An Inquiry Into the Origin and Development of the Prohibition Movement in the United States

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AN INQUIRY INTO THE ORIGIN AND DEVELOPMENT
OF THE PROHIBITION MOVEMENT
IN THE UNITED STATES

by

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INTRODUCTION

On January 29, 1919 the Acting Secretary of State Frank L. Polk announced that the National Prohibition amendment had become a part of the Constitution of the United States by virtue of the fact that thirty-six states had ratified it. To many Americans this came as a shock; although they knew the reformers were politically strong, they did not realize they were so near their goal. The first reaction of some was to cry "fraud"; prohibition had been "put over," since it seemed impossible that the people of a great nation could have been fairly persuaded to write into their fundamental law such a restriction upon their personal liberty. To many others it was an unpleasant mystery as to how prohibition had emerged from remote possibility to startling reality. But to those who would examine the record the passage of the Eighteenth Amendment marked the end of a long struggle. Its ratification was not the result of temporary conditions carried to their flood by hysterical war mania but rather the final expression of a movement that had been more than a century in the making. It was a movement that went far back beyond any attempt to amend the Constitution and took its rise in early efforts to curb the intemperate use of intoxicants. It was not a simple movement because multiple factors determined its course and even its ultimate goal. Individuals representing every walk of life, with an infinite variety of ideas and ideals, were associated with it. But it followed the same broad outlines of many another social reform movement in our history--an attempt by individuals to effect a change, resulting in failure; a resort to the polls to produce
the reform, resulting in state legislation; and when this proved inadequate, a resort to federal control.

It is the purpose of this work to trace these three phases with reference to the problem of intoxicating drink reform in the United States; to inquire into the origin and development of the prohibition movement, reaching far back to colonial days when people first became conscious that the intemperate use of intoxicants had become a problem; their attempts to cope with it and the culmination of those attempts in the "Noble Experiment" of our time—the Eighteenth Amendment to the Constitution.
CHAPTER I
REFORM BY REGULATION

It has been said that the American drinking problem is as old as the white man's knowledge of the American continent.¹ If this be true, the problem existed in the midst of a people who were unaware of its significance. Our colonial records bear ample evidence that our ancestors believed indisputably that "Good wine is a good creature,"² and the age-old drinking customs of Europe came to this country with the first explorers. Spanish, French, Dutch, and English pioneers made their distinct contributions to the drinking customs of America but there is no evidence of unusual anxiety on the part of any concerning a "drinking problem."

Every ship that sailed for the New World brought an abundance of liquors. The ship "Arabella" which carried Governor Winthrop to Massachusetts in 1629 had among its supplies:

42 tuns of beer
2 hogshead of cider
4 pumps for water and beer.³

In the 17th century, Boston's trade with Spain and the Canary Islands did much toward stimulating the consumption of wine in the colonies. Spain


²This term was commonly used in the English 17th century records to designate distilled spirits.

³John G. Woolley, Temperance Progress in the Century, Linscott Publishing Company, Philadelphia, 1903, 9
needed the fish which New England had in abundance so Boston sent ships laden with casks of fish and the casks returned filled with wine.\(^4\) In the early part of the next century, not a few New England fortunes were made on rum. So important was this heady beverage in trade that rum distilleries sprang up rapidly in New England. In 1750 there were sixty-three in Massachusetts alone and thirty in Rhode Island.\(^5\) It is estimated that for several years before the Revolution 600,000 gallons of rum were exported from New England in connection with the slave trade.\(^6\)

However, the size of the export trade was no indication of unslaked thirsts at home. The use of liquor as a beverage increased with the growth of population. Excessive drinking was the rule rather than the exception.\(^7\) Both men and women imbibed freely, steeped in the conviction that liquor was a good thing socially and an important thing economically. For two centuries after the founding of Jamestown there was no important organized attempt to restrict the normal use of intoxicants since among Puritan clergymen, Virginia planters, and Dutch merchants there was nowhere to be found a belief that intoxicants were wrong, morally or physically. The condition is appraised thus:

\[
\text{Rum seemed to be ubiquitous. It was found in the finest tavern and the vilest road-house. People of} \\
\]

\(^4\)Ibid., 45  
\(^7\)Alice M. Earle, *Customs and Fashions in Old New England*, Charles Scribner Sons, 1893, 269-70
fortune kept a stock in their houses, while the servant and laborer regarded it as indispensable. Parents gave it to children for the minor ills of childhood. No other element seemed capable of satisfying so many human needs. Few doubted it was a great boon to mankind.\(^3\)

Some protests against excessive drinking, however, were found early in the colonies and each colony made its own regulations to restrict undue individual consumption and prevent public disorder.

The first record of the court proceedings of the Plymouth Colony after civil government had been established was: "John Holmes censured for drunkenness to sett in stocks and twenty shillings fine."\(^9\) And as early as 1633, Governor Winthrop complained in his Journal: "Robert Cole, having been oft punished for drunkenness, was now ordered to wear a red "D" about his neck for a year."\(^10\)

Georgia tried to insure sobriety by legislation. In 1753 James Oglethorpe forbade the importation of liquor. Efforts to enforce the decree, however, were futile; in fact, they led to such rum-running and smuggling among the colonists in the coves along the coast as to give their progeny of the 1920's an initial lesson.\(^11\)

Connecticut's laws recognized the "necessary use" of taverns where liquor was sold but established strict rules governing the conduct of the

\(^8\)John A. Krout, The Origin of Prohibition, Alfred A. Knopf, New York, 1925, 33


\(^11\)Colonial Records of Georgia, Printed by Henry Force, Washington, 1835, XVIII, 128
In 1622 Sir Francis Whatt, Governor of Virginia, was advised by the Council of the London Company to effect a "speedie redress" of excessive drinking, the "cry whereof cannot but have gone to Heaven, since the infamy hath spread itself to all that have heard of the name of Virginia." Accordingly, Virginia tried to change the drinking habits of her people from hard liquor to beer and wine. The legislature purchased land near Williamsburg with a view to development of a grape industry. The experiment was a failure and the land was given to William and Mary College and it is still known as the "Vineyard."

In William Penn's colony in 1689, a servant was fined five pounds for being "druncke on the Lord's day."

The discovery had been made very early that the American Indian under the influence of the "good creature" was a menace to life and property. The white man's "fire-water" completely banished all the red man's self-restraint and gave him little appreciation of the advantages of moderation. The early laws universally forbade the sale or gift to Indians of wine or distilled spirits, but beer and malt liquors usually escaped the ban. Connecticut ad-

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14 Woolley, 67

ministered corporal punishment to anyone found guilty of furnishing Indians with liquor.\textsuperscript{16} New Netherlands sent some substantial citizens back to Holland for the same.\textsuperscript{17} The curbing of this traffic was difficult, however, especially to those interested in colonial commerce. To the shrewd trader, liquor was the key to the riches of the fur trade and many an ambitious land holder found it efficacious in suppressing Indian claims to a coveted tract.

Early efforts in the Massachusetts and Connecticut colonies to prevent the sale of intoxicating liquors to servants, apprentices, and Negroes were due to economic rather than humanitarian motives. To the industrious Puritan the services of servants and apprentices belonged to the master. Consequently the privilege of spending time in "frivolity and idleness" was reserved for the upper class.

Numerous other regulations, all designed to restrict individual excess, were enacted by the colonial governments. Sale was forbidden to persons under certain ages, the amount sold to a person at a given time was limited, the time and place of sale regulated. Our colonial records are replete with legislation regulating the sale of intoxicants and in every colony the person so lacking in self-control as to overindulge in public felt the hand of his government upon him. To enforce these regulations, as well as fill the coffers of the colonial legislatures, the license system was in practice in all the colonies--thus placing the stamp of public approval on the trade. Of all

\textsuperscript{16}Conn. Public Records, op. cit., III, 228

\textsuperscript{17}Documents Relative to the Colonial History of the State of New York, Albany, XIII, 67-68
these early regulations, however, none were to do more than prevent or at least lessen drunkenness—never to prohibit either the sale or the use of liquor to the law-abiding citizens.

The law-abiding citizenry, however, were not inclined to lessen their drunkenness. Rather they seemed bent on indulging themselves more freely in the New World than in the Old and achieving for themselves a reputation for devotion to drink unrivalled by their hardy Anglo-Saxon ancestry.\(^\text{18}\) Possibly the cause can be found in the hardships and exposure of frontier life and a belief in the medicinal value of intoxicants; the ascetic character of puritanism which forced a man to seek recreation and relief at times, and the ease with which drink could be obtained. The colonial wars, too, were a demoralizing influence and brought an increase in drinking in the latter half of the 18th century. Horatio Sharpe, Governor of Maryland, wrote to Lord Baltimore shortly before the French and Indian war that rum had become a disgrace in the colonies.\(^\text{20}\) John Adams was so disturbed by the situation in Massachusetts that he appealed to the selectmen of Braintree to restrict the number of licenses. His action was prompted, he said, by a "depravity of manners throughout the land in general and this town in particular and a shameful


\(^{20}\)Archives of Maryland, op. cit., VI, 164
neglect of religious duties."\textsuperscript{21}

Under the Articles of Confederation, the Continental Congress did not have the power to legislate, but that it recognized the need of regulation is attested by a resolution adopted on February 27, 1777:

That it be recommended to the several legislatures of the United States immediately to pass laws the most effective for putting an immediate stop to the pernicious practice of distilling grain, by which the most extensive evils are likely to be derived, if not quickly prevented.\textsuperscript{22}

The product of the "pernicious practice" was the new contribution of the west—whiskey. Bulky grain was carried with difficulty to the markets of the east but whiskey distilled from grain represented concentrated value and was readily salable. Made at first for home consumption to supplement a meagre supply of rum, the western farmer was delighted to find his product satisfied eastern appetites and had a high commercial value.\textsuperscript{23}

On the eve of the Revolution, the place of intoxicants in the colonies was an important one. In commerce, they were consistently profitable and therefore all who engaged in the trade received that public approval which our materialistic forefathers accorded to wealth. Their use among the colonists was general and there were few who regarded the shadowy line of moderation.

Loudest of the early protests against excessive drinking came, as was to


\textsuperscript{22}\textit{Journal of the Continental Congress}, VII, 165

\textsuperscript{23}Weeden, I, 188
be expected, from the Puritan clergy. The Puritan Church never defined the use of intoxicants as an evil; in fact, their use at church functions, funerals, weddings and ordinations was general, but drunkenness was contrary to Calvinistic frugality and respectability. Notable among these first voices in the wilderness were Increase and Cotton Mather. Increase Mather blamed liquor for the manners of the younger generation and their growing unwillingness to recognize authority in high places. Cotton Mather later saw a close connection between free use of intoxicants and free-thinking—the spirit of liberalism rising to attack the bulwark of orthodox Calvinism. Independently of any law makers, he waged war against the enemy by pulpit and pamphlet. **Sober Considerations on a Growing Flood of Iniquity and Seasonable Advise Concerning the Tavern** were examples of the latter.

Quaker soon joined Puritan in this early protest and consistently opposed the growing intemperance by restricting licenses and exercising close supervision over those operating taverns. The Methodist Church joined the crusade and based its condemnation not so much upon spiritual concerns as upon considerations of public welfare. Sermons were directed chiefly against the waste of money involved, the effect upon the health of the community and the

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24 Earle, 174

25 Cotton Mather, *Diary*, Massachusetts Historical Society Collection, 7th Series, II, 215


27 Mather, *Diary*, op. cit., I, 21

28 Pennsylvania Historical Society Collection, I, 267-268
loss of time.29

A small group of physicians opposed excessive drinking on the score of health. Among these was Doctor Benjamin Rush of Philadelphia, who had been a member of the Continental Congress and a signer of the Declaration of Independence. His pamphlet "An Inquiry into the Effects of Spirituous Liquors on the Human Body and Mind" was given wide circulation and his theories became the accepted principles of the first Temperance Society of America.30

The first of these Temperance Societies, which within a century were to be found throughout the entire country, was organized in 1808 by Doctor William J. Clark of Moreau, New York.31 It was a simple banding together of men who pledged themselves to use "No rum, gin, whiskey, wine or distilled spirits, or consumption of the same, except by advise of a physician, or in case of actual disease."32 The movement became identified in 1811 with Protestantism. The immediate agency in bringing this about was Doctor Rush. At the General Assembly of the Presbyterian Church in Philadelphia, Doctor Rush spoke on the subject of intoxicants and presented 1000 copies of his pamphlet for distribution through the churches. His appeal to the Church to lead a crusade met with an immediate response. John Wesley's Rule of 1753.

29Henry Wheeler, Methodism and the Temperance Reformation, J. H. Slyder Company, Cincinnati, 1882, 45-46

30Leigh Colvin, Prohibition in the United States, George H. Doran Company, New York, 1926, 14

31Ibid., 15

32Lebbeus Armstrong, The Temperance Reformation, Fowlers and Wells, Boston, 1853, 22
provided disciplinary measures for "drunkenness, buying or selling spiritous liquors or using them, unless in cases of extreme necessity" but actually the Methodists in America had not enforced this point. However, in a series of General Conferences between 1780 and 1790 resolutions were adopted condemning the use of intoxicating beverages and admonishing the church membership to abandon the manufacture and sale of them. Though this did not purge the church of all who continued to indulge and deal in spiritous liquors, it did officially enroll the society in the crusade against it. The Congregational and Baptist churches considered drunkenness not in accord with the doctrine of election. Lutheran, Episcopal and Catholic churches were accused of being indifferent to the reform in their consideration of the free will of the individual. Their attitude is more accurately described by a member of the Catholic church:

As an organization existing to teach and make feasible man's duty of self-control, the Catholic church is the first and greatest of temperance societies. She teaches and has always taught, all are bound under sin not to misuse strong drink themselves or cooperate in the misuse of it by others—and this, whatever means they employ, is the ultimate end of all temperance societies.

