



## Adjusting the Lights: Prohibition Was Not Flipped On and Off Like a Switch<sup>1</sup>

Eline Poelmans, KU Leuven, Faculty of Economics and Business, Campus Brussels, B-1000 Brussels, Belgium, [eline.poelmans@kuleuven.be](mailto:eline.poelmans@kuleuven.be)

Jason E. Taylor, Central Michigan University, [Taylor2je@cmich.edu](mailto:Taylor2je@cmich.edu)

### Abstract

Prohibition (1920-1933) in the United States is generally viewed as a period with a defined beginning and end. When one factors state and local bans into the discussion, however, the issue is much more complicated. Local prohibitions began in the 1830s and state-level bans appeared in the 1850s. On the eve of federal Prohibition, thirty-two states already had statutory or constitutional prohibitions in place and fifteen more had local options whereby municipalities within those states could prohibit alcohol. Prohibition's end is also not as clear-cut as typically assumed. Many states legalized beer prior to "Repeal" and state- (and municipal-) level prohibitions remained in effect in many parts of the US even after Repeal. Were it a metaphorical light bulb, prohibition's glow in the US would be controlled by a continuous dimmer knob rather than a dichotomous on/off switch. This paper documents the brightening and dimming of this light in the eras both before and after federal Prohibition.

**JEL Classifications:** N4, N8, N9, H7.

**Keywords:** Prohibition; Repeal; beer; alcohol.

---

<sup>1</sup> This paper is based upon the keynote address that the authors delivered at the Economic and Business History Society's 2021 Online Conference.

Copyright © 2022, The Economic and Business History Society. This is an open access journal. Users may read, download, copy, distribute, print, search, or link to the full texts of the articles in this journal without asking prior permission from the publisher or the author.

ISSN 0896-226X LCC 79-91616 HC12.E2

<http://creativecommons.org/licenses/by/4.0/>



## Introduction

When uncapitalized, the word “prohibition” is a non-proper noun defined as the act of making an activity or product illegal or impossible. But for economic and business historians of the United States, the term “Prohibition”, now a capitalized proper noun, is a period of American history from January 17, 1920 until December 5, 1933. During these 5,071 days the production, sale, importation, and transportation of intoxicating liquors was banned nationwide by the 18<sup>th</sup> Amendment to the US Constitution and its accompanying legislation, the Volstead Act, which defined intoxicating liquors as anything with more than 0.5 percent alcohol by volume.

Those who do not know much about its history may think that alcohol Prohibition in the United States was an institutional regime that turned on and off like a light switch on these two dates. That analogy is entirely inaccurate. The eight decades prior to 1920 saw major ebbs and flows in terms of prohibitions being instituted (or repealed) at the state and local levels. The same is true of the period beginning in April 1933 as many states and localities remained “dry” while others engaged in various degrees of legal “wetness”. Were it a metaphorical light bulb, prohibition’s glow in the US would be controlled by a continuous dimmer knob rather than a dichotomous switch.

Our focus here is not on federal Prohibition itself, but rather on the state and local restrictions, and relaxations thereof, experienced on either side of this relatively short period in the life of the country. We begin with a discussion of nineteenth and early twentieth century prohibitory restrictions at the sub-federal level. The nation experienced several definable periods in which such restrictions rose and fell during the decades leading to 1920—the year that Prohibition’s light was turned to full power. We then document the gradual dimming of Prohibition’s glow in 1933. This began with the temporally staggered state-level legalization of 3.2 percent alcohol beer. Twenty states legalized on April 7 and twenty-three others legalized sporadically over the following seven months. We finish by discussing the likewise temporally staggered legalization—or not—of liquor that followed after the passage of the 21<sup>st</sup> Amendment to the Constitution which ended Prohibition in December 1933.

While alcohol prohibition is our primary focus, this paper is more broadly about the geographic layers of the law that come with a federalist system like the United States. Although a federal restriction on an action trumps a local constraint, the removal of a federal restriction does not make that action free if state or local restrictions remain in the legal code. Many states and municipalities were surprised when they faced this inconvenient reality at Prohibition’s end. Citizens were often incredulous upon realizing that ordinances passed long ago prevented them from enjoying the freedoms their neighbors experienced as federal prohibitory laws were relaxed in 1933. Thus, even when the light of prohibition was extinguished at the federal level, it continued to shine brightly in parts of the country. At the time of writing, around 18 million Americans live in the 10 percent of the land mass of the United States where alcohol sales are prohibited.

## Bringing Up the Light: Ebbs and Flows in State and Local Prohibitions Prior to 1920

The temperance movement in the United States is almost as old as the country itself. In 1785, Philadelphia physician Benjamin Rush—a signer of the Declaration of Independence a decade earlier—published an essay about the deleterious effects of alcohol.<sup>2</sup> Even George Washington, a month prior to beginning his presidency, referred to alcohol as “the source of all evil and the ruin of half the workmen in the country” (Willard Sterne Randall 1997, 443).

---

<sup>2</sup> D. Leigh Colvin (1926, 13) refers to Rush’s essay as the inception of the US temperance movement.

## Poelmans and Taylor: Adjusting the Lights

Temperance societies cropped up during the following decades and by 1835 there were more than 8,000 such organizations, which together counted nearly 12 percent of the nation's citizens as members (Colvin 1926, 15). Michael Young (2002) calls temperance one of the first national social movements in the US while Theda Skocpol, Marshall Ganz, and Ziad Munson (2000) document the laborious process of temperance organizations mobilizing into large national memberships.

Early temperance efforts relied primarily on voluntary abstinence pledges and moral suasion. Still, some temperance advocates, including legendary reformer Gerrit Smith, favored outright federal prohibition (Thomas Pegram 1998, 24-34). Beginning in the 1830s, and continuing in an unsteady progression until 1920, states and localities enacted (and repealed) various forms of legal prohibition. In joint work with Ranjit Dighe and John Dove (Poelmans, Dove, Taylor and Dighe 2022) we employ a 70-year panel to examine the extent that demographic, political, geographic, and special interest group factors affected states' prohibition decisions—specifically the decision to implement local options, statewide statutory prohibitions, or statewide constitutional prohibition—in the decades leading up to federal Prohibition. Poelmans, Dove, Taylor and Dighe (2022) employ sources such as Ernest Cherrington (1920) and Colvin (1926) to create tables that report the dates in which local options and state-wide prohibitions of various types were implemented in each state between 1830 and 1919. Unless otherwise noted, these tables provide the basis for the dates we employ in this study for when states adopted various forms of prohibition prior to 1920.

Beginning in the 1830s, some states adopted forms of “local option”, whereby municipal governments within that state could restrict or prohibit the sale of alcohol within their borders. Early local option restrictions were generally implemented by removing (or not granting) licenses for alcohol producers and sellers and making unlicensed sales illegal (Richard Hamm 1995, 28). Indiana instituted the first local option law in 1832, which “provided for remonstrances in townships or towns”, and Georgia followed in 1833 with a law allowing courts in both the city of Athens and the whole of Liberty County to enact local prohibitions (Cherrington 1920, 108, 111). By 1840 there were seven states with local option laws—Connecticut, Massachusetts, Rhode Island, Vermont, Georgia, Indiana, and Illinois—which took on various forms. For example, Connecticut required a majority vote at a town meeting for approval of each liquor license, while Massachusetts gave county commissioners the power to decide on whether to grant licenses to sell alcohol (Cherrington 1920, 120; John Allen Krout 1925, 275).

Paul Carcieri (2007) examines the history of the temperance movement in Rhode Island. In January 1838, the state's lawmakers passed a local option allowing city and town councils the right to grant licenses allowing the sale of liquor. In response, the city of Providence held a popular vote on August 28, 1838, and by a slim majority of 69 votes, its citizens chose to go dry by not issuing any such licenses. A month later, Providence grocer Abner Peckham was ruled to be in violation of the city's dry law. He appealed to the Rhode Island Supreme Court, arguing that the city law was an infringement upon the exclusive right of the federal government to regulate commerce between states and foreign nations since the wine that Peckham sold had been first imported from France to New York and was then shipped to Rhode Island. Peckham argued that this made the wine's sale immune from state or local regulation. The Rhode Island Supreme Court upheld Peckham's conviction, however, arguing that once in the hands of a retailer, alcohol was outside of federal control.<sup>3</sup>

---

<sup>3</sup> Carcieri 2007, 34.

### ***Statewide Prohibitions and Implementation of “Maine Laws” in the 1850s***

If we imagine the US as a light bulb whose radiance is a function of the extent that its citizens face legal alcohol prohibition, it would have begun to glow ever so dimly in the 1830s via the institution of the local option laws discussed above. The metaphorical bulb brightened significantly in the mid-nineteenth century as states began to adopt state-level prohibitory laws. Oregon, which was at the time a territory rather than a state, passed a prohibitory law in 1844, but repealed this law before the end of the decade. Maine enacted what was known colloquially as the “Twenty-Eight Gallon Law” in 1846. This statute prohibited alcohol from being sold in less than 28-gallon quantities. According to Masaru Okamoto (1982), this was effectively a “local option” law since enforcement was at the discretion of local administrators and they quite often chose to keep their municipalities wet even for single-drink purchases. New Hampshire prohibited wine and liquor in 1849, although beer remained legal in the state.

