

**“A Substitute for the Saloon”:
Cultural Formation and Civil Liberties in the Progressive Era**
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The progressive era has long been identified as a transformative moment for American capitalism and its regulation by the state. Out of the chaos of 19th century unrestrained industrial capitalism came the imperative of order and regulation. The key economic question of the progressive era was not whether the state should regulate capitalism, but rather how to regulate and under what conditions.¹ From the early 1890s to 1916, these conflicts over state involvement in market forces coincided with a tumult of cultural change in labor, education, race relations, women’s rights, immigration, and general social health and welfare. Scholarship in new institutionalism and American Political Development has further highlighted the significance of the progressive era both for building and professionalizing governmental capacity for regulation and for analyzing the anxieties of cultural upheaval. But too often these studies compartmentalize the economic and cultural currents of progressive politics in this era. Yet other scholarship, seeking an overarching reform impulse in the era, collapse together civil rights issues such as women’s suffrage into the same reform agenda as economic and labor regulation, modernization of government in voting and civil service reform, and the institutionalization of democratic procedures of governance such as the direct primary, ballot initiatives and so on. Such accounts of overarching reform are unconvincing in that they are tied together by nothing other than a broad conception of reform regardless of their motivations or effects.

¹ For an overview of economic development in the progressive era, see: Alfred D. Chandler Jr., *The Visible Hand: The Managerial Revolution in American Business* (Cambridge, Mass.: Harvard University Press, 1977); Naomi R. Lamoureaux, *The Great Merger Movement in American Business, 1895–1904* (Cambridge, Mass.: Harvard University Press, 1985); Morton Keller, *Regulating a New Economy: Public Policy and Economic Change in America, 1900–1933* (Cambridge, Mass.: Harvard University Press, 1990);

Attempting to reconcile social and economic transformations, Eileen McDonagh identifies a policy paradox persistent in the progressive era, where the state created new regulatory welfare policies while at the same time allowing for reactionary civil rights policies—be it disenfranchisement, segregation, or prohibition—to expand at the state and federal levels.² The enduring political features of the progressive era were formed out of this paradox—federal institutions were conceived and refashioned as instruments to protect and expand economic welfare while advancing a program of negative civil rights. For McDonagh, the foundations of the modern American state were launched along these lines of disjuncture.

Disjunctures though there were, economic and social reform were viewed together as *moral* reform by many elites of the era, a particular conception of morality often antithetical to the increasingly urban and multiethnic cultural landscape. Social and economic reformers struggled to define state involvement within this imperative of moral reform. Labor laws and trust regulation were often articulated through the need to remedy social ill, to treat the social body and its cancer of immoral economic effects. Progressive thought reordered the notion that “sins causes economic ills”: in this new era, “economic ills cause sin.” So too, reconceptualizing police power and refashioning the legal system to attenuate social ill was as much about the state confronting immorality as it was the state confronting crime and poverty. This leads to a crucial question: how can we separate criminal, social, and economic justice from moral reform? Isn’t social justice a kind of moral reform? These questions cast the policy paradox of the progressive era in a different light: progressive era reform bound together social and moral imperatives indistinguishably. “The fact that they were potentially or actively repressive,” wrote Arthur Link

² Eileen McDonagh, “The ‘Welfare Rights State’ and the ‘Civil Rights State’: Policy Paradox and State Building in the Progressive Era,” *Studies in American Political Development* 7, no. 2 (Fall 1993): 225–74.

of the progressive reformer, “does not mean that they were not progressive.”³ The moral impulse of political elites clashed with cultural institutions and industries—in particular the film and alcohol industries—who responded by articulating, for the first time in American history, a conception of social justice severed from the prevailing logic of moral reform. By looking at the development of culture industries of consumption from the 1890s through the 1920s, we see a gradual unthreading of social justice from moral justice. Understanding progressive era politics in this way challenges much of progressive era historiography: the moral cause articulated through state action was as much a death knell of justice seen exclusively through religious moral code as it was a culmination. As much as it was an entrenchment of moral reform, it signified the beginning of a social politics divorced from moral code, clearing the way for social justice to be refashioned as a civil right with constitutional, not necessarily moral, grounding.

An overarching moral code helps us understand McDonagh’s paradox as it was understood in its time—far from a paradox, it was a response to an incontrovertible welding together of America’s social and economic realms. Moral imperatives ultimately failed to articulate a comprehensive state response to the new socio-economic tenor of America, but its attempts and its conflicts shaped social and economic struggle, in and out of the state, for the rest of the century. By the beginning of the 20th century, a transformation within American capitalism was well under way, from predominately producer-oriented market approaches to consumer-orientated market approaches. State and private response to dramatically changing social conditions and the character of American society ultimately drove these market transformations. An increasingly urban, immigrant and working class oriented society demanded

³ Daniel Okrent, *Last Call: The Rise and Fall of Prohibition*. New York: Scribner, 2010, 48.

a series of political and economic responses, many of which were repressive, viewing these changes as threats to stability and existing order. But the culture industries pushed back, and in so doing shaped modern individual liberty in the American experience away from the imperative of property and toward an emphasis on consumption and expression.

Understanding the conflicts over policy and reform in this era requires us to look beyond political institutions. Political reforms were in response to a radically changing social environment. The familiar story is that political elites and institutions, recognizing this social tumult, readied a variety of responses to negotiate and control the social environment. It is also necessary, however, to account for the ways in which cultural formation responded to and subsequently shaped American politics. Any account of American political development in the progressive era is incomplete without reordering the causal relationship in which these conflicts are too often cast. Never before had cultural currents so powerfully shaped political change than in the progressive era. The cleavages of America's moral order from modern American liberalism are found in celluloid and alcohol.

In *A Drunkard's Reformation* (Biograph, 1912) a father stumbles home from the saloon agitated and angry. None of the comforts of his home please him—not the dinner his wife has prepared or the slippers his cowering daughter offers him. His lateness home, eruptive anger, and disheveled state mark “the same shameful story” of drunkenness tearing at the fabric of domestic tranquility in the progressive era. Reluctantly, the man takes his daughter to the theater. There, sitting in the dark among strangers, he watches intently as a story of intemperance unfolds: a hard working

and abstemious husband and father gradually succumbs to the lure of drink. Angry at his daughter's attempts to stop him, he resorts to violence. The moral fall is dramatic. In the audience, the man clutches his daughter tighter as he witnesses "his own shortcomings mirrored in the stage play."

