do not refer to the "workmen's compensation law experiment."

One explanation may be that of all of the major reforms enacted into law in the Progressive period, only prohibition was decisively and deliberately repealed. The Sixteenth and Seventeenth Amendments are still on the books; the Eighteenth is not. For historians who emphasize the theme of reform, referring to prohibition as an experiment gives them the option of suggesting that its repeal involved no loss to society. To characterize the repeal of prohibition as a major reversal of social reform would seriously impair the view that most of us have of the cumulative nature of social legislation in the twentieth century.²

Professor Burnham is in the history department of the Ohio State University.

An earlier version of this paper was read at the Organization of American Historians meetings, Kansas City, April, 1965. Preparation of the paper was facilitated by released time granted by San Francisco State College.

¹ James H. Timberlake, *Prohibition and the Progressive Movement, 1900-1920* (Cambridge, Mass.: Harvard Univ. Press, 1963); Norman H. Clark, *The Dry Years, Prohibition and Social Change in Washington* (Seattle: Univ. of Washington Press, 1965); Norton Mezvinsky, "The Temperance Movement, 1870-1920," paper read at the Organization of American Historians meetings, Kansas City, April, 1965. Even with a very different approach, Paul E. Isaac, *Prohibition and Politics: Turbulent Decades in Tennessee 1885-1920* (Knoxville: Univ. of Tennessee Press, 1965), notes the connection between Progressive reform and prohibition (pp. 139, 262-267).

² John Higham, "Beyond Consensus: The Historian as Moral Critic," *American Historical Review*, LXVII (1962), 610-612, deals with this progressive view of American history. In accordance with his summary, it is amusing to note that

We have been comfortable for many decades now with the idea that prohibition was a great social experiment. The image of prohibition as an experiment has even been used to draw lessons from history: to argue, for example, that certain types of laws—especially those restricting or forbidding the use of liquor and narcotics—are futile and probably pernicious. Recently, however, some new literature has appeared on prohibition, whose total effect is to demand a re-examination of our customary view.³

The idea that prohibition was an experiment may not survive this renaissance of scholarship in which the reform and especially Progressive elements in the temperance movement are emphasized. But it is profitable, at least for the purposes of this article, to maintain the image of an experiment, for the perspectives available now permit a fresh evaluation of the experiment's outcome.

Specifically, the prohibition experiment, as the evidence stands today, can more easily be considered a success than a failure. While far from clear-cut, the balance of scholarly evidence has shifted the burden of proof to those who would characterize the experiment a failure. It is now becoming clear, moreover, how the myth of failure developed and why it flourished.

In order to understand how prohibition came to be a Progressive reform measure, it is necessary to take into account turn-of-the-century class structure among Americans, their drinking habits, and particularly their liquor-by-the-drink retailing institution, the saloon. At that time, typical middle class⁴ Americans did not drink, except

most progressive historians deal with prohibition not as evidence of cumulative reform but as one of the "aberrations" that members of this school use to account for nonprogressive phenomena; repeal, likewise, then, was a sign that the American people had regained their senses. It is, of course, possible to keep prohibition within this progressive framework but to reverse the way in which it is used: enactment was a great reform, repeal a great betrayal. See below.

³ See especially Timberlake, *Prohibition and the Progressive Movement*; Andrew Sinclair, *Prohibition, The Era of Excess* (Boston: Little, Brown and Company, 1962); Joseph R. Gusfield, *Symbolic Crusade, Status Politics and the American Temperance Movement* (Urbana, Ill.: Univ. of Illinois Press, 1963); and Clark, *The Dry Years*.

⁴ It is necessary in this paper to utilize terms denoting social class differences among Americans. For the period, probably the best social classification is that of the Lynds, who distinguished only between business or middle class and working class (Robert S. Lynd and Helen Merrell Lynd, *Middletown, A Study in American Culture* [New York: Harcourt, Brace & World, Inc., 1956 ed.], pp. 22-24). Occasionally some distinction between elements in the business class—between middle and upper classes—is necessary, and so those customary terms are used in explanatory contexts. In general, however, the attempt is made merely to suggest that certain attitudes or patterns of behavior were relatively character-

sometimes wine. Respectable men were careful about being seen in or about a saloon. The saloon was for the most part a noxious institution, in fact inextricably bound up with prostitution, gambling, police corruption, and crime. The image of the respectable, old-fashioned saloon with its free lunch and manly conviviality was to a surprising extent the product of sentimental reminiscing. There were, it is true, many such delightful neighborhood institutions, but most saloons were disreputable places.⁵

Although connected with social evils, the saloon did serve social needs of the working class, especially the first generation immigrants.⁶ The fact that the unfortunate and exploited were also the victims of the perniciousness associated with the saloon did not make them hate it, and when middle class reformers took it away from them, the deprived opposed the reform. Wet voting strength, however, lay principally in highly localized parts of urban areas and was therefore ineffective.⁷

