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### Understanding the Drastic Change in Public Opinion of Prohibition

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UNDERSTANDING THE DRASTIC CHANGE IN PUBLIC OPINION OF PROHIBITION

Marissa Scharlau

HST 420

February 1, 2021

**Library Resource Statement:**

My research for this paper was unlike anything I had ever done before. The guidelines for the assignment required the use of a minimum of fifteen primary sources to write the paper, and because a large portion of the periodical sources from the 1920s and 30s have not yet been digitized, my professor recommended that students use the journals available on the ground floor of the library. I was not aware that these journals existed before starting my research, however, I did know from the beginning that the topic I wanted to cover was prohibition. This period of history has always interested me, and I thought it would have a limited enough scope that I would not be overwhelmed with sources.

I began my research by using the *Readers' Guide to Periodical Literature* to find potential sources for my paper relating to prohibition. I compiled a long list of articles that sounded relevant and then searched the ground floor to determine what journals were available. I collected the corresponding books and read through all the relevant articles that I could find, bookmarking those that I thought would be useful for my paper and categorizing them by topic. Often, one article mentioned another article and I would go find that one to read as well. This provided an interesting dialogue within my research, as many of the articles I used were written in response to one another. I also used the library's access to the *New York Times* to find primary source articles on prohibition. For the most part, I was able to find what I needed for the paper on my own, but I did consult with library staff members to obtain a document that the library website said was only available on microfilm, however, before the staff were able to get back to me, I determined I did not need the document after all.

Reading through these articles helped me to determine the specific direction of the paper. I chose to write about the factors that caused public opinion of prohibition to drastically shift

within less than ten years from when it was passed. Primary sources were the perfect way to gain insight into public opinion at the time, and the articles I found in the library provided a unique perspective on how the views of people on both sides of the debate changed over time.

After narrowing my focus, I searched several different databases through the library website to find additional sources, specifically legal or statistical documents from the time period such as a crime survey from the Illinois State Government and a report from the National Commission on Law Observance and Enforcement. These documents provided empirical evidence that proved essential for my paper. The databases that I used most frequently for my research included New York Times Historical Archive, JSTOR, and NYS Historic Newspapers.

Once I compiled a variety of relevant sources, I began the process of drafting my paper. I outlined it first and categorized the sources within the outline into the four main sections, crime rates, political corruption, controversial law enforcement practices, and prison overcrowding. I made copies of all the sources that I planned to use and read through each, highlighting the relevant information and color coding it to correspond with the four main sections of the paper. I started writing my first draft and naturally determined through the writing process which documents made sense, and which were repetitive or unnecessary. I made sure that those I did include met the guidelines provided for sourcing the paper.

Writing this research paper was a unique educational experience for me. It gave me the opportunity to use research methods that I had previously not been familiar with. Growing up in the age of technology, I have rarely used a physical book for a report and never used a physical journal. I think that many students from my generation are not aware of the plethora of resources available in the library that cannot be found online, and surprisingly, I really enjoyed the process of spending hours searching for articles among the stacks of books.

## Introduction

The problem of liquor control has been an ongoing issue throughout U.S. history, since 1777 when colonial legislation regulated the sale of liquor to the Native Americans.<sup>1</sup> As early as 1885, prohibition amendments were proposed in Congress, however, it would not be until the start of U.S. involvement in World War I, in 1917, that the conditions would be right for such a law. At the start of the war, it was generally agreed upon that an essential step to victory was the suspension of the liquor traffic.<sup>2</sup> Several laws were passed in 1917 and 1918, such as the Food Control Bill and the Agricultural Bill which restricted the liquor industry during wartime. Simultaneously, in April 1917, the Eighteenth Amendment was first proposed before Congress.

On January 29, 1919, the United States officially added the Eighteenth Amendment to the Constitution, when it was announced that the thirty-six states required had ratified the amendment. This new amendment prohibited the “manufacture, sale, or transportation of intoxicating liquors,” and the importation and exportation of those liquids within the United States.<sup>3</sup> The law did not, however, directly prohibit the purchase or possession of liquor, nor did it define “intoxicating liquors”. In response, in October 1919, Congress passed the National Prohibition Act, which aimed to provide further guidance about the prohibition of intoxicating liquors and the regulation of those products for uses other than as beverages, such as for scientific research or medical treatment. This act established a definition of “intoxicating liquors” which included “alcohol, brandy, whisky, rum, gin beer, ale, porter, and wine...spirituous, vinous, malt or fermented liquor,” that contained one-half percent or more of

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<sup>1</sup> National Commission on Law Observance and Enforcement, “Report on the Enforcement of Prohibition Laws of the United States”, Department of Justice Library, 1931, 5.