Such mirroring extends beyond the frame. Cast as a stage play, this reformation of a drunkard is an early example of cinematic reflexivity—the images of stage and audience mirror the experience of watching this film, casting the projection of images as political expression. Movie-goers could locate themselves within the frame, filling its images with their own hopes, fears, and experiences. This tremendous capacity for social and cultural formation in early American cinema necessitated, for progressive reformers, mastery and control over the images. But how could elites master the threatening potential of visibility in what was a commercial product of entertainment? Economic approaches to regulating the private sphere—one of the pillars of progressive reform—could not reign in the disruptive potential of representation. That the commercial product of entertainment could be either a vehicle for moral uplift or a wrecking ball of moral code casts representation and its political intention as a key site of progressive era political, economic, and social formation.

Two industries—one built around an ancient practice and the other around a new technology—were at the center of the progressive storm. Cinema and alcohol were economic competitors under attack by social reformers of the era. Both industries and their interests argued that moral regulation was undemocratic, and both sought economic consolidation in order to ward off moral concern. One succeeded in fighting off the onslaught of regulatory power whereas the other not only failed to defend its industry against regulation but was dismantled by

the force of a prohibitory state. Why did American cinema succeed where American drink failed? By 1912, it looked as though the industries were going in opposite directions: the regulatory impulse to censor the screen was at its height. The controversies surrounding prize fight films, white slave traffic, and the visual representation of immoral behavior had various political bodies clamoring for censorship of a nascent, chaotic industry still largely rooted in urban working class districts. Federal legislation prohibited the interstate commerce of prize fight films with the Sims Act of 1912, and the Tariff Act of October 1913 prohibited the importation of “obscene and immoral films” with authority to confiscate such films given to the Treasury Department.⁴ Local policing laws had authority to censor immoral films and several states began the process of institutionalizing censorship boards.

Conversely, by 1912 the concerted efforts of the United States Brewer’s Association and the Model License League of the distillery industries appeared to be tempering the prohibition tide of the early 20th century. Statewide prohibition efforts failed in Alabama, Florida, Idaho, Massachusetts, Michigan, Minnesota, Missouri, and Oregon. Local option laws were defeated in several other states, either in the legislatures or by referendum. Even in Maine, the bastion of temperance sentiment for generations, the statewide prohibition law barely survived referendum, winning by less than 600 votes out of 120,000 cast.⁵ Within a few short years, such gains had been lost and the fight for nationwide prohibition began in earnest. What explains the success of the motion picture industry and the failure of the alcohol industry in responding to moral regulation in the 6–7 years leading up to nationwide prohibition?

⁴ Motion Picture Hearings before the Committee on Education, 63rd Congress, Second Session, March 20, 1914, quoted in: National Board of Review Archives, New York Public Library, Box 142; U. S. Treasury Department Document, NBRA, Box 46.

⁵ *United States Brewers’ Association Yearbook*, 1911, 33–68.

It is certainly the case that the prohibition forces were more unified than social regulators of the cinema. The Anti-Saloon League, perhaps the first and most powerful single-issue interest group in American history, successfully cut across the notoriously entangled political lines of the progressive era and marshaled the will to eradicate the legality of alcohol production. Their focus was to attack the private businesses that enabled public acts of consumption—the saloons. The ASL built a modern bureaucratic organization that was able serve “the powers of righteousness” by adapting the corporate logic of hierarchy and departmentalization.⁶ Unlike previous temperance organizations, the ASL was “bureaucratic and not democratic.” They attacked the political system at the margins with an “*all*-partisan approach,” swinging elections and cobbling together powerful voting blocks. Older temperance organizations like the Women’s Christian Temperance Union and the Prohibition Party approached the issue through the logic of 19th century party politics. They attempted to play in the partisan game not exploit it.

But the ASL was not the only force that shaped regulatory power over alcohol, as *The Drunkard’s Reformation* suggests. In effect, culture industries and competitors for leisure time isolated drink and the saloon, eliminating alcohol in sites of entertainment such as vaudeville, motion pictures, and even sports venues. Baseball, for example, long part of the beer drinking traditions developing in the 19th century, began to disassociate itself from beer drinking by the early 1910s, despite the fact that the baseball business and saloon business had common interests

⁶ K. Austin Kerr, *Organized for Prohibition: A New History of the Anti-Saloon League*. New Haven: Yale University Press, 1985, 76–82.

in fighting against Sunday closing laws.⁷ The answer to the question of why the cinema succeeded where drink failed requires a closer look at both the cultural landscape in which these industries are embedded and the broader transformations of American capitalism taking place in the era.

Alcohol interests, better funded and more unified than the movie men of early cinema, consistently utilized arguments that defended the basic individual liberty they saw inherent in the right to drink and the unique social value of the saloon. These arguments levied against the ASL and competitors for working class leisure time emphasized the right of individual patrons, the customers, to consume the industry's product. While the motion picture industry assailed the evils of alcohol throughout the 1910s, nowhere did they ever fully develop an argument of the right to individual consumption against censorship—the liberty they articulated against moral and economic regulation was the liberty of free expression on the screen, in which the customer was the censor.