The Progressive movement represented an alliance of upper and middle class reformers with two different groups. Many reforms, such as workmen's compensation laws, were achieved by a combination of urban labor elements and the reformers. Other reforms, of which prohibition was the prototype, were achieved by the reformers only with the active aid of a part of the business community in its business capacity.⁸ For the Progressives, prohibition, with its elements of moralism, social desirability, meliorism, and scientifically demonstrated need, provided a perfect vehicle for reform. Here was a means by which they could use law to change the personal habits of Americans in general in such a way that both the nation and the individual would profit.⁹ The viewpoint of

istic of Americans at one end or the other of the social scale. Although the class concept is not as clear and precise as one might hope, yet for crudely empirical research on prohibition it provides both a useful and revealing device, as Clark, *The Dry Years*, has demonstrated well.

⁵ See, for example, the friendly essay on the saloon by George Ade, *The Old-Time Saloon; Not Wet—Not Dry, Just History* (New York: R. Long and R. R. Smith, 1931); and also the various reports of the pre-World War I vice commissions.

⁶ Sinclair, *Prohibition*, pp. 72-81.

⁷ See Timberlake, *Prohibition and the Progressive Movement*, esp. pp. 115-120.

⁸ Robert H. Wiebe, *Businessmen and Reform: A Study of the Progressive Movement* (Cambridge, Mass.: Harvard Univ. Press, 1962).

⁹ Timberlake, *Prohibition and the Progressive Movement*, esp. pp. 39-66. This emphasis on the class aspect of the Eighteenth Amendment should not obscure the fact that a hard core of support for prohibition in any form continued to come from the religiously oriented social reformers who, without other support, had

the business elements was not so altruistic, but it was equally convincing. They believed that a sober, temperate worker was a more productive, a more stable, and a happier worker.

One of the sources of the concern of businessmen was the increasing use of machinery in industry. The intemperate worker, once merely inefficient, now became a veritable menace. For safety reasons, many industrial concerns did not employ problem drinkers. The best example of industrial prohibition was "Rule G" of the American Railway Association, which called for the dismissal of operating employees who drank on duty or even frequented saloons. In the years before World War I some railroads enforced even stricter regulations. A number of other businesses followed suit, and there was widespread belief that sobriety and industrial safety were inseparable.

Employer groups were the sources of various opinions about the way in which both employee and employer benefitted from enforced sobriety.¹⁰ Not least striking was the argument that the money spent on liquor might well go to pay for other consumer goods. While large segments of business, including industries economically dependent upon the liquor industry, opposed prohibition or anything like it as government interference with business, a wealthy segment of the business community was committed, with the Progressives, to temperance reform. The brewers' blacklist of April, 1915, for example, contained, in some cases without justification, the names of the Pennsylvania Railroad, United States Steel Corporation, John Wanamaker's, Pittsburgh Coal Company, Goodyear Rubber Company, and S. S. Kresge Company.¹¹

only very limited success in their political campaigns. For many decades American churches, convinced of the evil nature of liquor, were deeply involved in temperance movements (see Francis P. Weisenburger, *Triumph of Faith: Contributions of the Church to American Life, 1865-1900* [Richmond: William Byrd Press, 1962], pp. 134-157). Gusfield, *Symbolic Crusade*, points out that temperance reform represented an attempt of American middle class groups to force their own standards and "style of life" upon other Americans, particularly lower classes and immigrants. These homogenous middle class cultural groups were concentrated in smaller towns and rural areas, but their widespread existence in cities is reflected in Timberlake's discovery of substantial and important urban support for prohibition. Prohibition of both the secular and religious varieties—which were to some extent the same, as it turns out—was merely another aspect of the Progressives' well known attempts to "Americanize" the immigrants and to transform them and native lower class elements into middle class citizens in the image of the dominant group. See especially the work of Clark, *The Dry Years*, in confirming and exploring the points made by Gusfield and Timberlake.

¹⁰ Sinclair, *Prohibition*, pp. 99-104.

¹¹ Peter H. Odegard, *Pressure Politics, The Story of the Anti-Saloon League* (New York: Columbia Univ. Press, 1928), p. 265.

The American prohibition experiment grew out of the transformation that the combination of Progressive reformers and businessmen wrought in the temperance movement.¹² Beginning in 1907 a large number of state and local governments enacted laws or adopted constitutional provisions that dried up—as far as alcoholic beverages were concerned—a substantial part of the United States. The success of the anti-liquor forces, led by the Anti-Saloon League, was so impressive that they were prepared to strike for a national prohibition constitutional amendment. This issue was decided in the 1916 Congressional elections, although the Amendment itself was not passed by Congress until December 22, 1917.¹³ A sufficient number of states ratified it by January 16, 1919, and it took effect on January 16, 1920.