<sup>2</sup> National, “Report on Enforcement”, 9.

<sup>3</sup> U.S. Constitution. amend. XVIII, sec. 1.

alcohol by volume.<sup>4</sup> The law also established penalties, such as appropriate fines and length of imprisonment, for violations of the act. This marked the start of national prohibition.<sup>5</sup>

### *Shifting Public Opinion*

Two important factors that contributed to the initial support for prohibition laws were the growth of saloons and the corrupting influence that the liquor industry had over politicians and law enforcement. At the time the number of saloons was quickly increasing in many parts of the United States. These saloons were political centers, of which many were owned by politicians who used the income to fund their campaigns. This strong connection between politics and liquor meant that saloons were afforded special protections and exemptions from the laws that attempted to regulate them. Similarly, the interests of the liquor industry were prioritized by these political leaders. The increase in saloons had also led to a substantial increase in the consumption of alcohol. The per capita consumption of beer had increased from 16.94 gallons to 20.38 gallons between 1904 and 1914. Additionally, commercialized vice and gambling were often connected to the saloons. The combination of these factors led to significant public skepticism and disapproval of the power that saloons and the liquor industry had over politics, which translated into at least initial support for prohibition.

In 1919, when the Eighteenth Amendment was ratified, opposition to it was largely limited to the brewers and distillers that lost their source of income. This is not to say that everyone supported the law, but most people were distracted by the issues of World War I. During wartime, people are generally more willing to sacrifice their rights for the greater good,

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<sup>4</sup> National Commission on Law Observance and Enforcement, "Report on the Enforcement of Prohibition Laws of the United States", Department of Justice Library, 1931, 16.

<sup>5</sup> National, "Report on Enforcement," 13-17.

which likely impacted the initial public approval of prohibition. Conversely, this narrative that prohibition was supporting the war effort could have made it challenging to oppose. According to the “Report on the Enforcement of the Prohibition Laws of the United States”, a report written by the National Commission on Law Observance and Enforcement in 1932 to investigate widespread violations of prohibition, the debate over prohibition was framed as a debate between those who supported prohibition and those who supported saloons. For this reason, many temperance supporters felt that they had to side with prohibition or be assumed to support the saloons.<sup>6</sup> Even from its onset, all prohibition supporters may not have been fervent believers.

Over time, public opinion on prohibition changed drastically between the ratification of the Eighteenth Amendment in 1919 and its repeal in 1933. The most striking representation of this is seen in poll numbers. Numerous state referendums were held on the topic in the years preceding 1919, and throughout the prohibition era. Based on the results of these referendums, between 1890 and 1919, 56.3% of the votes supported prohibition. In contrast, in referendums between 1920 and 1932, 59.8% voted against prohibition.<sup>7</sup> Another example of this abrupt shift can be seen in *Literary Digest* polls. In 1922, 38.5% of those polled favored retention of prohibition, 40.9% favored modification of the amendment, and 20.6% favored repeal. By 1932, only 26.5% favored retention, 29.1% favored modification, and 40.4% favored repeal.<sup>8</sup> While this source was known to exaggerate opposition to the amendment, the significant shift in public opinion is still notable regardless if the percentages can be accurately generalized.

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<sup>6</sup> National Commission on Law Observance and Enforcement, “Report on the Enforcement of Prohibition Laws of the United States”, Department of Justice Library, 1931, 90.

<sup>7</sup> John Gebhart, “Movement Against Prohibition,” *The Annals of the American Academy of Political and Social Science* 163 (1932): 172, accessed November 17, 2020, <http://www.jstor.org/stable/1017696>.

<sup>8</sup> Gebhart, “Movement,” 173.

The gradual development of anti-prohibitionist groups, such as the Association Against the Prohibition Amendment and the Women's Organization for National Prohibition Reform, was a product of this changing public opinion. These groups attracted millions of members. They conducted research and engaged in political work to bring about the repeal of the amendment.<sup>9</sup> Several major organizations were also on record as advocates for repeal: the American Bar Association, the American Federation of Labor, the American Medical Association, and the National Republican Club, for example.<sup>10</sup> It took until 1930 for a major political party to adopt prohibition as part of their platform, but that year, fourteen Democratic states and seven Republican states advocated for it. It would not take long for several more states, and eventually even a national political party to join the side of repeal.