Both the alcohol and film arguments for liberty failed in their own ways. The landmark Supreme Court case *Mutual Film Co. v. Ohio* (1915) ruled that the cinema was not art or speech but a commercial product like bacon, baseballs, and railroads, to be regulated through the interstate commerce clause. From 1908 to 1918, political censorship was institutionalized in a handful of states and in numerous local and municipal bodies. The liberty to drink, on the

⁷ There is a paucity of information regarding beer and baseball spectatorship in the years leading up to prohibition. Although beer drinking was a prominent part of baseball culture and spectatorship during the so-called heyday of the "Beer and Whiskey League," a competitor to the National League, there is very little history on beer consumption at the ballpark in the first two decades of the twentieth century. It is almost certainly the case that retail sales of beer were absent from the majority of major league ballparks by 1915. For more on the history between beer and baseball, see: Daniel Merle Pearson, *Baseball in 1889: Players vs. Owners*. Bowling Green: Bowling Green State University Press, 1993; David Nemecek, *The Beer and Whiskey League: The Illustrated History of the American Association—Baseball's Renegade Major League*. Guilford, CT: The Lyons Press, 2004.

other hand, was swept up in the prohibition wave—neither the defense of individual liberty nor the inefficacy of political prohibition could hold back the moral authority of prohibition. But, in another way, these arguments for individual right to expression and consumption helped shaped a modern discourse of liberty that outlasted both political censorship of movies and prohibition of drink.

Anti-prohibition forces consistently cast their struggle as one for personal liberty, even on moral terms. “Our religion is based on the freedom of choice,” wrote the *Anti-Prohibition Manual*, “[i]f we lose control of ourselves, the mind and body run riot. Self-control, combined with temperance, in the individual, is the basis of society’s moral success. Prohibition begins at the wrong end.”⁸ A self-conditioned moral code was a prominent feature of the movie and alcohol industries’ defense against social reform from above. Cleveland mayor Newton D. Baker, and future Secretary of War, argued that “dead letter” laws in American cities were the product of “the most law-abiding people in the world.” This obedience to law was not an external power over the population, but rather a consequence of “the automatic self control of the people.”⁹ Pushing against the dominant social reform logic of the era, brewers emphasized that the solution to social ills was self-control through individual liberty. “Under the stress of modern competition, a man must be master of his faculties [...] in other words, self-control.”¹⁰ Temperance could only be realized through the internalized moral code of each individual. Internal conditioning through persuasion characterized much of the temperance movements in the 19th century. Such persuasive temperance agitation was largely absent from the progressive

⁸ “The Freedom of Choice,” *Anti-Prohibition Manual*, 1915, pg. .

⁹ Newton D. Baker, “Law, Police and Social Problems,” *Atlantic Monthly*, July 1915. Quoted from: *Yearbook of the United States Brewer’s Association*, 1915, 298–99.

¹⁰ *Yearbook of the United States Brewers’ Association*, 1910, 266.

era prohibition movements. Brewers, horrified by the bureaucratic power of the ASL and its goal of external coercion, adopted much of the temperance language of the 19th century. Individual freedom, they argued, is realized only through the internal power of temperance, from a self-chosen moral code of moderation. Such discursive strategies cast liberty of the self against political regulation of social morality, helping to define the terms on which civil liberties would consistently be cast throughout the 20th century. American cinema was also developing the complexities of moral internalization for regulating visual content—the long history of institutionalizing prior restraint and a self-regulating moral production code for the film industry required discursive shaping of the efficacy and justice of self-control. The modern liberal would have to be self-conditioned from within, a process made visible by the moral conflicts in liquor and movies of the progressive era.

The term “liberal” was itself reformulated within this conflict. In some cases the use of liberal carried previous meanings, both as freedom from restraint (immoderate) and freedom from prejudice (tolerant). More common, however, are instances throughout anti-prohibition literature that articulate a liberal identity and liberal cause as a social struggle advancing consumer rights against the conservative moralism of the state. John Stuart Mill’s conception of liberty through free expression had been developed in an earlier generation, but these philosophical arguments tended to circulate among the cultured elite. Mill’s own concept of cultural value explicitly excluded mass entertainment and popular consumption—push pins and baseball could never have the social worth of something like poetry. But by the 20th century, discourse on freedom of expression and consumption was often shaped by culture industries themselves, namely liquor and movies.

The brewing industry in particular was keen to bend the concept of freedom from restraint toward new mass cultural conceptions of freedom of individual consumption. For brewers, to be a liberal meant both a liberal consumer and a defender of free expression. This reallocation of old ideas for new purposes is nowhere more visible than in their principal publication, *The Yearbook of the United States Brewers' Association*. The brewers first began publishing a yearbook of their annual convention in 1909, with the intention of providing comprehensive analysis of the industry and the political conflicts surrounding it. The yearbooks, which were published through 1921, are a unique series of volumes on the liquor question in that their intent was not solely for propaganda purposes despite being an official publication of the largest coordinating body of the alcohol interests. These were principally industry guides, intended to provide useful information for beer and bottling businessmen and their ancillary industries. While not without bias, the first 7 volumes show a remarkable amount of fair and objective information, particularly compared to the one-sided and often hysterical literature produced by prohibition advocates. In these volumes, the brewers develop a comprehensive account of individual rights in expression and consumption.

This discourse often tied together liberalism and union in unique ways. The Civil War bicentennial was a visible part of the public consciousness of the time, and brewers often articulated the value of their industry through patriotism and service to the union. “Anyone familiar with our country’s history,” wrote the USBA 1909 yearbook, “knows that many years before the war Knownothingism and Prohibition were driven out of the arena by a mass of liberal voters who had so ardently devoted themselves to the Union cause.”¹¹ While the beer tax was a

¹¹ *Yearbook of the United States Brewer's Association*, 1909, 14.

significant source of revenue for funding the union army, German-American brewers themselves were “ardent unionists” who saved “some of the more important border States” from the confederates.¹² This Civil War remembrance was authored by German immigrants in the early 20th century, looking back through the turmoil of their own time and casting the republic as a liberal union of tolerance through individual liberty. For brewers, the “liberal cause” of individual freedom could be pursued by encouraging “the liberal elector to exercise his franchise.”¹³ It was, for many, a fight for democracy. So-called Liberty Leagues were formed to carry on the fight “for the liberal side ... as a matter of principle,” by organizing voting drives in urban areas.¹⁴ Such a “liberal re-wakening” had the brewers positively exuberant in the years leading up to 1912, as prohibition movements lost several crucial contests across the nation.