In actuality, however, prohibition began well before January, 1920. In addition to the widespread local prohibition laws, federal laws greatly restricted the production and sale of alcoholic beverages, mostly, beginning in 1917, in the guise of war legislation. The manufacture of distilled spirits beverages, for example, had been forbidden for more than three months when Congress passed the Eighteenth Amendment late in 1917. The Volstead Act of 1919, passed to implement the Amendment, provided by law that wartime prohibition would remain in effect until the Amendment came into force.

The Eighteenth Amendment prohibited the manufacturing, selling, importing, or transporting of "intoxicating liquors." It was designed to kill off the liquor business in general and the saloon in particular; but at the same time the Amendment was not designed to prohibit either the possession or drinking of alcoholic beverages. At a later time the courts held even the act of buying liquor to be legal and not part of a conspiracy. Most of the local and state prohibition laws were similar in their provisions and intent. The very limited nature of the prohibition experiment must, therefore, be understood from the beginning.

At the time, a number of union leaders and social critics pointed

¹² For years the temperance movement had had successes in legal prohibition on the local and even state level. Almost—but not quite—equally often these dries had seen their plans defeated and their hard won legislation rendered ineffective or repealed. This temperance movement has its own history; the present work centers on the version of this reform associated with the Progressive movement. See footnote 9, above.

¹³ Timberlake, *Prohibition and the Progressive Movement*, pp. 29, 148 and Chap. vi.

out that the Eighteenth Amendment constituted class legislation; that is, the political strength of the dregs lay among middle class Progressives who wanted, essentially, to remove the saloon from American life. The Amendment permitted those who had enough money to lay in all the liquor they pleased, but the impecunious workingman was to be deprived of his day-to-day or week-to-week liquor supply.¹⁴ The class aspect of prohibition later turned out to have great importance. Most of the recent revisionist writers have concentrated upon the interplay between prohibition and social role and status.

The primary difficulty that has stood in the way of properly assessing the prohibition experiment has been methods of generalization. Evidence gathered from different sections of the country varies so radically as to make weighing of evidence difficult. In addition, there has been a great deal of confusion about time: When did prohibition begin? What period of its operation should be the basis for judgment? The difficulties of time and place are particularly relevant to the fundamental question of enforcement.

As the country looked forward to prohibition after the elections of 1916, widespread public support, outside of a few urban areas, was expected to make prohibition a success both initially and later on. It was reasonable to expect that enforcement would be strict and that society both institutionally and informally would deal severely with any actions tending to revive the liquor trade. These expectations were realistic through the years of the war, when prohibition and patriotism were closely connected in the public mind. Only some years after the passage of the Volstead Act did hopes for unquestionably effective enforcement fade away. In these early years, when public opinion generally supported enforcement, the various public officials responsible for enforcement were the ones who most contributed to its breakdown. This breakdown in many areas in turn led to the evaporation of much public support in the country as a whole.

Successive Congresses refused to appropriate enough money to

¹⁴ Sinclair, *Prohibition*, pp. 99-104, 165. Sinclair, p. 347, reprints a cartoon showing two smug-looking factory executives about to have a cocktail; the caption on the cartoon is an ironic "Beer's Bad for our Workers." Sinclair Lewis, in *Babbitt* (New York: The New American Library, 1963 ed.), p. 96, has Vergil Gunch, the coal-dealer, observe as he sips a cocktail, "Just the same, you don't want to forget prohibition is a mighty good thing for the working-classes. Keeps 'em from wasting their money and lowering their productiveness."

enforce the laws. Through its influence in Congress the Anti-Saloon League helped to perpetuate the starvation of the Prohibition Bureau and its predecessors in the name of political expediency. Huge sums spent on prohibition, the dregs feared, would alienate many voters—and fearful Congressmen—more or less indifferent to prohibition. The prohibitionists therefore made the claim that prohibition was effective so that they would not have to admit the necessity of large appropriations for enforcement. A second act of irresponsibility of the Congresses was acquiescing in exempting the enforcement officers from Civil Service and so making the Prohibition Bureau part of the political spoils system. League officials who had written this provision into the Volstead Act hoped by using their political power to dictate friendly appointments, but the record shows that politics, not the League, dominated federal enforcement efforts. Not until 1927 did the Prohibition Bureau finally come under Civil Service.¹⁵

The men charged with enforcement, the Presidents of the 1920's, were, until Hoover, indifferent to prohibition except as it affected politics. Wilson, although not a wet, vetoed the Volstead Act, and it was passed over his veto. Harding and Coolidge were notoriously uninterested in enforcing prohibition.¹⁶ When Hoover took office in 1929 he reorganized the administration of enforcement, and his effectiveness in cutting down well established channels of supply helped give final impetus to the movement for a re-evaluation of prohibition.