#### *Repeal and the Twenty-First Amendment*

Numerous factors contributed to the downfall of prohibition. The drastic shift in public opinion due to enforcement issues that occurred in the decade following ratification was reflective of the inefficacy of the law. The start of the Great Depression in 1929 also led many people to support repeal because of the potential economic benefits of the manufacture and sale of liquor. Prohibition had created more problems than it solved, and many people saw it as an infringement on their rights. Groups like the Association Against the Prohibition Amendment and the Women's Organization for National Prohibition Reform were effective in gaining support for the repeal of the amendment. Over time, conservatives, who had initially supported the amendment, gradually shifted to support these organizations' efforts for repeal. Politicians were hesitant to support repeal, with both parties initially advocating only for reform to the

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<sup>9</sup> John Gebhart, "Movement Against Prohibition," *The Annals of the American Academy of Political and Social Science* 163 (1932): 176-177, accessed November 17, 2020, <http://www.jstor.org/stable/1017696>.

<sup>10</sup> "The Case Against Prohibition," *The Pulaski Democrat* (Pulaski, NY), April 13, 1932, 7.



amendment. Eventually, however, the efforts of anti-prohibitionists and the drastic shift in public approval became too much to ignore. The Twenty-First Amendment officially repealed the Eighteenth Amendment on December 5, 1933. This would be the first and only time throughout U.S. history that an amendment was overridden.

### **Consensus About the Factors that Shifted Public Opinion on Prohibition**

It is not surprising that an Amendment that was ratified and repealed within less than fifteen years sparked a great deal of controversy in its time. Republicans and Democrats, wets and dries all had strong opinions about the amendment's efficacy and the necessary improvements. It is clear that public opinion shifted drastically between 1919 and 1933, although not all political leaders were willing to acknowledge this shift at the time. One area where some consensus could be found, however, was on the problems with prohibition that caused the abrupt shift in public opinion. These factors included an increase in crime, political corruption, controversial law enforcement practices and prison overcrowding.<sup>11</sup> The combinations of these factors had a negative impact on public approval of prohibition throughout its first decade.

#### *Increased Crime*

The first factor that shifted public opinion of prohibition was an increase in crime. Most of the primary sources studied in this paper mention crime in some capacity. Many cite statistical evidence to support the claim that crime increased. The aforementioned "Report on the Enforcement of the Prohibition Laws of the United States" also known as the Wickersham Commission Report, states that "in the first five years of national prohibition, the volume of liquor prosecutions in the federal courts had multiplied by seven and federal prosecutions under

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<sup>11</sup> "The Case Against Prohibition," *The Pulaski Democrat* (Pulaski, NY), April 13, 1932, 7.

the Prohibition Act... [increased] nearly eight times [more than] the total number of all pending federal prosecutions.”<sup>12</sup> Similarly, an advertisement for the Women’s Organization for National Prohibition Reform in *The Pulaski Democrat* stated that “85,000 violations of the prohibition law were prosecuted in the last fiscal year, a total of 550,352 violations of this law were prosecuted during the first ten years of its existence,” however, the ad does not clarify whether this is supposed to represent a statewide or national number.<sup>13</sup> A third source, a report from the *Journal of Social Psychology* also weighs in, claiming that the crime rate increased from 31.33 to 60.96 per 100,000 people between 1924 and 1929.<sup>14</sup>

This increase in the number of prosecutions for violation of prohibition was surely expected by politicians; the restrictive nature of the law and the rapid societal change would likely produce some additional crime. What was surprising to politicians on both sides was the frequent violation of the law by otherwise law-abiding citizens whose demand provided the fuel for the bootlegging industry. The Wickersham Commission Report describes how the government had underestimated the resources necessary to police violations of the law. While people were initially skeptical about breaking the law when it was enacted, once they realized that enforcement was not a serious concern, violations increased drastically, to a point that the public began to see prohibition efforts as futile.<sup>15</sup>

Another aspect of crime that sources agree increased during the prohibition era was the size and power of organized crime. Both Republicans and Democrats identified the growing

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<sup>12</sup> National Commission on Law Observance and Enforcement, “Report on the Enforcement of Prohibition Laws of the United States”, Department of Justice Library, 1931, 100.

<sup>13</sup> “The Case Against Prohibition,” *The Pulaski Democrat* (Pulaski, NY), April 13, 1932, 7.

<sup>14</sup> Ray M. Simpson, “Post-War Trends in Employment, Crime, Insanity, and Heart Disease,” *The Journal of Social Psychology* 6 (1935): 127. doi:10.1080/00224545.1935.9921631.

<sup>15</sup> National, “Report on Enforcement,” 81.

political influence of gangs as a significant issue. An article from *The Republican Journal*, “Members of Committee Hold Divergent Views on Prohibition Future”, describes this trend, saying “gangsters had grown more audacious because of their long immunity from prosecution,” and “if not soon crushed those criminal organization may become... super-governments and so beyond the reach of the ordinary process of law.”<sup>16</sup> Other sources such as “Prohibition and Crime” from *The Annals of the American Academy of Political and Social Science* and “The Rule of the Underworld” from the 1929 *Illinois Crime Survey* similarly describe the influx of organized crime that occurred during this period, specifically focusing on the gangs of Chicago, led by Torrio and Capone, that serve as an example of the corruption occurring across the nation.