Abraham Lincoln had undergone a remarkable transformation in the biographies of popular magazines in the late 19th century—from a statesman over whom the nation was deeply divided to the universally loved “Great Heart” and father of the nation.¹⁵ Anti-prohibition advocates sought to shape the legacy of Lincoln for the services of individual liberty in an increasingly consumer-oriented society. In “Abraham Lincoln, Liberal,” the 1916 *Anti-Prohibition Manual* boldly claims “the greatest humanitarian and the broadest statesman the world has produced” as an early liberal due to his willingness to imbibe strong drink on occasion. This usage touches on the older meaning of liberal as immoderate or licentious,

¹² *Yearbook of the United States Brewers' Association*, 1912, 233.

¹³ *Ibid.*, 16–17.

¹⁴ *Ibid.*, 18.

¹⁵ “Great Heart” is a quote from *The Birth of a Nation* (1915), America’s first blockbuster film that assailed northern Republican carpetbaggers and their black allies but praised Lincoln as a protector of the south. For more on biographies, mass culture, and the emergence of the ten-cent magazine, principal forces in shaping the Lincoln image as the Great Emancipator, see: Cornelius Regier, *The Era of the Muckrakers*, Chapel Hill: University of North Carolina Press, 1932, 17; and Melvyn Stokes, *D. W. Griffith's The Birth of a Nation*, Oxford: Oxford University Press, 2007.

commonly a term of reproach.¹⁶ Here, however, there is no negative connotation to the word but rather discursive practices that blend together immoderate and tolerant. Reading Lincoln as a liberal was, for the USBA, seeing in him both a capacity for social tolerance and defender of individual liberty and consumption.

For anti-prohibition forces, there were limits to this new conception of liberalism. Women's suffrage, long identified with the temperance movement, was characterized as a victim of prohibition's political moralism. "Women's suffrage owes its defeat to the Anti-Saloon League," wrote the *Saturday Evening Post*, "which made of it a 'wet' and 'dry' issue, and thus alienated from it the sympathy of the liberal forces of the State."¹⁷ The temperance movements of the 19th century were closely aligned with women's suffrage, led by the Women's Christian Temperance Union and their iconic leader Frances Willard, who advocated for prohibition through "internalized conversion, rather than externalized coercion."¹⁸ A cursory glance at the confluence of women's suffrage and prohibition in the 1910s indicates the alliance was as strong as ever: 7 western states had adopted prohibition by 1916, and in all of them women had gained the right to vote.¹⁹ The Brewers yearbook of 1913 admits that "liberal interests in Ohio cast their weight against women's suffrage."²⁰ But there were cracks emerging in the alliance between prohibitionists and suffragists. By the 20th century, the movements and tactics of prohibition

¹⁶ The USBA Yearbook of 1909 has one instance in which liberal is used as a term of reproach, describing prohibition activists making "liberal use" of prosperity statistics to show a positive correlation between prohibition and individual prosperity. This instance shows brewers were well aware of the negative connotation of liberal as excessive but were nonetheless reformulating the concept within their fight against prohibition.

¹⁷ Quoted from "Brewers and Woman Suffrage," *Yearbook of the United States Brewer's Association*, 1913, pg. 245–46.

¹⁸ Eileen McDonagh, "The 'Welfare Rights State' and the 'Civil Rights State': Policy Paradox and State Building in the Progressive Era." *Studies in American Political Development* 7 (Fall 1993): 246.

¹⁹ Okrent, *Last Call*, 88.

²⁰ *YUSBA*, 1913, 245.

politics had changed considerably. The WCTU was largely replaced by the Anti-Saloon League and Prohibition Party, movements led almost entirely by men who advocated for external coercion based on legal prohibition. Cultural elites weighed in on the “New Woman” of the 20th century, in some cases arguing that women prohibitionists “confuse a purely individual issue with a social issue,” bending society to the needs of women who “suffer from the curse of liquor as men do not.”²¹ Such arguments muddled the brewers message, however, that the saloon had social value as much as the individual had the liberty to consume alcohol. More telling is that, from 1911 to 1913, referendums on prohibition in Michigan, Colorado, San Francisco, Los Angeles, and Phoenix all had women voting for the first time and all failed to legally prohibit alcohol. A closer look at county-by-county voting patterns in these crucial years shows no positive correlation between women’s suffrage and success for prohibition measures.²² Anti-prohibition forces attempted to exploit the 20th century cleavage between the cause of temperance and the cause of women’s suffrage, but could never successfully weld together the cause of individual liberty and women’s rights. For the brewers, women were merely hapless victims of the teetotalers, not a similar group of individuals fighting for liberty against conservative moralism.

Another crucial—and for the anti-prohibition movement—devastating limitation to this new conception of liberty centered on enduring white supremacy. Prohibition forces of the south were both stronger than any other region in the country and powerfully animated by the threat of black men consuming alcohol. Brewers were unwilling to extend their conception of individual

²¹ Margaret Deland, “The Change in the Feminine Ideal.” *Atlantic Monthly* (March, 1910), quoted in *USBA Yearbook*, 1910, 178.

²² “Report of the Vigilance Committee,” *YUSBA*, 1913, 22–66.

liberty and rights to blacks, even when acknowledging that repressive liquor laws of the south were often solely animated by the anxieties of whiteness. White voters animated by “the race question,” wrote Fritz Rudolf, “decided in favor of the prohibition laws,” admitting that while blacks in the South would likely not vote for prohibition, “the colored population is without civil rights in those States”²³ They also proved unwilling to develop alliances with distilleries who were under fierce attack from Southern moralists. By the opening years of the 20th century, the distillery industry was largely controlled by Jewish Americans.²⁴ Southern politicians like John Newton Tillman from Arkansas consistently made the connection between black violence and Jewish enterprise in attacking alcohol. “I am not attacking an American institution,” Tillman said, “I am attacking mainly a foreign enterprise.”²⁵ A series of sensational articles in *Collier's* on the rape and murder of fourteen-year-old Margaret Lear in Louisiana shocked the nation and galvanized southern prohibition, insinuating that a cheap gin distilled by Lee Levy & Company, the bottle “vile and obscenely labeled” with a scantily dressed white woman, incited a local black man, Charles Coleman, to commit the crime. After a four hour trial and 3 minutes to deliver a guilty verdict, Coleman was hung in the county jail.²⁶ The “Black Cock Vigor Gin,” distilled by a Jewish businessman, crystallized many of the fears and anxieties of southern whiteness.²⁷ The case bore resemblance to the Leo Frank controversy: it bound Jewish and immigrant otherness to the threat of black masculinity and the defilement of southern white women. Levy’s company was kicked out of the Model License League—an association of distilleries intended to police

²³ “The Race Question,” *YUSBA*, 1912, 172–73.

