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VITALIZING LIQUOR CONTROL

Virgil W. Peterson

The problem of liquor control has plagued the authorities in America ever since colonial times. It is a question of the utmost concern to those interested in suppressing crime. The following article was originally prepared as an address which the author delivered before the National Conference of State Liquor Administrators, San Francisco, California, May 9, 1949. Mr. Peterson is the Operating Director of the Chicago Crime Commission and an Associate Editor of this Journal in which several of his articles have previously appeared.—EDITOR.

One of the most commonplace weaknesses of the human mind is the tendency to over simplify. This tendency is frequently prevalent in connection with efforts to solve some of our very complex social problems. Because of the evils which grew out of national prohibition, many citizens were of the opinion that the liquor problem itself was the result of prohibition. And many people firmly believed that by the simple expedient of repealing the Eighteenth Amendment, all of the ills associated with the liquor traffic would disappear. But no complex social problem is capable of such an easy, simple solution. False premises usually lead to incorrect conclusions.

The historical background and the traditions which have become deeply embedded in the American character are necessarily important considerations in any effort to make substantial progress in dealing with a social problem. The effective control of liquor presented serious difficulties in America almost simultaneously with the founding of the colonies over three hundred years ago. Within ten years after the Pilgrims landed at Plymouth Rock on December 21, 1620, the American colonies found it necessary to take legal action to prevent the excessive use of liquor. Laws with penal provisions were enacted in Maryland in 1642 and 1658, in Connecticut in 1650, and in Virginia in 1664. The Virginia law was directed at the over indulgence of liquor on the part of ministers which indicated that the liquor habit permeated every strata of society.¹

In addition to punitive measures, the colonists early took steps to control the consumption of liquor through the establishment of licensing systems. The number of liquor licenses was limited

¹ State Liquor Legislation, prepared by The Marketing Laws Survey, Works Progress Administration, Vol. 4. U. S. Printing Office, Washington, D. C., 1941, p. 1.

with a view of curtailing the excessive use of intoxicants. Unfortunately, the unsound expedient of using the liquor license system primarily for revenue purposes rather than for control was resorted to early in colonial history. This was true of the licensing system established by the New York legislature in 1753.² And since this early date, legislatures, with the full approval of their constituents, have frequently been unable to resist this temptation.

Even violence as a means of resisting unpopular legislation appeared early in America. Following the adoption of the Constitution, the first forcible defiance of the United States Government resulted from opposition to a Federal excise tax on distilled liquors in 1791. Farmers had found it expedient to convert their surplus grain into whiskey which was then transported to the east coast. This was easier than conveying the bulky grain itself. Citizens of North Carolina, Virginia, Maryland and Pennsylvania were highly incensed at the Federal excise tax on liquor. In the western section of Pennsylvania citizens resorted to violence. Revenue collectors as well as those who paid the tax were mobbed. In 1799 the Federal Government found it necessary to mobilize fifteen thousand militia to bring the Whiskey Rebellion to an end.³

While the Whiskey Insurrection was not directed at unpopular legislation designed to limit liquor consumption, this was true of later violence in some of our larger cities. In Chicago, during the middle 1850's, the mayor enforced a law forbidding the sale of intoxicants on Sunday. This was highly unpopular with the German and Irish population. In protest, a mob armed its members with bricks, clubs, knives and guns. This mob surged toward the main business section of Chicago. When police were called out to restore order, a riot occurred. A policeman's arm was blown off with a shotgun blast. An officer killed one of the rioters. Clubs were swung wildly during the general melee which followed. The mayor placed cannon around the City Hall to protect it. But the mob was dispersed before use of the cannon was necessary.⁴ The Sunday closing laws met with vigorous opposition in many of the larger cities in the United States. They were the subject of widespread evasion and were the source of much political corruption. As late as 1895, when Theodore Roosevelt became president of the New York City

² *Ibid.*, p. 2.

³ *Paths To The Present*, Arthur M. Schlesinger. The Macmillan Company, New York, 1949, p. 240.