In 1851 Maine passed what is generally considered the first comprehensive and effective state-wide statutory prohibition of alcohol. Over the next four years, 13 states followed by passing their own so-called “Maine Laws”. Cherrington (1920) labels 1851 to 1869 “The First State-wide Prohibition Wave”. As these were only statutory changes, they were relatively easy for subsequent legislatures to weaken or repeal. Furthermore, state courts sometimes ruled these restrictions unconstitutional or unenforceable for various reasons.

Figure 1 shows maps of the United States at various intervals whereby darker colors represent stricter degrees of prohibition—like a brighter glow of our metaphorical bulb. For the years 1855 to 1919, the status, from strictest to most lax, are statewide constitutional prohibition (the deepest blue), statewide statutory prohibition, local option, and no prohibition (the lightest blue). The 1920 to 1933 map is all deep blue representing federal constitutional prohibition. For the 1933 and 1934 maps, the status, from strictest to most lax is full statewide prohibition, beer only, local option, and no prohibition.<sup>4</sup> The first panel shows the nation in 1855, at the peak of the first wave. Subsequent panels show dates that we will refer to later in the text as corresponding to other delineated waves. Rather than dispersing them throughout paper, we report these maps side by side to best illustrate the temporal changes in the glow of our metaphorical prohibition bulb.

To provide further historical context, we return to the case of Rhode Island, which was one of those states that decided to follow Maine’s early lead in statewide prohibition. By 1851—thirteen years after the institution of its local option law—24 of 31 Rhode Island cities and towns had enacted local prohibitions which made them either outright dry or under the imposition of severe alcohol restrictions. However, these dry municipalities tended to be in more rural and less populated areas—in fact the capital city of Providence had repealed its aforementioned 1838 dry decision in 1842, and the state’s other large city, Newport, was also wet (Carcieri 2007, 38 and 70). In the spring of 1852, Rhode Island passed a “Maine Law”, which was immediately struck down by the US Circuit Court because it required accused violators to post bond and surety for court costs and fines prior to their conviction. In January 1853, the Rhode Island General Assembly passed a new version of its statewide prohibition law, without the offending language, and the whole of Rhode Island became legally dry.

---

<sup>4</sup> Sources for the pre-1920 maps are Poelmans, Dove, Taylor, and Dighe (2022) and for the post-1932 maps beer-only data are from Poelmans, Taylor, Samuel Raisanen, and Andrew Holt (2022) and other status data were obtained by examining contemporary newspaper articles. In particular, information for December 5, 1933 are from “Repeal Lifts Prohibition Veil, Drawn for 13 Years” by the Associated Press in *The Ludington Daily News*, December 4, 1933, 1 and 6; for January 5, 1934, “Bars, Buyer’s Permits and State Stores—Map Shows How Liquor is being Controlled throughout U.S.” *Lansing State Journal*, Jan 5, 1934, 18; and for December 5, 1934 “First Anniversary of Repeal Still Shows Few States in Dry Column” *Daily Times and Daily Journal Press* (St. Cloud, MN), December 5, 1934, 12.

Poelmans and Taylor: Adjusting the Lights

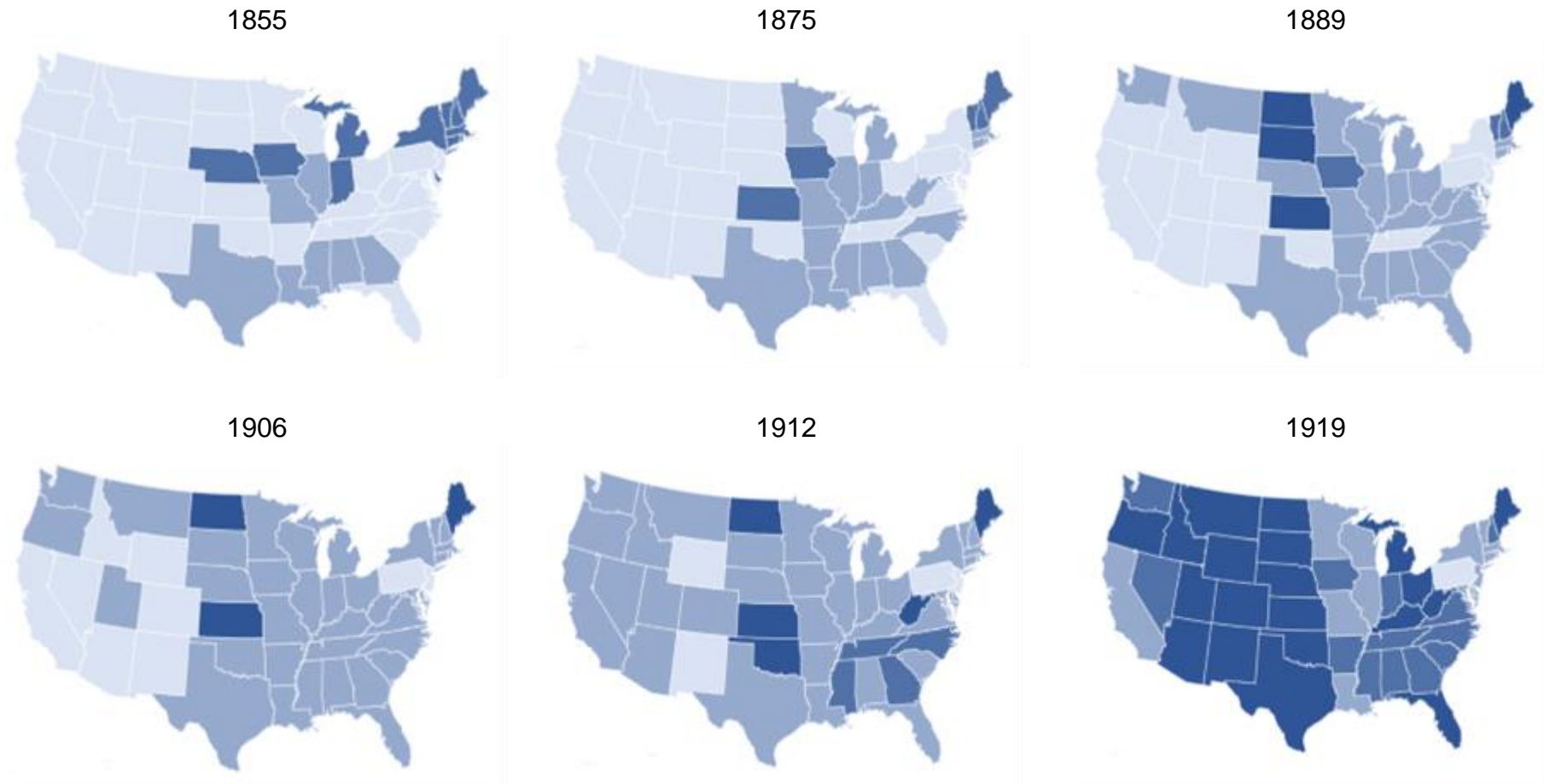
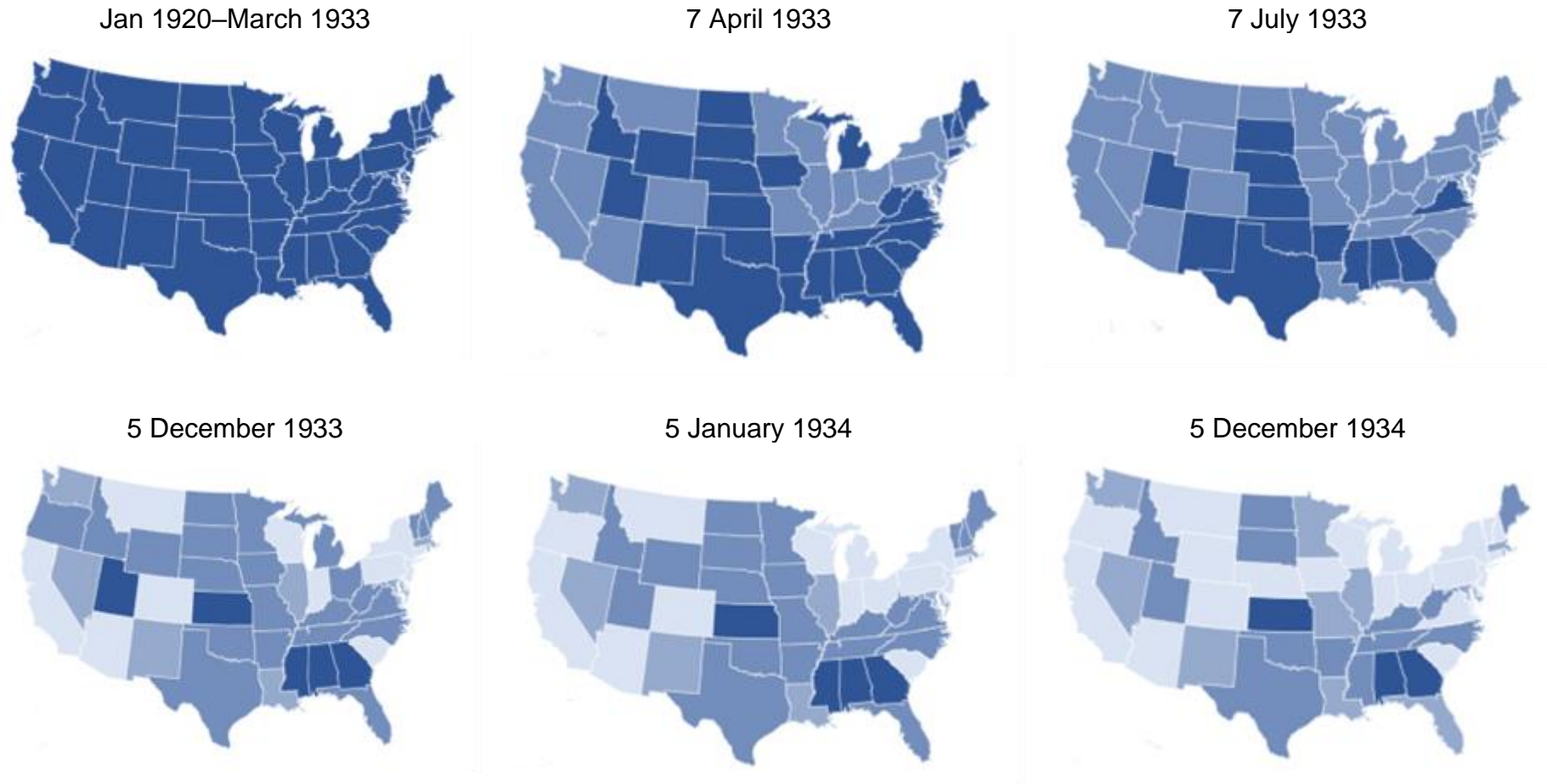


