

THE NEW PROHIBITION

The culture war raged most hotly from the '70s to the next century's '20s. It polarized American society, dividing men from women, rural from urban, religious from secular, Anglo-Americans from more recent immigrant groups. At length, but only after a titanic constitutional struggle, the rural and religious side of the culture imposed its will on the urban and secular side. A decisive victory had been won, or so it seemed.

The culture war I'm talking about is the culture war over alcohol prohibition. From the end of Reconstruction to the First World War, probably more state and local elections turned on that one issue than on any other. The long struggle seemingly culminated in 1919, with the ratification of the Eighteenth Amendment and enactment by Congress of the National Prohibition Act, or the **Volstead Act** (as it became known). The amendment and the act together outlawed the manufacture and sale of alcoholic beverages in the United States and all its subject territories. Many urban and secular Americans experienced those events with the same feeling of doom as pro-choice Americans may feel today after the Supreme Court's overturning of *Roe v. Wade*.

Only, it turns out that the Volstead Act was not the end of the story. As Prohibition became a nationwide reality, Americans rapidly changed their mind about the idea. Support for Prohibition declined, then collapsed. Not only was the Volstead Act repealed, in 1933, but the Constitution was further amended so that nobody could ever try such a thing ever again.

That's where the story usually ends. But now let's add one more chapter, the one most relevant to our present situation. When Prohibition did finally end, so too did the culture war over alcohol. Emotions that had burned fiercely for more than half a century sputtered out after 1933. Before and during Prohibition, alcohol had seemed a moral issue of absolute right and wrong. Between heaven and hell (as the prohibitionists told it), between liberty and tyranny (as the repealers regarded it), how could there be compromise?

"It is my opinion that the saloonkeeper is worse than a thief and a murderer.

The ordinary thief steals only your money, but the saloonkeeper steals your honor and your character.

The ordinary murderer takes your life, but the saloonkeeper murders your soul."

So preached the great early-20th-century evangelist **Billy Sunday** in his famous **"booze sermon."**

And here's Billy Sunday's anti-Prohibition counterpart, the most famous pro-repeal journalist of the 1920s,

H. L. Mencken:

"The Prohibitionists, when they foisted their brummagem cure-all upon the country under cover of the war hysteria, gave out that their advocacy of it was based upon a Christian yearning to abate drunkenness, and so abolish crime, poverty and disease ...

Not only are crime, poverty and disease undiminished, but drunkenness itself, if the police statistics are to be believed, has greatly increased ...

The more obvious the failure becomes, the more shamelessly they exhibit their genuine motives.

In plain words, what moves them is the psychological aberration called sadism."

You would not imagine any meeting of minds such as these. And yet, compromise is exactly what happened after Prohibition was tried.

How to regulate alcohol remains a challenging issue in localities, states, and Congress to this day. But the debate is now one for specialized interest and advocacy groups: the beer wholesalers fighting to protect their government-conferred regional monopolies, Mothers Against Drunk Driving campaigning to keep the intoxicated off the road, bars and restaurants that want to stay open later, homeowners' associations that want them to close earlier. But almost nobody

talks about alcohol or alcohol regulation anymore the way Billy Sunday or H. L. Mencken did. The regulation of alcohol is a governance issue, not a major battleground of the culture war. The goal of regulators is no longer to save sinners from hell and achieve heaven on Earth. The goal of deregulators is no longer to liberate the human spirit from reactionary tyranny. Both are seeking to find a state-by-state, town-by-town equilibrium that most Americans can live with.

The great debate on alcohol offers, a century later, a fascinating parallel with the contemporary one on abortion. In each instance, the battle commenced with big triumphs in the courts for legalization. In 1973, the U.S. Supreme Court found a constitutional right to abortion; in 1856, the highest court in the state of New York struck down an early prohibition law as a violation of property rights. Defeat in the courts drove the pro-life and prohibition sides toward mass mobilization. Meanwhile, victory in the courts lulled the original winning sides into complacency. Gradually, the balance of political power shifted. The pro-life/prohibition sides came to control more and more state legislatures. State and federal courts slowly reoriented themselves to the pro-life/prohibition sides. At last came the great moment of reversal for the formerly defeated: national Prohibition in 1919, the *Dobbs* case in 2022.

Prohibition and *Dobbs* were and are projects that seek to impose the values of a cohesive and well-organized cultural minority upon a diverse and less-organized cultural majority. Those projects can work for a time, but only for a time. In a country with a representative voting system—even a system as distorted in favor of the rural and conservative as the American system was in the 1920s and is again today—the cultural majority is bound to prevail sooner or later.

It would be unfair to describe Prohibition as an entirely reactionary movement. Prohibition at first attracted many of the same moral energies as the abolition of slavery and the institution of women's suffrage had earlier. Frederick Douglass became a prohibitionist, and Susan B. Anthony and Elizabeth Cady Stanton started that way.