In some areas prosecutors and even judges were so unsympathetic that enforcement was impossible. Elsewhere local juries refused to convict in bootlegging cases. These local factors contributed greatly to the notable disparities in the effectiveness of prohibition from place to place.¹⁷

¹⁵ Lawrence F. Schmeckebier, *The Bureau of Prohibition, Its History, Activities and Organization* (Washington: The Brookings Institution, 1929).

¹⁶ Sinclair, *Prohibition*, pp. 148-149, Chap. XIII.

¹⁷ *Ibid.*, pp. 209-214. Details are in National Commission on Law Observance and Enforcement, *Enforcement of Prohibition Laws, Official Records of the National Commission on Law Observance and Enforcement Pertaining to Its Investigation of Facts as to Enforcement, Benefits and Abuses under Prohibition Laws, Both Before and Since the Adoption of the Eighteenth Amendment to the Constitution* (Washington: Government Printing Office, 1931). Occasionally citizens took matters into their own hands. During the upsurge of the Ku Klux Klan in the 1920's, the hooded vigilantes, confronted with passive Negroes and a shortage in the local supply of Jews and Catholics, tended to make bootleggers the objects of their nighttime activities. While this informal enforcement was

By a unique concurrent enforcement provision of the Eighteenth Amendment, state and local officials were as responsible for enforcement as federal authorities. The Anti-Saloon League, because of its power in the states, expected to use existing law enforcement agencies and avoid huge federal appropriations for enforcement. Contrary to the expectations of the League, local officials were the weakest point in enforcement.¹⁸ Most of the states—but not all—enacted “little Volstead” acts; yet in 1927 only eighteen of the forty-eight states were appropriating money for the enforcement of such acts.¹⁹ Local enforcement in many Southern and Western areas was both severe and effective; in other areas local enforcement was even more unlikely than federal enforcement. For years the entire government of New Jersey openly defied the Eighteenth Amendment, and it was clear that the governor was not troubled a bit about his oath of office. Some states that had enforced their own prohibition laws before 1919 afterward made no attempt to continue enforcement.

With such extreme variations in the enforcement of prohibition over the United States, judging the over-all success of the experiment on the basis of enforcement records is hazardous. Bootlegging in New York, Chicago, and San Francisco clearly was not necessarily representative of the intervening territory, and vice versa.

An easier basis for generalizing about the effectiveness of enforcement is the impact that prohibition had on consumption of alcohol. Here the second major complication mentioned crops up: the availability of liquor varied greatly from time to time and specifically from an initial period of effectiveness in 1919-1922 to a later period of widespread violation of the law, typically 1925-1927.

In the early years of national prohibition, liquor was very difficult to obtain. In the later years when the laws were being defied

effective in some localities, the notorious connection between the Klan and the dregs tended to confirm in the public mind the connection between rural bigotry and prohibition. See, for example, John Higham, *Strangers in the Land, Patterns of American Nativism* (New Brunswick: Rutgers Univ. Press, 1955), pp. 268, 295.

¹⁸ The Anti-Saloon League had power to elect members of state legislatures and Congressmen, but as the record of local enforcement shows, the League in general did not capture the local party apparatus and so was impotent in naming sheriffs and other local officials. It was a pressure group, by design nonpartisan, and so failed at a level where partisan politics and patronage were of overriding importance.

¹⁹ Charles Merz, *The Dry Decade* (Garden City: Doubleday, Doran & Company, 1931), pp. 202, 205-207.

by well-organized bootleggers operating through established channels, the supply increased.²⁰ By the late 1920's, for example, the domestic supply of hard liquor in northern California was so great that the price fell below the point at which it was profitable to run beverages in from Canada by ship.²¹ In the last years of prohibition it became very easy—at least in some areas with large populations—to obtain relatively good liquor. Many people, relying on their memories, have generalized from this later period, after about 1925, to all of the prohibition years and have come, falsely, to the conclusion that enforcement was neither real nor practical. Overall one can say that considering the relatively slight amount of effort put into it, enforcement was surprisingly effective in many places, and particularly in the early years.

Both so-called wet and dry sources agree that the amount of liquor consumed per capita decreased substantially because of prohibition. The best figures available show that the gallons of pure alcohol ingested per person varied widely over four different periods. In the period 1911-1914, the amount was 1.69 gallons. Under the wartime restrictions, 1918-1919, the amount decreased to .97. In the early years of national prohibition, 1921-1922, there was still further decrease to .73 gallons. In the later years of prohibition, 1927-1930, the amount rose to 1.14 gallons.²²

These figures suggest that great care must be used in making comparisons between "before" prohibition and "after." Statistics and memories that use 1920 as the beginning of prohibition are misleading, since not only were federal laws in force before then but there was also extensive state prohibition. The peak of absolute consumption of beer, for example, was reached in the years 1911-1914, not 1916-1918, much less 1919.²³ The real "before" was sometime around 1910.