Figure 1: Prohibition Status Over Time by State/Territory



**Figure 1 continued**

Notes: See text and footnote 4 for the sources used in the creation of these maps. Darker colors represent stricter degrees of prohibition (see text).



The law stipulated Rhode Islanders would have the ability to either repeal or retain the law in the April 1853 general election. By a vote of 9,074 to 8,369, the prohibition was retained.<sup>5</sup> Still, as was the problem with Maine's 1846 law, local agents were charged with enforcing the state prohibition and they sometimes declined to do so. Proponents of temperance in Rhode Island—and other states that likewise passed such prohibitions—became frustrated by the open flaunting of the law in many areas. The issue of enforcement was such a major issue that political candidates often adopted competing monikers like “prohibitionist” or “pro-license” to denote the two sides of the debate (Carcieri 2007, 76).

Continuing with our metaphor, while the bulb's glow brightened significantly during the 1850s, it dimmed considerably over the following two decades as many states abandoned these prohibitions. Delaware, Iowa, and Nebraska repealed their prohibitions in 1857 and 1858. Rhode Island repealed its statutory prohibition in 1863 so that it could raise revenue through the taxation of alcohol. Some states' legal regimes went back and forth like ping-pong balls. Massachusetts imposed a statutory prohibition in 1852. It then repealed it in 1868 only to reinstate it in 1869 before repealing it for good in 1873. By 1875, which is illustrated in the second panel of Figure 1, all of the 14 states that passed the original “Maine Laws” in the 1850s, with the sole exception of Vermont, had repealed their prohibition law. In the case of Maine itself, while it had repealed the law in 1856, it brought back statewide prohibition in 1857 and the state remained legally dry under that statute through the institution of federal Prohibition in 1920 when its dryness was further imposed under the authority of the 18<sup>th</sup> Amendment and Volstead Act.

### ***The Constitutional Prohibition Movement of the 1880s***

In addition to being easy to repeal or amend as political winds shifted, local judges sometimes ignored state prohibitory statutes. To illustrate, Keith Howard (2015, 40) notes that Kalamazoo, Michigan remained perpetually “wet” even though alcohol was statutorily prohibited between 1855 and 1875. The cause of Kalamazoo's wetness was local judge Abner Pratt's refusal to enforce the state's prohibition law because he believed it violated Michigan's constitution. State-level constitutional amendments prohibiting alcohol could end such legal ambiguity and limit judges' abilities to make such calls. Furthermore, while constitutional amendments were more difficult to implement than statutory ones, they were generally more durable since they were harder to rescind.

In 1856, after New York's statutory prohibition was ruled unconstitutional by the state supreme court, William Armstrong, a leading figure in the Sons of Temperance of Eastern New York, pushed for an amendment to New York's state constitution, which would place prohibition “beyond the power of any Court to annul it or of any legislature ... to repeal it” (Ann-Marie Szymanski 2003, 97). While Armstrong's push for a constitutional amendment in New York did not make it through the General Assembly, it was a harbinger of things to come in other states as proponents of the temperance movement began to focus heavily on constitutional prohibitions at both the state and federal levels.

In 1876, the national Prohibition Party, which was founded in 1869 and regularly put forth candidates for state and federal office, called for a national constitutional prohibition amendment.<sup>6</sup> Following the constitutional push wave, Kansas became the first state to hold a popular vote for a constitutional prohibition amendment in November 1880. Days before the vote, *The Golden Gate*, a newspaper published by the United Order of Ancient Templars in Newton, Kansas, encouraged its readers to vote for the amendment, writing, “Against this proposed amendment will be ... liquor manufacturers, wholesale liquor dealers, wine

---

<sup>5</sup> Carcieri 2007, 72.

<sup>6</sup> In 2020, the Prohibition Party's presidential candidate, Phil Collins, received 4,834 votes. <https://elections.ap.org/dailykos/results/2020-11-03/state/US/race/P/raceid/0>

merchants, saloon owners, bar tenders, gamblers, murderers, burglars, thieves, pickpockets, bummers, pimps, and many moderate drinkers". Among those who would vote in favor of the amendment would be "ministers, professional tradesmen, merchants, mechanics, laborers, [and additionally those] recognizing their inability to cope with the Devil even-handed will vote for the banishment of his principal auxiliary".<sup>7</sup> A starker list of good versus evil could hardly have been offered. By a vote of 92,302 to 84,304 the prohibition amendment passed and Kansas moved under constitutional prohibition.

Following Kansas's lead, Iowa likewise passed by popular vote (155,436 to 125,677) a constitutional prohibition amendment in June of 1882. However, the state's supreme court ruled the amendment void because of technicalities in the process. The subsequent legislature could not agree to put it up to a vote again, so the state instead adopted a statutory prohibition in 1884, which lasted for a decade before it was replaced in 1894 with a local option (Dan E. Clark 1908).

In total, the issue of state-wide prohibition (mostly constitutional, but sometimes statutory) was debated in the legislatures of three-quarters of the states and territories of the United States during the 1880s. Cherrington (1920, 176) labels the 1880s as "The Second State Prohibition Wave". While prohibition amendments were widely considered, and in many cases they were put to popular votes of a state's citizens, only four states besides Kansas and Iowa—Maine, Rhode Island, North Dakota, and South Dakota—passed them during the 1880s. In the cases of Rhode Island and South Dakota, these constitutional amendments were shortly thereafter rescinded by another round of popular vote.<sup>8</sup> The third panel of Figure 1 shows the prohibition status of the states in 1889.

### ***Renewed Focus on Local Options, 1890 to 1906***

Given the lack of success in getting constitutional amendments in place, during the 1890s advocates of the temperance movement began to focus more of their energy on imposing local options rather than state-wide bans. The empirical analysis of Poelmans, Dove, Taylor and Dighe (2022) suggests that local options were substitutes for, rather than gateways to, state-wide prohibitions in the decades prior to federal Prohibition. Indeed, in many of the states where movements to implement either statutory or constitutional state-wide prohibitions were defeated, local options were implemented as a political compromise. For opponents of temperance, it was better to allow some parts of the state to go dry rather than accept a statewide ban. Poelmans, Dove, Taylor and Dighe (2022) note that even large beer-producing states such as Pennsylvania (1872), Massachusetts (1875), Michigan (1887), Ohio (1888) Wisconsin (1889), New York (1896), and Illinois (1907) implemented local option laws in the late nineteenth and early twentieth centuries. Cherrington (1920, 255) reports that by 1906 over half of all counties and nearly two-thirds of all cities, townships, and villages, were under prohibition, even though only three states—Maine, Kansas, and North Dakota—had state-level prohibition in place at that time. The fourth panel of Figure 1 shows the nation's prohibition status in 1906—local options blanketed most of the country with the exception of the southwestern US.

### ***Statewide Prohibitions Accelerate Leading up to 1920***

In the 13 years between 1906 and 1919, our metaphorical dimmer knob turned further toward the bulb's maximum brightness, as can be seen in the fifth and sixth panels of Figure 1, which show the status of the nation in 1912 and 1919. Between 1907 and 1912, five states passed

---

<sup>7</sup> "Constitutional Amendments." *The Golden Gate* (Newton Kansas), October 27, 1880, 2.