⁴ *Chicago, The History of Its Reputation*, Lloyd Lewis and Henry Justin Smith. Harcourt, Brace and Company, New York, 1929, pp. 72, 73.

Police Board, it was stated that Sunday was the most profitable day of the week for saloon keepers. Graft was paid by saloon proprietors for the privilege of violating the Sunday closing laws. Theodore Roosevelt launched a law enforcement drive in the face of vigorous opposition which brought about compliance with liquor regulations.⁵

Paradoxical as it may seem, while it has always been somewhat characteristic for people of the United States to consider it their God-given privilege to evade those liquor regulations not pleasing to them, also deeply ingrained in the American character is the desire for temperance. In fact, organized agitation against the excessive use of intoxicating liquor originated in the United States.⁶ Following the Revolutionary War the excessive use of intoxicants became very prevalent. It was asserted that more liquor was consumed per capita in America than in any other nation of the world. The social evils resulting from widespread intemperance caused serious-minded citizens to study the problem. The temperance movement actually started in 1785 with the publication of an essay by Dr. Benjamin Rush entitled "Inquiry Into the Effects of Ardent Spirits on the Human Body and Mind." Dr. Benjamin Rush was one of the most distinguished men of his time. He was one of the original signers of the Declaration of Independence, a member of the Constitutional Convention in 1787, treasurer of the United States mint in Philadelphia, a professor of medicine at the University of Pennsylvania, an attending physician in the Philadelphia Hospital, and a writer of distinction.⁷ It is significant that the Nineteenth Century world-wide temperance movement started with a man of the talents and professional standing of Dr. Rush. The temperance movement gained its impetus from the social needs of the time. Even in the territory where the City of Chicago was to be situated some time later, a Shawnee Indian chief, Tecumseh, was preaching temperance to his people. Through his leadership whiskey drinking was greatly diminished among his followers, and in large sections of the Northwest the use of firewater among the Indians almost vanished.⁸

The early American temperance movements advocated moderation. But efforts to induce men to use liquor only moderately

⁵ Theodore Roosevelt *The Citizen*, Jacob A. Riis. The Macmillan Company, New York, 1904, pp. 129, 130, 135, 136, 139, 140.

⁶ *Paths To The Present*, Arthur M. Schlesinger. The Macmillan Company, New York, 1949, p. 181.

⁷ *A Century of Drink Reform in the United States*, August F. Fehlandt. Jennings and Graham, Cincinnati, 1904, pp. 22-25, 32.

⁸ *Chicago, The History of Its Reputation*, Lloyd Lewis and Henry Justin Smith. Harcourt, Brace and Company, New York, 1929, pp. 11, 12.

failed. And beginning with the formation of the American Society for the Promotion of Temperance on February 13, 1826 in Boston, the policy of total abstinence was recommended in place of moderation.⁹ By 1832 there was a state temperance society in every state but three. Over four thousand temperance societies were in existence, and fifteen hundred distilleries were closed.¹⁰ Three years later, 1835, the American Temperance Society had a membership of one million two hundred thousand people and eight thousand affiliated societies. As a result of this movement in America, temperance organizations were started in Ireland and Scotland in 1829, in England in 1830, and in Sweden in 1831.¹¹ On February 26, 1833, temperance mass meetings were held throughout the United States. On the same day, at a meeting of members of Congress, the American Congressional Temperance Society was formed. Its president was the then Secretary of War, Lewis Cass.¹² Even secret temperance societies were organized. The first society of that nature, the Independent Order of Rechabites, was established in Boston in 1841.¹³ In the following year, September 29, 1842, the Order of the Sons of Temperance was organized in New York City. Its rapid growth made it possible for that secret society to boast of one-fourth of a million members within the first decade of its existence,—a larger membership than that of either the Odd Fellows or Masons.¹⁴ Offspring of the Sons of Temperance were the Cadets of Temperance and the Templars of Honor and Temperance, both formed in 1845, and the Order of Good Templars, organized in 1851.¹⁵ The first world's temperance convention was held in London, August 4, 1846. During that same year the first state-wide prohibition law in the United States was enacted by the Maine legislature. And before two decades had passed, thirteen states, which comprised over one-third of the total states then in existence, had adopted state-wide prohibition laws.¹⁶ Between 1849 and 1851, Father Theobald Matthew of Ireland was in America in behalf of temperance, and administered the pledge to six hundred thousand persons in twenty-five states. Father Theobald Matthew was dined by the President of

⁹ *A Century of Drink Reform in the United States*, August F. Fehlandt, p. 52.

