



## PROHIBITION

### Essay

# The Road to Prohibition in Indiana

by Jane Hedeem

The struggle against alcohol was present from the beginning of Indiana's territorial period. Early pioneers moving west brought with them the traditions of brewing beer and distilling liquor.<sup>1</sup> Territorial taverns and inns served liquor under license from the territorial legislature and revenues from liquor license fees went to support local governments.<sup>2</sup> Even in these early days efforts were made to place limitations on the sale and consumption of alcoholic beverages. In 1790 Northwest Territory authorities prohibited the sale of liquor to soldiers and made it an offense to provide liquor to Native Americans. While the provision relating to liquor sales to soldiers was repealed in 1795, it remained illegal to give or sell liquor to Native Americans.<sup>3</sup>

In the early 1800s, the territorial legislature expanded regulations to apply to taverns selling liquor by the drink. It also enacted laws banning the sale of liquor on Sundays or to minors.<sup>4</sup>

1 Marc Carmichael and Harold C. Feightner, "A History of Alcohol and Politics in Indiana" (Indianapolis: printed by authors, ca. 2009), 5.

2 Ibid.

3 Harold C. Feightner, "Wet and Dry Legislation in Indiana (1790–1957)" (Indianapolis, IN: printed by author, 1957), 744 L257D, Manuscript Collection, Indiana State Library, Indianapolis.

4 Ibid.

By 1818 the procedure for granting liquor licenses for retail sales required the applicant to present a required number of signatures from "freeholders," or landowners, in the area. In 1828 a license could be denied if the majority of freeholders in a town or township objected to its issue—a practice referred to as a "remonstrance."<sup>5</sup>

Early efforts at control of the abuse of liquor crystallized in the mid-nineteenth century into the temperance movement. The Indiana Temperance Society (formed in 1830), the International Order of Good Templars (1851), and the Woman's Christian Temperance Union (1874) all protested the consumption of alcohol on the grounds that it led to immorality, criminal activity, and domestic violence.<sup>6</sup> The WCTU in particular advocated for women to take a leading role in opposing alcohol consumption, claiming that women and children were most often the victims of its abuse. The WCTU focused, in part, on achieving the vote for women, believing that female voters would oppose liquor interests.

5 Ibid.

6 Carmichael and Feightner, "A History of Alcohol and Politics in Indiana," 6–7.

According to scholars, WCTU founder Frances Willard “viewed women as a moral compass on issues such as the consumption of alcohol, and she argued that women could best promote moral standards in American society through political means.”<sup>7</sup>

In addition to temperance groups, Indiana boasted a strong Quaker element in the fight against “John Barleycorn.” Though Quakers are not forbidden from drinking alcohol, many practiced temperance, perhaps due to the influence of women who played an equal role in Quaker congregations. Quakers, also called Friends, first settled in Richmond, Indiana, in 1806, but by 1860 there were more Friends in Indiana than in any other state in the union.<sup>8</sup>

It was also during this time that a prohibition tactic called “local option” was popular, although it proved to be problematic. First used in Indiana by Cass and Carroll Counties in 1842, the local option allowed counties to prohibit taverns and groceries from selling liquor if it was approved by popular (majority) vote. By 1847 the local option concept extended to nearly all Indiana counties. While the Indiana Supreme Court declared the local option practice to be unconstitutional in 1853, an amended form of the local option allowing exemptions for “sacramental, mechanical, chemical or culinary purposes” replaced the old version.<sup>9</sup> While local option remained a common tactic, Indiana temperance organizations continued to push for a statewide prohibition.

By the 1850s, the temperance movement was bolstered by reform advocates for political reasons. The Know-Nothing Party perceived a connection between the nation’s growing “foreign element” and the brewing industry. Concerned about unchecked immigration and motivated in large part by xenophobia, the largely middle-class Protestant Know-Nothings supported

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7 Richard Sisson, Christian K. Zacher, and Andrew Robert Lee Clayton, *The American Midwest: An Interpretive Encyclopedia* (Bloomington: Indiana University Press, 2007), 1650.

8 *Ibid.*, 741.

9 Indiana Brewers Association, “Is Prohibition the Answer? What does history say?” (Indianapolis, IN: Indiana Brewers Association, 1945), 178.5 NO. 7, pamphlet, Indiana State Library, Indianapolis.

prohibition as a method to curb immigration and the influx of “alien practices” into the American culture.<sup>10</sup> The Know-Nothings were especially worried about what they saw as a growing Catholic influence and the loss of jobs to immigrants. The Know-Nothings associated Germans and Irish, in particular, with drinking and sought to decrease the influence of these groups by prohibiting the brewing of beer (especially associated with Germans) and eliminating all alcohol consumption by prohibiting the manufacture, sale, and transport of alcoholic beverages. Republicans also supported prohibition laws. While Democrats recognized liquor traffic as a “social evil,” party members did not believe government had the right to interfere.