<sup>8</sup> Rhode Island implemented constitutional prohibition in 1886 and rescinded it in 1889 while South Dakota implemented in 1889 and rescinded in 1896.



statutory prohibition (although in Alabama's case its 1907 law was repealed in 1911) and two more states passed constitutional amendments implementing prohibition. Then, between 1914 and 1918, 26 states passed state-wide prohibitions (16 were constitutional amendments and 10 were statutory changes). Thus, by 1919, 33 American states were under statewide prohibition and of the 15 remaining states, only Pennsylvania did not have a local option. In the period just before the prohibition bulb's dimmer knob was turned to full power on January 16, 1920 (panel seven), some form of prohibition had touched 98 percent of all states. As a result, the number of foot candles that were added to the bulb's luminosity on the day that federal Prohibition was implemented was far less than is generally assumed.

### ***Local Gradualism: Strategically Turning the Dimmer Knob toward Full Brightness***

Szymanski (2003) highlights the successful, and intentional, strategy of “moderates” (as opposed to what she calls “radicals”) in the temperance movement to work in a piecemeal way toward the ultimate goal of national prohibition—a movement she terms “local gradualism”. Szymanski (2003, 4) notes that the Anti-Saloon League (ASL) believed that “a proponent of municipal prohibition could become an advocate of county prohibition, then an advocate of statewide prohibition, and finally an advocate of national constitutional prohibition”. The ASL's deliberate strategy was to initially attack at geographic points of least resistance since “nothing succeeds like success and that nothing makes more sentiment than the proper utilization of the sentiment that already exists” (Szymanski, 2003, 183). To relate her thesis to our paper, as the dimmer knob slowly turned up the light of our prohibition bulb, Americans' eyes gradually adapted to that light. Thus, further increases in brightness induced less discomfort. Consider the discomfort a person sitting in a long dark room experiences when overhead lights are suddenly switched to full power. Protestations to such an action will likely be strong. But use of a dimmer switch whereby the light is gradually brought up to full luminosity likely will bring far less protest.

### **Dimming the Light: The Temporally (and Geographically) Staggered End of Prohibition**

During the over 13-year period of full federal Prohibition, panel seven of Figure 1 shows our metaphorical bulb glowing at full power. Of course, it is important to note that our allegory refers to *prohibitory law* and not necessarily to the production and consumption of alcohol. Stories of illicit bootleggers and lively speakeasies during the Prohibition era have become staples of American pop-culture. Furthermore, enforcement was relatively lax in many cities, thus creating some “wet” enclaves in technically dry areas. It is interesting to note that many of the breweries that remained in operation during Prohibition produced and sold malt extract. Malt extract was marketed as an ingredient that could be used to bake bread, but in practice it was important to making illicit beer. The *Lima Sunday News* conducted a fascinating analysis of malt extract sales in Lima, Ohio in the spring of 1929. Records showed that an average of 8,000 cans of malt extract were purchased by Lima households each week. According to the bread recipe listed on the malt extract can, this was enough to make 16 loaves of bread per week for every man, woman, and child in Lima. The article contended that the far more likely scenario was that the malt extract was being used to make around four pints of homebrew per person per week in Lima.<sup>9</sup>

In addition to the illicit, some legal alcohol consumption took place during Prohibition (Poelmans and Johan Swinnen, 2012). Section 33 of the Volstead Act (H.R. 6810, 1919) stated that “it shall not be unlawful to possess liquors in one's private dwelling while the same

---

<sup>9</sup> “Users of Malt Syrup Watching Ohio Assembly.” *Lima Sunday News*, March 31, 1929, 5.

is occupied and used by him as his dwelling only and such liquor need not be reported, provided such liquors are for use only for the personal consumption of the owner thereof and his family residing in such dwelling and of his bona fide guests when entertained by him therein". Thus, many affluent Americans stocked up in advance of Prohibition and consumed from these stocks. Furthermore, Daniel Okrent (2010) highlights the rampant use of loopholes whereby alcohol could be legally obtained for medicinal (generally spirits like whiskey) or religious (generally wine) purposes.

Jeffrey Miron and Jeffrey Zwiebel (1991), using mortality, mental health, and crime statistics as proxies, estimate that consumption of alcohol remained between 50 and 70 percent of its pre-Prohibition level. According to Dighe (2015, 17) because breweries were far more difficult to conceal than production units for higher proof alcoholic beverages, beer production and consumption fell much more steeply than consumption of spirits. Employing hops production as a proxy, Clark Warburton (1932) estimates that brewing fell to as low as 7 percent of its prewar level in the early years of Prohibition.

As interesting as that period is, our focus here is not on the Prohibition-era itself, but rather the legal movement both toward and away from it. While Prohibition's official end occurred on December 5, 1933, via the 21<sup>st</sup> Amendment—i.e. "Repeal"—it is a gross oversimplification to say that our metaphorical light bulb went from fully light to fully dark on that day, as though a switch had been flipped. In fact, legal prohibition's light had already dimmed substantially in the months prior to December via the federal legalization of beer in April of 1933.

### ***Beer Legalization in the Spring of 1933***

Eight days after he took office, President Franklin Roosevelt encouraged Congress to legalize beer. Poelmans, Dove, and Taylor (2018) detail the political whirlwind that was the 10-day period that followed Roosevelt's request, and they show that votes for the "beer bill" were heavily influenced by special interests. In particular, they show that the Congressional contingents of states that had a strong brewing tradition were far more likely to vote in favor of beer legalization than otherwise.

The Cullen-Harrison Act, signed into law on March 22, 1933, amended the Volstead Act's legal definition of "intoxicating beverages", which was previously anything above 0.5 percent ABV, to now being those above 3.2 percent alcohol by weight (this translates to 4 percent ABV, around what many light lagers are today). Federally, beer (or light wines 3.2 percent or lower) could be immediately produced and could be sold legally beginning on April 7, 1933. However, this removal of the federal restriction on beer did not usurp state and local prohibition laws that remained on the books. As mentioned in the prior section, when federal Prohibition commenced in January 1920, thirty-three states were under some form of full prohibition (statutory or constitutional) and fourteen other states had local options—only Pennsylvania did not have a local option—whereby some geographic municipalities within them were under prohibition. These sub-federal governments needed to amend those laws in order to allow legal beer. While a federal restriction trumps the lack of any state or local one, the lack of a federal restriction is overridden by the presence of a sub-federal one.

We do not mean to imply that state-level prohibitions stood still between January of 1920 and March of 1933. For example, both Vermont and Minnesota were wet the day before federal Prohibition began, but subsequently passed state-level prohibitions to align with federal law. On the other hand, some states that had statutory or constitutional prohibitions in place in 1920 acted to eliminate them prior to 1933 so that they would become wet when federal Prohibition fell—an outcome that seemed to become increasingly likely by the early 1930s. Voters in Michigan, Louisiana, and New Jersey overwhelmingly supported the repeal of their existing state prohibitions in November 1932. California likewise voted to repeal its

state enforcement act, the Wright Act—one of the many so-called “baby Volsteads”, which were meant to supplement the federal enforcement act.<sup>10</sup>

Upon repeal of the Wright Act, Alameda County District Attorney Earl Warren (who would later become Chief Justice of the US Supreme Court) declared that “it will no longer be the right, duty, or responsibility of district attorneys, sheriffs, or policy to enforce the Volstead Act. That is a federal law and its enforcement is a matter for federal authorities”.<sup>11</sup> The state of New York had similarly repealed its Mullen-Gage prohibition enforcement law back in June of 1923, although in this case political leaders like governor Al Smith claimed that New York police would still have the “responsibility of maintaining the Volstead Act with as much force and as much vigor as they would any state law or local ordinance”.<sup>12</sup> Wisconsin likewise repealed its prohibition enforcement act by a two-to-one popular vote margin in April 1929, but the state’s governor, like Smith in New York, stated that the federal Volstead Act was “still in full force and effect”.<sup>13</sup>

In practice, even those states that did not have their own prohibition in place in March 1933 generally formulated a state-level “beer bill”, which would specify the level of state taxes that would be imposed, how distribution would be handled, and in what venues beer would be allowed. Within days, or even hours, of the federal beer bill’s passage on March 22, virtually every state had one or more versions of a beer bill introduced in their state houses and senates. Some states moved quickly to pass these bills. In other states, they did not get beyond the committee level, and hence many states effectively remained under full prohibition despite the federal relaxation allowing beer.

### ***The Pace of Beer Legalization in the American South***

A March 25, 1933 *Associated Press* article summarized the status of the movement toward beer legalization across the American South—which had traditionally been more aligned with dry interests than the nation at large—as of that date.<sup>14</sup> The article noted that Alabama, under statutory statewide prohibition since 1915, had only recently legalized 0.5 percent alcohol “near beer” and that its beer bill was “apparently dead”, after being killed by legislative committees. In Virginia, which had a statutory state prohibition in place since 1914, Governor Pollard refused to call a special session of the legislature to amend the statute or organize any type of movement for repeal. Arkansas likewise had a statutory prohibition in place from 1915. While its beer bill of March 1933 quickly died in committee, a state-level repeal convention—to consider repeal of the 18<sup>th</sup> Amendment—was set for August 1, 1933. In Mississippi “no repeal action is in sight”. Georgia, under full prohibition since 1907, had its beer bill tabled by its legislature. The Florida legislature, the article noted, was in recess, but it was scheduled to meet in April and “its members have announced plans to introduce beer bills”. On the other hand, Maryland, North Carolina, and South Carolina each appeared on track to legal beer by April as they had widely-supported beer bills pending in congress.