¹⁰ *Ibid.*, pp. 71, 72.

¹¹ *Ibid.*, pp. 65, 66.

¹² *Ibid.*, p. 73.

¹³ *Ibid.*, p. 92.

¹⁴ *Paths To The Present*, Arthur M. Schlesinger. The Macmillan Company, New York, 1949, p. 39.

¹⁵ *A Century of Drink Reform in the United States*, August F. Fehlandt, pp. 93, 94.

¹⁶ *State Liquor Legislation*, prepared by The Marketing Laws Survey, Works Progress Administration, Vol. 4, p. 3.

the United States in the White House and was honored by the United States Senate in a manner that had been previously accorded to only one other foreigner, General Lafayette of France.¹⁷

But the people rebelled against the state-wide prohibition laws that had been enacted. They considered them an infringement upon their liberties. The liquor interests also sought their repeal. And within a relatively short period of time all states except one repealed their prohibition laws.

During the reconstruction period following the Civil War the prevalence of intemperance brought about a second wave of agitation for prohibition. In 1869 the National Prohibition Party was organized in Chicago, and during the 1870's the Women's Christian Temperance Union was formed. State-wide prohibition was again seriously considered as a means of curbing the excessive consumption of alcohol. Even states that had found prohibition unsatisfactory again turned to this approach as a solution to the liquor problem. In some instances the people voted directly on the issue and adopted constitutional amendments which prohibited the sale of liquor in such states. Laws were enacted in other states to accomplish the same end. But prohibition laws were no more popular during this period than they were during the earlier experiment. And by 1904 the state-wide prohibition laws of all states except Maine, Kansas and North Dakota were either repealed or declared unconstitutional by the courts.¹⁸

Throughout this entire period the liquor interests were a potent factor in corrupt municipal politics. The saloon was a meeting place for ward politicians in the larger cities, and much political activity centered in and around the saloon. In preparation for the 1884 elections in New York City, the various political parties held one thousand seven primaries and conventions. Of this number, six hundred thirty-three were held in saloons.¹⁹ Comparable situations prevailed on the west coast in San Francisco and in larger cities in the Mid-West. Saloon keepers were able, in many places to gain control of municipal governments and thereby to insist on friendly treatment which enabled them to flout the liquor laws with impunity. The flagrant abuses which arose were responsible in part for the formation of the National

¹⁷ *A Century of Drink Reform in the United States*, August F. Fehlandt, pp. 101-103.

¹⁸ *State Liquor Legislation*, prepared by The Marketing Laws Survey, Works Progress Administration, Vol. 4, p. 5.

¹⁹ *The American Commonwealth*, James Bryce. Vol 2, Third Edition. The Macmillan Company, London, 1898, p. 114.

Prohibition Party.²⁰ In addition to widespread political corruption the saloon was a source of crime, immorality, drunkenness and poverty. The "Tied House," which placed the saloon keeper under obligation to sell the product of one distiller or brewer exclusively, aggravated the social evils growing out of the saloon and added to its universal bad reputation.