With the support of the Know-Nothings and Republicans, Indiana temperance groups were able to secure the passage of a statewide prohibition law in 1855. The Indiana law, modeled after an 1851 Maine temperance law, prohibited the manufacture and sale of spirits, including beer, wine, cider, and all other fermented beverages. The inclusion of beer in this law was an expansion of earlier attempts at legislating against the manufacture and sale of alcohol. Previously, the focus had been mainly on hard liquor. Indiana’s 1855 law permitted alcohol sales only for medicinal, chemical, mechanical, and religious purposes and allowed the sale of “cider, wines, etc. in quantities of more than three gallons.”<sup>11</sup> Bootleggers were punished with a \$100 fine and thirty days in jail, while those who purchased illegal liquor could be fined \$10 and sent to jail until the fine was paid.<sup>12</sup> It remained legal to import and export liquor, since this activity was governed by the Congress through the U.S. Constitution’s Interstate Commerce Clause.

Celebrations for the passage of Indiana’s statewide prohibition law were short lived. In 1858,

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10 Carmichael and Feightner, “A History of Alcohol and Politics in Indiana,” 9.

11 Charles E. Camp, “Temperance Movements and Legislation in Indiana,” *Indiana Magazine of History*, 16 (March, 1920): 25.

12 Carmichael and Feightner, “A History of Alcohol and Politics in Indiana,” 10.

just three years after it went into effect, the Indiana Supreme Court declared the law unconstitutional. According to the *Cyclopaedia of Temperance and Prohibition*, published in 1891:

The law of 1855, having been pronounced unconstitutional, was promptly wiped out by the Republicans in 1858, and no attempt was made to enact new Prohibitory legislation. A license law (placing the fee at \$50) was substituted for it.<sup>13</sup>

Temperance interests continued to push for legislation to keep the prohibition issue active, but they had to content themselves with enacting tougher licensing requirements and stiffer penalties for violating the license law.

During the years of the Civil War, temperance concerns were laid aside in lieu of more important issues:

People became absorbed in the slavery question; in the State Rights arguments; and in equally momentous affairs of state. Their whole attention was presumably focused on the great catastrophe which apparently loomed up before them. And so the time glided by without much mention of the temperance question. . . . Add to this fact that a large per cent of the men were at the front; that all of the availbale [*sic*] money wes [*sic*] spent for their equipment and that nearly all of the women were absorbed body and soul in caring for their sons, brothers, husbands, fathers and sweethearts and one may get an idea of the many channels into which flowed the public attention of the people of the north. Need it be necessary then to say that all of the energies of the legislators and other government officials were directed toward this one end—the winning of the war?<sup>14</sup>

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13 Walter W, Spooner, ed., *The Cyclopaedia of Temperance and Prohibition: A Reference Book of Facts* (New York: Funk and Wagnalls, 1891), 588.

14 Camp, "Temperance Movements and Legislation in Indiana," 28–29.

Following the Civil War, political parties returned to their former roles in the temperance debate. Democrats continued to oppose dry legislation in favor of a licensing system, while the Republicans supported local option laws and set their sights on state and national legislation controlling liquor traffic. In Indiana prohibition laws did not garner enough support to pass both legislative chambers. In 1879 Indiana still had seventy large breweries and a number of distilleries producing liquor from locally grown corn and rye.

By the 1890s the fight against the liquor interests received a welcome boost. During the decades of the 1890s through the 1920s (known as the Progressive Era), reformers interested in a "greater good" and concerned about "social evils" stepped up their efforts to influence public policy and politics that supported improved living and working conditions and elevated the morals of the American public. Among other things, Progressives advocated for reforms such as women's suffrage and laws restricting child labor. They also tried to expose corruption in the government and threw their weight behind prohibition.

The Anti-Saloon League of America, formed in 1895, was a national organization that focused its energies on enforcing existing anti-alcohol legislation and advocating passage of new laws. The Indiana arm of the ASL formed in 1898. While ASL members saw alcohol as evil, they combined moral suasion with a practical political approach in a way that other temperance organizations had not. The ASL did not view prohibition as a partisan issue. They sought to work with Democrats and Republicans as well as the Prohibition and Progressive parties.

