



## Politics and Prohibition

**W**riting in the December 2001 *Atlantic Monthly*, Judge Richard Posner called for an end to the “war on drugs.” He is among a small but growing number of eminent scholars and officials who openly advocate that the state get out of the drug-prohibition business. Milton Friedman and William F. Buckley Jr. have long pressed for an end to drug prohibition. They’ve been joined in recent years by, among others, former Secretary of State George Schultz, former Baltimore mayor Kurt Schmoke, New Mexico’s governor Gary Johnson, and the editors of *The Economist*.

Judge Posner cites the new war on terrorism as the looming practical reason for ending the drug war. He points out that so-called “drug crimes” are victimless. Any threats posed by terrorists intent on slaughtering innocent people are immeasurably more serious than are whatever threats might be posed by people voluntarily purchasing, selling, and ingesting narcotics. And because expanded efforts to guard against terrorism require resources that have until now been used for other purposes, a sensible way to achieve the necessary reallocation of resources is to stop trying to protect people from themselves so that we can better protect people from violence initiated by others.

I cheered when I read Posner’s call to end the drug war. While I oppose drug prohibi-

tion principally on ethical grounds—I believe that each adult owns himself and ought to be free to do with himself as he pleases—I agree that practical exigencies, rather than moral-based reasoning, provide the best hope of ending the drug war. Maybe . . . perhaps . . . just possibly the intensified necessity that Americans have for wiping out terrorism will cause us to understand that continuing the drug war is too costly.

But I doubt it.

Apart from its immorality, the war on drugs has been too costly from its inception. This “war” has long consumed billions upon billions of dollars’ worth of resources, all spent with no discernable positive impact. Indeed, the only clear impact of the drug war has been a repulsive trampling of freedoms. Asset forfeitures, government espionage on its own citizens, and racial profiling are just the most blatant attacks on our freedoms unleashed by the war on drugs.

If the need to make sensible tradeoffs really drives voters and politicians, the drug war would have ended ages ago.

Astute readers might reply “No! Alcohol prohibition ended after just 13 years when Americans realized that it was failing.”

That’s the popular belief. It’s wrong.\*

National alcohol prohibition in the United States began on January 16, 1920, following ratification of the Eighteenth Amendment and enactment of the Volstead Act.

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\*Much of what follows is based on Donald J. Boudreaux and A.C. Pritchard, “The Price of Prohibition,” *Arizona Law Review*, Spring 1994, pp. 1–10.

Speakeasies and gangster violence became familiar during the 1920s. And yet Americans kept drinking. But contrary to modern belief, the 1920s witnessed little sympathy for ending prohibition. Neither citizens in general nor politicians concluded from the obvious failure of prohibition that it should end. As historian Norman Clark reports,

Before 1930 few people called for outright repeal of the [Eighteenth] amendment. No amendment had ever been repealed, and it was clear that few Americans were moved to political action yet by the partial successes or failures of the Eighteenth. . . . The repeal movement, which since the early 1920s had been a sullen and hopeless expression of minority discontent, astounded even its most dedicated supporters when it suddenly gained political momentum.

What happened in 1930 that suddenly gave the repeal movement political muscle? The answer is the Great Depression and the ravages it inflicted on federal income-tax revenues.

Prior to the creation in 1913 of the national income tax, about a third of Uncle Sam's annual revenue came from liquor taxes. Not so after 1913. Especially after the income tax surprised politicians during World War I with its incredible ability to rake in tax revenue, the importance of liquor taxation fell precipitously.

By 1920, the income tax supplied two-thirds of Uncle Sam's revenues, and nine times more revenue than was then supplied by liquor taxes and customs duties combined. In research we conducted, Adam Pritchard and I found that bulging income-tax revenues made it possible for Congress finally to give in to the decades-old movement for alcohol prohibition. Before the income tax, Congress effectively ignored such calls because to prohibit alcohol sales then would have hit Congress hard in the place it guards most jealously: its purse. But once a new and much more intoxicating source of revenue was discovered, the cost to politicians of pandering to the puritans and

other anti-liquor lobbies dramatically fell. Prohibition was launched.

Despite pleas throughout the 1920s by H.L. Mencken and a handful of other sensible people to end the folly of prohibition, Congress gave no hint that it would reconsider its effort to ban alcohol sales. Prohibition appeared to be here to stay—until income-tax revenues nose-dived in the early 1930s. From 1930 to 1931, income-tax revenues fell by 15 percent. In 1932 they fell another 37 percent, so that in 1932 income-tax revenues were 46 percent lower than just two years earlier. And by 1933 they were fully 60 percent lower than in 1930. With no end of the Depression in sight, Washington got anxious for a substitute source of revenue.

That source was liquor sales. Jouett Shouse, president of the Association Against the Prohibition Amendment, was a powerful figure in the Democratic party that had just nominated Franklin Roosevelt as its candidate for the White House. Shouse emphasized that ending prohibition would boost government revenue. And a House leader of Congress's successful attempt to propose the prohibition-ending 21st Amendment said in 1934 that "if we [anti-prohibitionists] had not had the opportunity of using that argument, that repeal meant needed revenue for our Government, we would not have had repeal for at least ten years."

There's no doubt that widespread understanding of prohibition's futility and of its ugly, unintended side-effects made it easier for Congress to repeal the Eighteenth Amendment. But these public sentiments were insufficient, by themselves, to end the war on alcohol. Ending it required a gargantuan revenue shock to the U.S. Treasury.

So while I applaud Judge Posner and all others who advocate ending the drug war—and while I fervently hope that their calls succeed—if the history of alcohol prohibition is a guide, drug prohibition will not end merely because there are many good, sound, and sensible reasons to end it. Instead, it will end only if and when Congress gets desperate for another revenue source.

That's part of the sorry logic of politics and prohibition. □