As a result of intolerable conditions growing out of the liquor traffic, the people again resorted to drastic legislative action. In addition to the passage of state laws, Congress also enacted statutes to assist in the regulation of alcoholic beverages. The Wilson Original Packages Act was passed August 8, 1890, the Webb-Kenyon Act on March 1, 1913, and the Reed Amendment to the Post Office Appropriation Bill on March 3, 1917.²¹ By the time the United States entered the war in 1917, prohibition laws had been enacted by twenty-five states, and prior to the adoption of the Eighteenth Amendment to the United States Constitution in 1919, thirty-three states, comprising about eighty per cent of the total area of the country and fifty-two per cent of the population, had passed prohibition laws.²² In many other states there were numerous areas in which the sale of intoxicants was forbidden under local option provisions. Prohibition on a nationwide basis was largely the result of a public demand that drastic action be taken to curb flagrant abuses that appeared to be uncontrollable through ordinary regulatory measures. In a serious study of the liquor control problem by Raymond B. Fosdick and Albert L. Scott, which was published in 1933, the following observations were made: "Before national prohibition, the saloon achieved an evil notoriety. Politicians were often bought by the liquor interests; vice and gambling came to be regarded as normal accompaniments of the liquor trade; and the abuse of drink, fostered by the drive for profits, produced its share of poverty and misery. All these evils were bred under the licensing system, and it was the complete breakdown of this system that gave momentum to the national prohibition movement²³ . . . The saloon backed by the brewers and the distillers, had a throttle grip on local and state governments alike, a grip which it maintained by systematic corruption . . . The belief that national prohibition was 'put over' by fanatical moralists is a common fallacy. In a large measure the Eigh-

²⁰ *Ibid.*, p. 126.

²¹ *Toward Liquor Control*, Raymond B. Fosdick and Albert L. Scott. Harper and Brothers, New York and London, 1933, pp. 155, 156, 157.

²² State Liquor Legislation, prepared by The Marketing Laws Survey, Works Progress Administration, Vol. 4, p. 10; *Toward Liquor Control*, Raymond B. Fosdick and Albert L. Scott, pp. 3, 4.

²³ *Toward Liquor Control*, Raymond B. Fosdick and Albert L. Scott, p. 39.

teenth Amendment was the final result of angry public reaction, accumulating over a long period of years, against a system that debauched personal character, corrupted public life and defied control.²⁴

But the adoption of the Eighteenth Amendment in 1919 and the enactment of the National Prohibition Act (Volstead Act), October 28, 1919, failed to eradicate grave abuses that had previously attended the liquor traffic and gave birth to others of infinitely greater proportions. The large demand for the products of the distillers or brewers was not eliminated by mere legislative enactment. And to meet this demand the criminal element was willing and ready to take over the manufacture, distribution and sale of illegal alcoholic beverages. Criminal gangs that were powerful before prohibition became stronger upon entering the highly lucrative illegal liquor traffic. New gangs came into existence to take advantage of the opportunities for riches offered by the illegal liquor business. Organization was required to control the manufacture, distribution and sale of a commodity which was greatly in demand. And the criminal element became organized on a vaster scale than ever before. Widespread official corruption and unprecedented lawlessness characterized the entire prohibition era. This was true in part because the National Prohibition Act imposed statutory regulations on liquor as to all localities without regard to the sentiment of the inhabitants in such areas. At the same time the enforcement of the regulations remained largely in the hands of the officials of the individual communities.²⁵

National prohibition had merely served to aggravate the evils it was intended to eliminate. The experiment failed. And Federal prohibition was officially repealed upon the adoption of the Twenty-first Amendment to the Constitution which was declared ratified on December 5, 1933 by proclamation of the secretary of state. With the repeal of national prohibition, three hundred years had elapsed since the beginning of efforts to control liquor in the United States. And any fair appraisal of the results during that long period would clearly reflect that most efforts were ineffective. Various liquor control systems failed to achieve control, regulatory measures failed to regulate, and prohibition failed to prohibit. Voluntary educational movements to secure moderation failed in achieving moderation. Total abstinence programs failed to make people abstain. During the early 1930's, Senator Arthur Capper once said,

²⁴ *Ibid.*, pp. 147, 148.

²⁵ *Ibid.*, pp. 10, 11.

"We may repeal prohibition, but we cannot repeal the liquor problem." There was sound historical basis for that statement.