Overall, sources from the era generally agreed that the increase in crime that occurred during the 1920s and early 1930s swayed many people’s opinions of prohibition’s efficacy. Statistics in news sources revealed dramatic spikes in crime rates, and widespread violation of the law by otherwise law-abiding citizens convinced many that prohibition had failed. Additionally, sources agreed that organized crime grew significantly during this era, which many people connected to the growth of bootlegging. Some blamed issues with prohibition enforcement for these trends, while others proposed other causes. It was clear that public opinion shifted because so many people believed prohibition was to blame.

### *Political Corruption*

The second factor that shifted public opinion of prohibition was an increase in political corruption, specifically in the relationship between politicians and gang leaders. Before the onset of prohibition, a strong alliance already existed between these groups, but the growth of gang’s

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<sup>16</sup> “Members of Committee Hold Divergent Views of Prohibition Future,” *The Republican Journal* (Ogdensburg, NY), January 20, 1931, 1.

power during prohibition led them to have an even stronger influence over politics. An article from *The Republican Journal* describes this corruption, saying, “[gangsters] did not hesitate to seek to make bargains with law enforcement, or even with judges,” and the “the nation, the states, the municipalities [and] the individual citizen are helpless to get out of their reach.”<sup>17</sup> Similarly, “Prohibition and Crime” describes the huge amounts of graft that gangsters like Capone gave to police and politicians to ensure relative immunity for their employees, specifically bootleggers.<sup>18</sup> The article goes on to explain that even in times when there was an honest chief of police, the individual police officers would receive the graft to ensure protection for gangs instead.<sup>19</sup> Many people argued that the profitability of bootlegging encouraged gang leaders to form stronger alliances with politicians to ensure protection from the law.

It was also a well-known fact at the time that gangs were heavily involved in elections. “The Rule of the Underworld” sums this up when it says, “the relation of the gangster and the politician becomes most obvious to the public on election day.”<sup>20</sup> Voter fraud was rampant, gangsters’ presence at polling stations threatened voters, voters were erased from registration books, and “purchasable” voters were paid off, all to secure victory for the gang’s desired candidate. This was the candidate that would be most willing to cooperate with the gang leaders.

Another example of political corruption during prohibition was the patronage system which was originally used to appoint positions in the enforcement organization. Obviously unfair, this practice also proved ineffective. The employees selected were not well-qualified, and

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<sup>17</sup> “Members of Committee Hold Divergent Views of Prohibition Future,” *The Republican Journal* (Ogdensburg, NY), January 20, 1931, 1.

<sup>18</sup> John Landesco, “Prohibition and Crime,” *The Annals of the American Academy of Political and Social Science* 163 (1932): 127, accessed November 18, 2020, <http://www.jstor.org/stable/1017691>.

<sup>19</sup> Landesco, “Prohibition,” 123.

<sup>20</sup> Illinois Association for Criminal Justice, “The Illinois Crime Survey”, Chicago, IL: Blakely Printing Company, 1929, 1001.

their inadequacy is often credited for the initial failures of prohibition enforcement. It took nearly ten years before the civil service test was used to select enforcement employees.<sup>21</sup>

Overall, sources from this era identify a rise in political corruption during prohibition. The increasing power of gangs gave them more influence over politicians. Graft was often given to politicians to secure their support, and election fraud was used to elect leaders that would cooperate with gang leaders. The public often blamed bootlegging for the increased influence of gangs in politics, which negatively impacted public opinion of prohibition. Additionally, other corrupt practices like patronage contributed to the failures of prohibition enforcement.

### *Controversial Law Enforcement Practices*

The third factor that shifted public opinion of prohibition was controversial law enforcement practices. Similar to the issues that occurred with political corruption during this period, there were also several issues with police using questionable means of enforcement which sparked public controversy and changed many people's opinion about prohibition. An article from the *Republican Journal* describes the variety of controversial practices used by law enforcement, saying, "public sentiment against prohibition laws has been stimulated by irritating methods of enforcement, such as the abuse of search and seizure processes, invasion of homes and violation of the fourth amendment to the constitution, entrapment of witnesses, [and] killings by prohibition agents."<sup>22</sup>

One particularly controversial example of these practices was unwarranted searches and seizures. According to the Wickersham Commission Report, at the start of prohibition, police

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<sup>21</sup> Harry Dengler, "Training of Prohibition Enforcement Officers in the United States," *The American Journal of Police Science* 2, no. 1 (1931): 45-51, accessed November 18, 2020, doi:10.2307/1147303.