A prominent rector of the Episcopalian Church states definitely the stand of his community:

33Krout, 75
34August F. Fehlandt, A Century of Drink Reform in the United States, Boston and Mains, New York, 1904, 39
35Joseph Keating, "Temperance Movements in the United States" Catholic Encyclopedia, XIV, 489
Here and there an Episcopalian, imperfectly informed of his own doctrinal standards, may be found who prefers this tenet; but the Church is out of sympathy with it. The members are free not to drink; they may encourage movements for total abstinence; but we do not teach that it is wrong to drink. We are not interested in "Temperance" movements; our interest is in the promotion of moderation.36

Leadership, as well as membership, of Temperance Societies came from the Protestant churches which were of Puritan descent or affiliation, so the appeal was largely religious, although Congressman, governors and college professors became temperance propagandists intent on molding public opinion against intemperance.

Proof that preacher can be politician came very early in the 19th century when the Temperance Society movement identified itself with the Federalist party and was used as a weapon against the rising Jeffersonian tide.37 Societies were formed all over the country and to insure uniform procedure, a National Society was formed in Boston in 1826 with the Reverend Lyman Beecher as its moving spirit. All groups were invited to become auxiliaries of the National Society and adopt the same pledge.38 Of the purpose of the Society, Reverend Beecher wrote that he sought to check the rapidly growing trend toward democracy, which he felt was responsible for the declining prestige of

36E. A. Wasson, Religion and Drink, Burr Printing House, New York, 1913, 185

37Among prominent Federalists associated with the Society was Thomas Day, ex-secretary of state, and Ebenezer Huntington, member of Congress. Ex-Governor John Treadwell was its first president. Five charter members represented their states at the Hartford Convention.

the clergy and a growing immorality, as evidenced by "Sabbath-breaking, idle amusements, profaneness and drunkenness." He complained that the lower classes were becoming arrogant in political matters and defiant of the law.

At Yale College, Federalist stronghold, he sounded the keynote:

Our institutions, civil and religious, have outlived that domestic discipline and official vigilance in magistrates which rendered obedience easy and habitual. The laws are now beginning to operate upon necks unaccustomed to the yoke. ...We stand over the confines of destruction. The mass is changing. We are becoming another people.

An organization to curb this evil trend, then, was necessary, thought Mr. Beecher. Otherwise the "Sabbath-breakers, rum-selling, tippling folk" would all be voting the Republican ticket. In discussing the purpose of the society at a later date, Lyman Beecher wrote:

It was the anticipation of the impending revolution and the downfall of the standing order which impelled me to the efforts I made at that time to avert it and prepare for it in all possible ways. One was this association of the 'leading minds' of the laity with us in council. They easily fell in with our views, saw things as we did, and threw in their influence heartily. I remember Roger Sherman was especially pleased. 'You have never before done anything so wisely and well as this,' he said.

The reformers, however, failed to reform. If the name of the Society was meant to imply the goal of the reform, these Temperance Societies of the early 19th century, while numerically strong, accomplished nothing directly.


40 Ibid., I, 255-56

41 Ibid., 257
Foreign travellers in the country wrote of the excessive American indulgence in drink. The Frenchman, Francois Andre Michaux, travelling through western Pennsylvania, gathered the impression:

A passion for spiritous liquors is one of the features that characterize the country people belonging to the interior of the United States. This passion is so strong that they desert their homes every now and then to get drunk in public houses; in fact, I do not conceive there are ten out of a hundred who have resolution enough to desist from it a moment provided they had it by them.42

John Melish, Glasgow merchant, who made extensive journeys through the United States from the year 1806 to 1811 wrote in a more charitable spirit of the generous use of liquor by attributing the habit to the effect of the hard labor in clearing forests. He hoped that the passing years would bring a more temperate use of liquor but after watching the flat boats on the Ohio River laden with barrels of whiskey, cider and brandy, he questioned whether there could be a reform so long as the trade remained so profitable.43 In 1807, Charles Janson, an English traveller, was astounded at the number of distilleries44 and well he might be since it is estimated that in 1810 there were 14,191 distilleries operating. The Treasury Department offered the most severe indictment of all:

42Francois Andre Michaux, Travels to the West of the Allegheny Mountains, Reuben G. Thwaites, Ed., Arthur H. Clark Company, Cleveland, 1904, 144. Michaux was commissioned by the French Minister of the Interior in 1802 to come to the U. S. to study forests and agriculture.


In 1810 there were 22,977,167 gallons of spirits distilled in the United States from fruits and grain. Besides this, 2,827,625 gallons distilled from molasses, making an annual product of 25,704,892 gallons, valued at $15,558,040. 608,843 gallons of this amount were exported leaving 25,096,049 for home consumption. On the average of the ten years, from 1803 to 1812 inclusive, 7,512,415 gallons of foreign distilled spirits were annually imported to the United States, of which there was annually re-exported on the same average, only 679,322 gallons; it thence appears that 31,929,142 gallons of spirits remained within the United States in 1810 which, if consumed in the year, was equal to four-and-one-quarter gallons for each inhabitant.45

It is evident, then, that the early Temperance Movement had failed to reform. Possibly the reasons were as follows: 1. The reformers themselves were not convinced of the necessity for reform. 2. They had not a single goal but used their organization to accomplish other ends. 3. They preferred to compromise with existing conditions, considering the economic importance of the product. 4. They were too concerned in making "the masses" temperate and neglected "the classes." 5. They failed to appreciate deeply enough that temperance is a moral virtue, the cultivation of which requires the highest spiritual motivation.

The first half of the 19th century was a soul-searching period for Young America, however; domestic problems became all-absorbing. Efforts to improve the social order and the individual position of man were evidenced by prison reforms, reform in the treatment of the insane, the abolition of imprisonment for debt and improvement in the legal status of women.46 It was impos-

45Adam Seybert, Statistical Annals of the United States, Thomas Dobson and Sons, Philadelphia, 1818, 463-64
sible for a society so bent upon humanitarian pursuits and impressed with the misery resultant from the panic of 1819 to neglect the problem of intoxicating drink reform. The religious revival which marked this period provided the beginning of a new temperance movement. Organized religion again led the crusade through Bible Societies and the revived Temperance Societies of the earlier period. The New England clergy, conscious of their protectorate over their brothers' souls by divine appointment, were the efficient element in the marshalling of these societies into well organized groups. Wherever New Englanders migrated, in fact, their inherent passion for reform manifested itself in the growth of Temperance Societies. In the 1830's these societies flourished in great numbers.

Attention was drawn to the question by Congressional debates on the revenue system. The temperance people sought a special duty on liquor of foreign origin to lessen its consumption. They were answered by Senator Lawrence of New York and Fisher Ames of Massachusetts who ridiculed the idea of mixing revenue with morality. Mr. Ames said prophetically: "If any man supposes that a mere law can turn the taste of the people from ardent spirits, he has a most romantic notion of legislative power."48

That many had that "romantic notion" was evidenced by the meeting of the second National Temperance Convention in 1836 at Saratoga. This meeting was significant in that it changed the goal of the reform forces from temperance to total abstinence. Up to this time the basis of the societies had been

47Krout, 129
48Debates in Congress, 23 Cong., I Sess., 107 et seq.
opposition to the use of ardent spirits which meant distilled liquor. Use of wine and beer was permitted. This convention adopted a pledge for total abstinence and although this caused dissension and alienated some of the membership, the reorganization of the society and well organized campaign established by this convention were responsible for future successes. Although the clergy were still the efficient element of the society, the business administration was intrusted to lay people. Indicative of the new trend, was the election of a new president--Marcus Martin, an associate justice of the Massachusetts Supreme Court and a keen politician who had served three terms in Congress. A permanent secretary was supported by a special fund and it was his assignment to knit into an efficient whole the temperance societies of the country, working always through the churches. From the standpoint of effective widespread agitation, the aggressive temperance movement stemmed from this convention.

By deliberate design the Temperance Society identified influential men with the movement; men whose achievements commanded respect and were leaders of society, business and the professions. Thus the society gained prestige by the prominence of its leaders. The same idea was underlying the campaign to organize temperance societies in the legislatures and resulted in the forming of a Congressional Temperance Society with General Cass, Secretary of War, as its first president. Lesser politicians imitated the example, fulfilling the purpose for which the society had been established. By the

49 Krout, 142
50 Ibid., 144
middle of the 1830 decade the temperance cause had a following that was well
organized and determined. Every state was enrolled in the crusade and in
1835 the Annual Report of the American Temperance Society stated that there
were more than 8000 societies formed with 1,500000 members.51 The total
population of the United States by the census of 1830 was less than thirteen
million people. There was also some evidence that the influence of the move-
ment was being felt. The popular belief that intoxicants prevented disease,
attacked originally by Doctor Rush, was slowly giving way. Scientific
articles by Doctor Reuben Mussey, Professor of Anatomy and Surgery at Dart-
mouth, Doctor Walter Channing of Boston and Doctor Thomas Sewall of Washing-
ton, D. C., all prominent physicians, were changing the attitude of many
others in their profession.52 Seventy-five physicians of New York issued a
statement to the effect that distilled spirits would not be on their list of
curatives.53 The College of Physicians and Surgeons of Philadelphia intro-
duced a course in 1836 in the pathology of intemperance.54

Response from labor leaders seemed to indicate that the leaven of reform
was beginning to permeate the mass. In response to a questionnaire sent out
by the New York State Temperance Society to manufacturers in New England and
the Middle Atlantic States, forty employers replied that they opposed the use

51 Eighth Annual Report of the American Temperance Society, American Temperance
Society Publishing House, Andover, Mass., 1835, 17
52 Krout, 140
53 Armstrong, 153
54 Ibid., 154
of liquor by their employees because their labor efficiency was thereby impaired. The Superintendent of Construction work in connection with the building of the Baltimore and Ohio railroad issued a statement in 1835:

The destruction and demoralizing effects of the use of alcohol became so manifest in producing riot, and other flagrant disorders, that I am determined, with the sanction of the president of the company, to prohibit the use of it in all future contracts.

In Philadelphia, three hundred artisans and mechanics formed their own temperance society in 1836 and exercised considerable influence upon labor circles. The farm, too, gave some evidence of a changing attitude toward drink. In the frontier communities of Michigan forests were being cleared and fields cultivated without the usual whiskey ration which was considered a necessary part of the payment due a hired laborer.

Evidence that the liquor traffic was losing the respectability of former days was presented in numerous new restrictions. Saloons were forbidden in the neighborhood of a church, school or college. Applicants had to be endorsed by reputable citizens. Debts for liquor were made uncollectible in many states; notes given in payment for it were declared void.

55 Krout, 147


58 Silas Farmer, History of Detroit and Michigan, Silas Farmer Company, Detroit, 1884, 838-9

59 Farmer, 838; Daniel Dorchester, The Liquor Problem in All Ages, Phillips and Hunt, New York, 1884, 284
of the New York Temperance Society listed more than 130 distilleries which had ceased operation in the five years between 1829 and 1834. The Kentucky State Temperance Society said forty-six distilleries were closed due to its ninety active auxiliaries.

Many colleges had their own temperance societies, although there is no evidence that the views of the society were representative of the college community. Presbyterian Amherst had an active society under President Herman Humphrey, as did Congregationalist Oberlin, Methodist Wesleyan and Kenyon College, even though Episcopalian.

Women did not work entirely through the regular organizations. Their membership in the national society was undesirable since it might alienate the men, but in most communities they were accepted and their work was to boycott the "groceries" where intoxicants were sold.

The decade of the thirties, then, was one of high hope for the temperance movement. City, county and state conventions were regularly held and the speeches given reported progress in their respective districts.

The philosophy underlying the movement at this time was essentially this, namely, that man could be persuaded through an educational campaign that temperance was desirable. It was an appeal to his conscience and judgment.

After the Saratoga (N.Y.) Convention of 1836, however, this philosophy under-

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61American Quarterly Temperance Magazine, Albany, February 1833, 96

62"Grocery" was synonymous with "saloon" at this time since they sold intoxicants.
went a change, and although the "temperance" was retained, it was misapplied since total abstinence from all drink was exacted. Dissension raged within the ranks of the reformers themselves over this question. Every society which affiliated with the national group became ipso facto a supporter of this new pledge to abstain from "all that intoxicates." Immediately the question of the use of wine for sacramental purposes was the basis for a struggle in every city. The early Christian Church it was held, used unfermented wine in celebrating the Last Supper. Doctor Eliphalet Nott, President of Union College, delivered a series of ten lectures which became the accepted principles of the reformers in this controversy. He made the startling discovery that the juice of the grape in its natural state was the wine approved by the sacred writers. Any fermented juice was denounced as a "mockery"; it was armed with the "serpent's bite and the adder's sting." Grape juice had been served in Cana of Galilee and it was grape juice that Paul recommended to Timothy for his "stomach's sake." All fermented beverage came under the ban of the Scriptures, in the light of the new revelation, and thereby became morally wrong.

Conservatives within the ranks charged the leaders with betraying the movement, and from without this new stand brought a storm of protest and denial. The House of Bishops of the Episcopal Church passed the following Resolution:

63 Eliphalet Nott, Lectures on Temperance, W. J. McCartee, Albany, 1862
64 Ibid., 75-121
65 I Timothy, 5:23
That, in the judgement of the House of Bishops, the use of the unfermented juice of the grape, as the lawful and proper wine of the Holy Eucharist, is unwarranted by the example of Our Lord, and an unauthorized departure from the custom of the Church. 66

A prominent Bishop of the same church declared:

The Temperance people did not discover that it was wrong to drink from the Bible. In fact, they made two discoveries; first that it was wrong to drink and then about 1800, they discovered that the Bible taught it was wrong to drink. They pushed their propaganda with untiring zeal; and they have, in considerable part, converted the Puritan Churches to their view. A large part of the membership of these bodies have been brought to believe that the Bible forbids drink. 67

For ten years this controversy raged within the temperance ranks, being fed from time to time by public opinions of clergymen of all denominations. In 1841 a quarterly journal, The Inquirer was established and supported in Albany (N.Y.) by private funds for the purpose of keeping the question before the public. 68

Another question which caused division within the ranks of the temperance reformers was that of the license system. 69 Though public control by this system had been exercised since colonial days, there were many objections to the manner in which it operated. During the thirties, statutes generally provided that it could be sold in inns, taverns, groceries, apothecary shops,

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66Wasson, 192
67Ibid., 188
68Funds for The Inquirer were supplied by Edward Delavan, wealthy and reformed connoisseur of wines.
69Krout, 168
and eating houses. The latter were forbidden to permit drinking on the premises, but in practice these limitations were ignored. While the situation demanded a remedy, the concern of the reformers was still with the individual drinker rather than the sellers. Resort to law was far from their purpose, said the American Temperance Society:

The American Temperance Society stands pledged to the public fully and we trust irrevocably, never to make any appeal to legislators or officers of the law, for the aid of authority in changing the habits of any class of their fellow citizens. Its appeal is to the people.