Following up on what played out in these Southern states across 1933, Maryland was the quickest to legalize. Attorney General William Preston Lane swiftly wrote up the state’s

---

<sup>10</sup> In many states these enforcement acts were even more draconian than the federal law, sometimes even prohibiting medicinal alcohol.

<sup>11</sup> “Wright Act Repeal Ends County, City Enforcement Duty Rules Warren: Dry Chiefs Plan Fight.” *Oakland Tribune*, November 10, 1932, 1.

<sup>12</sup> “Gov. Smith Foe of ‘Fanatical Drys’ who Wrote Law, Signs Repealer.” *Chicago Tribune*, June 2, 1923, 2.

<sup>13</sup> “On the Way to Prohibition Reform.” *The Daily Northwestern* (Oskosh, Wisconsin), June 3, 1929, 10.

<sup>14</sup> “Louisiana to be a Dixie Moist Spot when Beer Goes on Sale.” *The Shreveport Journal*, March 25, 1933, 1, 3.

beer bill and the Maryland General Assembly approved in time for legal beer on April 7.<sup>15</sup> The legislatures of North Carolina (May 1), South Carolina (April 14), and Florida (May 8), while a bit slower, acted to legalize beer shortly after April 7. Arkansas moved more slowly, as beer was not legalized in that state until August 24, 1933. Virginia followed around a week later with legal beer on September 3, 1933. Alabama, Georgia, and Mississippi did not legalize beer at all in 1933.

### ***Case Study of the Louisiana Beer Bill***

One southern state that moved very quickly to legalize beer was Louisiana, which housed the city of New Orleans—long known as being one of America’s hardest-drinking cities. In 1921, the state passed the Hood Act to supplement the federal Volstead Act. On March 24, Louisiana repealed the Hood Act effective April 13, 1933, clearing the way for legal beer on that day. Still, local leaders in what were dry municipalities prior to federal Prohibition expressed confusion as to whether Louisiana’s old local option prohibitory laws were still binding. On March 24, Shreveport Mayor George Hardy claimed that he was of the opinion that the old dry laws of Caddo Parish, to which Shreveport belonged, would still be in effect on April 13 and he asked the city’s attorney, Aubrey Pyburn, for guidance.<sup>16</sup> On April 1 Pyburn ruled that while the local prohibition law was indeed still in effect for Caddo Parish, it was not relevant to 3.2 percent beer, which had just been declared non-intoxicating under federal law.<sup>17</sup> Pyburn was also given the task of writing up a new beer-regulation ordinance for the city of Shreveport. The ordinance, which imposed a 50 cent per barrel tax as well as a \$25 license for retailers and \$50 license for wholesalers, was unanimously passed by the city council on April 4, 1933.<sup>18</sup> Tying up any final loose ends, Caddo Parish adopted an ordinance that would allow (and tax at the parish level) beer on April 13, 1933—as it was passed as an emergency measure, it went into effect immediately.<sup>19</sup> Figure 2 shows a gentleman in Shreveport enjoying legal beer later that day.

### ***Examples from the Midwest: The Cases of Ohio and Michigan***

In Midwestern states, many of which had a strong tradition of brewing, action to legalize beer was typically far swifter than in the South. Some states had been preparing their own prohibition relaxations, in anticipation of reform or repeal of federal Prohibition, for months. For example, when the Ohio legislature passed the state’s beer bill on March 27, 1933, just five days after the federal beer bill was passed, and less than two weeks after Roosevelt’s request to legalize beer, Republican Senator Joseph Ackerman said, “this represents the work of six months on the part of the Governor’s commission, a body of outstanding citizens, Democrats and Republicans, Wets and Drys”, and went on to call federal Prohibition the most “outstanding blunder committed by the United States since it has been in existence”.<sup>20</sup> The Ohio beer bill passed both the Senate and the House overwhelmingly—this was important as Ohio law required a supermajority in order to pass it as an emergency measure, which allowed the new law to take effect immediately. The bill was hailed as bipartisan—even some dry

---

<sup>15</sup> “Maryland Repeal Plans Under Way: Prince George Beer Bill is Among First Offered Before Assembly.” *Washington Post*, March 23, 1933, 2.

<sup>16</sup> “Hardy will Seek Legal Ruling on Local Option Law.” *The Shreveport Journal*, March 25, 1933, 1, 2.

<sup>17</sup> “Mayor Expects to Hold Early Meet on Beer.” *The Shreveport Journal*, April 3, 1933, 16.

<sup>18</sup> “City Regulation for Sale of Beer Passed by Council.” *The Shreveport Journal*, April 5, 1933, 1.

<sup>19</sup> “Parish Ordinance to Regular Beer is Adopted Here.” *The Shreveport Journal*, April 13, 1933, 10.

<sup>20</sup> “Ohio Senate Passes Beer Bill.” *Cincinnati Enquirer*, March 27, 1933, 1.



Source: *The Shreveport Journal*, April 14, 1933, 5.

**Figure 2**

Celebrating Legal Beer in the City of Shreveport, Louisiana

politicians voted for it, stating that it would bring tax revenue and jobs to Ohio—and it contained important regulations and controls that would pertain not just to 3.2 percent beer, but to higher-percentage alcoholic beverages if those were to become legal at the federal level.<sup>21</sup>

Just north of Ohio, the state of Michigan struggled in its quest to make beer legal by April 7. Michigan had passed a constitutional amendment in 1916 that prohibited the manufacture and sale of “any vinous, malt, brewed, fermented, spirituous or intoxicating liquors, except for medicinal, mechanical, chemical, scientific or sacramental purposes”. In the fall of 1932, however, more than 300,000 signed a petition to put the rescinding of the state’s prohibition amendment on the November ballot—and Michiganders voted overwhelmingly to rescind constitutional prohibition during that election. The rescind ballot measure also called for the creation of a state liquor control system to regulate and oversee the distribution of alcohol, should it become legal by amendment of federal law.

On March 23, 1933, a day after the federal beer bill was signed, a Michigan state beer bill was drafted. However, Democratic Governor William Comstock convinced others in his party to table the bill until after an April 3 special election. The Blaine Act, formally titled the “Joint Resolution Proposing the Twenty-First Amendment to the United States Constitution”, was adopted by a joint resolution of the US Congress on February 20, 1933. This Act initiated the process of repeal of Prohibition, which required ratification of 36 of the 48 states. On April

---

<sup>21</sup> “Ohio Assured of Beer April 7.” *Cincinnati Enquirer*, March 30, 1933, 1.

3, Michigan and Wisconsin would become the first two states to vote upon ratification of the 21<sup>st</sup> Amendment. Comstock, who supported federal repeal, did not want discussion of the state's own beer bill to become a rallying cause for the state's dry interests in the days leading up to that vote.<sup>22</sup>

Votes in both Michigan and Wisconsin on April 3 came out overwhelmingly in favor of repeal. Ninety-nine out of the 100 Michigan counties, who would send delegates to the state's April 10 constitutional convention, voted to repeal, and Michigan became the first state (Wisconsin's convention was not held until April 25) to ratify the 21<sup>st</sup> Amendment.<sup>23</sup> While Michigan politicians knew it was unlikely that the state could have legal beer by the April 7 federal legalization date, they declared "beer in a week" as their goal on April 5. Some members of the Michigan legislature demanded immediate legalization be instituted as a temporary measure with the understanding that the details of a liquor control system could be hashed out over the following weeks. Governor Comstock, however, was emphatically opposed to such an action and he said that congress needed to approve a detailed measure of government control over the distribution and sale of alcohol—as was explicit in the rescind vote the prior November—before he would sign any bill into law.<sup>24</sup>

These negotiations were slow-going, and it became clear that it would take several weeks for the divided congress to hash out these alcohol control details. In response, Michigan Attorney General Patrick O'Brien provided Michigan breweries a legal loophole to start making beer on April 17 without violating Michigan law. O'Brien suggested brewers brew beer as they would to make near-beer, but rather than dealcoholizing it, store it until Michigan passed its beer bill.<sup>25</sup> While the Michigan House of Representatives passed a beer bill on April 19, the Senate continued to disagree over the mechanics of control. Both bodies worked late into the night on April 24 and a breakthrough was made on April 25, whereby the House passed the new version of the beer bill 97 to 1. The Senate approved the bill two days later by a vote of 30 to 2 and Governor Comstock signed the bill on April 27. The *Detroit Free Press* reported that "Gov. Comstock himself quaffed a bottle a few minutes after signing the bill—the gift of a friend [homebrew]. No special test was applied to determine the alcohol content. But the Executive attested to its quality".<sup>26</sup>

Comstock announced that Frank Picard would serve as Chairman of the Liquor Control Board, but that he and the rest of the 16-member commission called for by the new law would need to be confirmed by the state Senate. The *Detroit Free Press* noted that "Legal beer must wait for the organization of this commission, its decision on bonds, the naming of an executive salaried group of three and a managing director who will direct the actual administration, and for the issuance of licenses for warehouses and for retail vendors".<sup>27</sup> On May 1, 1933, Picard set May 10 as the goal for beer legalization in Michigan. He said that all breweries desiring permits by that date had to appear before the Liquor Control Commission on May 2. "They must lay before us at that time all the facts about their organization, their capacity and facilities, and a list of stockholders showing their citizenship record".<sup>28</sup> The latter requirement was

---

<sup>22</sup> "State Beer Bill Deeply Buried." *Detroit Free Press*, March 24, 1933, 2.