<sup>22</sup> "Members of Committee Hold Divergent Views of Prohibition Future," *The Republican Journal* (Ogdensburg, NY), January 20, 1931, 1.

were more concerned with increasing the number of arrests made, often neglecting to first obtain thorough evidence. This led to countless searches and seizures, arrests, and prosecutions that were not supported by evidence.<sup>23</sup> Many people argued that these practices were infringements on constitutional rights, and it led to a distrust of prohibition forces.

Another highly controversial law enforcement practice was the killing of “rum-runners”. Throughout prohibition, law enforcement officers approached enforcement with the mindset that their job was to obtain violators of the law through any means necessary. Sometimes this meant that shootings and killings occurred when rum-runners tried to escape. The most controversial of these killings were those when the criminal was unarmed. While there were a large number of people that supported and opposed this practice, it was generally acknowledged that many people who were appalled by this practice changed their opinion on prohibition.

Overall, these are examples of some of the controversial practices that law enforcement used during prohibition. While opinions differed about the morality and constitutionality of these practices, it was generally agreed that the unwarranted searches, lack of evidence for arrests, and shooting and killing rum-runners caused many people to oppose prohibition.

### *Prison Overcrowding*

The fourth factor that shifted public opinion of prohibition was prison overcrowding. Numerous sources cited statistics describing the serious problem that prison overcrowding had become for the criminal justice system. The Wickersham Commission Report cited Department of Justice statistics that said “[the number of] prisoners serving sentences of more than a year has risen from not more than 5,268 on June 30, 1921 to 14,115 on June 30, 1930,” and that “the

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<sup>23</sup> National Commission on Law Observance and Enforcement, “Report on the Enforcement of Prohibition Laws of the United States”, Department of Justice Library, 1931, 79.

percentage of long term violators of the National Prohibition Act and other national liquor laws ...on June 30, 1930 was therefore something over one-third.”<sup>24</sup> An ad from *The Pulaski Democrat* also states that around thirty percent of federal prisoners were violators of national prohibition. “Prohibition and Crime” provides another set of statistics on prison overcrowding, showing the imprisonment rate per 100,000 males for a variety of different crimes. According to this report, the overall rate of imprisonment rose from 55.5 to 88.1 between 1910 and 1928.<sup>25</sup>

Statistics confirmed that prisons were overcrowded, however, the solution to that problem was controversial. President Hoover proposed a plan asking for seven million dollars to construct new facilities. Other political leaders argued that less rigid enforcement was needed to reduce the number of people imprisoned.

### *Summary*

Overall, there were four main factors that most primary sources from the prohibition era cite as the reason for the drastic shift in public opinion that occurred. One factor was an increased crime rate due to frequent violations of prohibition laws by otherwise law-abiding citizens, coupled with an increase in the size and power of gangs. Another factor was an increase in political corruption under the influence of powerful gangs that controlled them through grafting and election fraud. Also, public opinion was impacted by controversial law enforcement practices such as illegal searches and seizures, and the shooting and killing of rum-runners. Finally, problems with prison overcrowding were also cited as influencing public opinion.

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<sup>24</sup> National Commission on Law Observance and Enforcement, “Report on the Enforcement of Prohibition Laws of the United States”, Department of Justice Library, 1931, 104.

<sup>25</sup> John Landesco, “Prohibition and Crime,” *The Annals of the American Academy of Political and Social Science* 163 (1932): 104, accessed November 18, 2020, <http://www.jstor.org/stable/1017691>.

## Range of Attitudes Encountered

There was agreement during the prohibition era that changes in crime, political corruption, controversial law enforcement practices and prison overcrowding were the primary factors that caused the drastic shift in public opinion about the Eighteenth Amendment. Many people at the time believed that prohibition was causing these problems, which led to increased opposition to the Amendment. However, the legitimacy of the claim that prohibition was to blame for these problems was wildly debated at the time. This section will discuss the different attitudes and perspectives on these issues found in the primary sources analyzed for this paper.

### *Increased Crime*

Sources generally agreed that crime rose during prohibition, however, there was significant controversy among them about what caused this increase. Organized crime was often blamed for the abrupt change to the crime rate, and it was argued that the growing power and influence of gangs was the result of bootlegging revenues. One source that weighed in on this debate was the *Glens Falls Times* which argued that “prohibition has introduced the most difficult problems of law enforcement in the field of organized crime,” and that “the enormous revenues derived from bootlegging have purchased protection for all forms of [crime] and have demoralized the law enforcing agencies.”<sup>26</sup> Several other sources corroborated this perspective. An article from the *Republican Journal* estimates that bootlegging provided two to three billion dollars of revenue for American gangs, which helped them expand their influence and criminal activity.<sup>27</sup> “Prohibition and Crime” also conferred that liquor traffic was the cause of gangs’

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<sup>26</sup> “Official Toleration of Prohibition Law Violations is Blamed for Desperate Gunmen’s Rise to Power in Chicago,” *The Glens Falls Times* (Glens Falls, NY), February 19, 1929, 5.