The best independent evidence of the impact of prohibition can

²⁰ Sinclair, *Prohibition*, p. 177.

²¹ Elizabeth Brown, "Enforcement of Prohibition in San Francisco" (M.A. thesis, Univ. of California, 1940).

²² Clark Warburton, "Prohibition," *Encyclopedia of Social Sciences*, XII, 507. Warburton's figures were revised from his monograph, *The Economic Results of Prohibition* (New York: Columbia Univ. Press, 1932), in which he made estimates based upon sources of production, death rates, and arrests for drunkenness. The late Dr. E. M. Jellinek informed the writer that he considered Warburton's figures for the prohibition period substantially too high.

²³ Thomas C. Cochran, *The Pabst Brewing Company, The History of an American Business* (New York: New York Univ. Press, 1948), p. 180.

be found in the available figures for certain direct and measurable social effects of alcohol consumption. The decrease from about 1915 to 1920-1922 in arrests for drunkenness, in hospitalization for alcoholism, and in the incidence of other diseases, such as cirrhosis of the liver, specifically related to drinking was remarkable. The low point of these indexes came in 1918-1921, and then they climbed again until the late 1920's. Because of confusion about when prohibition began, the significance of these well known statistics has seldom been appreciated: there is clear evidence that in the early years of prohibition not only did the use of alcohol decrease but American society enjoyed some of the direct benefits promised by proponents of prohibition.²⁴

Undoubtedly the most convincing evidence of the success of prohibition is to be found in the mental hospital admission rates. There is no question of a sudden change in physicians' diagnoses, and the people who had to deal with alcohol-related mental diseases were obviously impressed by what they saw. After reviewing recent hospital admission rates for alcoholic psychoses, James V. May, one of the most eminent American psychiatrists, wrote in 1922: "With the advent of prohibition the alcoholic psychoses as far as this country is concerned have become a matter of little more than historical interest. The admission rate in the New York state hospitals for 1920 was only 1.9 percent [as compared with ten percent in 1909-1912]."²⁵ For many years articles on alcoholism literally disappeared from American medical literature.²⁶

In other words, after World War I and until sometime in the early 1920's, say, 1922 or 1923, when enforcement was clearly breaking down, prohibition was generally a success. Certainly there is no basis for the conclusion that prohibition was inherently doomed to failure. The emasculation of enforcement grew out of

²⁴ The best convenient collection of figures is in Warburton, *Economic Results of Prohibition*. See, for example, Carney Landis and Jane Cushman, "The Relation of National Prohibition to Mental Disease," *Scientific Monthly*, LXI (1945), 469 ff. Such figures are the more striking in that they emphasize urban units and areas such as New York where prohibition was relatively least effective.

²⁵ James V. May, *Mental Diseases, A Public Health Problem* (Boston: R. G. Badger Co., 1922), pp. 360-362. See Horatio M. Pollock and Frederick W. Brown, "Recent Statistics of Alcoholic Mental Disease," *Mental Hygiene*, XIII (1929), 591-614, and E. M. Jellinek, "Recent Trends in Alcoholism and Alcohol Consumption," *Quarterly Journal of Studies on Alcohol*, VIII (1947), 19-20.

²⁶ E. M. Jellinek, *The Disease Concept of Alcoholism* (New Haven: Hillhouse Press, 1960).

specific factors that were not organically related to the Eighteenth Amendment.

Nor is most of this analysis either new or controversial. Indeed, most of the criticism of prohibition has centered around assertions not so much that the experiment failed but that it had two more or less unexpected consequences that clearly show it to have been undesirable. The critics claim, first, that the Eighteenth Amendment caused dangerous criminal behavior; and, second, that in spite of prohibition more people drank alcohol than before. If a candid examination fails to confirm these commonly accepted allegations, the interpretation of prohibition as a failure loses most of its validity. Such is precisely the case.

During the 1920's there was almost universal public belief that a "crime wave" existed in the United States. In spite of the literary output on the subject, dealing largely with a local situation in Chicago, there is no firm evidence of this supposed upsurge in lawlessness. Two criminologists, Edwin H. Sutherland and C. H. Gehlke, at the end of the decade reviewed the available crime statistics, and the most that they could conclude was that "there is no evidence here of a 'crime wave,' but only of a slowly rising level." These admittedly inadequate statistics emphasized large urban areas and were, it should be emphasized, *not* corrected to reflect the increase in population.²⁷ Actually no statistics from this period dealing with crime are of any value whatsoever in generalizing about crime rates.²⁸ Apparently what happened was that in the 1920's the long existent "underworld" first became publicized and romanticized. The crime wave, in other words, was the invention of enterprising journalists feeding on some sensational crimes and situations and catering to a public to whom the newly discovered "racketeer" was a covert folk hero.