By 1903 Indiana supporters of the ASL established a state headquarters in South Bend. As the statewide organization came together and organized more effectively, the IASL was able to achieve some of the "driest" legislation in the country. In 1905 the Indiana legislature passed the Moore amendment, which strengthened the Nicholson remonstrance law of 1895. The Nicholson law was significant because it required

a two-year waiting period between application for a liquor license and its issuance. Under the Moore amendment, voters in city wards and townships could “remonstrate” or vote against the issuance of any liquor license, not just new applications.

In the first decade of the twentieth century Indiana’s legislature continued to pass increasingly restrictive prohibition laws. In 1907 the “blind tiger” law allowed for the search and seizure of suspected illegal saloons (blind tigers). If convicted of operating a blind tiger, the defendant would receive a mandatory jail sentence, making this one of the strictest laws in the country.<sup>15</sup> During the 1908 legislative session, sixty-nine of eighty-two Indiana counties who voted returned “dry” majorities outlawing the sale of alcohol. As a result, more than 2,500 Indiana saloons closed between 1900 and 1910.<sup>16</sup> A statewide prohibition amendment to the Indiana constitution continued to lack support for passage in the state senate, but in 1911 a more liberal state legislature repealed the county local option, leaving it to individual cities or townships to vote themselves dry.<sup>17</sup>

As support for prohibition grew among state legislatures, the ASL implemented a movement aimed at national legislation. In 1913 the ASL organized a parade in Washington, D.C., to call for prohibition on a national scale.

At the gathering’s conclusion, the League’s superintendent, Purley Baker, presented an amendment to the United States Congress and to the House of Representatives. This legislation would be the basis for the Eighteenth Amendment to the United States Constitution. The ASL and its state organizations inundated Congress with letters and petitions, demanding the Prohibition of alcohol.<sup>18</sup>

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15 Indiana Anti-Saloon League, “History of the League” (Indianapolis, IN: Indiana Anti-Saloon League, 1913), 178 NO. 43, pamphlet, Indiana State Library, Indianapolis.  
16 Ibid.

17 Feightner, “Wet and Dry Legislation in Indiana,” and Indiana Brewers Association, “Is Prohibition the Answer?”

18 “Anti-Saloon League of America,” Ohio History Central:

World War I gave progressives yet another reason to support prohibition—grain used to distill liquor or brew beer was needed to feed a war-ravaged Europe. In addition, many brewers were of German heritage, and with Germany now an enemy nation it was easy to position alcohol consumption as an unpatriotic activity. Abolition of alcoholic drink now became a moral issue as well as a measure of national security, economic necessity, governmental reform, and patriotic fervor.

In Indiana a patriotic reason to go dry helped bolster the IASL’s argument for prohibition. The group was able to garner enough support to pass a second statewide prohibition bill, which took effect on April 2, 1918, making Indiana the twenty-fifth state to go completely dry.<sup>19</sup>

At the national level Congress overwhelmingly passed the Eighteenth Amendment on December 18, 1917, but three-fourths of the state legislatures had to ratify the amendment before it became law. With more than half of the states already dry, ratification occurred rather quickly. On January 14, 1919, the Indiana General Assembly ratified the national amendment. On January 16 Nebraska became the thirty-sixth state to vote in favor of the amendment, giving it the required two-thirds majority for ratification. The Volstead Act, which passed October 27, 1919, provided the means to enforce the amendment.

Prohibition, also known as the “noble experiment,” officially began on January 16, 1920. The Eighteenth Amendment prohibited the manufacture, sale, and transportation of alcoholic beverages, as well as the import and export of such beverages into or out of the United States. Progressives and temperance advocates had high hopes for this legislation. They predicted a decrease in crime and domestic violence, an increase in personal savings and a decrease in poverty, a decrease in corruption, and an increase in worker productivity, among other benefits.

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An Online Encyclopedia of Ohio History, <http://www.ohiohistorycentral.org/entry.php?rec=845> (accessed April 15, 2011).

19 E. S. Shumaker, “Indiana Wet and Dry” (Indianapolis: Indiana Anti-Saloon League, [ca. 1924]), ISLM 178 No 14, pamphlet, Indiana State Library, Indianapolis.