In regard to methods to be followed:

Nothing can be more injudicious than an appeal to the civil powers by a temperance society. Where the doctrine of abstinence has obtained, by legitimate means—such as the influence of example and appeals to the reason and conscience—such power over a community as to command a spontaneous note of banishment against ardent spirits, we are glad to hear of it... as an evidence of progress of the reform. Temperance societies should look to such things as the happy results of their labors. We attribute the astonishing success of temperance efforts to the scrupulous care with which societies have avoided every measure that could lead to the association of their labor with the operation of the government and law.

Those of this mind believed wholly in moral suasion—of the folly of trying to force upon man by legislation the virtue which he could possess only by his own will. To another group, however, the slow process of changing public opinion by precept and example was unsatisfactory. Though the cause


71 Journal of Humanity, October 14, 1830, 82

72 Ibid., June 10, 1831, 10
was growing in popularity, it was not progressing rapidly enough for the impatient ones. Periodicals which had formerly avoided the subject began to attack the license laws. The Pennsylvania Temperance Recorder in 1836 said:

If the legislation of by-gone days sustains a false sentiment, it is important that the legislation be changed. Hitherto the broad shield of legislation has been cast over the traffic in ardent spirits. And though the subject of the statute has been to restrict the sale within certain bounds, it has virtually legalized it. 73

The Temperance Recorder of New York in 1837 argued for legislation to curb the "mercenary recklessness" of the liquor sellers. 74 The Journal of the American Temperance Union called the license system "Governmental sanction of an immoral traffic." 75

Indicative of this new trend, petitions began to pour into the state legislatures from societies. Though there was no agreement as to effective measures, all demanded a change in the license system. The year 1838 was known as "Petition Year" in the temperance annals, so numerous were the petitions. It seemed that many citizens were being convinced that the problem was too big for their individual initiative and they must therefore turn to the "strong arm of the law" for support. This new trend was soon apparent. In 1838 Connecticut prohibited the sale of spirits, wine or beer in quantities of less than five gallons. In Maine a "28-gallon" law lacked one vote of passing the Senate. Rhode Island and New Hampshire enacted local option

73 February 1836, 12-13
74 January 1837, 85
75 Philadelphia, 1837, 24
laws. Tennessee and Mississippi made the sale of less than a gallon illegal.\textsuperscript{76}

This wave of legislation was checked in 1840 by the Washingtonian Movement. This movement started among a group of reformed drunkards in Baltimore, who banded together, signed pledges and chose the name of Washington for their society with apparently more admiration for the prudence, justice and fortitude of Mr. Washington than for his temperance. The object of the society was the reformation of drunkards by drunkards. Meetings consisted of the relation by drunkards of their reform. Clergymen, doctors and educators with arguments of fact or religious conviction had no place if they could not give testimony of an experience as a reformed man. Emotionalism was the dominant factor in the movement and though it numbered 600,000 pledge-signers at one time, it had no lasting effect.\textsuperscript{77} Too many of the reformed inebriates found the exaltation of "giving testimony" was all too fleeting and soon sought consolation along more familiar paths.

To the organized temperance forces, the failure of the Washingtonian reform had one meaning: Temptation must be forcibly removed from man and not vice versa. The Supreme Court in 1847 paved the way for such removal. The constitutionality of the license laws was questioned in three suits. Daniel Webster, never known as a foe of intoxicants, prosecuted the appeal for the liquor dealers, but the decision of the court established the right of any

\textsuperscript{76}Dorchester, 290. Societies in Maine, Virginia, Massachusetts, Connecticut, New York, Pennsylvania, Maryland, and Ohio presented petitions.

\textsuperscript{77}Keating, Catholic Encyclopedia, op. cit., 491.
state to prohibit the sale of intoxicating liquors for beverage purposes for all time to come. 78 Said Justice Taney:

If any state deems the retail and internal traffic in ardent spirits injurious to its citizens, and calculated to produce idleness, vice and debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic, or from prohibiting it altogether, if it thinks proper. 79

Justice Grier agreed:

The police power which is exclusively in the states, is alone competent to the correction of these great evils, and all measures of restraint or prohibition necessary to effect the purpose are within the scope of that authority. 80

The first legislative document favoring prohibition was presented in the Maine legislature in 1837 by General James Appleton. He advocated a prohibition law on the grounds that it would "render the traffic disreputable as well as unlawful" and would have a "salutary influence on the public mind." 81

The bill, which was tabled, was in advance of public sentiment, but for the next fourteen years, in nine legislative sessions, dissension raged between those who retained faith in moral suasion and those who favored reform by law.

Champion of the latter group in Maine was a fiery young Quaker, Neal Dow. 82

78 Thurlow vs. Commonwealth of Mass., 46 U.S. 505
    Pierce vs. New Hampshire, 46 U.S. 593
    Fletcher vs. Rhode Island, 46 U.S. 596

79 Chief Justice Taney gave one opinion on the three cases: 46 U.S. 505

80 Justice Grier gave one opinion for the three license cases: 46 U.S. 572

81 Krout, 167

82 Henry S. Clubb, The Maine Liquor Law, Fowler and Wells, New York, 1856, 142
Impressed with the lack of permanence of the Washingtonian Movement, he was an ardent disciple of the legal coercion forces. For over a decade he had been director of temperance propaganda in the state and had built up a strong and determined organization. This organization he used to elect men to the legislature who would be favorable to a prohibitory law. Teams of workers visited every school district in the state, rallying the people to support certain candidates. Dow himself drafted the prohibitory bill which he presented to the Maine legislature in 1851 with no fears of its failure since he could say of his efforts, "We sowed the State deep with literature and reaped a harvest of prohibition votes."\(^8\)\(^3\)

It was from this prohibitory law that the history of prohibition legislation dates.

\(^8\)\(^3\) Ibid., 143
CHAPTER II

REFORM BY STATE PROHIBITION

The progress of State prohibition in the four years following 1851 was a continuous triumph. As a result of the Maine law, the temperance forces were re-aligned and the battle against the individual who imbibed too freely was abandoned in favor of the war against the state which permitted him to degrade himself. A general assault on the liquor business in the legislatures resulted in a wave of prohibitory laws that swept nine states on the dry beaches of total abstinence. The following is the record:

1851.................Maine
1852..................Rhode Island
       Massachusetts
       Vermont
1853..................Michigan
1854..................Connecticut
1855..................Delaware
       Nebraska
       New Hampshire

The success of the movement at this time can be attributed to the following causes: 1. It was a natural evolution of the earlier pledge-signing temperance societies; the culmination of a quarter of a century of temperance agitation and education. 2. It was the product of a period which was marked by a budding nationalism, a religious revival and social reform. 3. The churches were actively engaged in sponsoring men for the state legisla-

1Dawson Burns, Temperance History, Houghton Mifflin Company, Boston, 1899, 281
There were no organized liquor dealers to be combated. The dealers, though numerous, operated on a small scale and had not the powerful national organization of later years. The question was still one of personal conduct; it had not become a major one in politics and was a state question exclusively—the burning national question had become the extension of slavery.

The attitude of those who now placed their hope of drink reform in the law was expressed by Governor Dutton of Connecticut in 1854:

We have found by practice that legal suasion is better than moral suasion. The latter is quite useless, except with moral men. When men are governed merely by love of gain, moral suasion has no effect; legal suasion saves breath and labor, and accomplishes the object in the simplest manner possible.

The Governor, however, must have been too saving of his "breath and labor" or despaired at the dearth of "moral men" in the country. After New Hampshire passed her prohibitory law in 1855, a decided decline set in and not another state adopted prohibition for over a quarter of a century and most of the states which had enacted it, abandoned it. By 1863 only five dry states were left and in the next decade two of these, Massachusetts and Connecticut, left the ranks. The reasons, apparently, for this lack of stability and permanence were: 1. The reform forces discovered the plight of the

2 Of the 945 churches in Maine in 1850, the Baptist, Congregationalist, Methodist and Presbyterian churches numbered 712; in New Hampshire 485 of 626; Rhode Island 154 of 228; Vermont 430 of 599; Michigan 286 of 399; Massachusetts 1154 of 1475; Delaware 144 of 180; Connecticut 573 of 734. Seventh Census of the United States, 1850, Table XXXVII, IX, lvii

3 Cited by Colvin, 105

4 Woolley, 138
tortured slave, and for humanity's sake, heeded his call. Many of the most prominent northern prohibition leaders enrolled in the ranks of the abolitionists and thus cooled the ardor of the southern temperance societies—or alienated them entirely.5 2. The new Republican Party was afraid to risk the loss of wet anti-slavery votes by sponsoring the prohibition movement; in fact, no party would assume responsibility for it. 3. The greatest factor of all, probably, was the general demoralizing effect of the war. People were not interested in social or moral reform and some of those who voted for it regretted the work of their hands. In Maine the law was repealed after an unruly mob attacked the city government of Portland to seize liquor which had been confiscated. A member of the assaulting force was killed by the police and although Mayor Neal Dow and his officers were exonerated, the official investigation caused the law to lose favor with the people.6

The Reverend S. F. Pearson, a most unflinching prohibition sheriff of Maine gave the following appraisal of legal coercion in his state:

We got the law. The flag of prohibition was flung out from the water tower of the constitution, and the system was made a part of the organic law of the State. And then we said, 'We are safe now!' The law will protect us. We shall not need to go to the lodge or the temperance meeting again. We hardly need even pray

5Among the most prominent leaders were Horace Greeley, editor of the New York Tribune; Henry Ward Beecher, editor of New York Independent; Henry J. Raymond, editor of New York Times; Myron H. Clark, Governor of New York; William E. Dodge, wealthy philanthropist and president of National Temperance Society; Wendell Phillips, widely known orator; R. C. Pittman, judge of Superior Court of Massachusetts; E. C. Delavan, wealthy Albany merchant.

6Woolley, 139
now! But what has been done? With the law have we been able to abolish the saloon? No! Drunkenness is on the increase, especially among the young men. There is no temperance sentiment in Maine today. Give the question to the people and unless the rural vote saved the law, Maine would be a license State.7

In Delaware the law was declared unconstitutional because of the clause in their state constitution that no person shall be "deprived of life, liberty or property without the due process of law." It was conceded that the legislature could forbid the manufacture of liquor in the future but could not make valueless the stock held when the law was enacted.8

An investigation of the liquor question was conducted at great length by a committee of the Massachusetts Legislature in 1867. Eminent men, physicians, scientists, clergymen, jurists gave their opinion. Summing up their conclusions, the Majority Report of the committee said:

It is the right of every citizen to determine for himself what he will eat and drink. A law prohibiting him from drinking every kind of alcoholic liquors, universally used in all countries and ages as a beverage, is an arbitrary and unreasonable interference with his rights, and is not justified by the consideration that some men may abuse their rights and may, therefore, need the counsel and example of good men to lead them to reform.9

To combat this trend and as a direct result of the decline of the war

7J. A. Homan, Prohibition: The Enemy of Temperance, Christian Liberty Bureau, Cincinnati, Ohio, 1910, 69. Evidence that the movement was a rural one lies in the fact that no State, except Massachusetts, which had a city of 100,000 people enacted a prohibitory law in the 1850's. Massachusetts kept hers for two years and then repealed it.

8Fred H. Wines and John Koren, The Liquor Problem in Its Legislative Aspects, Houghton and Mifflin, Boston, 1897, 37

9Dorchester, 404
period, the Prohibition Party was formed at Chicago in 1869. Prominent among the men who helped organize the party was Henry Ward Beecher, Wendell Phillips, Horace Greeley and Justin Edwards—all men who had been aggressively active in the anti-slavery ranks. They had seen slavery extinguished by constitutional amendment and now turned their energies to another cause. The purpose of the Prohibition Party was clearly stated in Richmond, Indiana in 1869:

Whereas, we are convinced of the absolute necessity of political action in order to bring about the uniform and ultimate success of the temperance reform; and whereas neither of the now existing parties will formally adopt our principles, therefore resolved that we recommend to the temperance people of the country the organization of a new political party whose platform and principles shall contain prohibition of the manufacture, importation and sale of intoxicating liquors to be used as a beverage.

As chairman of the Special Committee on Political Action, John Russell counseled his party members: "Elect none but thorough temperance men to enact and administer the laws."

The organization of the Brewers Association on a national scale was the answer to the Prohibition Party. The introduction to the constitution indicated its political aims:

Cooperation is necessary. Owners of breweries, separately, are not able to exercise a proper influence in the legislative and public administration. It ap-

10 Journal of the American Temperance Union, Boston, 1870, 9
11 Ibid., 10
12 Ibid.
pears necessary for the trade that its interests be vigorously and energetically prosecuted before the executive and legislative departments as this branch of business is of considerable political and financial importance, exerting a direct interest and influence on political and social relations. The maneuvers of the temperance party shall be defeated.13

To further insure that defeat the National Liquor Dealers' Association was formed in the early 1870's.14

The lines of battle were drawn, then, and the future battle ground was to be the polls and the courts.

The first nominating convention of the National Prohibition Party was held on February 22, 1872 at Columbus, Ohio. The Honorable James Black and Reverend John Russell were nominated for President and Vice-President, thus initiating a movement which was destined to place a prohibition candidate in the field in every presidential election for the next half century.15 Black received only 5,607 votes, due to the fact that Horace Greeley, also an ardent prohibitionist was presidential candidate on the new Liberal Republican ticket. Nothing daunted, however, the Prohibition Party continued to put their men in the ring every four years.