With liquor control, as with many other difficult social problems, there is no known solution that will eliminate all abuses. Neither is there any system which will in itself effectively prevent the return of the grave social evils which eventually resulted in national prohibition. But any system which may be devised, as well as its administration, must clearly bear in mind the traditions and principles which have become a part of our American character, insofar as liquor control is concerned. Among the foremost of such traditions is the strong desire for temperance in this country. This is reflected in the language of legislation on liquor almost everywhere, the declared underlying policy of which is the promotion of temperance and the protection of public welfare, health and morals.²⁶ Regulations relating to sales practices have recognized the principle that the consumption of liquor is to be discouraged. And policies which are recognized in other commercial enterprises as legitimate means of stimulating the demand are legally frowned upon when employed in the liquor business. Even Supreme Court decisions have stressed that "the liquor business does not stand upon the same plane, in the eyes of the law, with other commercial occupations."²⁷ Another firm conviction held by the overwhelming majority of American people when prohibition was repealed was that under no circumstances should the old saloon, as it existed prior to 1920, ever be tolerated again in our social life.²⁸ And the feeling was almost equally strong that never again would the public countenance the ruthless tactics of the liquor and brewing industry in its campaigns against temperance, its resort to corruption in the various legislatures and its affiliations with venal politics generally. With these ends clearly in the public mind, the various states, since the repeal of national prohibition, have followed two general plans of liquor control,—state monopolies and licensing. Both plans had been tested prior to national prohibition. The first experiment with the state monopoly system took place in South Carolina between 1893 and 1906. It was not strictly a state monopoly system, however, since many features of the license system, including the profit motive, were retained. And it failed dismally because it became part and parcel of the political machine of "Pitchfork" Ben Tillman. Bootlegging was actually permitted as

²⁶ State Liquor Legislation, prepared by The Marketing Laws Survey, Works Progress Administration, Vol 4, p. 53.

²⁷ State v. Wipke, 345 Mo. 283 (1939).

²⁸ *Toward Liquor Control*, Raymond B. Fosdick and Albert L. Scott, p. 16.

long as the supplies were purchased from the state.²⁹ In some areas today, politics threaten to undermine the structure of state monopoly plans. Hard liquor, which can be lawfully purchased from state liquor stores only, is readily obtainable in an open manner by the drink over the bar in places designed to sell light wines and beer only. Where such conditions are tolerated for any appreciable period, it is safe to predict that it will be only a matter of time before the area will be dried up through the exercise of local option or on the broader basis of state-wide prohibition.

Shortly after the repeal of national prohibition a member of the Wickersham Commission said, "After hearing many witnesses and considerable debate on the subject, the members of the National Commission on Law Observance and Enforcement (Wickersham Commission) unanimously opposed either the federal or state governments as such going into the liquor business. The objections to it (the state monopoly plan) are that no matter how well guarded on paper such a monopoly may be, its tendency is to work out into control for corrupt political ends."³⁰ This opinion may have merit. But the long experience in many other countries with the state monopoly system, which provides for the retail sale of hard liquors for off-premises consumption, has been highly satisfactory. In the larger American cities, there is frequently considerable opposition to any plan which restricts the sale of hard liquor to state stores for off-premises consumption. This naturally increases the problem of enforcement. Whenever a state monopoly plan has failed in this country, however, the primary reason usually has not been traceable to inherent weaknesses in the system itself. Rather, the failure resulted from the undue influence of politics and this influence will destroy the effectiveness of any system.

At the present time, the greater number of states utilize the license system as a means of liquor control. The license system has been highly successful in England. But, unfortunately, the factors which have greatly contributed to its success there frequently are not present in our large American cities. In England there is a traditional respect for law and order. There is a tendency to obey legal restrictions that may be imposed. Hence, a reduction in the number of hours during which liquor may be sold, a decrease in the number of retail liquor licenses issued, and the imposition of high excise taxes effectually reduced the consumption of hard liquor as well as drunkenness

²⁹ *Ibid.*, pp. 75, 76.