Even though there was no crime wave, there was a connection between crime and prohibition, as Frederick Lewis Allen suggested

²⁷ Edwin H. Sutherland and C. H. Gehlke, "Crime and Punishment," in *Recent Social Trends in the United States, Report of the President's Research Committee on Social Trends* (New York: McGraw-Hill Book Company, 1933), II, 1128.

²⁸ Thorstein Sellin, "The Basis of a Crime Index," *Journal of the American Institute of Criminal Law and Criminology*, XXII (1931), 335-356. To date no research has been published that would improve on or bypass the lack of knowledge of this aspect of American society in the 1920's. For a recent study citing key parts of the literature touching on the problem of historical crime statistics, see Theodore N. Ferdinand, "The Criminal Patterns of Boston since 1848," *The American Journal of Sociology*, LXXIII (1967), 84-99.

in his alliterative coupling of "Alcohol and Al Capone."²⁹ Because of the large profits involved in bootlegging and the inability of the producers and customers to obtain police protection, criminal elements organized and exploited the liquor business just as they did all other illegal activities. It would be a serious distortion even of racketeering, however, to emphasize bootlegging at the expense of the central criminal-directed activity, gambling.³⁰ Since liquor-related activities were not recognized as essentially criminal in nature by substantial parts of the population, it is difficult to argue that widespread violation of the Volstead Act constituted a true increase of crime. Nevertheless, concern over growing federal "crime" statistics, that is, bootlegging cases, along with fears based on hysterical journalism, helped to bring about repeal.

We are left, then, with the question of whether national prohibition led to more drinking than before. It should first be pointed out not only that the use of 1920 as the beginning of prohibition is misleading but that much of the drinking during the 1920's was not relevant to the prohibition of the Eighteenth Amendment and Volstead Act. Private drinking was perfectly legal all of the time, and possession of liquor that had been accumulated by the foresighted before prohibition was entirely lawful. The continued production of cider and wine at home was specifically provided for also. Indeed, the demand for wine grapes was so great that many grape growers who in 1919 faced ruin made a fortune selling their grapes in the first years of the Amendment.³¹ Ironically, many an old lady who made her own wine believed that she was defying prohibition when in fact the law protected her.

²⁹ Frederick Lewis Allen, *Only Yesterday, An Informal History of the Nineteen-Twenties* (New York: Harper and Brothers, 1931), esp. pp. 289-300, is the source of many of our stereotypes of the decade, but Allen was very careful to describe prohibition as only incidental to the rise of the racketeers. Writing about the field that he knew best, journalism, Allen gives throughout his book ample explication of the "ballyhoo" that lay behind the fiction of a crime wave.

³⁰ Traditionally the organization of crime, rather than its mere incidence, has been blamed on the circumstances engendered by the prohibition laws. Such a conclusion ignores two facts: (1) crime, as Progressives were fond of pointing out, was not unorganized before World War I (see, for example, John Landesco, "Prohibition and Crime," *The Annals of the American Academy of Political and Social Science*, CLXIII [1932], 120), and (2) during the 1920's all areas of American society were subject to a striking organization and consolidation of effort. To connect an increase in scale of control and system in illegal activities with nothing but the bootlegging business would be most incautiously to ignore the rest of the social environment of American crime.

³¹ John R. Meers, "The California Wine and Grape Industry and Prohibition," *California Historical Society Quarterly*, XLVI (1967), 19-32.

We still face the problem of reconciling the statistics quoted above that show that alcohol consumption was substantially reduced, at one point to about half of the pre-prohibition consumption, with the common observation of the 1920's that as many or more people were drinking than before.

What happened, one can say with hindsight, was predictable. When liquor became unavailable except at some risk and considerable cost, it became a luxury item, that is, a symbol of affluence and, eventually, status. Where before men of good families tended not to drink and women certainly did not, during the 1920's it was precisely the sons and daughters of the "nice" people who were patronizing the bootleggers and speakeasies, neither of which for some years was very effectively available to the lower classes. This utilization of drinking as conspicuous consumption was accompanied by the so-called revolution in manners and morals that began among the rebellious intellectuals around 1912 and reached a high point of popularization in the 1920's when the adults of the business class began adopting the "lower" social standards of their children.³²

We can now understand why the fact was universally reported by journalists of the era that "everyone drank, including many who never did before." Drinking, and often new drinking, was common among the upper classes, especially among the types of people likely to consort with the writers of the day. The journalists and other observers did indeed report honestly that they saw "everyone" drinking. They seldom saw the lower classes and almost never knew about the previous drinking habits of the masses. The situation was summed up by an unusually well-qualified witness, Whiting Williams, testifying before the Wickersham Commission. A vice-president of a Cleveland steel company, he had for many years gone in disguise among the working people of several areas in connection with handling labor problems. He concluded:

. . . very much of the misconception with respect to the liquor problem comes from the fact that most of the people who are writing and talking most actively about the prohibition problem are people who, in the nature of things, have never had any contact with the liquor problem in its earlier pre-prohibition form and who are, therefore, unduly impressed with the changes with respect to drinking that they see on their own level; their own level, however, representing an extremely small proportion of the population.

