

THE PALIMPSEST

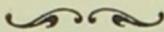
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The Liquor Merry-Go-Round

The tendency of a person lost in the woods to travel in a circle seems to have its counterpart in the handling of perplexing and apparently permanent social problems. Debate to-day swirls about the liquor question. Shall we prohibit, license, regulate, tolerate, or promote the sale of intoxicating liquor? What is intoxicating liquor? Shall we have saloons, government sale rooms, beer gardens, liquor with meals or without, speak-easies, prohibition enforced or unenforced?

Let us go back for a moment, back one hundred years to the time when the first white settlers were filtering into what is now Iowa. At that time there was no civil government here except the Federal regulations relating to the public lands and the Indians. Among these was one forbidding the sale or gift of liquor to the red men. It was the only prohibitory law and it was seldom enforced.

The average Indian wanted whisky — real “fire-water” — and for it he would sell his last blanket, even the gun on which his living depended.

But if there was prohibition, in name at least, for the Indians, there was none for the white men. Because transportation was difficult, the liquor brought into the western settlements was usually high-powered: whisky was the favorite drink and best known medicine, the reward of labor at “house raisings”, the promoter of sociability at weddings, the solace of those who mourned. Indeed, it was considered worthy of note in contemporary annals that the first church building in Iowa — the log church built by the Methodists at Dubuque in 1834 — was “raised . . . without spirits of any kind”, but not, it may be said, because the sale of liquor was illegal or its use uncommon.

The endless chain of time moves on. Iowa became first a Territory and in 1846 a State. There was legal recognition of the liquor traffic but not much regulation or restriction. Grocery stores — defined in the statutes of 1839 as places where “spirituous or vinous liquors are retailed by less quantities than one gallon” — were assessed from \$25 to \$100 a year at the discretion of the county commissioners — almost exactly the license fees for selling beer to-day.

A commentary on the tendency of the liquor traffic to "follow the crowd" is found in the Iowa law — intended to protect camp meetings — which forbade the sale of liquor within two miles of a worshipping congregation unless the seller had a license for his regular place of business. The fine was not to exceed fifty dollars and the money collected was allotted to the education of orphans or poor children.

In spite of the widespread sale of liquor to both Indians and whites — perhaps because of it — there had grown up in Iowa during the Territorial days a number of temperance societies. One of the first of these was organized at Fort Madison on April 27, 1838. A striking characteristic of these societies was the type of men represented. The officers of this Fort Madison society, for example, were Samuel B. Ayres, Henry Eno, and Philip Viele, all prominent in political affairs. A temperance convention, held in the Hall of Representatives at Burlington in November, 1839, included Robert Lucas, Governor of the Territory, and Charles Mason, Chief Justice of the Supreme Court. Soon after the organization of the State government came the fraternal society, "Sons of Temperance", with the pledge "No brother shall *make, buy, sell, or use as a beverage, any Spirituous or Malt Liquors, Wine or Cider.*"

The temperance society at Davenport was so effective that the *Davenport Gazette* in January, 1842, had been able — and apparently proud — to report: “ ‘Put it in your paper,’ observed a stranger, to us — a passenger in the most recent boat detained at our wharf — ‘put it in your paper, sir, as one of the most favorable items, connected with your beautiful town, that one of our passengers traversed it all over in search of liquor, but could not obtain a drop.’ ”

In the forefront of the fight to organize public opinion against the liquor traffic was Robert Lucas, Governor of the Territory of Iowa from 1838 to 1841. Never given to compromise with evil nor to drugging his Scotch-Irish conscience with political or financial considerations, Lucas protested in his message of 1839 against raising revenue by licensing intoxicating liquor, which he characterized as “legalizing indulgences to commit crime”. Instead, he advocated the repeal of license laws, preferring to depend on public opinion to suppress the evils of the traffic. In any case, he argued, each county should be given the right to refuse to grant licenses within its borders. Neither recommendation was followed at the time.

Eight years later, however, the first State legislature did enact a local option law permitting the voters in each county to decide whether or not the

county commissioners should issue licenses to sell liquor. The first election under this law, held on April 5, 1847, resulted in a decisive victory for the dries: every county except Keokuk voted not to license the sale of intoxicating liquor.