<sup>23</sup> "Repealists Win All Delegate in Wisconsin: 99 of Michigan's 100 at Convention are on Side of Wets." *The State Journal* (Lansing, Michigan), April 5, 1933, 1.

<sup>24</sup> "Beer in a Week is Goal in Lansing as Governor Battles Wide-Open Bill." *Detroit Free Press*, April 6, 1933, 1.

<sup>25</sup> "Beer Plants may Start Brewing 3.2 Under New O'Brien Decision." *Detroit Free Press*, April 18, 1933, 1.

<sup>26</sup> "State Gets Beer as Comstock Signs." *Detroit Free Press*, April 28, 1933, 1

<sup>27</sup> "Sales in Detroit Likely Within Week: Steps to Set Up Machinery are Taken at Once." *Detroit Free Press*, April 28, 1.

<sup>28</sup> "May 10 Goal Is Set for Beer." *Detroit Free Press*, May 2, 1933, 2.

important because Michigan state law said that no one could engage in the beer business without US citizenship.

On Friday May 6, the Commission granted the first license to sell 3.2 beer to the Detroit American Legion, which then planned to declare May 10 “Victory Day”—a celebration of “the passing of prohibition and depression”.<sup>29</sup> The May 7 *Detroit Free Press* noted that beer was pouring into Detroit “by train and truck”—among these were a convoy of trucks bearing 80 tons of beer brought from Toledo, Ohio, which were going to an unnamed Detroit distribution company—and that 314 permits were granted for the sale of beer in the city starting on May 10.<sup>30</sup> The May 10 *Detroit Free Press* further noted that 12,500 cases of beer had arrived from Canada via the international tunnel below the Detroit River. Figure 3 shows the crowd, estimated at as high as 30,000, who attended the American Legion’s Victory Day celebration at Detroit’s Convention Hall on May 10, 1933, when beer became legal in Michigan.



Source: *Detroit Free Press*, May 11, 1933, 1.

**Figure 3**

The American Legion’s Victory Day Celebration on May 10, 1933

### ***Summarizing the Temporally Staggered Legalization of 3.2 Beer Across 1933***

The case studies of the states above are meant only to provide a flavor for the diversity of state movements toward beer legalization. All 48 states certainly offer different, and interesting, insights into the political and economic movement toward re-legalization. A more systematic study of this event would be a valuable contribution to the Prohibition literature. Table 1 shows the dates on which 3.2 percent beer was legalized in each state, if at all, during 1933. Twenty of the 48 states legalized on April 7. Over the following 8 months, 23 more states legalized beer so that just prior to the official end of Prohibition on December 5<sup>th</sup> of 1933, 3.2 percent beer was legal in 43 states. Even Maine, which had been largely dry since passing its

<sup>29</sup> “Legion Preserves First Beer Permit.” *Detroit Free Press*, May 7, 1933, 8.

<sup>30</sup> “314 Beer Sellers Get Permits Here.” *Detroit Free Press*, May 8, 1933, 1.



“Maine Law” in 1851, legalized beer on July 1, 1933—Figure 4 shows an advertisement from the *Bangor Daily News* on that date. Thus, Prohibition’s light dimmed perceptibly during and after the spring of 1933. The seventh and eighth panels of Figure 1 show the prohibition status—in this case whether beer was legal or whether the state was under full legal prohibition on April 7 and July 7, 1933, respectively.

**Table 1**  
Date of Beer Legalization by State

Arizona	April 7, 1933	North Carolina	May 1, 1933
California	April 7, 1933	Tennessee	May 1, 1933
Colorado	April 7, 1933	Vermont	May 1, 1933
Illinois	April 7, 1933	Delaware	May 4, 1933
Indiana	April 7, 1933	Florida	May 8, 1933
Kentucky	April 7, 1933	Connecticut	May 10, 1933
Maryland	April 7, 1933	Michigan	May 10, 1933
Mass.	April 7, 1933	Wyoming	May 19, 1933
Minnesota	April 7, 1933	New Hampshire	May 23, 1933
Missouri	April 7, 1933	Idaho	June 21, 1933
Montana	April 7, 1933	Maine	July 1, 1933
Nevada	April 7, 1933	North Dakota	July 1, 1933
New Jersey	April 7, 1933	Oklahoma	July 15, 1933
New York	April 7, 1933	South Dakota	August 7, 1933
Ohio	April 7, 1933	Nebraska	August 10, 1933
Oregon	April 7, 1933	Arkansas	August 24, 1933
Pennsylvania	April 7, 1933	Virginia	September 3, 1933
Rhode Island	April 7, 1933	Texas	September 15, 1933
Washington	April 7, 1933	New Mexico	October 16, 1933
Wisconsin	April 7, 1933	Utah	January 1, 1934
Louisiana	April 13, 1933	Mississippi	February 26, 1934
West Virginia	April 13, 1933	Georgia	May 23, 1935
South Carolina	April 14, 1933	Alabama	March 22, 1937
Iowa	April 15, 1933	Kansas	May 1, 1937

Sources: These dates are reported in Table 1 of Poelmans, Taylor, Raisanen, and Holt (2022).



Source: *The Bangor Daily News* (Bangor, Maine), July 1, 1933, 9.

**Figure 4**  
An Advertisement for 3.2 Legal Beer in Maine, July 1, 1933

### **December 5, 1933: Prohibition's End**

On November 7, six states held votes on ratification of the 21<sup>st</sup> Amendment. Thirty-three states had already ratified, so positive votes from just three more states would end federal Prohibition. On that day, North and South Carolina became the first states where ratification votes failed to pass, however, Kentucky, Ohio, Pennsylvania, and Utah all voted for ratification. Thus, the nation knew that after the state ratifying conventions of Ohio, Pennsylvania and Utah were held on December 5, 1933, federal Prohibition would be over.

As Utah was in a later time zone than the other two states, it had the distinction of being the 36<sup>th</sup> ratifying state, thus officially ending Prohibition. Given the political dominance of the Latter-day Saints (Mormon) Church, it is ironic that Utah was the state with this honor. The state was “bone dry,” as its own constitutional amendment did not even allow alcohol by doctor’s prescription. But not only did Utah vote to end federal Prohibition on November 7, it also voted, on a separate ballot item, to amend its constitution to allow the production and consumption of 3.2 percent beer starting on January 1, 1934. Municipalities within the state still had the local option (in effect in Utah since 1896) to remain dry.

When federal Prohibition ended on December 5, 1933, this legal regime change impacted only 20 states—twelve that allowed liquor throughout their territory and eight others that allowed liquor under local option—which together had just under half of the US population. The other half of Americans could enjoy nothing stronger than 3.2 beer and, even then, this was true in only 23 states as five states remained under full prohibition. Figure 1 shows the updated status of the 48 states on December 5, 1933, now by differentiating between full prohibition (darkest), beer only, liquor under local option, and no prohibition at all (lightest).

It is important to note that even in the 20 states where liquor became legal on December 5, there were often heavy restrictions that impacted where it could be sold and consumed. For example, liquor sales in Montana had to be conducted via state stores, but the state had no such stores in place on December 5. The state’s attorney general said Montana was effectively “All dressed up with no place to go”, and it would have to wait for the legislature to approve the funding to create the state stores.<sup>31</sup> South Carolina was officially wet on December 5, but liquor sales were limited to one quart a month for adult males and females who were heads of households. In Delaware liquor could not be sold in bars, but hotels and restaurants could sell for consumption in dining rooms, while grocery stores could sell for off-premises consumption. Likewise, Connecticut allowed only wine and beer to be served in bars, restaurants, hotels, and taverns; liquor could only be sold in packages for home consumption. New York did not allow bars to serve liquor, but it did allow liquor to be served in restaurants and hotels, and it allowed stores to sell up to 3 quarts of liquor or 3 gallons of wine per person.<sup>32</sup>

Further west, Oregon, while theoretically legal on December 5, was “as arid as far as legal liquor was concerned as before repeal” according to *The Oregon Statesman*.<sup>33</sup> The state’s legislature had yet to pass a system of state liquor control creating a great deal of uncertainty amongst potential sellers. For example, Portland’s city attorney suggested that any seller requesting a license would need to pay the full year’s fee for 1933 and then pay the same fee again less than four weeks later for the year 1934. Oregon’s liquor control bill was signed into law on December 15, but even then, the chairman of the liquor commission said, “We hope the people of Oregon will realize it is not possible to set up a statewide organization

---

<sup>31</sup> “Montana Lacks Liquor Stores as Repeal Here.” *The Billings Gazette*, December 6, 1933.

<sup>32</sup> Information in this paragraph is from “Repeal Lifts Prohibition Veil, Drawn for 13 Years” by the Associated Press in *The Ludington Daily News*, December 4, 1933, 1 and 6.