²⁴ For more on Jewish-owned distilleries, see: Okrent, *Last Call*, 42–45, and Davis, *Jews and Booze*.

²⁵ Quoted in Okrent, *Last Call*, 44.

²⁶ *Ibid.*, 45.

²⁷ “Who Killed Margaret Lear?” *Collier's* 41 (May 1908), 10. See also: Okrent, *Last Call*, 42–45.

retail sales and limit licenses to prevent over-competition—but the damage had been done.²⁸ By 1915, anti-prohibition forces had all but given up on the south.

With few alliances and increasingly isolated in industry and culture, the United States Brewer's Association, the principal trade group of brewers and the most forceful advocate of the right to drink, continued to shape an argument for freedom of consumption as a constitutive feature of individual liberty. They argued for a nation-wide referendum on prohibition, confident in their belief that “the liberal voters, who are, for the most part massed in the industrial states, would be able to defeat it.”²⁹ Such discursive strategies helped reshape the public conception of liberalism, tying together liberal identity and the right of consumption. Like the term propaganda in the struggle to regulate film content, “liberal” in anti-prohibition literature signified a discursive shift in American political culture, broadening the classical conceptions of propertied liberalism into its modern and social iterations.³⁰

Industrialism and labor issues were crucial for anti-prohibition advocates, who cast the right to individual liberty against both puritan mores and the consequences of modern industrialization in which “all human beings should be machines whose wheels must revolve despite considerable grating.”³¹ Workers demand contact, wrote James E. Freeman, “not with mechanisms, but with life itself. He is the victim of a system of modern life that is so strenuous in its tendency that it threatens to make his labor one of large isolation.”³² Prohibition forces

²⁸ Okrent, *Last Call*, 48.

²⁹ Louis N. Hammerling, “How a Minority May Rule,” *The American Leader*, Dec. 28, 1916. Quoted in: *Yearbook of the United States Brewer's Association*, 1916, pg. 208.

³⁰ For a discussion on the contested term of propaganda in the struggle to regulate film, see Chapter 4.

³¹ “A Few Thoughts and a Superfluity of Words,” Editorial, *Interstate Medical Journal*, June 1916. Quoted in: *Yearbook of the United States Brewer's Association*, 1916, pg. 204.

³² James E. Freeman, *If Not the Saloon—What?* New York: The Baker & Taylor Company, 1908.

were consistently attacked as socialist and radical responses to individual consumption and choice. Labor leader Samuel Gompers argued that “[i]ncreasing wages, establishing a shorter workday, affording better tastes, better aspirations, higher ideals” could more effectively establish temperance in the populace “than to inaugurate prohibition by law.”³³ Alcohol interests allied themselves with trade unions and big labor, against more radical labor influences. Brewers and other employers “who treat their employees liberally” hailed government action against the IWW in the Paterson silk strikes of 1913. “The decline of the Industrial Worker’s of the World,” wrote the USBA yearbook of 1913, “must be a source of real satisfaction alike to all employers and wage-earners who recognize in the preacher of revolution the worst enemy of both.”³⁴ Labor and liquor were not without conflict, but the brewing industry in particular paid better wages than most industries in America,³⁵ and publicly recognized that unions were “the natural means for securing justice” for workers.³⁶ Certain conflicts with labor revealed the extent to which the brewers struggle to coordinate industry practice and policy, however. A nationwide compensation plan for injured workers failed to materialize largely because the brewing association’s members “failed to comply” and showed themselves “curiously indifferent to the importance of the Labor question in our industry.”³⁷ A fractured industry proved unable to deal with an increasingly unified and national labor movement, despite the fact that labor was more or less staunchly anti-prohibition.

³³ “Samuel Gompers on Prohibition” *The Anti-Prohibition Manual*, 1916, pg.

³⁴ “Report of the Labor Committee,” *Yearbook of the United States Brewer’s Association*, 1913, pg. 76–77.

³⁵ According to the 1905 United States Census of Manufacturers, workers in the brewing industry received one dollar out of every \$5,50 produced, placing sixth out of 300 industries listed. Quoted in: *YUSBA*, 1910, 279.

³⁶ *YUSBA*, 1912, 67.

³⁷ *Ibid.*, 65–67.

Consumption and consumer choice were at the heart of a radically transforming American economy in the progressive era. The transformation of a producer-oriented to a consumer-oriented economy coincided with a broader movement toward consolidation in American capitalism, where vertical integration tied together industrial sectors of production, distribution, and retail. Movies and alcohol exploded open like few other industries in this new era of consumer-oriented and consolidated capitalism. The distilling industry had achieved vertical integration by 1880, and the brewing industry followed shortly thereafter. Only in the state of Louisiana was the vertical integration of the alcohol industry unlawful.³⁸ The first twenty years of the American film industry was marked by numerous attempts to consolidate production, distribution, and exhibition. But, for state regulators, the main concern in both industries was moral, not economic. Indeed, the state's moral concern over the cinema and drink often overshadowed economic considerations. The movie industry, in particular, was able to achieve economic consolidation and monopoly precisely because the chief focus was on the moral power of the screen. In response, the political conflict over the movies and alcohol helped articulate responses to moral reform on terms that defended consumer rights and individual choice in capitalism. Both economic and moral conflicts were most prominent in the industries' two sites of retail consumption—the saloon and the exhibition space.

The exhibition space of early cinema and the saloon were important sites of social interaction among the growing and increasingly urban working class of America. From 1908 to 1910, both spaces were under high-profile attacks from social reformers. Moving picture

³⁸ *USBA Yearbook*, 1909, 25.

exhibition spaces across the country were under attack for poor lighting, danger of fire,³⁹ and unattended children. In New York City, Mayor George B. McClellan order all moving pictures houses—over 500 across the city—closed on Christmas Eve, 1908. The theaters were quickly reopened and the political furor did little to discourage demand, but it did galvanize exhibition owners to act. Theater owners underwent a massive campaign to “clean up” the exhibition space and make it more attractive to a middle class clientele. A crucial part of the campaign was focusing public attention on the their competitors—the alcohol retail space.