The state legislatures became the battle ground for the now highly organized friends and enemies of the liquor business and there were three different methods of dealing with the question: 1. Direct legislative prohibition of the manufacture, sale or consumption of liquor. 2. Local

13Cited in Colvin, 156
14Dorchester, 477
15Woolley, 233
option laws by which townships, municipalities and counties could vote on the issue and choose their course of control by a majority rule. 3. The license system, by which a dealer must apply to the state for a license to sell and give evidence of his qualifications. Prohibitory, local option and license laws were passed, vetoed, repealed, strengthened or weakened by each succeeding legislative session throughout the country. To this three-fold confusion, the decade of the eighties brought a fourth—a movement for constitutional amendments. The prohibitory laws of the fifties were statutory and therefore at the mercy of each legislature to weaken or repeal, but an amendment would be more stable and permanent. Initiated among the Sons of Temperance of New York, the dream was brought to reality by the Grand Lodge of Good Templars in Kansas in 1880. After a fierce campaign, the amendment was adopted by the people by a vote of 92,302 to 84,304 and Kansas wrote into her constitution: "The manufacture and sale of intoxicating liquors shall be forever prohibited in the State, except for medicinal, scientific and mechanical purposes." The success of the new undertaking in Kansas swept in a second prohibition wave. It had been a quarter of a century since the crest of the first movement and in this time no new state had been added to the list, but in the

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16 Much of the legislative debate was on this question in the following states: Illinois, Missouri, Wisconsin, California, Indiana, Oregon, New Jersey, Maryland, Iowa, Virginia, Kentucky, North Carolina, South Carolina, Mississippi, Alabama, Tennessee, Georgia, Florida, Ohio, Rhode Island.

17 *Cyclopedia of Temperance and Prohibition*, Walter W. Spooner, ed., Funk and Wagnalls, New York, 1891, 100
period from 1880-89, seven states added constitutional amendments by direct command of the people. In eleven other states submission had been voted upon and defeated. A tabulation of the popular vote indicates the fierceness of the fight:

<table>
<thead>
<tr>
<th>State</th>
<th>Year</th>
<th>For</th>
<th>Against</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kansas</td>
<td>1880</td>
<td>81,874</td>
<td>34,037</td>
</tr>
<tr>
<td>Iowa</td>
<td>1882</td>
<td>155,436</td>
<td>125,677</td>
</tr>
<tr>
<td>Ohio</td>
<td>1883</td>
<td>323,189</td>
<td>240,975</td>
</tr>
<tr>
<td>Maine</td>
<td>1884</td>
<td>70,783</td>
<td>23,811</td>
</tr>
<tr>
<td>Michigan</td>
<td>1887</td>
<td>178,636</td>
<td>184,281</td>
</tr>
<tr>
<td>Texas</td>
<td>1887</td>
<td>129,270</td>
<td>220,627</td>
</tr>
<tr>
<td>Tennessee</td>
<td>1887</td>
<td>117,504</td>
<td>145,197</td>
</tr>
<tr>
<td>Oregon</td>
<td>1887</td>
<td>19,973</td>
<td>27,958</td>
</tr>
<tr>
<td>West Virginia</td>
<td>1888</td>
<td>41,668</td>
<td>76,555</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>1889</td>
<td>25,786</td>
<td>30,976</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>1889</td>
<td>85,242</td>
<td>131,062</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>1889</td>
<td>296,617</td>
<td>484,644</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>1889</td>
<td>28,315</td>
<td>9,956</td>
</tr>
<tr>
<td>South Dakota</td>
<td>1889</td>
<td>39,509</td>
<td>33,456</td>
</tr>
<tr>
<td>North Dakota</td>
<td>1889</td>
<td>18,552</td>
<td>17,393</td>
</tr>
<tr>
<td>Washington</td>
<td>1889</td>
<td>19,546</td>
<td>31,489</td>
</tr>
<tr>
<td>Connecticut</td>
<td>1889</td>
<td>22,379</td>
<td>49,974</td>
</tr>
<tr>
<td>Nebraska</td>
<td>1890</td>
<td>82,296</td>
<td>111,728</td>
</tr>
</tbody>
</table>

An explanation for this new and second wave of prohibition agitation may be found in the work of the Prohibition Party and the formal entrance of women in the field. The Woman's Christian Temperance Union grew out of a crusade organized among the women of Hillsboro, Ohio in 1873 by Doctor Dio Lewis. Each morning the women assembled in church for prayer and then marched, singing, to the different saloons where they appealed to the owner to close his business. The tolling of the church bell proclaimed to all that the crusade was on and when refusals were met, the crusaders knelt outside the saloon.

18Woolley, 151
praying and singing hymns and repeated the procedure daily until success was
won—or manslaughter committed. The movement spread to other states and when
a national convention was held in Cleveland in 1874, eighteen states were
represented. Frances Willard, Dean of Woman's College of Northwestern Uni-
versity, Evanston, Illinois, was chosen first president and the organization
had a paid membership of 44,412 women.19 To these view-holding women, too
long held in check by the Pauline injunction "Keep Silence," the time was
ripe for a crusade and nothing was more to their liking than to lead one
against that "demon rum" which they had borne in silence and patience. Fran-
ces Willard has thus described the methods of her crusaders:

Woman-like they took their knitting or embroidery
and simply swarmed into the drink shops, seated them-
selves and watched the proceedings. Usually they came
in a long procession from their rendezvous at some
church where they held morning prayer-meeting; entered
the saloon with kind faces and the sweet songs of
church and home upon their lips, while some Madonna-
like leader with the Gospel in her looks, took her
stand beside the bar and gently asked if she might
read God's word and offer prayer.20

Apparently, though, some of the fair ladies laid aside their embroidery
and maidenly virtues and did not confine their activity to a prayer, since
Miss Willard goes on to say:

It came about that at times soft and often jeweled
hands grasped axe and hammer, while the whole town as-
sembled to rejoice in this new fashion of exorcising
the evil spirits.21

19Ray Strackey, Frances Willard: Her Life and Work, T. Fisher Unwin, London,
1912, 174-76
20Ibid., 180
21Ibid., 181
Once more, however, this new wave ebbed and out of the legislative battles of the 1880's, three states emerged with prohibition laws by 1905—Kansas, Maine, and North Dakota. In the meantime, the constitutional amendments had raised new questions of law, calling for interpretation from the Supreme Court. The decision of Chief Justice Taney establishing the right of a state to enact prohibitory laws, still remained after forty years and in the cases of the 1880's more advanced ground was taken. The liquor dealers sought to protect themselves behind that part of the Fourteenth Amendment which said:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor, shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."\(^{22}\)

The first case to reach the Supreme Court was *Bartemeyer vs. Iowa* in which Justice Miller said:

The right to sell intoxicating liquors, so far as such a right exists, is not one of the privileges and immunities growing out of the citizenship of the United States which, by the Fourteenth Amendment, the States are forbidden to abridge.\(^{23}\)

The next leading case was *Beer Company vs. Massachusetts*. This involved the provision in Article I, Section 10 of the Constitution which provides that no state shall pass any law impairing the obligation of contracts. The Boston Beer Company had been granted a perpetual charter in 1828 which the prohibitory law of 1869 made invalid since it made useless their property and

\(^{22}\)Constitution of the United States, Article XIV, Section I

\(^{23}\)Bartemeyer vs. Iowa, 85 U. S. 129
provided no compensation to the owners. In his decision, Justice Bradley laid down the principle that no compensation could be claimed on account of a prohibitory law.

If the public safety or the public morals require the discontinuance of the manufacturing or traffic, the hand of the Legislature cannot be stayed from providing for its discontinuance, by any incidental inconvenience which individuals or corporations may suffer. All rights are held subject to the police powers of the state.24

Ten years later in 1887, Justice Harlan affirmed and strengthened Justice Bradley’s decision in the cases of two Kansas brewers whose business had been destroyed by a prohibitory law. In the decision rendered, Justice Harlan said:

The power which the states unquestionably have of prohibiting such use by individuals of their property as will be prejudicial to the health, the morals or the safety of the public is not ... and cannot be burdened with the condition that the state must compensate such individual owners for pecuniary losses they sustain by reason of their not being permitted by a noxious use of their property to inflict injury upon the community.25

The same Justice in rendering the opinion of the Court went further:

The State having the authority to prohibit the manufacture and sale of intoxicating liquors for other than medical, scientific and mechanical purposes, we do not doubt her power to declare that any place, kept and maintained for the illegal manufacture and sale of such liquors, shall be deemed a common nuisance, and be abated, and at the same time, to provide for the indictment and trial of the offender.26

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24 Beer Company vs. Massachusetts, 97 U. S. 25
25 Mugler vs. Kansas, 123 U. S. 623
26 Kansas vs. Ziebold, 123 U. S. 671
Later in the case of Kidd vs. Pearson, the powers of the state were still further recognized by the decision that the manufacture of liquor, even though intended for sale in another state, might be suppressed.27 This was followed in 1890 by the Crowley vs. Christensen case in which Justice Field attacked the argument that the state was infringing on the personal liberty of the citizen by prohibitory laws.

It is undoubtedly true that it is the right of every citizen of the United States to pursue any lawful trade or business, under such restrictions as are imposed upon all persons of the same age, sex and condition. But the possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by ... the country essential to the safety, health, peace, good order and morals of the community. Even liberty, the greatest of all rights, is not unrestricted license to act according to one's own will. It is freedom from restraint under conditions essential to the equal enjoyment of the same rights by others. It is then liberty regulated by law. The right to acquire, enjoy and dispose of property is declared in the court of several states to be one of the inalienable rights of man. But this declaration is not held to preclude the Legislature of any state from passing laws respecting the acquisition, enjoyment and disposition of property. ... The sale of intoxicating liquors may be absolutely prohibited. It is a question of public expediency and public morality, and not federal law. The police power of the state is fully competent to regulate the business—to mitigate its evils or suppress it entirely. There is no inherent right in a citizen to sell intoxicating liquor by retail; it is not a privilege of a citizen of a state or a citizen of the United States. As it is a business attended with great danger to the community, it may be entirely prohibited, or be permitted under such conditions as will limit to the utmost its evils.28

With the highest court in the land, then, declaring the police power of

27Kidd vs. Pearson, 128 U. S. 1
28Crowley vs. Christensen, 137 U. S. 91
the state could suppress the liquor business at will, the prohibition forces
at last beheld the horizon of an arid Promised Land. And yet their joy was
turned to consternation within the next few years by the decisions of that
same court in the interstate commerce cases. That spirit of nationalism,
awakened by the Civil War, was emphasizing the powers of the national govern-
ment and when state and federal powers conflicted, the federal powers usually
prevailed.

In 1888, in the case of Bowman vs. Chicago and Northwestern Railway, the
Court declared unconstitutional an Iowa law which forbade common carriers to
bring intoxicating liquors into the state without a certificate that the con-
signee was authorized to sell. Justice Mathews said:

> Whatever may be the nature and reach of the police
> power of a state, it cannot be exercised over a subject
> confided exclusively to Congress by the federal Constitu-
> tion. A State cannot for the purpose of protecting
> its people against the evils of intemperance, enact
> laws which regulate commerce between its people and
> those of the States of the Union, unless the consent of
> Congress, express or implied, is first obtained.29

This case did not involve the right of the importer to sell the liquor
brought in from another state, but the Leisy vs. Hardin case did so. This
was known as the "Original Package" decision and involved brewers of Illinois
who had shipped beer in kegs and cases into Iowa—a prohibition state—and
which was then sold in the original kegs. Three of the five justices held the
Iowa law unconstitutional insofar as it forbade the sale of liquor by a non-
resident importer. The court declared that it was only after the importation

Bowman vs. Chicago & Northwestern Railway, 125, U. S. 465
was completed and the property had become a part of the general property of the state that the state's regulations can act upon it. The conclusion was that the importers of beer had not only the right to receive it but to sell it so long as it remained in its "original package."\(^{30}\)

The [Vance vs. Vandercook Company](#) decision went further still. Justice White declared: "Under the Constitution of the United States every resident of South Carolina is free to receive for his own use liquor from other States and the inhibitions of a state statute do not operate to prevent liquors from other States from being shipped into such States on the order of a resident for his use."\(^{31}\)

Through these decisions the state prohibitory laws were practically nullified since the way was open for importation from non-prohibition states.

Describing the effects of the decisions, Honorable H. C. Black said:

> These decisions were followed by immediate, widespread, and most pernicious results. The brewers and distillers, recognizing the extent of the protection afforded to them by this construction of the law, hastened to establish depots and agencies in states foreign to their own, and especially those where prohibition or stringent licensing provisions were in force. . . . Several portions of the country, where the greatest advances towards the entire suppression of the traffic had previously been made, were at once populated with "Original Package" saloons . . . and the officers of the law found their energies paralyzed by the claim of immunity under the Constitution.\(^{32}\)

\(^{30}\)Leisy vs. Hardin, 135 U. S. 100

\(^{31}\)Vance vs. Vandercook Company, 170 U. S. 438

\(^{32}\)Henry Campbell Black, A Treatise on the Law of Intoxicating Liquors, West Publishing Company, St. Paul, Minnesota, 1892, 104
In the meantime, a good deal of laboratory work had been carried on in methods of regulating the traffic. South Carolina had tried a dispensary system; Pennsylvania, Illinois and Missouri experimented with the license system; Massachusetts had a prohibitory law, then a license system, followed by prohibition of everything except malt liquors and finally another license plan.33

The campaign of 1884 made the Prohibition Party a factor in national politics because the party had learned a valuable lesson and realized a mistake. The lesson was not to depend upon the party itself but to throw its strength to one of the other of the acceptable parties. The third party, from the standpoint of influencing legislation, had been a mistake. After this campaign it was realized that the defection of the temperance votes was feared by the old guard politicians and from this time on this fear became a weapon to the prohibition forces. This weapon was especially effective in the hands of the Anti-Saloon League—the organization which was to be the most important single factor in bringing national prohibition in a quarter of a century. Founded at Oberlin, Ohio in 1893 at the time when the constitutional amendment wave of prohibition was beginning to recede, the Anti-Saloon League was identified from the day of its foundation with the churches.34 The founders were a few men whose souls burned with but a single thought and whose interest in prohibition had brought them together in an effort to obtain

33 Charles Merz, The Dry Decade, Doubleday, Doran & Company, Garden City, N. Y., 1930, 7

34 Ibid., 9
adoption of a local option law. When the group met on June 4, 1893 to organize the League, it was in the First Congregational Church at Oberlin. Born under the auspices of the church, the League turned to it for patronage. As Mr. Ernest Cherrington, Chairman of the National Executive Committee of the League pointed out:

The movement was dependent upon the churches, first of all, for financial support. It was also dependent upon the church for the necessary influence and power to turn the tide along non-partisan lines in the election of members to the legislatures favorable to temperance legislation and in the election, as well, of public officials who would enforce this law.35

The new trend was obvious. The Prohibition Party had thrust the movement into politics; the disciples of this new crusade eliminated all else. The League differed from the theory of the Prohibition party in that it supported no party—but rather sponsored individual candidates regardless of party. Says the official League Catechism:

Question: May the League, at any time, be identified with any one political party for the accomplishment of its purpose?