<sup>33</sup> “Prohibition Ends: Oregon Actually is Arid as Ever.” *The Oregon Statesman* (Salem), December 6, 1933, 1.

in 24 hours, and we ask them to bear with us while we get our plans formed and in operation".<sup>34</sup> He estimated it could be up to a month before legal liquor was available across the state.

Ironically, some states became dryer, rather than wetter, after December 5. Under the prior federal law, the interstate transportation of liquor was permitted for medicinal sales. But the 21<sup>st</sup> Amendment explicitly protected dry states by barring the importation of liquor from wet states into dry ones and provided no exemption for medicinal sales. The December 6 *Montpelier Evening Argus* noted that Vermont, which had no distilleries, was now "drier than the days of federal prohibition" since the state's stock of spirits held by druggists for those with a prescription would soon run out and there was no longer a legal way to bring more into the state.<sup>35</sup> On December 13, the state attorney general affirmed that Vermont's 1921 dry law still held and that intoxicating beverages were outlawed in the state, but he ruled that pharmacists could import and dispense liquor for those with medical prescriptions.<sup>36</sup> Hence the potential crisis for those needing medicinal liquor in Vermont was averted.

### **Revisiting the Cases of Michigan and Ohio**

Michigan was the first state to ratify the 21<sup>st</sup> Amendment via its ratification convention of April 10. But as with beer, it again dragged its feet with respect to allowing liquor. The Liquor Control Commission, still headed by Frank Picard who had overseen the slow rollout for 3.2 beer, debated items such as whether to allow one drinking establishment for every 750 people or for every 1,500. The December 20, 1933 *Detroit Free Press* reported, "In spite of repeal, Michigan's thirsty will be compelled to turn to bootleggers, friendly physicians and the Ontario Government for their Christmas liquor". While state law outlawed the importation of liquor from Canada, the Commission announced that it would overlook such violations in the spirit of Christmas.<sup>37</sup> It was not until 9 a.m. on December 30 that the first licensed dispensaries were authorized to begin selling bottles of gin and whiskey in Michigan. At 6 p.m. that same evening, those hotels and restaurants that had obtained licenses were allowed to serve liquor by the glass. The manager of Detroit's Hotel Statler saw to it that the first martinis went to Governor Comstock and his campaign manager, Norman Snider.<sup>38</sup> Incidentally, Michigan had once again lost out to its rival state to the south, as Ohio ended its prohibition of liquor on December 23, 1933 with the passage of the Ohio Liquor Control Act, which set up a state monopoly on retail package sales via state-owned stores.

The penultimate panel of Figure 1 shows the legal status of the nation one month after the end of prohibition. The metaphorical light bulb dimmed a bit during the month after Prohibition's official end as Michigan, Ohio, and Oregon now allowed liquor and Utah moved from being completely dry to now allowing 3.2 beer. Montana had finally created a small system of liquor stores, but citizens who wished to buy alcohol needed to purchase a \$2 license to do so and sales were limited to two quarts per buyer. New Mexico's "Lane Law" required buyers to obtain a government license, which could be revoked for habitual drunkenness.<sup>39</sup>

The twenty-three liquor-legal states in January 1934 had a combined 72.4 million people, around 59 percent of the US population. Of course, some of these states, such as

---

<sup>34</sup> "State Liquor Stores to Open Within a Month." *The Capital Journal* (Salem, Oregon), December 16, 1933, 1.

<sup>35</sup> "Legally the State is as Dry as Ever." *Montpelier Evening Argus*, December 6, 1933, 1.

<sup>36</sup> "Pharmacists Can Now Fill Prescriptions." *Montpelier Evening-Argus*, December 13, 1933, 5.

<sup>37</sup> "Sale of Liquor to be Delayed: Bootleggers to Serve Christmas Trade." *Detroit Free Press*, December 21, 1933.

<sup>38</sup> "Liquor Stores Jammed as Legal Sales Begun on Eve of New Year's." *Detroit Free Press*, December 31, 1933, 1.

<sup>39</sup> "Bars, Buyer's Permits and State Stores---Map Shows How Liquor is being Controlled throughout U.S." *Lansing State Journal*, Jan 5, 1934, 18.

Massachusetts and Louisiana, were local option states—which will be discussed further below—so there were some dry oases within these areas. As mentioned earlier, beer was legal in all but four states after January 5, 1934. Thus, we might think of our light bulb shining in the vicinity of around one-third power as of this date—much duller than it had been just 9 months earlier, but the bulb was still far from being completely out.

### ***Impact of Local Options at the End of Prohibition***

Of course, in states that had local option laws on the books, those localities that were dry, or had allowed only 3.2 beer, would again need to amend those laws to allow for spirits. Minnesota ended its state prohibition on January 6, 1934, but as it had been a local option state since 1858, many of its municipalities were legally dry at the onset of federal Prohibition and hence would remain so unless those local laws were changed. The city of Minneapolis was one such municipality with a local prohibition. Mayor A.G. Bainbridge made it clear that the city's dry law was still in effect despite the lack of restriction under state law. Minneapolis Police Chief John T. Hart announced that if "those who are violating the local prohibition law don't quit, they'll find themselves in jail".<sup>40</sup>

In a surprise January 16, 1934 ruling, municipal judge Fred B. Wright held that Minneapolis's prohibition law, which was modeled directly upon the state's 1921 prohibition law, was void upon the state law's repeal. This left the city without any local regulation.<sup>41</sup> But of course it was a violation of state law to sell liquor without a license and thus, as Minneapolis had not granted any such licenses, the city was still effectively under prohibition. In fact, two arrests were made on January 18 for selling liquor within the city without a license. In one of these cases, Charles Tedford pled guilty to the charge and was ordered to pay a \$50 fine.<sup>42</sup> On January 24, the Minneapolis City Council passed a regulatory liquor ordinance for the city that created a licensing system. When this ordinance was signed by Mayor Bainbridge later that day, the city's prohibition was officially ended.<sup>43</sup>

Around 70 miles south of Minneapolis, there were legal questions about the legal status of alcohol in the village of Pine Island. The village was in Goodhue County, which was wet. But a ruling by assistant attorney general Roy C. Frank declared that because Pine Island itself was under a dry local ordinance when the 18<sup>th</sup> Amendment went into effect, such municipalities had to remain dry according to Minnesota's repeal law until a popular vote of its citizens overturned it.<sup>44</sup>

As with our discussion of beer legalization after April 1933, the anecdotes above are meant to provide only a small sample of how Prohibition's end after December 1933 differentially affected states and localities. Again, a methodical examination of each state's transition would be an important contribution to the literature. Nevertheless, this discussion should make it clear that the light of prohibition did not go anywhere near completely out on December 5, 1933.

---

<sup>40</sup> "Mayor Orders Liquor Lid." *The Minneapolis Star*, January 8, 1934, 1.

<sup>41</sup> "City Ordinance Held Void." *The Minneapolis Star*, January 17, 1934, 1.

<sup>42</sup> "Policy Keep Up Liquor Arrests." *The Minneapolis Star*, January 18, 1934, 5.

<sup>43</sup> "Liquor Ordinance Passed at 3 Hour Session of Council." *The Minneapolis Star*, January 25, 1934, 12.

<sup>44</sup> "Pine Island Must Stay Dry Until an Election." *The Winona Republican-Herald*, February 29, 1934, 13.

### ***The Status of the Nation One Year After Prohibition's End***

The light of prohibition dimmed significantly during 1934 as more states and municipalities relaxed their own prohibition laws. Florida, Iowa, Minnesota, Nebraska, New Hampshire, Vermont, and Wyoming all moved from the beer-only to the liquored-allowed column—although in Florida and Minnesota under local option—between January 5 and December 5, 1934. Thus 32 states with a combined 73 percent of the US population had some degree of legal liquor one year after the end of federal Prohibition. Beer was legal in 45 states with 93.9 percent of the population, although again within some of these states there were dry oases imposed by local options. But the presence of a local option in a state did not necessarily mean that much of it was dry. Washington, for example, was under local option, but only one village—Nooksack, with a population of 293—had voted to go dry as of December 5, 1934.<sup>45</sup> Additionally, people living in dry municipalities could travel to nearby wet ones to make purchases. The final panel in Figure 1 shows the status of the United States on the one-year anniversary of Repeal.

### **Summary and Conclusion**

Prohibition is generally viewed as a period with a defined beginning and end. While the federal ban of intoxicating liquors began in January 1920 and ended in December 1933, when one factors into the discussion state and local bans, the notion of a beginning and an end is far more complicated. We have encouraged the reader to think of the prohibition of alcohol as a metaphorical light bulb whose brightness is an increasing function of what percentage of US states imposed legal restrictions related to the consumption of alcohol. Prior to 1832, that light bulb was completely dark as no city or region in the nation was under legal prohibition.

During the 1830s and 1840s, the bulb began to glow ever so dimly as local option laws—which gave municipalities the ability to outlaw alcohol—were passed in several states. Still, these local bans were difficult to enforce, and they were often overturned or ignored. The bulb brightened significantly, however, between 1851 and 1855 when 14 states or territories passed statutory prohibitions. Together these areas held 36 percent of the nation's total population. The light dimmed over the following 25 years as many states repealed those statutory prohibitions. By 1879 only Maine, Vermont, Kansas, and Iowa—which together accounted for 7.5 percent of the US population—were under prohibition. When these dry states are combined with some dry municipalities in local option states, the metaphorical bulb was likely glowing at somewhere between 10 to 15 percent of its full power around 1880.