Prohibition enforcement proved to be a challenge and Indiana's legislature "found it necessary to plug some gaps" in national laws. In 1921 state lawmakers made it illegal to possess alcohol or a still (the means of making alcohol) and banned the sale of products containing alcohol, such as hair tonics, that could be used for "beverage purposes."<sup>20</sup> In 1923 Indiana passed the nation's first drunk driver law, and in 1925 Indiana enacted the Wright "bone dry" law, making a liquor buyer guilty along with the seller. In addition, prosecutors were awarded \$25 for each liquor conviction.<sup>21</sup> The late 1920s saw additional increases in fines and sentences for violators of Indiana prohibition laws.

It seemed that the strict enforcement of Prohibition only encouraged people to bypass the law. According to one scholar, "Although consumption of alcohol fell at the beginning of Prohibition, it subsequently increased."<sup>22</sup> In May 1929 the National Commission on Law Observance and Enforcement (popularly called the Wickersham Commission) released a report stating that during Prohibition the per capita consumption of alcohol had actually increased 500 percent between 1921 and 1929, reversing a downward trend that had taken place between 1910 and 1920.<sup>23</sup> Prohibition appeared to have had the opposite effect on alcohol consumption than what the temperance advocates had predicted.

Normally law-abiding citizens trying to obtain alcohol helped support a new "criminal class." Drinking became an "underground" activity—one that was not regulated as it had been previously. This meant that establishments were not fined for serving minors or an

individual who was clearly intoxicated.<sup>24</sup> Bootleggers who produced illegal liquor found this activity to be very profitable. Alcohol was a commodity in high demand and short supply. Without the expense of government excise taxes, profit margins were huge. While temperance advocates predicted that Prohibition would drastically reduce criminal activity, quite the opposite happened. Jails were packed as the court systems became clogged with Prohibition violators, leading to increased government expense to process and house all the offenders. The Prohibition years marked a significant spike in organized crime. Gangsters such as Al Capone raked in millions of dollars selling and transporting illegal alcohol. Capone reportedly earned sixty million untaxed dollars per year violating prohibition laws.<sup>25</sup> Organized crime, in turn, fostered corruption as wealthy and well-connected criminals had the means to bribe public officials to "look the other way." Sometimes, entire city administrations, including police departments, were on the payroll of mobsters.<sup>26</sup>

In addition, Prohibition posed unforeseen health risks. Bootleggers made alcohol with suspect ingredients, sometimes unwittingly producing a poisonous mixture.

Prohibition lead [*sic*] to the consumption of often unsafe bootleg alcohol containing poisonous lead compounds, embalming fluid, creosote, poisonous methyl alcohol, and other dangerous substances. Hundreds of thousands of people became ill, suffered paralysis, lost their sight, or died from illegal alcohol.<sup>27</sup>

These tragedies are another illustration of the unintended consequences of Prohibition.

In the end, Prohibition proved unenforceable and doomed to failure. Journalist H. L. Mencken summed it up in 1925 when he stated:

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24 Ibid.

25 Ibid.

26 Ibid.

27 Ibid.

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20 Indiana Brewers Association, "Is Prohibition the Answer," 11, and Feightner "Wet and Dry Legislation in Indiana."

21 Feightner, "Wet and Dry Legislation in Indiana."

22 Mark Thornton, "Alcohol Prohibition was a Failure," Policy Analysis no. 157, CATO Institute, [http://www.cato.org/pub\\_display.php?pub\\_id=1017](http://www.cato.org/pub_display.php?pub_id=1017) (accessed April 20, 2011).

23 David J. Hanson, PhD, "Was Prohibition Really a Success?" Alcohol: Problems and Solutions, <http://www2.potsdam.edu/hansondj/Controversies/20070322134427.html> (accessed April 20, 2011).

None of the great boons and usufructs that were to follow the passage of the Eighteenth Amendment has come to pass. There is not less drunkenness in the Republic but more. There is not less crime, but more. There is not less insanity, but more. The cost of government is not smaller, but vastly greater. Respect for law has not increased, but diminished.<sup>28</sup>

The obvious shortcomings of Prohibition caused even some of its most ardent supporters, such as teetotaler John D. Rockefeller Jr., to change their minds and call for its repeal. Democratic presidential candidate Franklin Roosevelt promised if elected in 1932 to repeal it during his presidency.

Although state legislatures were charged with ratifying the amendment, its repeal came from state ratifying conventions, which were thought to better represent the will of the American people. A whopping 74 percent of state conventions voted in favor of repeal. Only 26 percent voted against it. With the passage of the Twenty-first Amendment on December 5, 1933, Prohibition, the “noble experiment,” had come to an end.

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<sup>28</sup> Hanson, “Repeal of Prohibition.”