Answer: No. The League is under the solemn promise not to favor affiliation with any political party, nor to place in nomination a ticket of its own. Its place is to make selection of the most acceptable available candidates placed in nomination by the existing parties, and to invite persons in all the political parties to unite in securing their election.36

This League policy led to the support of all kinds of questionable can-

36Anti-Saloon League Catechism, American Issue Press, Westerville, Ohio, 1910, 14
didates and, as the historian of the Prohibition party pointed out:

It tended to suppress high ideals in politics. It was very discouraging to a candidate striving for clean politics to have the church vote, influenced by the League, go to an opposing candidate who was morally unacceptable. The lack of idealism in politics was all the more deplorable because the League claimed to represent the church in action.37

This change of policy was obviously a declaration that moral and religious influences were not enough, that something more effective than education was needed and that something was force. With this view, it was inevitable that any moral effort toward inculcating personal sobriety should fall into the background and at last be even lost to sight. The temperance movement made little effort after the turn of the century to win men from intemperance by personal appeal; it relied on the law to keep men sober. How effectively the law operated as a sobering influence has been a most controversial question. Even statistics will not assure a secure conclusion. The amount of alcohol produced or imported into the country gives small clue to the amount consumed in drink due to the consumption for medicinal and industrial purposes. The reliability of statistics on arrests for drunkenness and disorderly conduct can often be gauged by temperance sentiment in the state. The effects of intemperance in promoting crime are often mixed with other causes and at every point we find intense partisanship. Nevertheless, there were honest attempts to obtain accurate and impartial accounts of the legislation in each state, of the efforts to enforce it and the success or failure of various kinds of legislation. The Committee of Fifty for the investigation

37 Colvin, 392
of the liquor problem was organized in 1893 with the following declaration of intention:

This Committee, made up of persons representing different trades, occupations and opinions is engaged in the study of the liquor problem in the hope of securing a body of facts which may serve as a basis for intelligent public and private action. It is the purpose of the Committee to collect and collate impartially, all accessible facts which bear upon the problem and it is their hope to secure for the evidence thus accumulated a measure of confidence on the part of the community which is not accorded to personal statements.38

Four sub-committees were appointed to consider the physiological, legislative, economic, and ethical aspects of the question and the published reports of each form the most comprehensive and objective inquiry of the problem in the century.

The sub-committee on the "Legislative Aspects of the Liquor Problem" investigated the workings of characteristic legislation—the prohibition law in Maine, the local option law of Massachusetts, the license law of Pennsylvania, and the dispensary law of South Carolina. They also studied the operation of the Missouri law upon St. Louis, the history and operation of the Iowa, Ohio, and Indiana legislation. Of the scope of the reports, the Committee says:

The reports relate to communities which differ widely in character. Some relate to scattered and some to compact populations; some to people who are native-born and some to communities in which there is an admixture of foreign-born persons. The principal occupation in the states examined differed widely. . .On the whole, they embrace a sufficient variety of legislative enactments, and a sufficient variety of experiences with these en-

actments, in communities of various quality, to make the conclusions to be drawn from them widely interesting and instructive.39

Probably the most striking conclusion drawn by this committee was that "It cannot be positively affirmed that any one kind of liquor legislation has been more successful than another in promoting real temperance."40 Of prohibitory legislation the Committee stated:

It has failed to exclude intoxicants completely even from districts where public sentiment has been favorable. In districts where public sentiment has been adverse or strongly divided, the traffic in alcoholic beverages has been sometimes repressed or harassed but never exterminated or rendered unprofitable...Prohibition has, of course, failed to subdue the drinking passion, which will forever prompt resistance to all restrictive legislation.41

The Committee went on to declare that:

There have been concomitant evils of prohibitory legislation. The efforts to enforce it during the forty years past have had some unlooked-for effects on public respect for courts, judicial procedure, oaths, and law in general, and for officers of the law, legislation and public servants. The public has seen the law defied, a whole generation of habitual law-breakers schooled in evasion and shamelessness, courts ineffective through fluctuations of policy, delays, perjuries, negligences, and other miscarriages of justice, officers of the law double-dealing and mercenary, legislation timid and insincere, candidates for office hypocritical and truckling, and office-holders un-


40 Ibid., 19

41 Ibid., 5
faithful to pledges and to reasonable public expectation. Through an agitation which has always had a moral end, these immoralities have been developed and made conspicuous.\footnote{Ibid., 6}

In their investigation of the Economic Aspects of the Liquor Problem, the Committee found:

Since 1840 there has been a steady substitution of malt liquors for distilled liquors in the consumption of the people. While there has been an increase in the total quantity consumed, the substitution of the light drinks has brought a diminution in the amount of alcohol consumed per capita. Moreover, though the per capita consumption of malt liquors has been nearly stationary since 1890, the consumption of distilled liquors has fallen by nearly one-third in that time.\footnote{Committee of Fifty, Economic Aspects of the Liquor Problem, Houghton, Mifflin Company, Boston, 1897, 128. This investigation was made by John Koren, under the direction of Professor Henry W. Farnam, Honorable Carroll D. Wright, Doctor Z. R. Brockway and President Benjamin Andrews.}

This wave in the direction of moderation was attributed by the investigators to the German immigration and to modern methods of production:

As more things are done by machinery, as trolley-cars supplant horse-cars, as implements of greater precision and refinement take the place of cruder ones, as the speed at which machinery is run is increased, as the intensity with which people work becomes greater, the necessity of having a clear head during the hours of labor becomes imperative, and the very conditions of modern business life necessitate sobriety on the part of the workers. Those who would find profitable employment realize more and more the importance of moderation in drink.\footnote{Ibid., 129}

It was significant, though undoubtedly discouraging, that the Committee could find so little evidence of the benefits of prohibitory legislation.
And doubly discouraging were the reports of the Census Office after the twelfth census.

A familiar claim of prohibitionists was that drunkenness and crime increased or decreased with the flow of intoxicants and therefore prohibitory laws were a moralizing influence. These conclusions, however, were dislodged by two bulletins of the Census Office which contained a detailed statement of the number of arrests in all cities of over 8000 population.

The three oldest prohibition states of Maine, Kansas, and North Dakota may be compared with Wisconsin, home of the "beer that made Milwaukee famous." [Schlitz.] All figures relate to 1903.

<table>
<thead>
<tr>
<th>Name of City</th>
<th>Proportion of Arrests for Drunkenness to Population</th>
<th>Name of City</th>
<th>Proportion of Arrests for Drunkenness to Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portland, Maine</td>
<td>1 to 24</td>
<td>Milwaukee, Wisconsin</td>
<td>1 to 142</td>
</tr>
<tr>
<td>Auburn</td>
<td>1 to 137</td>
<td>Superior, &quot;</td>
<td>1 to 44</td>
</tr>
<tr>
<td>Augusta</td>
<td>1 to 110</td>
<td>Racine &quot;</td>
<td>1 to 171</td>
</tr>
<tr>
<td>Bangor</td>
<td>1 to 18</td>
<td>LaCrosse &quot;</td>
<td>1 to 82</td>
</tr>
<tr>
<td>Bath</td>
<td>1 to 51</td>
<td>Oshkosh &quot;</td>
<td>1 to 119</td>
</tr>
<tr>
<td>Biddeford</td>
<td>1 to 40</td>
<td>Appleton &quot;</td>
<td>1 to 262</td>
</tr>
<tr>
<td>Lewiston</td>
<td>1 to 65</td>
<td>Ashland &quot;</td>
<td>1 to 14</td>
</tr>
<tr>
<td>Rockland</td>
<td>1 to 21</td>
<td>Beloit &quot;</td>
<td>1 to 51</td>
</tr>
<tr>
<td>Waterville</td>
<td>1 to 75</td>
<td>Eau Claire &quot;</td>
<td>1 to 123</td>
</tr>
<tr>
<td>Kansas City, Kansas</td>
<td>1 to 76</td>
<td>Kenosha &quot;</td>
<td>1 to 77</td>
</tr>
<tr>
<td>Wichita</td>
<td>1 to 26</td>
<td>Fond du Lac &quot;</td>
<td>1 to 55</td>
</tr>
<tr>
<td>Atchison</td>
<td>1 to 124</td>
<td>Green Bay &quot;</td>
<td>1 to 1324</td>
</tr>
<tr>
<td>Emporia</td>
<td>1 to 121</td>
<td>Madison &quot;</td>
<td>1 to 107</td>
</tr>
<tr>
<td>Fort Scott</td>
<td>1 to 52</td>
<td>Chippewa Falls &quot;</td>
<td>1 to 68</td>
</tr>
<tr>
<td>Galena</td>
<td>1 to 53</td>
<td>Janesville &quot;</td>
<td>1 to 95</td>
</tr>
<tr>
<td>Hutchinson</td>
<td>1 to 75</td>
<td>Manitowoc &quot;</td>
<td>1 to 252</td>
</tr>
<tr>
<td>Lawrence</td>
<td>1 to 100</td>
<td>Marinette City &quot;</td>
<td>1 to 124</td>
</tr>
<tr>
<td>Lavenworth</td>
<td>1 to 83</td>
<td>Merrill &quot;</td>
<td>1 to 61</td>
</tr>
<tr>
<td>Pittsburg</td>
<td>1 to 33</td>
<td>Sheboygan &quot;</td>
<td>1 to 186</td>
</tr>
<tr>
<td>Fargo, North Dakota</td>
<td>1 to 33</td>
<td>Stevens Point &quot;</td>
<td>1 to 91</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Watertown &quot;</td>
<td>1 to 106</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wausau &quot;</td>
<td>1 to 101</td>
</tr>
<tr>
<td>Average</td>
<td>1 to 42</td>
<td>Average &quot;</td>
<td>1 to 98</td>
</tr>
</tbody>
</table>
In the twenty cities of the prohibitory states, with an aggregate population of 378,752, there was one arrest for drunkenness for every forty-two of the population. In the twenty-two cities of Wisconsin, with an aggregate population of 689,232, there was one arrest for drunkenness for every ninety-eight of the population.45

These figures were for 1903. In 1908 the city of Milwaukee with a population of 365,000 had 2,958 arrests for drunkenness—one to every 123 of the population. Portland, with a population of 62,000 had 3,049 arrests, or one to every 21 of the population.

Still further disturbing was the Census Report on Marriage and Divorce and Church Membership since we had been assured that the temperance movement was the champion of church and home. The Marriage and Divorce Census covered the twenty years ending in 1906.

New Jersey, Pennsylvania and Nebraska have been selected for comparison with Maine, Kansas, and North Dakota. The former three were the most liberal in their attitude toward intoxicants and the latter were the three oldest prohibition States.

<table>
<thead>
<tr>
<th>State</th>
<th>Population</th>
<th>Divorces</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maine</td>
<td>694,466</td>
<td>14,194</td>
<td>1 to 42</td>
</tr>
<tr>
<td>Kansas</td>
<td>1,470,495</td>
<td>28,904</td>
<td>1 to 51</td>
</tr>
<tr>
<td>No. Dakota</td>
<td>306,034</td>
<td>4,317</td>
<td>1 to 71</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>6,302,115</td>
<td>39,686</td>
<td>1 to 160</td>
</tr>
<tr>
<td>New Jersey</td>
<td>1,883,669</td>
<td>7,441</td>
<td>1 to 253</td>
</tr>
<tr>
<td>Nebraska</td>
<td>1,066,300</td>
<td>16,711</td>
<td>1 to 64</td>
</tr>
<tr>
<td>United States</td>
<td>73,385,121</td>
<td>945,625</td>
<td>1 to 78</td>
</tr>
</tbody>
</table>


46Twelfth Census: Marriage and Divorce, Part I, 62
Ratio of Divorces to Marriages

<table>
<thead>
<tr>
<th>State</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maine</td>
<td>1 to 6</td>
</tr>
<tr>
<td>Kansas</td>
<td>1 to 9</td>
</tr>
<tr>
<td>North Dakota</td>
<td>1 to 10</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>1 to 22</td>
</tr>
<tr>
<td>New Jersey</td>
<td>1 to 45</td>
</tr>
<tr>
<td>Nebraska</td>
<td>1 to 10</td>
</tr>
<tr>
<td>United States</td>
<td>1 to $13\frac{1}{2}$</td>
</tr>
</tbody>
</table>

Regarding church membership, the Religious Bodies Census of 1906 provides figures for the same six states. Of the nine states in the North Atlantic Division, Maine had the lowest percentage of church members to the population --29.8 of every 100 persons were church members. Pennsylvania had 43 per cent; New Jersey had 39 per cent. In the North Central Division there are twelve States and the lowest of these is Kansas with 28.4 per cent. North Dakota had 34.3 to each 100 of the population. Nebraska had 32.4 per cent, being higher than Kansas and lower than North Dakota.