<sup>27</sup> “Members of Committee Hold Divergent Views of Prohibition Future,” *The Republican Journal* (Ogdensburg, NY), January 20, 1931, 10.



increased criminal activity.<sup>28</sup> In contrast, one source that described a different perspective on the issue was an article from *The Literary Digest*, “Gangsters and Prohibition”, that detailed a speech from Attorney-General Mitchell in which he claimed that “recent income-tax prosecutions against a number of organized gangsters [revealed that] not more than 20 percent of their revenue came from liquor traffic.”<sup>29</sup> Mitchell argued that this data proved that removing prohibition and illegal liquor traffic would not end the current problems with gangsterism and organized crime. The article goes on to discuss several different responses to Mitchell’s speech from papers like the *New York Evening Post* and *The World-Telegraph* which question the legitimacy of his data and his motives, instead asserting the connection between the start of prohibition and the increased influence of gangs over police and politicians. Other papers like *The National Enquirer* and the *Raleigh News and Observer* are also cited; these sources agreed with Mitchell that the problems of gangsterism would not end with the end of prohibition.<sup>30</sup>

Most Americans shared the view that prohibition drastically increased gangs’ revenue, which caused an increase in organized crime. In contrast, a vocal minority questioned this perspective, arguing that the crime rate would not be significantly altered if prohibition was ended. It seems that those who blamed bootlegging revenues for increased crime likely believed this because they recognized the sheer profitability of the liquor industry. It was well-known that gangs were the source of illicit liquor, and many people experienced firsthand the massive demand for that liquor. Also, several sources came out with statistics supporting that belief. In contrast, those who claimed bootlegging was not a major revenue source for gangs may have had

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<sup>28</sup> John Landesco, “Prohibition and Crime,” *The Annals of the American Academy of Political and Social Science* 163 (1932): 120-129, accessed November 18, 2020, <http://www.jstor.org/stable/1017691>.

<sup>29</sup> “Gangsters and Prohibition,” *The Literary Digest* 109:10 (May 30, 1931): 10.

<sup>30</sup> “Gangsters and Prohibition,” *The Literary Digest* 109:10 (May 30, 1931): 10.

political motives for this position. For supporters of prohibition, admitting that bootlegging contributed to organized crime would mean admitting to a major negative outcome from the law.

Another controversial topic discussed in the sources for this paper was the “relative immunity” granted to criminals, and specifically bootleggers, because of police and politicians’ cooperation with gangs. Several sources describe this immunity, with some discussing the immunity of criminals in general, and others specifically claiming that bootleggers received special protections that other criminals did not. “Prohibition and Crime” provides a detailed description of this “relative immunity” citing studies that found that most bootleggers in Chicago had a “total absence of a record”.<sup>31</sup> Other sources describe how bootleggers were immune from protections for both liquor violations and any other type of crime they committed because of the importance of their position within the gang. “The Rule of the Underworld” provides examples of this immunity, discussing criminals like Dion O’Banion, who was never prosecuted for any of the twenty-five murders he was accused of, and Frankie McErlane, “the most brutal gunman who ever pulled a trigger in Chicago” who was also not prosecuted.<sup>32</sup>

Most Americans shared the perspective that bootleggers were receiving special protections from politicians and law enforcement because of their status within gangs, and prohibition was often blamed for this increased corruption. The reason that this perspective was held so widely was that many people believed the studies that showed bootleggers had no criminal records, and because little progress was made to put an end to bootlegging.

### *Political Corruption*

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<sup>31</sup> John Landesco, “Prohibition and Crime,” *The Annals of the American Academy of Political and Social Science* 163 (1932): 126, accessed November 18, 2020, <http://www.jstor.org/stable/1017691>.

<sup>32</sup> Illinois Association for Criminal Justice, “The Illinois Crime Survey”, Chicago, IL: Blakely Printing Company, 1929, 916.