But it soon appeared that Iowa was not as dry as the vote seemed to indicate. Before long the law was being openly or secretly violated. The next General Assembly made a strategic retreat and gave the county commissioners the right to issue licenses or to refuse them. Two years later the *Code of 1851* virtuously declared that the people of Iowa "will hereafter take no share in the profits of retailing liquors". The sale of liquor to be consumed on or about the premises was prohibited but other sales of liquor as merchandise were neither forbidden nor regulated.

In the matter of liquor control, two diverse influences were striving for supremacy. On the one side were the temperance forces, militant, aggressive, and committed to the use of political action. On the other side were those who desired liquor, augmented by the increasing number of immigrants from Europe, especially the Germans who had fled from the penalties of the Revolution of 1848. The frontier liking for "hard licker" was being diluted by a thirst for the milder beer and wine.

The temperance forces won the first skirmish. In 1854 the Whigs in convention declared for the prohibition of the sale of ardent spirits as a beverage. With this declaration James W. Grimes, their candidate for Governor, was in complete accord. The Whig party was victorious and on January 22, 1855, the first prohibitory law in Iowa was approved by the Governor. The bill carried the unusual requirement of a popular referendum, and on April 2nd the voters — men only, at that time — approved the prohibitory statute by the narrow margin of 25,555 to 22,645. Thirty-three counties showed a majority for it, thirty-two against it, and in one the vote was tied.

This law absolutely prohibited the manufacture and sale of all intoxicating liquors as a beverage, with two exceptions: home-made wine and cider might be sold in quantities of not less than five gallons and liquor might be imported in the original packages. Agents appointed by the county judge were to supervise the sale of liquor for medicinal, mechanical, and sacramental purposes. Thus did Iowa make a partial trial of government sale of liquor.

From the beginning, the state-wide prohibitory law met with both open and passive resistance, especially in the river towns. A Muscatine paper reported in July, 1855, that "liquor is kept for

sale, and sold, in this city by individuals who are not legally authorized to traffic in the article". It added that complaints about the violation of the prohibitory law were as common as those about the intense heat. It appears that no one tried to do much about either. At Burlington, officers located a number of barrels of liquor, so heavy that they needed assistance in moving them, but not one of the spectators gave them a hand. The temperance societies had apparently disbanded and gone home. The Sons of Temperance, for example, were already showing signs of decline, and by 1857 the order had largely merged with the "Good Templars".

It was soon evident that the prohibitory law was not being satisfactorily enforced, especially in centers where it was unpopular, and, following the usual American custom, the Iowa legislature began to strengthen the law rather than its enforcement. Intoxicating liquor was redefined to include all spirituous, malt, and vinous liquors, except cider and wine made from fruit grown or gathered by the person making the liquor. Instead of an agent appointed by the county judge to have charge of the sale of liquor not for beverage purposes, any citizen who was a resident of the county, except keepers of hotels, saloons, restaurants, grocery stores, and confectioners, might

buy and sell intoxicating liquor for medicinal, mechanical, culinary, and sacramental purposes, provided he gave a bond for \$1000 and furnished certificates from twelve citizens of the township that he was of good moral character.

This amendment, however, did not promise enough to satisfy the thirsty, and so on the following day, the legislature passed a license law, similar to one enacted in 1849. It was a combination of license and local option. Each county might, upon the petition of a hundred voters and at the call of the county judge, vote on the question of licensing saloons and if the majority voted in the affirmative, saloons might be licensed in that county although the prohibitory law was still in force in the other counties. This license law was held to be unconstitutional because it delegated legislative powers to the voters and abrogated the uniform operation of a general statute. Not finding it feasible to amend the law geographically, the next legislature determined to amend it on an alcoholic basis, and so legalized the manufacture and sale of beer, cider from apples, and wine from grapes grown in the State.