³⁰ *Liquor Control in the U.S.A. II. The Regulated, Licensed Retailer Plan*, Frank J. Loesch—*The Rotarian Magazine*, January 1934, p. 14.

by leaps and bounds during a twenty-year period.³¹ In America the tendency is present in large segments of the population to consider it a constitutional right to disregard any law or legal restrictions which may not meet with an individual's approval. Consequently, a tightening up on closing hours in some cities has resulted in open and notorious violation of the closing hours with attending political and police corruption. High taxes have frequently resulted in bootlegging. But of greater significance is the fact that in England retail liquor outlets are seldom tied up with local politics.³² In American municipalities, however, for over a century, the saloons and taverns have been part and parcel of corrupt political machines. And it is this factor, perhaps more than any other, that has made effective liquor control so difficult in this country.

Just before the April, 1948 municipal elections in Cicero, Illinois, the president of the Tavern Service Guild wrote letters to all tavern owners in that Chicago suburb of seventy thousand inhabitants. The letter urged the tavern owners to pledge the use of their automobiles to bring voters to the polls in order to assure the re-election of the President of Cicero. The tavern owners were informed that the President of Cicero is the liquor commissioner and warned that if he were not re-elected the tavern owners might have their licenses revoked on charges of selling liquor to minors, gambling, or violation of closing hours. The letter reminded the tavern owners that if there was a change in the local administration they would have no assurance of enjoying the same rights and freedom that had previously attended their business.³³ In other words, the tavern owners of Cicero were brazenly urged to exert their tremendous political influence toward the end that they might continue to violate the liquor control laws with impunity. And Illinois tavern owners are fully aware of an inherent weakness in the Illinois state liquor license control laws. Frequently, local administrations issue licenses to individuals with extremely bad reputations. The Illinois Liquor Control Commission is thereupon virtually required to issue a state liquor license to these individuals. The licensee can proceed to violate the liquor license laws and as long as the local administration refrains from taking action, the Illinois Liquor Control Commission is powerless to institute proceedings toward the revocation of liquor licenses. In all states with large cities the battle for home rule has always presented a burning political issue. How-

³¹ *Toward Liquor Control*, Raymond B. Fosdick and Albert L. Scott, p. 37.

³² *Ibid.*, pp. 39, 40.

³³ Chicago Daily Tribune, April 3, 1948.

ever, the extent to which local municipalities in Illinois have been given home rule in the matter of liquor control has rendered the Illinois Liquor Control Commission impotent as a factor in improving the administration of the liquor license laws. This situation has at least partially contributed to the bad conditions that have prevailed in many areas in Illinois. Over a period of many years in Chicago, licenses have been issued indiscriminately. As of April 30, 1949, there were ten thousand one hundred eighty-four retail liquor licenses in effect in the City of Chicago as compared with six thousand forty-two in 1918, and five thousand two hundred sixty-two in 1919. And although the number of liquor licenses has greatly increased, in many localities there has been no semblance of adequate enforcement of the liquor laws and regulations.

About three years ago the tavern conditions in the Woodlawn area of Chicago's south side became so intolerable that businessmen's organizations and officials of the University of Chicago requested the Chicago Crime Commission to conduct a thorough investigation. This investigation developed evidence of a complete breakdown of enforcement of the liquor license laws. Prostitutes openly solicited customers in many of the taverns. During a four-month period in 1945, official records reflected that six servicemen had contracted venereal disease from women openly soliciting in one particular tavern. In the same period nineteen cases of venereal disease contracted by servicemen were definitely traced to women picked up in only three taverns located within a single block. Some of the actual owners of taverns in the district were closely affiliated with the gangster element although the licenses had been issued in other names. Intoxicated persons were served liquor and frequently overcharged. The dice game known as "26" was operating in all taverns. Numerous minors were observed purchasing liquor without difficulty. One boy, eighteen years of age, committed a vicious murder in this area, September 25, 1945, after having been served liquor in taverns on 63rd Street in the Woodlawn area. The judge, who sentenced him to forty years in the penitentiary, publicly denounced the taverns which had served him the liquor and stated their licenses should have been revoked. Yet, it was not until four months after the commission of the murder that action was instituted to revoke the license of only one of the several taverns involved in this case. And this belated action was taken only after public opinion had become aroused following another murder committed in a different section of the city. Drunks on the street molested women who

attempted to shop in the neighborhood stores. These deplorable tavern conditions in the Chicago Woodlawn area became an issue in the November, 1946 elections. Through the action of the electorate in local option voting, thirty-one taverns in this district were closed.³⁴ And conditions in the Woodlawn area were merely following a pattern present in several other sections of the city. Realizing that such conditions present a serious threat to the future welfare of the liquor industry itself, some organizations and individual representatives of the industry have appealed for a better enforcement of the liquor laws. They have also suggested a plan for a reduction of liquor licenses.