³² See in general Sinclair, *Prohibition*, Chaps. XI and XVI, esp. pp. 238, 239.

The great mass who, I think, are enormously more involved in the whole problem, of course, in the nature of things are not articulate and are not writing in the newspapers.³³

The important point is that the “everyone” who was reported to be drinking did not include working-class families, i.e., the preponderant part of the population. Clark Warburton, in a study initiated with the help of the Association Against the Prohibition Amendment, is explicit on this point: “The working class is consuming not more than half as much alcohol per capita as formerly.”³⁴ The classic study is Martha Bensley Bruère’s. She surveyed social workers across the country, and the overwhelming impression (even taking account of urban immigrant areas where prohibition laws were flouted) was that working people drank very much less than before and further, as predicted, that prohibition had, on the balance, substantially improved conditions among low-income Americans.³⁵

Even in its last years the law, with all of its leaks, was still effective in cutting down drinking among the workers, which was one of the primary aims of prohibition. Here, then, is more evidence of the success of the prohibition experiment. Certainly the Anti-Saloon League did succeed in destroying the old-fashioned saloon, the explicit target of its campaign.

Taking together all of this evidence of the success of prohibition, especially in its class differential aspects, we are still left with the question of why the law was repealed.

³³ Whiting Williams, quoted in Commission on Law Observance and Enforcement, *Enforcement of Prohibition Laws*, III, 183-184.

³⁴ Warburton, *Economic Results of Prohibition*, p. 202.

³⁵ Martha Bensley Bruère, *Does Prohibition Work? A Study of the Operation of the Eighteenth Amendment Made by the National Federation of Settlements, Assisted by Social Workers in Different Parts of the United States* (New York: Harper & Brothers, 1927). Clark, *The Dry Years*, esp. pp. 136, 144-145, suggests not only that prohibition benefitted the lower class but that as workers shared in the prosperity of the 1920’s and moved up on the social scale, they had less need for the saloon. This is a novel twist on the common belief of the time, expressed, for example, by Lynd and Lynd, *Middletown*, pp. 256n, 258n, that the money that formerly went to support the saloon now was used to pay for the workers’ new automobiles and radios. Warburton, *Economic Results of Prohibition*, Chap. VIII, is most disappointing in his treatment of what happened to the estimated two billion dollars newly available in the early prohibition years for non-liquor expenditures. He had no detailed information, for instance, on movie attendance, one of the alleged substitutes for saloon patronage, and he does not follow up his own suggestion that inflation might have absorbed all of the economic gains that accrued to former consumers of alcohol.

The story of repeal is contained largely in the growth of the idea that prohibition was a failure. From the beginning, a number of contemporary observers (particularly in the largest cities) saw many violations of the law and concluded that prohibition was not working. These observers were in the minority, and for a long time most people believed that by and large prohibition was effective. Even for those who did not, the question of repeal—once appeals to the Supreme Court had been settled—simply never arose. Bartlett C. Jones has observed, "A peculiarity of the Prohibition debate was the fact that repeal, called an absolute impossibility for much of the period, became irresistibly popular in 1932 and 1933."³⁶ Not even enemies of prohibition considered absolute repeal as an alternative until quite late, although they upheld through all of these years their side of the vigorous public debate about the effectiveness and desirability of the prohibition laws.³⁷

In the early days of prohibition, the predominant attitudes toward the experiment manifested in the chief magazines and newspapers of the country were either ambivalent acceptance or, more rarely, impotent hostility. In 1923-1924 a major shift in the attitudes of the mass circulation information media occurred so that acceptance was replaced by nearly universal outright criticism accompanied by a demand for modification of the Volstead Act.³⁸ The criticism was based on the assumption that Volsteadism, at least, was a failure. The suggested solution was legalizing light wines and beers.

The effectiveness of the shift of "public opinion" is reflected in the vigorous counterattack launched by the dry forces who too often denied real evils and asserted that prohibition was effective and was benefitting the nation. By claiming too much, especially in the late 1920's, the dries discredited that which was really true,

³⁶ Bartlett Campbell Jones, "The Debate over National Prohibition, 1920-1933" (Ph.D. dissertation, Emory Univ., 1961), p. 247.

³⁷ See *ibid.*, in its entirety a useful summary and analysis of the incredible volume of writings dealing with prohibition.