But by the end of the 19th century, alcohol prohibition had evolved into a movement predominantly rooted in the Protestant and Republican countryside to police the Catholic and Democratic big cities. The famous phrase that the Democrats were the party of **"Rum, Romanism, and Rebellion"** contained a lot of truth—both about the Democrats and about some of the angry motives of the prohibitionists as well.

The cities lacked the political clout to stop rural America from enacting Prohibition in 1919. But they did have the fiscal clout to refuse the money necessary to enforce it. From the beginning, the federal Prohibition police—domiciled first within the Treasury, later inside the Department of Justice—were hopelessly underfunded and understaffed. Big-city police departments often refused to cooperate with federal authorities, not only because they were bribed, but because they despised the law.

Then came another surprise. The policing regimen intended to suppress the working-class urban saloon also impinged upon the members of the upper-class Union League and the middle-class suburban golf club.

Likewise, many of the men and women poised to cast Republican ballots in 2022 and 2024 to protest inflation and COVID-19 school closures may be surprised to discover that anti-abortion laws they had assumed were intended only to prohibit others also apply to them. They may be surprised to discover that they could unwittingly put out of business in vitro-fertilization clinics, because in vitro fertilization can involve intentionally destroying fertilized embryos. They may be surprised to discover that a miscarriage can lead to a police investigation. They may be surprised that their employer could face retaliation from lawmakers if it covers the costs of traveling out of state for an abortion. The concept of fetal personhood could, if made axiomatic, impose all kinds of government-enforced limits and restrictions on pregnant women.

Those men and women may discover that they do not like any of those things, or the politicians who have imposed them.

In the 1920s, formerly diffuse anti-Prohibition factions coalesced around a single issue: repeal. They gathered into a single umbrella organization funded by big donors like the du Pont family and John J. Raskob, an early investor in General Motors. By the mid-'20s, the group had recruited nearly 1 million dues-paying



members and began winning elections with the clear and simple slogan "Vote as you drink."

The pro-choice coalition is diffuse, too. It spans party, ideology, class, and race. Currently, that alliance is hobbled from winning broader support by the weird reluctance of the most important pro-choice institutions even to use the word woman to describe the people most immediately affected by abortion restrictions. But as happened with Prohibition, nothing like an invasion of a person's most intimate decisions serves better to unite formerly squabbling factions. In recent polling, about 55 percent of Americans identify as "pro-choice." They may not all agree on what they want. More and more, they agree on what they do not want. As the anti-prohibitionists once did, they have the numbers. With the numbers, sooner or later come the votes.

Pro-life politics in the United States used to be mostly posturing and positioning, the taking of extreme rhetorical positions at no real-world cost. Republicans in red states could enact bills that burdened women who sought abortions, knowing that many voters shrugged off these statutes and counted on the courts to protect women's rights. Now the highest court has abdicated its protective role, and those voters will have to either submit to their legislature's burdens or replace the legislators.

That will likely mean that every legislative race in every currently red state will become a referendum on how strictly to police the women of that state. If a Republican president is elected in 2024 and signs a national abortion restriction in 2025, then every House and Senate race will likewise become a referendum on policing women. I don't imagine that will be a very comfortable situation for the pro-policing side. Republican politicians who indulged their pro-life allies as a low-cost way to mobilize voters who did not share the party's economic agenda are about to discover that the costs have jumped, and that many of the voters who do share the party's economic agenda care more about their intimate autonomy.

Abortion politics is about to transition from being the conservative ideologue's proof of purity to the Republican politician's most vexed and intractable quagmire. We may all be surprised at how rapidly the politicians start looking for some escape.

Other countries live at peace with variations of a regime in which abortion is legal and readily available in the early weeks of a pregnancy and more strictly regulated thereafter. Such compromises do not banish all controversy—after a fierce debate, France just extended the period of no-questions-asked abortion from 12 weeks to 14—but compromise allows a complex and diverse society to go along in ways most people can accept most of the time.

As the coronavirus pandemic began to subside, some commentators promised a new **"Roaring Twenties,"** meaning an era of booming economic prosperity. The stock market is looking more like the '30s than the '20s these days, but that was not their biggest mistake.

Their biggest mistake was that they forgot where the phrase Roaring Twenties most likely originated. In the Southern Hemisphere, extremely powerful winds blow from west to east in the latitudes between 40 and 50 degrees. In the days of sailing ships, mariners called these latitudes "the roaring forties"—not because they were fun and exciting, but because they were turbulent and dangerous.

So welcome to the Roaring Twenties.

The pro-life dog has at last caught up with the *Roe v. Wade* car.

Now it has to chew on its prey.

And it's about to discover that the prey in its jaws is a lot bigger and stronger than it looked when the dog started its chase.

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