The commonplace violations of the liquor license laws in certain sections of Illinois are directly traceable to the refusal of local law enforcement agencies to perform their sworn duty. This, in turn, is due to the alliance between taverns and local political organizations. Violations are not only permitted for a price but in some instances actually encouraged. And as Charles Fleck, Chairman of the Illinois Liquor Control Commission, has pointed out, even when there is a complete breakdown of local control, the state commission is powerless to act. Chairman Fleck has recommended legislation which would give the Illinois Liquor Control Commission power to correct bad conditions in connection with the liquor business when local authorities refuse to perform their duty.

In the Empire State the primary responsibility for the issuance of licenses rests with the New York State Liquor Authority. Its action on applications, however, is substantially influenced by recommendations of the local alcohol beverage control boards which were established by law for each county outside of New York City and for the city of New York itself. This type of organizational setup preserves the principle of home rule which is so deeply imbedded in American tradition. Yet, there is vested in the state authority considerable discretion in withholding licenses from persons who cannot meet the stringent requirements of the New York state law for liquor licensees. Although the enforcement of the state liquor laws is primarily entrusted to local police agencies, the New York State Liquor Authority may, upon receipt of a complaint or on its own motion, institute necessary proceedings to revoke, cancel or suspend any retail license. And it has the additional power to remove for cause any member or employee of a local alcohol

³⁴ *Crime Conditions in the Woodlawn District, Criminal Justice*. Journal of the Chicago Crime Commission, No. 74, May 1947, pp. 29-31.

beverage control board. These provisions make it possible for the state authority to exert a tremendous influence toward the end that liquor may be controlled in the interest of the public welfare.

But a legal framework which permits adequate control by a state authority will not in itself insure satisfactory results. The ultimate success of any liquor control program rests largely with its administration. In New York, the chairman of the State Liquor Authority, John F. O'Connell, has afforded the people of that state an administration of the highest type. Combined with an enviable personal integrity is an unusual ability and sound judgment based on almost twenty years of experience in the law enforcement field. He has surrounded himself with a competent staff that has deservedly given the state liquor administration the excellent reputation it must bear if it is to perform its intended function of controlling liquor in the public interest. A study of conditions in other states would undoubtedly reflect the maintenance of comparable high standards in many of them.

Public interest demands a liquor control administration that is honest, efficient and vigorous. And an administration of this character also serves the best interests of the liquor industry itself. History clearly reflects that the American people will not tolerate bad liquor conditions over any appreciable length of time. When adequate control is absent, the public becomes incensed and drastic measures are inevitably taken. With few exceptions the drying up of areas through the exercise of local option or state-wide prohibition has been the direct result of failure on the part of the liquor control administration.

The promotion of social control must be the first consideration in every act taken, either legislatively or administratively, in connection with the regulation of liquor. All other considerations must be relegated to a position of secondary importance.

Education is frequently given as a panacea for many social problems. It has a vital place in any program but it never has been and never will be a substitute for adequate control. An educational program directed at the consumer level which stresses moderation but is launched in an atmosphere of sales practices and official encouragement of abuses which stimulate liquor consumption is doomed to failure and is an utter absurdity. From the standpoint of the state liquor administration, any educational program should be directed primarily at the local enforcement and regulatory level. In those municipalities where the taverns and political organizations are closely

