



100th Anniversary of National Prohibition — What Are the Lessons?

In his book *Politics of Prudence*, conservative scholar Russell Kirk said, “Any public measure ought to be judged by its probable long-run consequences, not merely by temporary advantage or popularity.”

Those words could be describing what happened 100 years ago, on January 17, 1920, when National Prohibition went into effect. Quite popular when it sailed through

Congress, the 18th Amendment — allowing Congress to regulate the manufacture and sale of intoxicating liquors — was ratified by the requisite number of states in 1919, and set to take effect one year later.



In the meantime, Congress passed the Volstead Act, which set up the enforcement structure for National Prohibition, which would remain in effect until the 18th Amendment was repealed by the passage of the 21st Amendment in 1933, ending the “Noble Experiment.”

Alcohol abuse has had a long history, and efforts to curtail it have had a similarly long history in American history. Maine was the first state to ban the sale of alcohol in 1851, based on studies by Neal Dow, a Portland businessman who claimed there was a link between booze and family violence, crime, and poverty. Today, the common perception is that Prohibition was mainly the result of a religious crusade. Even at the time, prominent religious skeptic H.L. Mencken considered National Prohibition the work of “ignorant bumpkins of the cow states.”

But as historian Larry Schweikert noted in his book *A Patriot's History of the United States*, “Only after Prohibition failed was there a deliberate effort to reinterpret the essentially Progressive flavor of Prohibition as the work of wild-eyed Christian evangelists.”

There is no question that many evangelical Christians supported the banning of liquid substances that often contributed to many social problems. This was particularly true of those of the postmillennial view — that the Church was to transform society, ridding it of such things as booze, until finally Jesus Christ would return to the earth — but this was not enough to convince Congress and three-fourths of the state legislatures to amend the Constitution, giving Congress the power to regulate alcohol, a role that was left to the states.

As historian Clarence Carson explained in his book *The Growth of America, 1878-1928*, “It was the triumph of the reformist spirit, however, that made such a drastic act acceptable. Populism and Progressivism were undergirded by a belief in the possibility and desirability of making over society by regulation and law.”

The Progressive Era political philosophy overturned the founding principles of the United States.



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Progressives, which included both Democrats such as Woodrow Wilson and Republicans such as Theodore Roosevelt, had great faith in the power of government to improve society by the passing of laws and the regulation of society. Whereas the Founders generally feared governmental power (e.g. Washington said government was like fire, a dangerous servant and a fearful master; while Jefferson said government needed to be “chained” by the Constitution), the Progressives argued that government could be kept in check by the ballot box.

Perhaps nothing better illustrates this optimism in the ability of government to improve society as National Prohibition. The attitude was clear — almost any problem can be cured by the solution of a government law. As Paul Johnson wrote in *A History of the American People*, “The imposition of Prohibition, and its failure, illustrates perfectly a number of important principles in American history. First, it shows the widespread belief in America that utopia can be achieved in the here-and-now and the millennium secured in this world.”

One unintended consequence of National Prohibition was, if not the creation of organized crime, its growth and acceleration. John Torrio provided illegal liquor in Chicago from 1920-1924, making so much money that he retired back to Italy with about \$30 million. He was succeeded by one of his lieutenants in crime, Al Capone, who raked in even more money in the Roaring Twenties, with the resulting gang warfare associated with the era.

As Johnson explained, “Prohibition was a characteristically 20th-century exercise in social engineering which ended by doing unintended, enormous, and permanent damage to society.”

One negative effect was the placement of the power of regulation in the hands of federal authorities, instead of leaving such power to the states and their local governments. At the time, it was generally understood that the federal government could not exercise a power unless it had been enumerated in the Constitution, largely in Article I, Section 8. That is why it was considered necessary to enact an amendment to the Constitution so as to give the federal government that additional power to regulate alcohol.

Today’s progressives, 100 years later, don’t even bother with constitutional amendments. If they want to do something, they just do it (recall House Speaker Nancy Pelosi asking, “Is that a serious question?” when someone asked her what part of the Constitution gave Congress the power to order someone to buy health insurance). Today’s federal “drug war” is carried out much like the federal war against alcohol in the 1920s, with much of the same results: violence, corruption of law enforcement, and the ignoring of civil rights and property rights. But the 18th Amendment certainly created the precedent that regulation of such things as alcohol is something the federal government should do, and as the general population becomes less uninformed about the principles of limited government and federalism, today’s progressives take advantage of that ignorance to increase the power of the state.

Another lesson about National Prohibition that should provide a warning for us today was how it was finally abolished by the 21st Amendment. The Constitution of the United States provides two ways to propose an amendment (either two-thirds vote of each house of Congress, or via a national convention) and two ways to ratify. All 27 amendments have been ratified by three-fourths of state *legislatures*, except the 21st. It was ratified by three-fourths of state *conventions*.

This is instructive. Advocates of using the constitutional convention method (sometimes referred to as a Convention of States) to propose amendments to the Constitution discount fears that such a convention



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could be a “runaway” convention, passing amendments that could curtail free speech, the right to keep and bear arms, or even replacing the Constitution in total. They argue that three-fourths of the state legislatures would never ratify such an amendment. (They have more confidence in the state legislatures than I do.)

But, according to the Constitution, it is the *Congress* that determines the ratification method. Just imagine if Congress opted to send amendments such as repealing the Second Amendment to the states, stipulating that such an amendment be considered by a state *convention*? Are we willing to trust that those who want to keep religious liberty, free speech, or the Second Amendment could win election to those conventions, with the power of the media, the popular culture, or left-wing billionaires financing those who oppose such things?

We need to learn from history. History teaches us the wisdom of what President Warren Harding told us in 1920 in his rejection of the Progressive Era: “All human ills are not curable by legislation.”

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