In the 1890s, most state governments debated the potential adoption of an amendment to their constitution prohibiting intoxicating liquors. Six states adopted constitutional prohibition amendments during this decade, but half of these were either rescinded or ruled unconstitutional by their state courts, and thus this movement had relatively little effect. However, these constitutional debates led many states to adopt the political compromise of a local option law. Even large beer-producing states like Michigan (1887), Ohio (1888), Wisconsin (1889), and New York (1896) implemented local option laws in the late nineteenth century. Thus, by 1906, the metaphorical bulb was likely glowing at somewhere around a third of its full power.

Then the light really began to brighten. Between 1907 and 1919, 29 states implemented new statewide prohibitions. By 1919, two-thirds of states were under statewide prohibition, and of the remaining states only Pennsylvania did not have a local option. Prohibition was not implemented in January of 1920 by the flipping of a switch from off to on, but via a gradual dimmer knob that brought the lights up gradually, albeit unevenly, over the prior decades. This

---

<sup>45</sup> "First Anniversary of Repeal Still Shows Few States in Dry Column." *Daily Times and Daily Journal Press* (St. Cloud, MN), December 5, 1934, 12.

notion of slowly bringing up the light of prohibition is consistent with Symanski's (2003) emphasis on an approach of "local gradualism" being employed by temperance forces. Victories at the local levels, it was felt, could further pave the way toward victory at the federal level by getting citizens gradually accustomed to the idea of prohibition.

December 5, 1933—i.e., "Repeal Day"—is likewise often viewed as a date on which an alcohol availability switch was suddenly flipped from none to all. Again, this analogy dramatically misses the mark. In fact, the light of legal prohibition had already dimmed significantly over the prior eight months, following passage of the Cullen-Harrison Act. This law modified the federal definition of "intoxicating beverages" to allow 3.2 percent beer. Since most states had their own prohibitory restrictions that also needed to be amended, there was a great deal of temporal variation with respect to when (and whether) states legalized beer. On April 7, 1933, beer became legal in 20 states and by the end of federal Prohibition, it was legal in 43 states.

Furthermore, the removal of federal Prohibition on December 5, 1933 meant that state prohibitory laws were the new determinants of whether wine and spirits would be allowed. In fact, only 20 states were at all impacted by "Repeal Day", and in some cases—such as Oregon and Montana—repeal was in name only as the state still had not finalized its system of liquor control and distribution. Even within some of these states, there were municipalities that had dry laws on the books—perhaps amended for 3.2 beer, but not anything more.

As time passed, more states joined the wet column. Still, local options were often kept or newly adopted. By 1940, thirty states had local options and around 7 percent of the US population lived in a dry jurisdiction.<sup>46</sup> In 1966 Mississippi became the last state to repeal its statewide liquor ban when it provided municipalities within it a local option. While no state is completely dry today, around five percent (18 million) of Americans currently reside in dry dominions, which cover about ten percent of the US land mass. Thus, just as the nation's experience leading to Prohibition suggested it to be "easier on the eyes" to slowly bring up the light, it appears that the nation also preferred a steady turning down of the metaphorical light rather than switching from complete prohibition to "anywhere, anytime, anyplace".

To draw lessons toward contemporary issues, the nation's recent experience with cannabis seems to be following a similar gradualistic path, although in the opposite direction. Rather than flipping a switch from completely illegal to completely legal, the United States has followed a temporally and geographically staggered path toward legalization. In 1996 California became the first state to legalize marijuana use by medical prescription and dozens of states subsequently followed its example. In 2012 Colorado and Oregon became the first states to legalize recreational use of cannabis. As of this writing, recreational marijuana is legal in 19 states and medical marijuana is legal in 37 states.<sup>47</sup>

Another clear parallel can be seen via the growing support to legalize marijuana at the federal level, which has temporally followed state relaxations of its prohibition. Just as alcohol temperance advocates employed state and local victories to help lead the nation to federal Prohibition in 1920, today's state level legalizations may likewise have the nation on a path toward a federal policy change. A 2020 Gallup poll found that 68 percent of Americans favor the federal legalization of marijuana, which is up from only 25 percent the year before California's medical marijuana policy of 1996.<sup>48</sup> In December 2020, the House of Representatives passed a bipartisan bill to remove cannabis from the Controlled Substances Act. As of this writing several federal bills such as the Marijuana Opportunity Reinvestment

---

<sup>46</sup> United States Brewers' Association *Brewer's Almanac*, October 2, 1940, 78-79.

<sup>47</sup> Of course, a key difference from the alcohol prohibition era of a century ago is that marijuana remains illegal today at the federal level. Unlike under alcohol Prohibition from 1920 to 1933, the federal government—although it has the legal right to regulate and criminalize the use of cannabis inside the US—has, through its lack of action, effectively chosen to leave these decisions to the states.

<sup>48</sup> <https://news.gallup.com/poll/323582/support-legal-marijuana-inches-new-high.aspx>

and Expungement (MORE) Act are working their way through Congress. The overriding lesson appears to be that American prohibitory law tends to move along a continuous pathway, rather than a discrete jump.

### **Acknowledgements**

The research has benefited from “Internal Funds KU Leuven”, which Poelmans received.



## Works Cited

- Carcieri, Paul T. 2007. *A History of Temperance and Prohibition in Rhode Island: 1820-1916*. Providence College, PhD Dissertation.
- Cherrington, Ernest H. 1920. *The Evolution of Prohibition in the United States of America: A Chronological History of the Liquor Problem and the Temperance Reform in the United States from the Earliest Settlements to the Consummation of National Prohibition*. Harvard University: American Issue Press.
- Clark, Dan E. 1908. "The History of Liquor Legislation in Iowa, 1878-1908." *Iowa Journal of History and Politics* 6: 503-604.
- Colvin, D. Leigh. 1926. *Prohibition in the United States: A History of the Prohibition Party and of the Prohibition Movement*. New York: George H. Doran.
- Dighe, Ranjit. 2015. "A Taste for Temperance: How American Beer got to be so Bland." *Business History* 58 (5): 752-784. DOI: 10.1080/00076791.2015.1027691
- Hamm, Richard. 1995. *Shaping the Eighteenth Amendment: Temperance Reform, Legal Culture, and the Polity, 1880-1920*. Chapel Hill, NC: University of North Carolina Press.
- Howard, Keith. 2015. "Breweries of Early Kalamazoo, 1837-1915." *Brewery History* 163: 36-55.
- H.R. 6810. 1919. 66th Congress (1919-1920): National Prohibition Act (October 28) [The Volstead Act].
- Krout, John Allen. 1925. *The Origins of Prohibition*. New York: Alfred A. Knopf.
- Miron, Jeffrey A., and Jeffrey Zwiebel. 1991. "Alcohol Consumption during Prohibition." *American Economic Review* 81 (2): 242-247.
- Okamoto, Masaru. 1982. "The Maine Law of 1851: How the Prohibitionists Made It." *The American Review* 16: 199-221.
- Okrent, Daniel. 2010. *Last Call: The Rise and Fall of Prohibition*. New York: Scribner.
- Pegram, Thomas R. 1998. *Battling Demon Rum: The Struggle for a Dry America, 1800-1933*. Chicago: The American Ways Series.
- Poelmans, Eline, and Johan F.M. Swinnen. 2012. "A Brief History of Beer." In *The Economics of Beer*, edited by Johan F.M. Swinnen. 3-28. Oxford: Oxford University Press.
- Poelmans, Eline, John A Dove, and Jason E. Taylor. 2018. "The Politics of Beer: Analysis of the Congressional Votes on the Beer Bill of 1933." *Public Choice* 174: 81-106.
- Poelmans, Eline, John A. Dove, Jason E. Taylor, and Ranjit Dighe. 2022. "Factors Influencing the Timing and Type of State-Level Alcohol Prohibitions Prior to 1920." Working Paper.
- Poelmans, Eline, Jason E. Taylor, Samuel Raisanen, and Andrew C. Holt. 2022. "Estimates of Employment Gains Attributable to Beer Legalization in Spring 1933." *Explorations in Economic History* 84: Article 101427.
- Randall, Willard Sterne. 1997. *George Washington: A Life*. New York: Henry Holt and Company.
- Skocpol, Theda, Marshall Ganz, and Ziad W. Munson. 2000. "A Nation of Organizers: The Institutional Origins of Civic Voluntarism in the United States." *American Political Science Review* 94 (3): 527-546.
- Szymanski, Ann-Marie E. 2003. *Pathways to Prohibition: Radicals, Moderates, and Social Movement Outcomes*. Durham, NC: Duke University Press.
- United States Brewers' Association. 1940. *Brewers Almanac*. Washington DC: United States Brewer's Association.
- Warburton, Clark. 1932. *The Economic Results of Prohibition*. New York: Columbia University Press.
- Young, Michael P. 2002. "Confessional Protest: The Religious Birth of US National Social Movements." *American Sociological Review* 67 (5): 660-688.