The Civil War came, absorbed the attention and energy of the people for more than four years, and finally ended. The "wets" and the "drys" renewed the struggle. Cities and towns had, appar-

ently, come to have distinctive opinions, for a law, enacted in 1868, gave municipalities authority to regulate or prohibit the sale of intoxicating liquors not prohibited by State law — beer, wine, and cider — and to assess or impose a tax on such sale. Another attempt in 1870 to extend local option to counties by means of a popular vote was again declared unconstitutional.

The struggle dragged along year after year, each side getting an occasional advantage. So far, the agitation and resolutions as well as the votes had belonged to the men, but in 1874 the Woman's Christian Temperance Union was organized in Iowa. The Iowa State Brewer's Association, meeting at Burlington in 1876, resolved it would "support only those candidates without regard to party, who are not in accordance with the narrow-minded element of prohibiters." The "drys" countered with their associations, one of which was the Iowa State Temperance Alliance organized at Clear Lake in September, 1876. During the following year the Blue Ribbon movement, based on voluntary abstinence, swept over the State. A Blue Ribbon celebration at Marshalltown in June, 1878, was attended by 15,000 persons. It ended in a torch light procession.

It is the impulse of any contender in a long and doubtful struggle, once an advantage is gained, to

“nail it down” in some way. In American politics this often takes the form of a constitutional amendment. So it happened that in 1882 Iowa adopted constitutional prohibition. It was not accomplished without much bickering and debate. One amendment, defeated in committee, called for an appropriation to compensate the owners of the breweries for property invested — estimated at \$4,000,000. Another much debated question was whether the prohibitory provision should apply to the manufacture of liquor to be sold outside the State. The *Des Moines State Register* said no, but the *Keokuk Gate City*, which opposed any prohibition, protested against such an exemption. “The other States”, it declared, “suffer the ills of intemperance and we make money out of it.”

The prohibitory amendment came before the voters on June 27, 1882. The Brewers' Association levied a tax on its members, based on production the previous year, which brought in some \$6000. Supporters of the amendment, with probably less money, had more enthusiasm. Children paraded the streets carrying temperance banners. The vote, while not overwhelming, was decisive — 155,436 for the amendment; 125,677 against it. Seventy-five counties gave a majority for the amendment; twenty-three were opposed; one was a tie. That night the church bells pealed.

But Andrew Jackson was right when he said it was easier to get a decision than to enforce it. In fact, there was no State enforcement act, since the legislature was not in session when the amendment was adopted. Cities and towns, however, were authorized under the old law to prohibit the sale of liquor or abate it as a nuisance. Many of them did so, but in other places there was no enforcement. Council Bluffs, for example, adopted a local mulct law, authorizing the city council to enter into "agreement with the saloon keepers of that city, whereby the latter are to continue business, and are to be fined monthly or quarterly, the fines during the year to amount to a good round license."

But the woes of the liquor men and the celebration of the temperance supporters were short-lived — so far as the amendment was concerned. On January 18, 1883, the Iowa Supreme Court, in deciding the case of *Koehler and Lange vs. Hill*, ruled that the amendment had not been legally adopted. There had been an inadvertent discrepancy in the wording of the resolution actually adopted by the Eighteenth General Assembly, which contained the words "or to be used", and the enrolled amendment, approved by the Nineteenth General Assembly and ratified by the people, which omitted the phrase.

The tug of war continued. A warning of the growth of the liquor industry was given by an Iowa City paper in a partially reprinted editorial: "As rapid as has been the growth of the country in population, wealth and everything else, in one thing it has had a growth that may well astonish the world, and that is beer. Where, 20 years ago, pints were made, it is now hogsheads; and where one modest beer-shop begged for the privilege of existence, a thousand now demand the right to spread disease and death." Capital and business skill had been put into the business, continued the editorial, and a "systematic effort was inaugurated to create a demand for an article which bore so royal a profit, and the business changed from one which merely supplied drunkards to one of manufacturing drunkards."

The next advance was made by the drys. The legislative session of 1884 repealed the wine and beer exemption of 1858, thus restoring Iowa to complete and state-wide prohibition, so far as the law was concerned. The new prohibitory law contained the unique and questionable provision that in liquor cases, one-half of the fine imposed went to the informer and one-half to the schools.