The sources analyzed in this paper contained little variation in their arguments regarding political corruption. These sources agreed that during prohibition, political corruption was a serious problem impacted by gangs' growing power. As previously discussed, many people believed that bootlegging revenue was the source of this growing power, and political corruption was seen as another downfall of prohibition issues. One controversial topic discussed in the sources for this paper was the idea that the wealthy were generally exempt from prosecution by enforcement agents. The Wickersham Commission Report discusses this issue in some detail. The report describes how drinking was common in the homes and clubs of the wealthy and how they were generally allowed to remain free from the reach of law enforcement because of their status. The lower classes resented this preferential treatment from police who would sooner close a speakeasy than a hotel restaurant. An article from Harper's Magazine, "New York Speakeasy", similarly describes this phenomenon, detailing the grandeur of the classiest speakeasies in New York City during prohibition. This article describes in great detail the pristine and costly environment found in these establishments. According to the author, some of the most well-known of these prestigious speakeasies were found right off Park Avenue.<sup>33</sup> They were not secretive about their violations of the law, and yet were able to remain open for years. The author of this text does acknowledge that a "selective brand" of speakeasies were more often targeted by the police, but he seems to believe that this was justified by the lawless criminal activity that occurred at "those types" of places.<sup>34</sup> This mindset is starkly different from that of the Wickersham Commission Report, which seems to side with the lower class's complaints, describing the way searches of homes were generally limited to middle or lower classes and how

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<sup>33</sup> "New York Speakeasy: A Study of a Social Institution," *Harper's Magazine* 164:591-601 (April 1932): 594.

<sup>34</sup> "New York," 600.

the liquor that the wealthy had access to was “pure” compared to the less expensive, but often poisonous, liquor consumed by the lower class.<sup>35</sup>

These sources provide two very different perspectives on the enforcement of prohibition across class lines. Both confirm that the wealthy received preferential treatment but differ when discussing if this was justified. This issue is relevant to the change in public opinion because it shifted many lower and middle-class people’s opinions of the prohibition. They felt targeted by the law, and this caused many to oppose it. It is difficult to say what “most Americans” believed about this preferential treatment because different classes had different views. The lower classes saw it as an example of the unfair advantages and privileges given to the wealthy by the government. They felt it was completely unjustified that they were being targeted. In contrast, the wealthy believed that the lower class was being disproportionately targeted because people and establishments of that class were involved in all different kinds of lawless behavior. It is interesting that the Wickersham Commission Report addressed this issue and sided with the lower class considering the political corruption involved in favoring the wealthy. The authors of the report were calling out many of their fellow politicians, which is surprising behavior.

### *Controversial Law Enforcement Practices*

As the name of this section suggests, there were several controversial aspects of the law enforcement practices used during prohibition. Arguably the most notable of these controversies was the debate over the morality of killing rum-runners. This was a highly debated topic throughout the prohibition era, as it became incredibly common for police to shoot and kill rum-runners as they were attempting to escape. While there were certainly issues with police and

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<sup>35</sup> National Commission on Law Observance and Enforcement, “Report on the Enforcement of Prohibition Laws of the United States”, Department of Justice Library, 1931, 98.

bootleggers engaging in shoot outs that resulted in deaths, the issue in question specifically refers to killing unarmed criminals when they were attempting to escape. This issue is relevant to this paper because shootings and killings by enforcement agents alienated thoughtful citizens, persuading them to oppose prohibition. Advocates of these killings, who seemed indifferent to the moral implications of such an act further aggravated the concerns of these individuals.

An article from *The Literary Digest*, “Killing Rum-Runners – Murder or Justice”, provides an in-depth look at the two sides of this issue. The first perspective on the issue discussed in the article was the argument that killing rum-runners was immoral and disgraceful. Advocates of this perspective argued that “[no] other law on the statute books of our country, or any other country... requires the daily taking of human life, the constant use of armed vessels, revolvers, machine guns and cannon to enforce.”<sup>36</sup> One Congressman posed the question, “how long are we going to continue the use of force to enforce a law which the majority of people do not want?”<sup>37</sup> In response, the article then addressed the contrasting perspective on the topic which argued that killing rum-runners was a necessary part of effective law enforcement and that police were not violating any laws by using this technique to capture criminals. Another article from *The Literary Digest*, “New Jersey’s Beer-Gang Murder” argues this position, claiming that every citizen should, “stand back of whatever measures may be necessary to put a stop to gang rule, and set the law solidly above the activities of the thug.”<sup>38</sup> The author of the article frames this issue as one of having a strong government willing to do what is needed to enforce the law.

Public opinion on this issue was generally divided between wets and dries, with wets against the killings and dries supporting them. The reason for this divide is likely because the

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<sup>36</sup> “Killing Rum-Runners: ‘Murder’ or ‘Justice’,” *The Literary Digest* 104:9-10 (January 18, 1930): 9.

<sup>37</sup> “Killing Rum-Runners: ‘Murder’ or ‘Justice’,” *The Literary Digest* 104:9-10 (January 18, 1930): 9.

<sup>38</sup> “New Jersey’s Beer-Gang Murder,” *The Literary Digest* 107:13, (October 11, 1930): 13.

questionable morality of killing rum-runners provided wets with a strong argument against prohibition. To defend their support of prohibition, dries had to support these killings, whether they agreed with their morality or not, because they were a necessary means of effectively enforcing the law.