As damaging as these reports were in the hands of anti-prohibitionists, they bore no conclusive evidence that either prohibition built up the church or intoxicating drink tore it down; that one was a home-destroyer, the other a home-preserver. At most, these were but elements contributing to the result--but elements that had been exaggerated beyond all proportion of their importance, while at the same time, other elements which were far more destructive to the moral life of the country were ignored. And yet this undue

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47Ibid., 1909, Part I, 62
48Twelfth Census: Religious Bodies, Part I, 1906, 58
stress upon the matter of drink control might have been justified if there had been evidence that it was driving out liquor or controlling it. But on the contrary, since 1896 liquor consumption had been increasing, not only in quantity but per capita, as the Statistical Abstract of 1910 pointed out:

<table>
<thead>
<tr>
<th>Year</th>
<th>Dist. spirits, galls.</th>
<th>Wines, galls.</th>
<th>Malt, galls.</th>
<th>All liquors</th>
</tr>
</thead>
<tbody>
<tr>
<td>1870</td>
<td>2.07*</td>
<td>.32</td>
<td>5.31</td>
<td>7.70</td>
</tr>
<tr>
<td>1880</td>
<td>1.39</td>
<td>.47</td>
<td>6.93</td>
<td>8.79</td>
</tr>
<tr>
<td>1890</td>
<td>1.34</td>
<td>.48</td>
<td>11.38</td>
<td>13.21</td>
</tr>
<tr>
<td>1896</td>
<td>1.01</td>
<td>.27</td>
<td>15.85</td>
<td>17.12</td>
</tr>
<tr>
<td>1900</td>
<td>1.28</td>
<td>.39</td>
<td>16.09</td>
<td>17.76</td>
</tr>
<tr>
<td>1907</td>
<td>1.58</td>
<td>.65</td>
<td>20.56</td>
<td>22.79</td>
</tr>
<tr>
<td>1908</td>
<td>1.39</td>
<td>.58</td>
<td>20.28</td>
<td>22.22</td>
</tr>
<tr>
<td>1909</td>
<td>1.32</td>
<td>.67</td>
<td>19.07</td>
<td>21.06</td>
</tr>
<tr>
<td>1910</td>
<td>1.42</td>
<td>.65</td>
<td>19.79</td>
<td>22.19\footnote{49}</td>
</tr>
</tbody>
</table>

*per capita consumption

Although this does not represent the actual per capita consumption in the country since children and abstainers are included in the total inhabitants, there are two undeniable inferences which can be drawn from the report: First, that the American people were drinking more, not less; and second, that the increase could not have taken place if prohibition had been really effective. And yet, the prohibitionist was pointing to the vast territory acknowledging it and the great and growing population living under it, while at the same time, Mr. Citizen was being told by his government that drink had gone on increasing! They had gone on together!

This was not a fortuitous happening, however, but coincided with the growth of "dry" territory. The demand for intoxicants did not disappear or

\footnote{49}Statistical Abstract of the United States, 1910, Bureau of Statistics, Department of Commerce and Labor, 1911, 544
even diminish with the writing of prohibitory laws and the demand could not be supplied by malt beverages which were not manufactured in dry territory and were too bulky to form a large illicit trade. The liquor interests satisfied that demand. Resentful of the interference with their business, and fearful of the possibility of its utter destruction without compensation, these interests formed powerful organizations with vast amounts of capital invested. To protect this capital, they reached out into politics and the result forms ugly chapters in our civic history. The capital invested in the manufacture of liquors increased according to the census reports, from $28,534,317 in 1860 to $771,516,000 in 1910. Accompanying the increase was a diminution in the number of establishments, indicating the centralization of the industry. In 1880 there were 2,191 liquor manufacturing establishments; in 1910 there were only 1,414, less than two-thirds as many, but these made four and one-half times as much liquor. As a result of the capital involved, too, vast sums were used to promote sales. The field of advertising had opened up and the evil day of the super-salesman had dawned. The business tended to become national rather than local in scope and the small owner was supplanted by the dealer whose prime object was to increase his sales and protect his interests. He had been forced into a fight for legal existence and although his first efforts had been for defense, he soon found it advantageous to attack and his most effective weapon was a political one.

No less organized and aggressive, however, were his opponents. The

50 Statistical Abstract of the United States for 1912, 216
51 Committee of Fifty, Economic Aspects, 127
Anti-Saloon League had become the "Political Action Committee" of the Prohibition Movement and by 1913 it was ready to launch a third great drive.

"Launch" is a chosen verb since it would be an error to imagine that the prohibition movement had bowled along of its own momentum, bolstered from time to time by the support which flowed to it spontaneously from the countryside. In the early days of the temperance agitation, genuine fervor characterized some of the campaigns, but the temperance societies of the old days were not the parent of this prohibition cult. The prohibition movement was not and never had been spontaneous. There was a basic fund of sentiment to be drawn upon in the moral teachings of the churches and schools, the general disapproval of excessive drinking, the value of sobriety in industry. But the job of converting such embers of sentiment into a flame of desire for prohibition required specially prepared fuel—a fuel costing vast expenditures of money and many high salaried men. Mr. Wayne B. Wheeler told the Senate in 1926 that in thirty years of active labor $35,000,000 had been spent by the friends of prohibition to create and sustain public interest in their cause.52

Armed with the powerful support of the evangelical churches, the League had expanded rapidly and its modus operandi was simple and unconcealed: to lay dry as much territory as possible by local option laws and then to follow up with state-wide prohibition. Of its political methods, a qualified member of the League said:

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52 Congressional Record, 69th Congress, 1st Session, 11823
As to political methods of the Anti-Saloon League, the first and one of the most important is its adaptability to circumstances. It is not a party, and furthermore, refuses to become a part of any party, depending upon the circumstances of the particular campaign and of the particular community to be appealed to. Its first effort is to get a candidate of the dominant party to stand for its measure. If this fails it goes to the party next in numerical strength and makes terms for a candidate who will stand right.53

In order to "stand right," it would be naive to imagine a candidate had to be an abstainer himself or to hold views favoring temperance; the League prided itself upon its "realism." "In fact," said a prominent spokesman, "the Anti-Saloon League has never insisted that a candidate whom they are supporting shall be a total abstainer. They go upon the principle that it is better to have a drunkard in a deliberative body who will vote right than to have a saint who will vote wrong."54

While it was a relief to have the latter class so openly disqualified, it was disturbing that the former class should wield so much influence. By 1907 that influence was being felt south of the Potomac and Ohio. South Carolina had introduced a dispensary system whereby the State assumed control of liquor sales and this proved to be an opening wedge for prohibition agitation in the south. The system was immediately copied by Georgia, Alabama, and North Carolina and when it proved ineffective, Georgia led the way in 1907 with State prohibition. Oklahoma, Mississippi, North Carolina, Tennessee and

54Ibid.
West Virginia fell into line with similar laws.\textsuperscript{55} An explanation for this wash of the prohibition tide southward may be found first in the work of the Anti-Saloon League in the churches; the dominant religious forces of the south lent their full strength to the movement. All of these states were primarily agricultural and practically untouched by the industrial revolution which had changed the interests of many northern states. Then, too, the saloons had become notoriously lawless with the consumption of drink steadily rising. There was always the spectre, too, real or imagined, of an uprising among the Negroes.\textsuperscript{56}

The southern States, however, were to duplicate the experience of their northern sisters. As the dry territory grew, so apparently, did the thirst of the inhabitants. In the decade of the nineties the consumption rose to 16.98 gallons per capita. From 1900 to 1910, with five new states adopting prohibition and the local option movement operating widely it increased to 20.53.\textsuperscript{57} Finally in 1913 when the Anti-Saloon League was asserting that "two-thirds of the territory of the United States is now dry" it rose to 22.80.\textsuperscript{58}

There were two ways to interpret this strange phenomenon. By 1913 one-third of the country was consuming five times more than the whole country had consumed fifty years before or liquor from wet states was spilling over into dry ones, with or without consent. Since common sense eliminated the first

\textsuperscript{55}Merz, 4

\textsuperscript{56}John Koren, Alcohol and Society, Henry Holt and Company, New York, 1916, 74

\textsuperscript{57}Statistical Abstract of the United States, 1920, 561

\textsuperscript{58}Ibid.
assumption, the prohibition forces used the second one as an argument for federal control. The failure of present legislation did not destroy their faith in legislation; it enlarged it and increased their efforts to bring to the dry states those blessings, not yet received, which they were certain prohibition could be made to bring. To do this, the obvious need was for a federal law to give the dry states protection against the wet ones. This came in February of 1913 with the Webb-Kenyon law which prevented the shipment of liquor from wet states into states having prohibitory laws. To the surprise of Congress, the bill was vetoed by President Taft, even though it had large majorities in both Houses. The President considered it unconstitutional on the ground that it "clearly violated the commerce clause of our fundamental law." He vigorously condemned the theory that Congress should pass laws and the Supreme Court decide their constitutionality. Congress disagreed with the President, however, and both Houses promptly passed the bill over his veto. It was a complete victory for the League and when the law came before the Court in four years it was sustained.

There was no resting on laurels however. The Webb-Kenyon law was enacted in February 1913 and in November of this same year, before funds had been appropriated to enforce it, the Anti-Saloon League switched from state prohibition, which had been its goal for twenty years, and demanded a constitutional amendment. This new demand was launched at their Jubilee Convention,

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59 Congressional Record, 62nd Congress, 3rd Session, 4291-93
60 The League had insisted Congress pass the law and leave its constitutionality to the Court.
held at Columbus, Ohio in 1913. Wayne Wheeler, legislative superintendent, greeted the delegates:

Like the melting of a great storm you can hear the determined demand from every quarter to attack the enemy all along the line for national constitutional prohibition. I do not know how you feel about it, but I would rather die than run from such a conflict.61

League President, Bishop Wilson, found his inspiration was of divine origin:

Victory demands idealism--plus an army. As Moses approached with unsandaled feet that bush of flame and caught the word of God, so come we to this hour and in its solemn hush, we read and recognize the divine command for a new advance--prohibition for all our land.62

The liquor trade itself seemed to realize it was an hour of disaster:

To us this is the handwriting on the wall and its interpretation spells doom. There are billions in property involved . . . but when the people decide the truth is being told them by the League that money will not count.63

Following the convention the League created a committee of one thousand men and the Woman's Christian Temperance Union a similar number of women to march to the Capitol with a resolution providing for submission of a constitutional amendment. Ever mindful of emotional values, this army arrived in the Capitol on December 10, 1913 and marched up Pennsylvania Avenue to the strains of "Onward Christian Soldiers." On the same day Senator Sheppard and Representative Hobson presented resolutions for an amendment.

62Ibid., 322
63Peter H. Odegard, Pressure Politics, Columbia U. Press, New York, 1928, 151
CHAPTER III

REFORM BY NATIONAL PROHIBITION

The new and bolder goal set by the Anti-Saloon League in 1913 was clear and unmistakable—prohibition by national constitutional amendment. While it is true that as early as 1876 a resolution for an amendment had been introduced in Congress and re-presented in every succeeding session, the resolution was never permitted to mature sufficiently to warrant a vote. In 1890 Representative Hobson pleaded for a vote for no better reason than that the question had been before the House for fourteen years, but apparently the members saw no virtue in multiplication of years alone and refused his request. 1

But now the Anti-Saloon League was in the field and it was very early admitted that "There are no shrewder politicians in America than the veteran leaders of the League." 2 A national legislative office had been established as early as 1899 in Washington and a legislative superintendent with a force of subordinates directed from there the temperance policies of the Government. The League lobbyists were ready to apply to Congress the methods that were in familiar use in the state legislatures. S. E. Nicholson, a League

1 Lamar T. Beman, Prohibition, H. W. Wilson Company, New York, 1924, 88


57
strategist, described the procedure:

The choosing of issues, the determination of policies, the introduction of bills, are not half the battle. Watching bills after introduction, lobbying before committees and among Congressmen, arranging for hearings in behalf of measures presented, are all a vital part of a national legislative program. Yet, even these are mere incidents in the campaign. Back of all such endeavor there must be a nation-wide movement of public opinion, voicing itself in a way that will be heard by every Congressman. Petitions are important if presented in sufficient volume, personal communications to members are still more effective, personal interviews are best of all, where the citizen and his member can come face to face. The surest way to secure needed legislation is for the voters, through well-planned organization to elect men who will write the laws upon the books.4

Politicians soon learned to reckon with this force. "The average member of Congress," said a writer, "is more afraid of the Anti-Saloon League than of the Chief Executive. He does not hesitate to take issue with the President over important matters of state; but his courage vanishes into thin air when the whip of the League cracks a command."5 The general superintendent of the League boasted: "I have seen a member of Congress supposedly friendly to temperance reform, duck his head and accelerate his speed in the corridors of the national capitol when about to meet a representative of the Anti-Saloon League."6

This weapon of political intimidation, then, was deliberately designed and its power flaunted. "The graves of many state legislators and members of

4Anti-Saloon League Year Book, Ernest H. Cherrington, editor, American Issue Press, Westerville, Ohio, 1911, 17
5North American Review, op. cit., 434
6Anti-Saloon League Year Book, 1911, 24
Congress can be seen along our line of march" boasted the Washington [state of] Superintendent of the League.7 And rare is the politician who is re-signed to a grave of political obscurity after one term in office. If the League had confined its persuasion to moral appeals its converts would have been few; but it had demonstrated time and again that it did control votes and therefore could elect or defeat a candidate. To avoid defeat many practical statesmen were inclined to forget their convictions.