In some sections of the State, the new law was openly defied. On the Fourth of July, 1884 — the day the law became effective — it was re-

ported that beer and wine were sold as freely in Burlington as before. That this opposition was not confined to the new restriction on the sale of beer and wine is evident from a statement quoted from a Dubuque paper: "It is understood that the law will be ignored in Dubuque the same as the old law has been ignored for the past twenty years or more".

At Keokuk, a mulct tax, similar to that adopted by Council Bluffs, was imposed, but after a while the saloon keepers refused to pay the mulct fines and defied closing. Half-hearted attempts to enforce the law resulted in riots at a number of places, including Iowa City, Muscatine, Sioux City, Fort Dodge, and Marshalltown. At Fort Dodge, former Governor C. C. Carpenter was attacked by angry liquor dealers and was saved from injury only by the interference of friends.

The liquor question was naturally one of the topics discussed in the campaign of 1885, although it can not be said to have been exactly a partisan issue. The Democratic party demanded a compulsory license of \$250, permitting communities to raise this to \$1000 if they wished. The Republicans declared it was not a party issue. The laws of 1886, however, evidence a victory for the dries, for statutes enacted by that General Assembly required that the harmful effects of alcohol and

narcotics must be taught in the schools; that plaintiffs in liquor cases were entitled to receive not less than \$25 as an attorney's fee, to be taxed as costs to the defendant; and that payment of a United States revenue tax on liquor was evidence of a violation of State laws.

The next four years were marked by a struggle for enforcement in some localities, climaxed by the murder of the Reverend George C. Haddock at Sioux City in August, 1886, and by open and uncontested defiance in many other places. A circular letter sent by Governor Larrabee to the sheriffs of the various counties in 1887 reported nearly four hundred saloons open in Iowa, 80 being reported from Des Moines County, 75 from Lee County, 40 from Wapello, and 35 from Pottawattamie. The sheriffs from Clayton, Clinton, Dubuque, and Scott counties did not report. In addition there were many "blind tigers", "blind pigs", "bootleggers", and "beer depots".

In one connection both the wets and the drys had won a victory — the drys having the last word. In 1890, the Supreme Court of the United States decided that the Iowa law forbidding the importation of intoxicating liquor in original packages was a violation of the interstate commerce clause of the Federal Constitution. The mail and express business went up. No community could

protect itself against this form of the liquor traffic. But the prosperity of the "mail order" liquor houses was brief, for on August 8, 1890, Congress passed the "Wilson Bill", subjecting liquor imported into a dry State to the prohibitory laws of that State.

By 1894, public opinion had, apparently, moved in the direction of legalizing the condition which had grown up in many communities. The arguments sound curiously familiar. The prohibitory law was alleged to be a failure, was not enforced, ought not to be enforced, could not be enforced, was a violation of personal liberty. There were, it was said, three hundred drinking places in Des Moines alone. Apathy prevailed among the temperance forces. From out this morass of debate, charges, and countercharges there emerged in 1894 the so-called "Mulct Law" — said to have been suggested by Welker Given of Marshalltown — which, in effect, delegated to the various localities the decision as to whether liquor could be sold under official sanction — a delegation of authority which, in a slightly different form, had twice been declared unconstitutional. This plan had been opposed by Governor Boies — although he favored the repeal of the prohibitory law — on the ground that the State would be encouraging violations of its own laws.

The Mulct Law was a political mongrel, neither prohibition, license, nor local option, but a mixture of all three. The prohibition law was left on the statute books, but saloons were permitted to operate in cities of over 5000, if a written petition of consent were signed by a majority of the voters voting at the previous election. The operation of saloons in areas outside the cities of 5000 or more was somewhat more difficult, but a few towns in Iowa owed their incorporation to the desire for a saloon and were financed chiefly by the revenue.

The minimum license fee prescribed by the Mulct Law was \$600 a year, one-half to go to the county general fund and one-half to the municipality. Additional fees and regulations might be imposed by the licensing municipality, all of which, it appears, went to the city or town. If this tax were paid the liquor dealer was immune to prosecution unless he violated the law — this particular law of course — but the immunity from prosecution might be withdrawn by a majority vote of the city council or through an opposing petition signed by a majority of the legal voters.