Another controversial issue related to political corruption was the cause of the illegal searches and seizures that took place at the start of prohibition. It was well known that there was a major problem with unwarranted searches and seizures at first, however, there were different perspectives on whether this was merely a mistake or if it was planned actions by law enforcement that willfully infringed on people's rights. Unsurprisingly, after their actions were harshly criticized, law enforcement defended the issue as a series of mistakes caused by inexperience and ill-trained officers. They claimed that "the search warrant had been little used in this country up to that time, and the officers as well as the public were unfamiliar with the requirements."<sup>39</sup> Additionally, a lack of resources was cited as the reason for this poor training. Massive training programs were eventually established to help remedy the issue. In contrast, several politicians criticized law enforcement for "evading the Fourth Amendment", blaming the government for these issues, and comparing it to Great Britain during the colonists' revolt.<sup>40</sup>

It is difficult to determine from this paper's limited sources what perspective most Americans had on this issue. It is likely that the two perspectives were divided between wets and dries. Wet politicians used this debate to further their campaign for repeal, framing prohibition as oppressive, so dries would have likely responded by defending the police for making mistakes.

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<sup>39</sup> Harry Dengler, "Training of Prohibition Enforcement Officers in the United States," *The American Journal of Police Science* 2, no. 1 (1931): 45-51, accessed November 18, 2020, doi:10.2307/1147303.

<sup>40</sup> "Curran Tells Aims of Anti-Prohibitionists," *New York Times* (New York, NY), April 17, 1930.

### *Prison Overcrowding*

The sources analyzed in this paper related to prison overcrowding mostly contained factual information about the issue. It was well-known that prisons at the time, especially federal prisons, were overcrowded because of the influx of prohibition violators, and there was a large amount of data to support it. One aspect of prison overcrowding that did draw out differing perspectives was how it should be handled. An article from *TIME Magazine*, “Prisons and Prohibition”, describes President Hoover’s proposed solution, a 7 million dollar program to construct more prison facilities.<sup>41</sup> Similarly, a *New York Times* article, “Full Prisons Check Dry Enforcement”, quotes Attorney-General Mitchell’s speech to the Senate on prison overcrowding in which he also asks for more resources to help manage the influx of prisoners. He leaves the impression that improved enforcement efforts must be prefaced by improvements in the prison system, or both will inevitably fail.<sup>42</sup> In contrast, many political leaders argued that the solution to prison overcrowding was less rigid enforcement of prohibition either through reform or repeal.

Like many of the issues described in this paper, perspectives on the solution to prison overcrowding were generally divided between wets, who favored less strict enforcement, and dries, who advocated for more resources to accommodate high prison populations. Once again, motives for these perspectives are directly linked to each group’s goals; either to repeal prohibition or ensure its permanence.

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<sup>41</sup> “Prisons & Prohibition,” *TIME Magazine* 15, no. 17 (April 28, 1930): 14, accessed November 18, 2020, <https://search-ebscohost-com.brockport.idm.oclc.org/login.aspx?direct=true&db=a9h&AN=54790155&site=ehost-live>.

<sup>42</sup> “Full Prisons Check Dry Enforcement,” *New York Times* (New York, NY), April 17, 1930, accessed November 18, 2020, <https://timesmachine.nytimes.com/timesmachine/1930/04/17/issue.html>.

## Conclusion

The research conducted in this paper provides an overview of the key factors that contributed to the drastic shift in public opinion of prohibition that occurred between the ratification of the Eighteenth Amendment and its repeal. These factors were increased crime, political corruption, controversial law enforcement practices, and prison overcrowding. Generally, the reason that people's opinion on prohibition was changed by these factors was because they blamed the problems associated with each on prohibition. This paper first provides a brief description of the problems associated with each factor, and then discusses the controversial aspects of those four factors, providing insight into the different perspectives on prohibition's role in the relevant issues. An example of this is the debate over the importance of bootlegging revenue to gangs. While not directly named, this debate attempts to determine if the rise in bootlegging that resulted from prohibition caused gangs to become more powerful and increased crime.

As it has been nearly ninety years since prohibition's repeal, modern historians understand that ultimately the majority of the public agreed that prohibition was to blame for these issues, causing the drastic change in public opinion, and eventually contributing to its repeal. The insight offered by this paper, however, is unique because it only uses primary sources from before prohibition's repeal. This provides a better understanding of the controversy that existed at the time and the fluctuating public opinions on these topics. While it may limit the reliability of the conclusions drawn, it also allows for more differing perspectives to be explored without being limited by prior knowledge of what ended up happening or which perspective eventually proved correct.



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