Saloons were equally threatened with closure by reformers. The presence of the saloon had proliferated massively since 1890, largely due to a “tied house” system whereby brewers could own such retail spaces, sell their beer exclusively, and offer attractive promotions such as a hot meal with the price of a beverage. “Public house” saloons thus became an ubiquitous feature of many urban neighborhoods—relatively cheap investments for producers that could raise the profile of their products at the point of purchase. The number of retail liquor dealers went from 90,000 in 1865 to nearly 200,000 by 1900, far outpacing population growth.⁴⁰ The consequence was a legitimate social crisis that fueled a new wave of temperance activism in America. Saloons quickly became a symbol of a new American society descending into urban disorder and crime. Brewers offered only nominal concessions to what was a problem of economic consolidation leading to excessive drinking in an oversaturated market, blaming clubs and off-license premises for the social ills of overconsumption. “It is a mistake to believe,” wrote the *USBA Yearbook* of 1910, “that the commercial interest of the brewer stands back of the excessive multiplication of

³⁹ The projection booth of early cinema was a particularly hazardous place to work. All film stock except for that produced by Pathe in France was nitrate cellulose and extremely flammable. The hot carbon arc lamp of the projector lighting system and the overall confined spaces of the booth added to the dangers.

⁴⁰ Marni Davis, *Jews and Booze: Becoming American in the Age of Prohibition*. New York: NYU Press, 49.

saloons.” The brewers did not, however, altogether deny any connection between the vertical integration of the industry and over competition and excessive consumption. In 1910, they published a report from the New York Committee of Fourteen that identified the business interest of the brewer as “responsible for permitting the evil conditions” of the saloon, principally due to the fact that “the majority of saloons in the city [are] supported to a greater or lesser extent by the financial backing of the brewer.”⁴¹ By 1915, brewers recognized the threat the tied house system represented to the overall health of the industry, but despite attempts to divest themselves of some of the more notorious saloons and saloon-saturated neighborhoods, the tied house system remained until prohibition.⁴²

At the same time, brewers published numerous arguments on the unique social value of the saloon in working class society, a class consistently left out of traditional social institutions.⁴³ American working men, they argued, refused to be “patronized or supervised” by the “attitude of conscious superiority” on the part of elite reformers.⁴⁴ The saloons offered “the poor man the center and source of much of his social life.”⁴⁵ Cast in class terms, the saloon offered working men the same kind of social capacity gentlemen’s clubs offered the privileged class—camaraderie, networking, and the development of social consciousness. This awakening of class consciousness was unambiguously bound to a democratic spirit and freedom of expression. “The

⁴¹ *USBA Yearbook*, 1910, 144.

⁴² After Prohibition was repealed, the federal government insisted on a strict three tiered distribution and licensing scheme in which production, distribution, and retail were kept “distinct and apart” in their operations. For a brief overview see: *California Beer Wholesalers Assn., Inc v. Alcoholic Bev. Etc. Appeals Bd.* (1971), 5 Cal. 3d 402, 407–408. For more on licensing reform from the brewer’s perspective, see: “Licensing Reform: A New Policy,” *USBA Yearbook*, 1915, 292–97.

⁴³ “The church clubs and Y. M. C. A’s are doing fine work, in their way, and with a particular class—but that class as a rule does not include the workingman!” *USBA Yearbook*, 1910, pg. 268.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*, 264.

saloon itself [...] supplies a deeper and more subtle want than that of mere animal thirst,” wrote a committee of social reformers in 1901, “[t]his want is the demand for social expression” providing elements needed to foster “what we may call a ‘social center.’” Saloons were recognized, even by reformers, as a site of social formation that provided “some stimulus to self-expression.” The saloon, the report concludes, “is the most democratic of institutions.”⁴⁶

This social capacity of alcohol consumption was consistently undercut by the cinema, competitors for American working and middle class leisure time. The developing film industry—both at the exhibition and production levels—relentlessly attacked saloons and drink. Campaigning as a “substitute for the saloon,” the film industry sought middle class legitimacy by cutting itself against the social function of alcohol. Exhibition spaces boarded up exits that led to saloon parlors and aggressively pursued legislation that prohibited saloons and restaurants from exhibiting motion pictures. Large film exchanges—the distribution sector of the industry—quickly determined that “the promiscuous showing of pictures is not to their advantage.”⁴⁷ Limiting the quantity of moving pictures in exhibition allowed distributors more control and discretion over their product, a key strategy in legitimating the cinema as a respectable form of leisure time. Potential exhibitors who would bring “discredit to the industry” were screened out of the trade by distribution, a practice focused on the saloon.

Brewers tried to fight back, but to no avail. They argued that licensed alcohol retailers were severely restricted in the entertainments they could offer patrons aside from drink, thus leading to overconsumption. “Music, dancing, cafe chantants, stage plays, cinematographs, and

⁴⁶ Raymond Calkins, *Substitutes for the Saloon: An Investigation Made for the Committee of Fifty*. Boston and New York: Houghton, Mifflin & Company, 1901, 2–3.