As far back as 1908 the Superintendent of the Oakland [California] District of the Anti-Saloon League told of an Assemblyman in an eastern state who said: "While I am no more of a Christian than I was last year, while I drink as much as I did before, you have demonstrated to me that there are more anti-saloon votes in my district than there are saloon votes; therefore I will stand with you, both with my influence and vote, if you will give me your support."8 This display of the legislative mind was commended by the Superintendent: "The wisdom of this man was proven when he was given support and won and his colleague who took the opposite view was defeated."9

No less powerful a weapon than political intimidation was the moral intimidation which the League propaganda forces had constantly at their command. If a candidate was hostile to the cause his reputation was likely to be blasted. He was stigmatized as a member of that class who wished to make

7Cited in speech of Representative Oglesby of New York, Congressional Record, 63rd Congress, 2nd Session, 621
8Annals of the American Academy of Political and Social Science, op. cit., 502
9Ibid.
money out of the degradation of their fellow creatures, as against those who sought to save mankind from perdition. The League could divide all mankind into two classes—drunkards and saints. A law and a jail was all that was needed to bridge the gap.

An Alabama politician poured out his wrath upon the League thus:

I was run over by the Anti-Saloon League steam-roller. . . . They won over the churches and the army controlled by them. The good and gullible people of the churches permitted themselves to be humored and hoodwinked by the professional promoters of the Anti-Saloon League. The politicians who surrendered saved themselves from slaughter. Those like myself were swept aside to make room for the more susceptible. . . The League figuratively hit us over the head with a steeple.10

This losing sight of the means for the end was the more deplorable since the League represented itself as the "Church in Action." Its spokesman described it as a "federation of churches and temperance societies to promote public morals."11 A prominent church paper said:

This organization is the instrument of the churches. They have supported it. They have opened their pulpits for the presentation of its interests. They have, by money pledges, enabled it to live. They have manned it with their ministry and said: "Go, this is the work of your Lord."12

Obviously, posing as the "Church in Action" gave the League propaganda value, but just as obviously it was a presumptuous misstatement of fact.


12Western Christian Advocate, February 5, 1913. Quoted in Odegard, 24.
While it was true in a sense that the League found its main support within certain large Protestant denominations—the Methodist, Baptist, Presbyterian, Congregational, and English-speaking portion of the Lutheran Churches, on the other hand the Roman Catholic Church, the Episcopal Church, and the Jewish congregations were not identified with the prohibition movement, much less with the Anti-Saloon League. The total church membership for the year 1912 was 36,668,165.\(^{13}\) Of these the Baptists, Congregationalists, Methodists, and Presbyterians furnished 16,000,000. The Catholics, German-Lutherans, and Episcopalians numbered 16,500,000; the Mormons 400,000; the Jews 2,000,000 and there was no evidence that the remaining church members had given their support to the League.\(^{14}\)

The "Church in Action" then, consisted of those Protestant Churches which had their strength in the rural sections of the country where the prohibition movement was strongest. But the churches who chose to keep themselves aloof from the movement and particularly from the Anti-Saloon League were not to ignore with immunity. A struggle so intensely emotional produced its own fanaticism, and extremists within the League had difficulty in restraining themselves when confronted with the seeming indifference or even opposition of Catholics. Although leaders insisted that their criticism was due solely to the Church's stand on prohibition, critics found evidence of a vigorous anti-Catholic campaign worthy of the Ku Klux Klan or the A.P.A.

When William Anderson was the New York Superintendent of the Anti-Saloon

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\(^{13}\) Wasson, 197

\(^{14}\) Ibid.
League he decided to tell the Protestant clergymen in an open letter about his views of Catholics and prohibition:

The time has come to say in so many words to the pastors of the Protestant churches, who have born the burden of making this great contribution to practical Christianity with very little help from Catholics and against the opposition of the Church as officially represented in States like New York, that we believe most of the officiary of the Roman Catholic Church are indignant over what they consider a Protestant victory for prohibition and sore because of the unenviable light in which the Church is left without having had a larger part in this greatest reform of the century.15

Commenting upon this and similar effusions, Archbishop Patrick J. Hayes of New York answered:

My sole anxiety is that a single person, in or out of the Catholic Church, may be possibly deceived by this sinister figure in American politics, a sower of strife, who sinks so low as to play the un-American role of a brewer of bigotry. Let us say most emphatically that the Catholic Church is not affiliated with any political organization, local, State or national; much less is the Church in conspiracy to contravene directly or indirectly, the law of the land.16

In a letter which would warm the heart of the Grand Dragon of the Ku Klux Klan the Reverend W. M. Hess of Trinity Congregational Church, New York, defended Anderson against the Archbishop and asked, "Is it not about time for the real Americans to drive the low-down grafting Irish-catholic rum-sellers out of city politics?"17 The Brooklyn Tablet [Catholic] chose to answer:

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15Literary Digest, April 10, 1920, LXV, 44
16Ibid., 45
17Odegard, 27
Catholics are not concerned with any political party. They do not follow the leadership of the clergy on political matters. Even the clergy themselves do not vote as a unit. Is the Catholic church then entirely guiltless of Mr. Anderson's charges? Emphatically no! She pleads guilty to offense. She has refused to be brow-beaten, bulldozed, bludgeoned, bamboozled, or blackmailed by the Anti-Saloon League. She has refused to turn her pulpits into soap boxes for political meetings. She has refused to throw open her doors to sanctimonious frauds and sacrilegious fakers in their mad quest for graft. She has refused to prostitute the name of religion and the cause of Christ to this domineering political Moloch and his machine. Her priests have refused to stump on the corner, ring doorbells, or pass the hat around at a salary and commission for the Anti-Saloon League. . .18

With few exceptions all Catholic editors repudiated prohibition and the League and their reasons were stated thus:

In the first place prohibition does violence to Catholic philosophy which fixes individual responsibility far more definitely than does any of the so-called private interpretation denominations. It is the Catholic viewpoint that all of man's natural appetites may be gratified within limits but each individual is responsible for abuses.19

The same author continues with a second explanation of the Catholic viewpoint:

The Church has learned by bitter and costly experience that attempts to enforce moral laws through the police won't work. This latter reason may be only subconsciously in the minds of some of the Catholic editors but it is important. Furthermore, the Church has never catalogued gloom as a virtue. These factors and not the multiplicity of Irish Catholic saloon-keepers are responsible for the coolness of the Catholic papers toward prohibition.20

18Literary Digest, op. cit., 45
20Ibid.
If there was an element within the League who chose to make prohibition a religious issue, there were individuals within the Catholic church who accepted it as such. One such individual observed:

Prohibition strikes me more and more as a phase of Protestantism in its decline, a last stand made by the disorganized followers of Luther...Protestantism is today with its back to the wall. No longer able to defend itself on theological grounds, it seeks to stave off the inevitable by a desperate recourse to Prohibition as an issue.21

This author places the prohibition movement beside the "amorphous platitudinarianism of Mr. Bryan, the diseased ravings of Alexander Dowie and Billy Sunday and other religious 'spores' growing up over night--all symptoms of the diseased imagination of Protestantism."22 He cautioned his fellow clergymen:

Put Prohibition where it belongs, i.e. along with all the other fads which are running amuck under the inspiration of unhealthy emotionalism--eugenics, fads in public school education, trial marriage, etc. They are marks of a decadent Protestantism.23

Prohibition produced fanaticism among individuals on both sides and it is difficult to say who cast the first stone. Aside from certain individuals the League officials frowned on anti-Catholic propaganda--their business was to make a success of prohibition and many individual Catholics chose to support prohibition. It is very likely that if the Church had favored their reform, the League leaders would undoubtedly have sung its praises, though the

22Ibid., 280
23Ibid., 278
rank and file of its supporters might not have done likewise. On the other hand the Church was not concerned with prohibition as such—there was no moral principle involved as long as she was given full liberty to carry on her ritual which demanded the use of wine. This right was generally recognized in almost all the states where prohibition was in vogue, a special provision had been made to provide wine for liturgical purposes, and despite propaganda to the contrary, this right was never seriously threatened in any State. 24

In 1913 the League was assured and ready to begin the final drive for national prohibition. It could not be done by a mere act of Congress because that would give too much police power to the federal government and the states would fight for their reserved powers. It had to be written into the Constitution itself. Congressman Richmond Hobson of Alabama and Senator Sheppard of Texas were the key men of the League in Congress and each introduced resolutions which were referred to the Judiciary Committee. 25 Drys thronged the city of Washington and the galleries of Congress to such an extent that Congressman Bartholdt of Missouri suggested the House move out of Washington to avoid pressure. Turning to the crowded galleries, where Wayne B. Wheeler, national superintendent of the League, daily occupied a conspicuous place, he shouted "Never mind! You may intimidate village councils and members of state legislatures and even some Congressmen, but you cannot cow

24 R. Briton, "Scriptural Use of the Word 'Wine'", American Ecclesiastical Review, June 1915, LII, 150

25 Hobson received a commission on every dollar received by the League as a result of his appeals for funds. Between 1914 and 1922 he received $171,250. (New York Times, July 3, 1926)
or intimidate me." To his colleagues he warned, "I predict that not one of you who vote for this will ever come back to tell the tale."{26}

When the resolution came up for debate in the House on December 22, 1914 long slips of paper containing the names of over six million petitions hung from the balconies and, contrary to House rules, placards showing the progress of prohibition were placed on each side of the Speaker's chair.{27} The latter was part of the ingenious plan of the League to impress Congressmen with their duty of submitting the proposal to the state legislatures; as though the passage of the Amendment by a two-thirds vote of Congress did not necessarily imply approval, but only a willingness to let the sentiment of the states decide.

Voicing this thought, Senator Sheppard said:

As I view the matter, the members of either branch of the American Congress who denies the power of amendment to the States, especially an amendment which vast numbers of the people desire the States to consider, violates the basic principles both of the Constitution and of popular government, repudiates the fundamental rights of the States and overturns the two most sacred privileges the people possess, the privileges of referendum and petition.{28}

That Senator Underwood recognized this strategy is shown:

The contention that the members of Congress should abandon their individual responsibility on the subject under the idea that they can shift that responsibility to the shoulders of the people in the several States is

{26}Congressional Record, 63rd Congress, 2nd Session, 736-45

{27}Ibid., 603

{28}Congressional Record, 63rd Congress, 3rd Session, 636. When the fight for ratification came the two-thirds vote of Congress was pointed to as evidence of the support of Congress.
so subversive of the spirit of representative government in relation to the most solemn responsibility that the Constitution itself places upon the members of this body that it is difficult for my mind to grasp the viewpoint of those who believe they have the right to abandon their personal and representative responsibility to the legislatures of States, which may or may not voice the sentiments of their constituents.29

The Congressmen apparently were not sufficiently convinced of their duty in 1914, though Hobson warned that "More than six million had petitioned for submission--ten times as many as ever petitioned any government in the history of the world for any one thing."30 The resolution failed to obtain the necessary two-thirds majority despite Congressman Morrison's declaration, "It is a matter of common knowledge that the Anti-Saloon League controls the vote of a majority of the members of Congress."31

The prohibition forces were not daunted by defeat, however. This was the first time that a full debate on the question had taken place in the House and they now knew where to work on the new candidates. As Hobson pointed out:

Fourteen States are now dry, 56% of the people live under prohibition laws and 78% are now in dry territory. The combination of factors against alcohol was never as potent as it is at present.32

The League staked its hopes on the election of 1916. No effort was made

29Ibid., 519. Full debate 495-616. For petitions favoring the amendment: 63rd Congress, 2nd Session, 8626, 4716, 5646, 7354, 8273, 8691; For those against it: 6217 et seq.

30Ibid., 63rd Congress, 3rd Session, 603

31Congressional Record, 63rd Congress, 3rd Session, 585

32Literary Digest, "Prohibition's Day in Congress," January 2, 1915, L, 8
to commit the presidential candidates--Congress was the goal. Wayne B. Wheeler, writing of the campaign at a later date, said:

All the energy we put into the 1914 campaign boiled and bubbled with hotter fire in the campaign of 1916. We laid down such a barrage as candidates for Congress had never seen before. . . We knew election night that we had won. Many hours before the country knew whether Hughes or Wilson had triumphed, the dry workers throughout the nation were celebrating our victory. We knew the Prohibition Amendment would be submitted to the States by the Congress just elected.33

During the next two years the total of dry states rose to twenty-four and to add to the League's already rosy chances the war came to occupy the minds of the people and to point to the unhappy fact that most brewers had German names and therefore were potential traitors to their country. "The liquor traffic" said Wheeler, "aids those forces whose loyalty is called in question at this hour."34

The war also raised the subject of food conservation and brought the League a golden opportunity. It was unpatriotic to convert food-stuffs into beverage when the whole nation was voluntarily rationing itself to send grain to starving Europe. This was a strong talking point for the prohibitionists:

The world shortage of 120,000,000 bushels of grain is more than covered by the amounts consumed in the manufacture of liquors in the United States alone. Does not this afford the most ready means of recovering that shortage with both speed and certainty? Is it wise, is it statesmanlike, to continue to consume grain in this way in the face of a real shortage of good food, when

33Steuart, Justin, Wayne Wheeler, Dry Boss, F. H. Revell Company, New York, 1928, 127
34Cited by Joseph P. Pollard, The Road to Repeal, Brentano's, New York, 1932, 106
even slight margins may constitute all the difference between success and failure in the great struggle that is upon us. With people starving abroad, with large sections of Europe desolate, and with food riots beginning in this country as a result of high prices, there can be but one answer to the question whether this wastage shall continue.35

Congress was quick to respond to this appeal and the Lever Food Control Bill contained a clause prohibiting the use of foodstuffs in manufacturing distilled spirits. When the bill was having a stormy passage through the Senate, President Wilson appealed to the League through Senator Martin of Virginia to agree to the elimination of the clause referring to beer and wine and thus expedite its passage. The League, however, was unwilling to comply with the request until the President himself should write a letter requesting their consent to the passage of the bill and stating the delay was caused by the action of the wets. "Knowing as we did," said Wayne Wheeler, "that the traffic always puts personal gain over patriotism we informed the Senator that if the President would put his request in writing, thus assuming the responsibility, we would give the matter careful consideration."36

President Wilson was reluctant to do this but finally consented and wrote not one but two letters, since the first one was unsatisfactory to the League Legislative Committee.37 The second letter follows:

35Eugene Davenport, "Shall the Brewing of Grain be Prohibited," Atlantic Monthly, July 1917, CXX, 79
36New York Times, July 1, 1917
37Ibid.
June 29, 1917

My dear Mr. Cannon:

I am very glad to respond to the request of Senator Martin the Democratic floor-leader in the Senate, that I give to your Legislative Committee an expression of my opinion with regard to the wisest and most patriotic duty and policy to be pursued toward the food administration legislation now pending in Congress.