allied, educational efforts will probably fall on deaf ears. However, there are many well-intentioned local officials who might improve conditions if they had an understanding of the philosophy which should form the basis of a sound liquor control program. An ideal control would consist of a program designed to fill an unstimulated demand for hard liquor. Illegal practices which stimulate the demand or laxity in the enforcement of the liquor license laws should not be tolerated under any circumstances. Yet, it is frequently true that mayors and police officials countenance the presence of gambling games and the employment of girls whose sole duty it is to stimulate consumption on the part of male patrons. These practices are condoned on the grounds that they are innocuous and are merely trade stimulators. This reflects a total lack of understanding of sound liquor control in the public interest. Many judicial decisions also contribute to bad conditions. On several occasions in Chicago, judges have admitted that flagrant violations of the Illinois Criminal Code, involving gambling or other offenses, have been legally established. Nevertheless, in such cases judges have rendered a finding of not guilty. The judges have naively explained that while the evidence warranted a finding of guilty, a judicial decision of this nature might result in the revocation of the defendant's liquor license which constitutes a valuable property right. Police officials have at times indicated a policy of enforcement which gives first consideration to the large investment the tavern owner has in his business. An official philosophy of this nature makes adequate liquor control impossible. A liquor license should be regarded as a privilege to engage in a precarious business which has serious social implications if the license laws are not adhered to. A liquor license should never be regarded as a property right. A tavern owner who turns his place of business into a professional gambling establishment in violation of existing laws, who permits prostitutes to use his place as a headquarters or who employs girls to solicit drinks, is a detriment to the liquor industry and his license should be summarily revoked. Rigid enforcement of the liquor license laws is an essential requirement to a vital liquor control.

Self-policing by the liquor and brewing industry is also an integral part of a sound control program. It is not the function of the industry to enforce the liquor license laws. It is the responsibility of the industry to fully cooperate with officials toward the end that the liquor license laws will be fully enforced, to insist on the maintenance of decent standards among

those who represent the brewing or liquor industry in any capacity, and to use every means at its command to drive from the industry those who flout the laws and conduct their business without regard to the public interest. And all efforts of self-policing must be characterized by sincerity of purpose and a willingness and determination to rid the industry of the parasites which are so easily attracted to it. The proper spirit was reflected in a statement once made by Charles E. Sandall, State Director of the Nebraska Committee, United States Brewers Foundation. He said . . . "We make no apologies for the shortcomings of the industry, but set about to correct them."

In the matter of liquor taxation, the tendency is frequently present to levy duties which will furnish easy revenue. Most so-called easy means of raising public funds are strictly illusory. And in the field of liquor taxation the primary objective must be control,—not revenue. Any other consideration is against public interest.

Following the repeal of national prohibition, the gangster and criminal element continued to be well-represented in the business of manufacturing, distributing, and retailing of liquor. In some instances, members of notorious criminal gangs became a part of the industry in an open manner. In other instances their interest was an undisclosed one. Under the laws of many states individuals of this character are properly barred from engaging in the liquor business. To permit the gangster or criminal element to become affiliated in any capacity, openly or covertly, with the liquor industry is to court disaster for any liquor control program. This element will inevitably bring into the industry those evils and abuses which led to prohibition in the past. It is ludicrous to expect anti-social forces to adhere to any philosophy of social control which necessarily must underlie any sound administration of the liquor license laws.

Over three hundred years' experience with various methods of liquor control in this country should form the basis for an intelligent approach to this perplexing problem. Unfortunately, in too many areas the mistakes of the past are being repeated. Conditions in many of the taverns and cocktail lounges in various sections of the country are little different from those of the old saloon which gained a universally bad reputation. Retail liquor establishments are too frequently tied up with corrupt political machines and liquor license laws are being violated with impunity. In some areas liquor control is under the domination of powerful political figures who have intimate connections with the criminal and gangster element. The same

abuses which prompted the public in the past to take drastic measures through the enactment of prohibition laws or the drying up of localities through the exercise of local option are present in many places today. Perfection is never attainable in the administration of any program involving difficult social problems. However, public interest demands the combined sincere efforts of members of the liquor and brewing industry, state liquor administrators, local law enforcement officials and an understanding public toward the end that social control of liquor may become a reality.