⁴⁷ “Roadhouses Want Films,” *Moving Picture World* 25, no. 8 (August, 1915): 1345.

all games, save billiards, are either illegal or sternly discouraged,” wrote the USBA Yearbook of 1915, “[t]hus, in the absence of counter-attractions, the only diversion left is to drink.”⁴⁸ But much like the motion picture interests relative to the saloon, brewers needed a social practice to cut against in order to legitimate their retail interests. Gambling was the most common scapegoat. The Clean-Up Movement in Ohio, led principally by the Vigilance Bureau, sought to limit licenses for retail sale by ridding the state of gambling houses. The Bureau was in effect an association established by the brewers to police their own. They worked closely with local elites in law, policing, and politics to focus their reform energies on gambling. Of the 14 letters from mayors, attorneys, and police chiefs published in the 1910 USBA Yearbook, most mention the elimination of gambling as the principal work of the Bureau.⁴⁹

The film and alcohol industries both struggled to consolidate the industry by incorporating sites of consumption into a vertically integrated combine. These sites of consumption—the exhibition space and the saloon—were both the most difficult sectors to consolidate. They were widely dispersed throughout the country, tied to traditional and more local property holdings, closer to the public, and subject to greater scrutiny by police and municipal power. Where the alcohol industry’s tied house system failed, producing overcompetition and social crisis, the movie industry successfully integrated the exhibition space into the vertical monopoly of the studio system. The consequences of consolidating these retail spaces go a long way toward explaining the success of the movie industry in warding off regulation and the inability of the alcohol industry to survive progressive moral reform.

⁴⁸ “Licensing Reform: A New Policy,” *USBA Yearbook* 1915, 295–96.

⁴⁹ *USBA Yearbook*, 1910, 132–47.

These parallel histories of integration show that, more broadly, the development of consolidated capitalism in America did not produce uniform results. Integration in both alcohol and motion pictures was an economic policy intended to correct the greatest economic danger to the industry: over-competition. The tied-house system in the alcohol industries was intended to check against over-competition at the level of production, as the barriers to entry in the industry were always very minimal, but this policy unwittingly fostered even greater over-competition at the level of retail consumption as brewers and distillers capitalized on the bargain of backing numerous saloons to give the public exclusive product offerings. For the motion picture industry, vertical integration was, by the 1920s, eventually able to successfully check over-competition at all levels, partly due to higher barriers to entry, but also due to a more coordinated economic policy among industry leaders. Nonetheless, the first two decades of the American film industry was marked by fierce competition, great economic successes, and spectacular failures. Conflict was ever present in the nascent motion picture industry, but so too, even at the very beginning, was coordination and cooperation, however rudimentary. Producers and distributors had from the origins of the industry developed coordinated practices that standardized the industry's flow of product, but the relationship between distributors and exhibitors was famously toxic, the former too often in a position to impose unfavorable terms on the latter, particularly block-booking.⁵⁰ One of the first steps of industry reform for the Motion Picture Producers and Distributors of America, formed in the spring of 1922, was to establish uniform contracts between distributors and exhibitors.

⁵⁰ An industry practice that became widespread by the early 1920s where exhibition owners were forced to rent a slate of poor quality films alongside the higher quality films they primarily desired. It effectively tied the hands of theater owners and limited competition for better films.

Distilleries and breweries were thrown into internecine competition following the Civil War-era introduction of taxes on alcohol, as productive capacity was significantly greater than demand. The industries struggled to consolidate horizontally, but regional differences and the ease of entry meant that competitors could easily undercut prices. Vertical integration, while relatively easy for the brewers, brought about a social crisis at the retail level. Growth and consolidation in the liquor business was effectively checked at every turn. The horizontal fracture between liquor and beer could never be effectively managed. Internal dissension and conflict had long characterized the relationship between brewers and distillers, and as the 20th century temperance movement flourished into a full blown nationwide campaign for prohibition, the alcohol industry was unable to coordinate a response. Brewers were too often quick to criticize liquor as the real instigator of the social crisis surrounding alcohol, while singing the praises of beer as a health drink that aids in temperance. The lack of horizontal coordination, coupled with the inability to effectively make vertical integration in beer more responsive to public concern, lay at the heart of the moral crisis destroying the industry. The motion picture industry, on the other hand, was able to utilize economic coordination in moral politics—both in keeping social reformers at bay and in using the screen to integrate the industry within the broader reform impulse of the era. Temperance films proved a crucial part of the puzzle in reshaping the cinema as respectable for middle class consumption.

Film producers visualized the horrors of drink in their high-profile temperance films, but portraying the saloon as a den of iniquity was a common narrative device across a wide range of movies. A look at movie plots during the fall season of 1915 indicates the extent to which the anti-saloon message saturated the movies. The Universal film *Renunciation* (1915) centers on the

story of two factions in a small town who “become embroiled in a gun fight in the biggest building of the settlement, a combination dance hall, gambling saloon and cafe. A stray bullet strikes a lantern which explodes. The saloon is instantly ablaze and soon the entire street is a roaring mass of flames.”⁵¹ From *Kids and Corsets* (1915): “Hubby has gone to a saloon nearby to drown his troubles. The two men meet and hubby offers to fight a duel.”⁵² The thieves of *Weighed in the Balance* (Mutual, 1915) “took the money to the billiard saloon”⁵³ and in *Salvation Nell* (California, 1915): “... her father in a drunken rage brutally murders her mother, and a few moments later at the saloon, the murderer meets his death at the hands of his associates.”⁵⁴ These films used saloons as a stock narrative device to convey social evil, violence, and moral fall.

American cinema was a powerful tool for shaping public imagination of drink’s destructive capacity, but it was not without conflict over such images. With the release of *John Barleycorn* (Bosworth, 1914), images of the drunkard were contested by social reformers, the film industry, and alcohol interests. The Pennsylvania State Board of Censors demanded the elimination of barroom scenes and acts of intemperance in *John Barleycorn*, arguing that these images incite the young and impressionable to mimic observed behavior.⁵⁵ J. Louis Breitingner, chief censor of the board and political ally of U.S. Senator Boise Penrose, provided legal representation to brewers and distillers in Pennsylvania and kept the moralizing of temperance pictures at bay with the power of the scissors.

⁵¹ *Moving Picture World* 25, no. 8 (August 1915): 1331.

⁵² *Ibid.*, 1227.

⁵³ *Ibid.*, 1383.

⁵⁴ *Ibid.*, 1493.

⁵⁵ “Censors Authority Defied by Film Men,” *Philadelphia Ledger*, July 30, 1914. Quoted from *National Board of Review of Motion Pictures Archive*, New York Public Library, Box 23.