I regard the immediate passage of the bill as of vital consequence to the safety and defense of the nation. Time is of the essence, and yet it has become evident that heated and protracted debate will delay the passage of the bill indefinitely if the provisions affecting the manufacture of beer and wine are insisted upon.

In these circumstances I have not hesitated to say to the members of the Senate who have been kind enough to consult me that it would undoubtedly be in the public interest in this very critical matter if the friends of these provisions should consent to their elimination from the present measure. Feeling that your Committee is actuated by the same patriotic motives which inspire me, I am confident that these considerations will seem to you as they seem to me, to be imperative.

With much respect, sincerely yours,

Woodrow Wilson38

The League replied in a letter abounding with magnanimity and patriotism and immediately released the correspondence covering the whole affair to the press.39

This revelation of the power of the Anti-Saloon League in the councils of


39 Washington Post, July 2, 1917
the nation aroused the opposing forces and was voiced editorially by the Washington Post:

For brazen effrontery, unmitigated gall, superlative egoism, transcendent audacity, supreme impudence, commend us to the legislative committee of the prohibition lobby that has throttled war legislation and delayed the nation's preparation for great conflict. Here we have the President of the United States under orders to an efficious and offensive lobby.40

Due to the magnanimity of the League, the Lever Food Control Bill passed on August 10, 1917 without the beer and wine provision but in conference the Bill was amended so that the manufacture of foodstuffs into distilled spirits was prohibited and the President was given authority to extend the restriction to beer and wine when he deemed it necessary.41

The time was now ripe to bring the prohibition amendment again before Congress. Wheeler insisted that it be done because his present advantage might not last. "We have got to win it now because when 1920 comes and reapportionment is here, forty new wet Congressmen will come from the great wet centers with their rapidly increasing population."42 The amendment was accordingly brought before the Senate in January 1917 and a storm of telegrams followed. A League official boasted that he had seen to the sending of nine hundred telegrams in one day and he was one of many who used business men to wire Congress.43 The Reverend Russell told, "We blocked the telegraph wires

40 Ibid.; also New York Times, July 10, 1917
41 Proceedings, 5367
42 Ibid., 75. A strong point of Prohibition spokesmen was that the amendment was "the will of the majority."
43 The League had previously sent letters of solicitation to 135,000 business men. 13,000 responded and from these were selected the men who were to receive telegrams.
in Washington for three days. 44

One of the chief objections to the submitting of the national prohibition amendment was that it would keep the question in politics for fifty years. At the suggestion of Senator Harding, who had enjoyed the support of the League in his campaign for the Ohio Legislature, Wheeler was able to have the time of ratification limited to six years. 45

At no time during the debate on the amendment in the Senate was ratification by conventions of the people mentioned. 46 In fact, Senator Sheppard declared the only way it could be ratified was by referring it to the state legislatures. Senator Ashurst interrupted him once to remark rather vaguely that he thought that the Constitution contained another method of amendment but nobody asked what the other method was and no more was said on the point.

The Senate passed the amendment resolution on August 1, by a vote of 65 to 20. A League official described the victory: "The first to bear the white flag was Senator Harding of Ohio. He told us frankly he was opposed to the amendment, but since it was apparent from the telegrams that the business world was demanding it he would submerge his own opinion and vote for submission." 48

44Odegard, 173
45The time was later extended to seven years. Borah and others believed this limitation to be unconstitutional but were over-ruled.
46During debate in the House, Mann of Illinois, proposed ratification by conventions in the states. Hobson, League spokesman, objected for the reason the same people who chose the legislatures would choose the delegates.
47Congressional Record, 65th Congress, 1st Session, 52
48Proceedings, 153
On December 17, 1917, the amendment came up for debate in the House and the League knew victory was at hand. Four more states had adopted prohibition within the year, bringing the total to twenty-seven. The wet forces lamented the fact that a secret ballot could not be taken. "Every Congressman knows that if the ballot on this amendment were a secret ballot, making it impossible for the Anti-Saloon League bosses to punish disobedience, the amendment would not pass." 49

The final debate on the resolution developed no new ideas. Arguments for the amendment stressed the notion that submission was a referendum and therefore Congressmen need not pass on the merits of the bill. If the argument was weak, the organization was strong and nothing remained but to arrange the terms of surrender for the liquor trade. There was a demand that some time be allowed for these interests to adjust their affairs before the amendment took effect. "There was no good answer to this argument so we traded jackknives with them," said Wheeler. "We agreed that we should stand for a year's time after ratification before the amendment should become effective." 50

These changes were made and the resolution was adopted by a vote of 282 to 128—a majority well over the necessary two-thirds. The following day, December 18, the Senate concurred with 47 ayes to 8 nays. 51 The amendment, as offered to the states was:

49 Washington Times, December 14, 1917

50 New York Times, March 31, 1926. Wayne Wheeler wrote the whole story of the final drive at this time.

51 Congressional Record, 65th Congress, 2nd Session, 422-70
Section I

After one year from the ratification of this article the manufacture, sale or transport of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section II

The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section III

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

A final stroke remained—ratification by the States. The States with prohibition laws could be expected to ratify quickly and all twenty-seven of them did so. Nine non-prohibition States had to be brought in line. In less than fourteen months 36 states had ratified, with only Rhode Island and Connecticut failing to approve. According to the provisions of the amendment on January 16, 1920, one year after ratification, national prohibition became a part of the fundamental law of the land.
CRITICAL ESSAY ON AUTHORITIES

1. Source Material


The impressions of foreign travelers in the country concerning the drinking habits of Americans may be gathered from *Travels to the West of the Allegheny Mountains* by Francois Andre Michoux (Arthur H. Clark, Cleveland, 1904). Michoux was commissioned by the French Minister of the Interior in 1802 to come to the United States to study forests and agriculture. John Melish, a Glasgow merchant, made extensive journeys through the United States


The *Statistical Annals of the United States* (Thomas Dobson & Sons, Philadelphia, 1818) provide the figures of the Treasury Department on the value and extent of the trade in intoxicating beverages in the early part of the nineteenth century. The *Statistical Abstract of the United States* (Bureau of Statistics, Department of Commerce and Labor) provides the same information for the period 1910-1920. The Bulletins issued after the *Seventh Census of the United States*, 1850, provided information on Church Membership (Table XXXVII, Volume IX, lvii); the Bulletins issued after the *Twelfth Census*, 1900, on Marriage and Divorce, (Part I) and Religious Bodies (Part I) gave information for the 1900 period. Statistics of the population of cities during this period were found in the *Twelfth Census*, (Bulletins 20 and 45).

The earliest efforts to make the Temperance Reform a matter of national legislation are found in *Debates in Congress*, 23rd Congress, 1st Session. The story of the Prohibition Amendment in Congress is in *Congressional Record*,...
In an issue as controversial as this, one expects to find much writing that is emotional and propagandist so for a study of policies and methods we have examined the literature of both the friends and foes of prohibition. The American Temperance Society Publishing House of Andover, Massachusetts published the *Journal of Humanity* in 1830, the *Annual Reports of the American Temperance Society*, 1831 to 1836 and those of the *American Temperance Union* from 1837 to 1859. The New York Temperance Society with executive offices at Albany published a *Temperance Almanac* annually for most of the years beginning in 1831, as well as the *American Quarterly Temperance Magazine* in 1833. The Philadelphia organ of the American Temperance Society was the *Pennsylvania Temperance Recorder* (1836). Lectures on Temperance by Doctor Eliphalet Nott (W. J. McCartee, Albany, 1862) is typical of the sermons published by prominent clergymen. After the Anti-Saloon League occupied the field, the efficiency of their organization was reflected in the publications of the American Issue Press at Westerville, Ohio. Typical of these were the *Anti-Saloon League Catechism* (1910); the *Anti-Saloon League Year Book* edited by Ernest H. Cherrington (1911); *Proceedings of the 18th Convention of the Anti-Saloon League* (1917) and *The Church in Action Against the Saloon* by W. H. Anderson (1910).

The primary source of Anti-Prohibition literature was the *Year Book of the United States Brewers' Association* (New York, 1909) and the *Proceedings*
of the Brewers' Congress, an annual publication since 1867.

Many investigations of the intoxicating drink problem were conducted in the course of the movement but perhaps the most objective reports were those of the Committee of Fifty, organized in 1893. The following books (published by the Committee) were not invariably free from bias or prejudice but they were the only earnest, sane and liberal attempt to examine the problem in all its bearings which we encountered. All were published by the Houghton, Mifflin Company, Boston: The Liquor Problem in its Legislative Aspects (1897); The Economic Aspects of the Liquor Problem (1897); The Liquor Problem: A Summary of Investigations (1905).

2. Secondary Sources

To discover the place of intoxicating drink in the social and economic life of the people, the following were found useful: Customs and Fashions in Old New England by Alice M. Earle (Charles Scribner's Sons, 1895); Men, Women and Manners in Colonial Times by Sydney G. Fisher (J. P. Lippincott, Philadelphia, 1897); Three Episodes of Massachusetts History by Charles F. Adams, Volume II, (Houghton, Mifflin, Boston, 1893) The Economic and Social History of New England by William E. Weeden, Volume I, (Houghton, Mifflin, Boston, 1891). Brief, but reliable presentations of the subject are found in A History of American Colonial Life by Curtis P. Nettels (F. S. Crofts & Company, New York, 1940) and The March of Democracy by James T. Adams (Charles Scribner's Sons, New York, 1932).

Books relating solely to the Prohibition Movement classify themselves
either title, publisher or author labels them as Prohibitionist or anti-Prohibitionist. In tracing the origin and development of the Movement we found no one book presenting the entire picture in an objective manner. The Origin of Prohibition by John Allen Krout (Alfred A. Knopf, New York, 1925) is the most objective of the works dealing with the early evidence of the reform. But Doctor Krout's book ends with the epoch of reform by precept and example and the beginning of political action which was marked by the Maine Law of 1851. Prohibition in the United States by Leigh Colvin, (George H. Doran, New York, 1926) covers the entire movement in time but the work was done by assignment of the Prohibition Party and is colored by the controversy of the Party and the Anti-Saloon League. Typical of the work of early temperance advocates the following have more propaganda than historical value: The Liquor Problem in All Ages (Phillips and Hunt, New York, 1884); The Temperance Reformation by Lebbeus Armstrong (Fowler and Wells, Boston, 1853); Temperance History by the Englishman Dawson Burns, (Houghton Mifflin Company, Boston, 1899); A Century of Drink Reform in the United States by August F. Fehlandt, (Eaton and Maine, New York, 1914); Temperance Progress in the Century by John G. Woolley, (Linscott Publishing Co., Philadelphia, 1903). In the same category falls the work of Ernest H. Cherrington, Secretary of the League: The Evolution of Prohibition and History of the Anti-Saloon League (American Issue Press, Westerville, Ohio, 1913).

A survey of the attitude toward the question of various churches was made by the Episcopalian minister, E. A. Wasson in Religion and Drink (Burr

The secular viewpoint of the foremost opponents of Prohibition is expressed by Fabian Franklin in the A B C of Prohibition (Harcourt Brace Company, New York, 1927); The Noble Experiment by Irving Fisher, (Macmillan, New York, 1926); Joseph P. Pollard's The Road to Repeal (Brentano's, New York, 1932); The Dry Decade by Charles Herz, (Doubleday, Doran, Garden City, New York, 1930); Alcohol and Society by John Koren, (Henry Holt & Company, New York, 1916).

The story of the final drive which put the Eighteenth Amendment in the Constitution is told by Peter Odegard in Pressure Politics (Columbia University Press, New York, 1928). It is the history of the Anti-Saloon League, well documented in proof of every fact set down. The work is Mr. Odegard's doctoral dissertation.

The biography of Neal Dow, moving spirit behind the first prohibitory law is Henry S. Clubb's book The Maine Liquor Law (Fowler and Wells, New York, 1856). It is a glorification of Mr. Dow and contributes nothing to prohibition history and little temperance propaganda. The biography of Frances Willard by Roy Strackey, Frances Willard: Her Life and Work belongs to the same category. (T. Fisher Unwin, London, 1912) Wayne Wheeler, Dry Boss by his confidential secretary Justin Steuart (F. H. Revell Company, New York, 1928) is
3. Periodical Literature

Periodical literature is naturally abundant but much of the writing is intensely emotional, propagandist, and controversial. However there are some objective surveys. A variety of aspects of the question are considered in the Annals of the American Academy of Political Science, CIX, 1923. J. C. Lockwood discusses "The Militant Anti-Saloon League" in the Independent, LXXVIII, June 22, 1914 and H. G. Furbay deals with the same subject for an earlier period in "The Anti-Saloon League" in North American Review, LXXXIX, 1903. The Literary Digest, January 2, 1915, deals editorially with "Prohibition's Day in Congress" and again in April 20, 1920.

The religious controversies engendered by the movement are discussed by R. Briton in "Scriptural use of the word 'Wine'", Ecclesiastical Review, Volume LII, June, 1915 and again in October, 1915 by Lucian Johnston in "An Aspect of Prohibition." William C. Murphy presents the attitude of the "Catholic Press" toward prohibition in the American Mercury, Volume IX, December, 1926.

Wartime Prohibition is advocated by Eugene Davenport in "Shall the Brewing of Grain be Prohibited?", Atlantic Monthly, July, 1917.

The New York Times (July 1, 1917) carries the story of the influence of the League in Congress. The Washington Times (December 14, 1917) and the Washington Post (July 2, 1917) discuss the question editorially.
APPROVAL SHEET

The thesis submitted by Sister Mary Devota (Higgins), O.P. has been read and approved by three members of the Department of History.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the Degree of Master of Arts.

November 13, 1941
Date

Paul Finney
Signature of Adviser