³⁸ Sinclair, *Prohibition*, pp. 309-310; further based on unpublished surveys of editorial and humorous material in newspapers and magazines of the 1920's. What caused such a sudden shift in these public opinion indexes in 1923-1924 is not known at this time. Possibly the noisy repeal of the "Baby Volstead" Act of New York, in 1923, was the critical event that showed that "the public" did not want prohibition, or at least Volsteadism. The new respectability of drinking among Americans at the upper end of the social scale was unquestionably a contributing factor. Also a factor was a recognition, sometime in the period 1921-1923, of the failure of enforcement.

and the literate public apparently discounted all statements that might show that prohibition was at least a partial success, partly on the rigidly idealistic basis that if it was a partial failure, it was a total failure.

Great impetus was given to sentiment hostile to prohibition by the concern of respectable people about the “crime wave.” They argued, plausibly enough given the assumptions that there was a crime wave and that prohibition was a failure, that universal disregard for the Eighteenth Amendment was damaging to general respect for law. If the most respectable elements of society, so the argument went, openly showed contempt for the Constitution, how could anyone be expected to honor a mere statute? Much of the leadership of the “anti’s” soon came from the bar associations rather than the bar patrons.³⁹

Coincident with this shift in opinion came the beginning of one of the most effective publicity campaigns of modern times, led by the Association Against the Prohibition Amendment. At first largely independent of liquor money, in the last years of prohibition the AAPA used all it could command. By providing journalists with reliable information, the AAPA developed a virtual monopoly on liquor and prohibition press coverage.⁴⁰ In the late 1920’s and early 1930’s it was unusual to find a story about prohibition in small local papers that did not have its origin—free of charge, of course—with the AAPA.

The AAPA had as its announced goal the modification of the Volstead Act to legalize light wines and beers. The organization also headed up campaigns to repeal the “little Volstead” acts most states had enacted. By the late 1920’s the AAPA beat the Anti-Saloon League at its own game, chipping away at the state level. State after state, often by popular vote, did away with the concurrent enforcement acts. Both the wets and the dries viewed state repeals and any modification of the Volstead Act as only steps toward full repeal.⁴¹ Perhaps they were correct; but another possibility does need examination.

³⁹ Sinclair, *Prohibition*, pp. 226-230, 339.

⁴⁰ Dayton E. Heckman, “Prohibition Passes: The Story of the Association Against the Prohibition Amendment” (Ph.D. dissertation, Ohio State Univ., 1939). Those who are skeptical of the influence of the AAPA and the liquor interests in the defeat of prohibition would do well to read Heckman’s unique contemporary work.

⁴¹ *Ibid.*

Andrew Sinclair, in the most recent and thorough examination of the question, contends that modification of the Volstead Act to legalize light wines and beers would have saved the rest of the prohibition experiment. It is difficult to differ with Sinclair's contention that complete repeal of the Eighteenth Amendment was unprovoked and undesirable.⁴²

When President Hoover appointed the Wickersham Commission, public opinion was almost unanimous in expecting that the solution to the prohibition problem would be modification. The Commission's report strengthened the expectation. Not even the Association Against the Prohibition Amendment hoped for more than that, much less repeal. But suddenly an overwhelming surge of public sentiment brought about the Twenty-First Amendment denouement.

The cause of this second sudden shift in opinion was the Great Depression that began about 1929. Jones has shown convincingly that every argument used to bring about repeal in 1932-1933 had been well known since the beginning of prohibition. The class aspect of the legislation, which had been so callously accepted in 1920, was suddenly undesirable. The main depression-related argument, that legalization of liquor manufacture would produce a badly needed additional tax revenue, was well known in the 1910's and even earlier. These rationalizations of repeal were masks for the fact that the general public, baffled by the economic catastrophe, found a convenient scapegoat: prohibition. (The dries had, after all, tried to credit prohibition for the prosperity of the 1920's.)⁴³ The groundswell of public feeling was irresistible and the entire "experiment, noble in motive and far-reaching in purpose," was not modified but thrown out with Volsteadism, bathwater, baby, and all.

Because the AAPA won, its explanations of what happened were accepted at face value. One of the lasting results of prohibition, therefore, was perpetuation of the stereotypes of the wet propaganda of the 1920's and the myth that the American experiment in prohibition (usually misunderstood to have outlawed personal drinking as well as the liquor business) was a failure. Blanketed together here indiscriminately were all of the years from 1918 to 1933.

⁴² Sinclair, *Prohibition*, especially Chap. xxi.

⁴³ *Ibid.*; Jones, "Debate."

More than thirty years have passed since the repeal of the Eighteenth Amendment. Surely the AAPA has now had its full measure of victory and it is no longer necessary for historians to perpetuate a myth that grew up in another era. For decades there has been no realistic possibility of a resurgence of prohibition in its Progressive form—or probably any other form.

The concern now is not so much the destruction of myth, however; the concern is that our acceptance of the myth of the failure of prohibition has prevented us from exploring in depth social and especially sociological aspects of the prohibition experiment. Recent scholarship, by treating prohibition more as a reform than an experiment, has shown that we have been missing one of the most interesting incidents of twentieth-century history.