In exchange, alcohol interests filled the coffers of their political allies. The press, often critical of the burgeoning cinema, was quick to jump on the story of corruption in state film censorship boards. “Movie censors of 27 states [are] ruled by rum ring,” wrote *The North American*. Alcohol’s control over state film censorship enabled the suppression of “pictures displaying the demoralizing effects of beer and rum, and even pictures teaching temperance lessons.”⁵⁶ Another conflict centered around the Spokane, Washington premiere of D. W. Griffith’s blockbuster, *The Birth of a Nation*, in August, 1915. Municipal censors left much of the virulent racism of the film, including the sexualized convulsions of the character Lydia, images that were heavily censored elsewhere. But the saloon sequence of *Birth*, where a young Wallace Reid plays a hard working white man who raids a saloon full of black patrons to track down the infamous Gus, was cut entirely from the positive prints in Spokane.⁵⁷ This scene reveals many of the common southern white fears of the saloon—a site of black violence and inebriety, it is a safe house for Gus after his foaming-at-the-mouth pursuit and subsequent death of the youngest Cameron daughter.⁵⁸ The saloon, in *Birth*, offers protection from the black rapists of southern female innocence. In Spokane, the evils of the saloon necessitated such racially charged images be expunged. A few months after the premiere of *Birth* in Washington, the state ordered all saloons closed, outlawing retail alcohol 4 years before nationwide prohibition.

Social conditioning, economic interest, and political conflict converged in the realism of motion pictures and their potential to instigate mimicry. Such conflicts were fueled by the instability of visual meaning and intention in what was still an emerging technology. Were the

⁵⁶ “Movie Censors of 27 States Ruled by Rum Ring,” *The North American*, April 10, 1914. In *NBRMP*, Box 23.

⁵⁷ *Moving Picture World* 25, no. 8 (August 1915): 1344.

⁵⁸ Quite literally foaming at the mouth, has Griffith instructed the actor, Walter Long, to drink hydrogen peroxide before shooting.

drunkards of the screen reinforcing learned and patterned behavior? Or did they reveal the “dark side of wrong, that we may illuminate the bright side of virtue”?⁵⁹ How could audiences and social reformers distinguish an immoral film from a moral one? How could political authority in this era, so consumed by assaults on the traditions of America, read the codes of screen morality? For critics of the movies, a heightened level of realism only signified a more destructive potential than that found in the more crudely produced images. But for defenders of the screen, the same terms led to different conclusions. “It is their very realism which makes them moral,” wrote the *New York Tribune*, an argument aggressively advanced by the National Board of Review.

The economics of the movie business was changing dramatically. The Edison Trust—the first attempt at a monopoly in the film business, finally succumbed to anti-trust action and by 1917 was all but destroyed. Regulation of the Trust proved possible because government action rested on strictly economic terms—monopolistic control by the Edison combine was built around property and patent protection as instruments in limiting competition. This was familiar ground for the state to pursue anti-trust action. As the Progressive Era gave way to World War I, the state found it increasingly unable to regulate the social capacity of cinema as it had the Edison Trust. The captains of the American film industry were increasingly exhibitors and showmen concerned with the software of the movies—the production of images—not the patent holders and property owners of the old era. The social capacity of the cinema required a greater importance be placed on the regulation of morality, not regulation of property. Because of the necessity of moral regulation, industry leaders were able to consolidate and coordinate the industry free from economic regulation.

⁵⁹ This quote comes from the opening intertitle of D. W. Griffith’s *Birth of a Nation*. For more on *Birth* and its role in free speech for film and the fight against censorship, see Chapter 3.

The principal player in both economic consolidation and internalizing a moral code for the cinema was the Motion Picture Producers and Distributors of America, a trade association headed by former Postmaster General Will Hays. The Hays organization successfully kept economic regulators at bay by emphasizing the need for “better films” and the moral clean up of the industry by producers themselves. They routinely articulated the social power of the cinema for shaping the moral capacity of the American public. Newly installed Prohibition Commissioner R. W. Haynes, in a letter to Will Hays, makes a familiar argument about the social capacity of the cinema, that, properly directed, movies “will be one of the most helpful of all agencies” and improperly directed, it could be “one of the most dangerous.” The MPPDA was well aware of the alcohol industry’s failure to survive prohibitory legislation, identifying the key cause as the inability to create alliances with social groups. A memo to Hays dated September 11, 1922, compares the film industry’s resistance to non-theatrical production and exhibition (both educative cinema for schools and religious cinema for churches) to the “opposition on the part of saloon keepers and brewers to prohibition.” The memo goes on to say that “if saloon keepers and brewers had made concessions to conciliate the less radical prohibition advocates they might have continued to operate with profit under temperance instead of bringing absolute prohibition upon themselves. While there is no idea that any such fate awaits the motion picture industry there is a parallel in the two situations.” It was not, according to the MPPDA, vertical integration and ensuing over-competition that led to prohibition, but the inability to foster social alliances that could have integrated alcohol consumption and the industry into the social fabric of America. For the motion picture industry—busily consolidating production, distribution, and exhibition into a powerful vertically integrated trust—such a statement is one of convenience.

Convenience aside, these observations identify the necessity of shaping the social value of culture industries at the heart of a new consumer-driven capitalism.

Such a social capacity to drink and the saloon was powerfully undermined by the cinema and its interests. Brewers responded by clinging to the argument of property, increasingly an antiquated defense in the new environment of liberal corporate capitalism. The state responses to capitalism were changing, away from a basic right to property and patent protection to an expanded right of consumption and expression. The American movie industry developed at the very center of this change, as Edison's Trust dissolved and the moguls rose to power. Edison's powerful combine, so exclusively focused on property and patent protection, could not properly attend to the moral controversies of the screen. The marriage of social and economic spheres necessitated a different set of industry interests and pressures, and in so doing influenced a fundamental reworking of both American capitalism and American liberalism. As the movie men realized vertical integration and horizontal coordination were necessary to stave off moral regulation of the screen, they looked back at the vanquished liquor industries for lessons. The American film industry thus shaped its contours out of the ruins of legal alcohol, contours that ultimately bore little resemblance to the liberal corporate capitalism political economists agree is the dominant economic structure of America. Instead, Hollywood developed a unique alternative to the dominant structure American capitalism, far more cooperative and coordinated, that continues to define the film industry today.