Statistics prepared by the Secretary of State showed that on September 30, 1906, liquor was legally dispensed in 43 of the 99 Iowa counties. Saloons existed in 242 towns and cities of Iowa — approximately one-fourth of the total number —

and in 51 townships. The total number of saloons was 1770 and the average tax was \$865.85. The revenue collected for the preceding year amounted to \$1,474,145.20. There were 22 breweries and distilleries.

But the legalized liquor traffic never looks as attractive when it exists in a community for a while as it does when it is first restored after years of law infringement. By 1909, Iowa was moving toward another ride on the prohibition horse of the merry-go-round. The Moon Law of 1909 limited the number of saloons to one for each thousand inhabitants — towns with less than 1000 population might have one saloon — even in communities giving consent, except that saloons in operation at the time might be continued or renewed. Another law required that liquor sellers be “electors” and forbade manufacturers or brewers from engaging in the retail liquor business.

It has been said that the problems of a people are revealed by the statutes that are proposed. If this is true, then liquor must have been a prominent topic of discussion in 1911 for no less than twenty-five bills restricting the traffic were introduced that year. By 1913, dry sentiment was strong enough to secure a number of laws further restricting the selling of liquor. One of these was the “five mile bill” which prohibited the renewal

of petitions of consent for saloons — but not including breweries — in cities or towns in which was an institution of higher education supported by the State. This law applied only to Iowa City, where the petition of consent would expire on July 1, 1916. The restriction on the number of saloons was extended to include special charter cities — Davenport and Dubuque at that time being the only cities of that class in which saloons were permitted. Intoxication was made a bar to recovery for work accidents.

The final blow to John Barleycorn, as personified in the Mulct Law, was administered in 1915, when this act was repealed by the legislature, and on January 1, 1916, the old prohibitory law went into effect throughout the State. Nevertheless, an amendment to the State constitution to make prohibition a part of the organic law was defeated at a special election held on October 15, 1917, by a margin of less than eight hundred votes. On January 27, 1919, however, Iowa ratified the Eighteenth Amendment to the Federal Constitution.

For eighteen years — long enough to change the personnel of the majority of the present generation — prohibition remained the law of Iowa. Each legislature tinkered with it, added and subtracted. The memory of the swinging doors, the peculiar aroma of the saloon, the pathetic and

bloated "soak", the hunger of the children deprived of bread and milk was blotted out by the audacious law-breaking of the bootlegger. The brewers' "big horses" were forgotten by those who were more familiar with the high-powered car of the booze-runner.

Added to this dissatisfaction was the desire for revenue from a source which was too eager for legal recognition to protest — the liquor industry. Iowans joined those who chanted "we want beer", and in 1933 the State legislature, fulfilling the Democratic party pledge of 1932, amended the prohibitory law to permit the sale of 3.2 beer in Iowa, on the ground that the beverage was not intoxicating, and that it was futile for Iowa to attempt to exclude beer if the neighboring States permitted its sale. Alcoholically speaking, Iowa returned to the status of 1858.

In the meantime Congress had voted to submit an amendment repealing the Eighteenth Amendment, and the Iowa legislature provided for a ratification convention composed of delegates elected on the general-ticket plan, thus in effect authorizing a popular referendum on the question of national prohibition. Since every elector votes for all ninety-nine names on either the wet or the dry list, the convention must be unanimous — wet or dry. Such a convention is not intended to debate

the merits of the new amendment, but simply to record the decision of the majority of the people who vote for delegates. If the Eighteenth Amendment is repealed, the way will be open for Iowa to experiment again with whisky and other "hard liquors".

In the past hundred years Iowa has changed from no regulation to license, from beer to whisky, from whisky to local option, from local option to prohibition, and from prohibition to beer, round and round, apparently getting no farther than a squirrel in a cage. Grocers, hotels, saloons, blind pigs, speak-easies, clubs, bootleggers — all have in turn furnished the coveted means of exhilaration or intoxication. The merry-go-round swings on, not forward, but in a circle, and no one ever got anywhere following a circle — except dizzy.

RUTH A. GALLAHER