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Prohibition in Kansas With An Emphasis Placed Upon Enforcement in Ellsworth County

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PROHIBITION IN KANSAS WITH AN EMPHASIS PLACED
UPON ENFORCEMENT IN ELLSWORTH COUNTY

being

A thesis presented to the Graduate Faculty
of the Fort Hays Kansas State College in
partial fulfillment of the requirements for
the Degree of Master of Science

by

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Date

July 21, 1956

Approved

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Yet, within less than fifteen years, prohibition was repealed. If the average American were asked how such a complete reversal of public opinion could have been brought to pass so quickly, he probably would have said that prohibition just did not work; it debauched youth, created bootleggers and criminals, fostered corruption among public officials and violated the personal liberties of decent citizens. So the people rose up in wrath and did away with the "noble experiment."

This was probably the popular conception of why prohibition was repealed. To some people, however, this answer did not make sense. The American people usually do not build a structure that takes more than a hundred years to complete, and then tear it down within fifteen years.

CHAPTER I

INTRODUCTION

When the Eighteenth Amendment was adopted and became a part of the Constitution of the United States, it was believed by a large number of people that a great victory had been won; that a social disease had been forever stamped out, and that henceforth there would be no more "liquor problem." The victory had not been easily won. It had taken years, decades, generations, to educate the nation into believing that the liquor traffic should be banished.

Yet, within less than fifteen years, prohibition was repealed. If the average American were asked how such a complete reversal of public opinion could have been brought to pass so quickly, he probably would have said that prohibition just did not work; it debauched youth, abetted bootleggers and criminals, fostered corruption among public officials and violated the personal liberties of decent citizens. So the people rose up in wrath and did away with the "noble experiment."

This was probably the popular conception of why prohibition was repealed. To some people, however, this answer did not make sense. The American people usually do not build a structure that takes more than a hundred years to complete and then tear it down within fifteen years.

William E. Connelley, *History of Prohibition* (Chicago: The American Historical Society, Inc., 1934), p. 10. The same article may be found in the *Kansas Historical Quarterly*, IV.

imports. In Kansas, as in the rest of the United States, there was no sudden rebellion of the people against the liquor traffic. Rather it was a slowly developed crystallization of public opinion against the dramshop laws under which the liquor traffic operated. Many citizens believed that the manufacture and sale of intoxicating beverages was inherently lawless as proved by century old attempts to control the traffic in liquor and to protect society from the crime, ill health, and poverty resulting from its use.

Purposes of the Study

There has been for some time a need for more material on the temperance movement in Kansas, the great effort of which led to the passage of the prohibitory amendment by the Kansas legislature in 1879 and its final acceptance through the vote of the people of the state at an election held in 1880. Of course, much has been said and written on the subject in a fragmentary sort of way; however, the author found that with the possible exception of an article written by Clara Francis,¹ librarian at the Kansas State Historical Society, that a consecutive story of the coming of prohibition to Kansas was lacking. Therefore, the purpose of this study is to show the

¹William E. Connelley, History of Kansas (Chicago: The American Historical Society, Inc., 1928), 679. The same article may be found in the Kansas Historical Collections, XV.

importance of prohibition in affecting an aspect of our social life as it concerns itself with the history of Kansas. This highly controversial topic has always been vital to the security of all Americans and should receive more attention by those authorities attempting to curtail the ever increasing crime, the protection of health standards of the people and the accident costs as a result of the liquor traffic. It is not the purpose of the author to write an exhaustive story of the enforcement of the prohibitory amendment in Kansas. Yet, it is the purpose of the survey to stimulate further inquiry and discussion in order to clarify some of the impressions that have accumulated concerning prohibition. Perhaps, some day an account of the struggles of the officers of the state to enforce the laws governing the liquor traffic will be written.

Definition of Terms Used

Throughout the report of this investigation, the terms prohibition and repeal will be used repeatedly. Prohibition will be interpreted as meaning a sumptuary legislation to control the manufacture, sale and transportation of alcoholic beverages. The term repeal will mean the revocation of the Eighteenth Amendment to the United States Constitution and enactments of the state of Kansas pertaining to the liquor traffic.

Because of the nature of the topic, the words, wet and Daily Capital, Wichita Beacon, Wichita Eagle, and the Emporia Gazette were given much attention. The Constitution of the

dry, will also be used extensively. These terms and other informal English terms have such a general and varied application in regards to the topic as to make other terms unsatisfactory. Such terms as "joint," "booze," "dive," "bootlegger" and "drink" are in themselves colloquial; however, the words were used in conversation and editorials during the prohibition era. Therefore, any other style of writing by the author without the use of such terms would have made the survey dull and meaningless.

Method of Research and Source of Data

In the preparation of this manuscript many authorities were consulted. Aged people and those in positions of authority today were interviewed; middle-aged men and women were asked regarding their opinions on the subject. These people were located by contacting numerous agencies and asking for information regarding the various phases of prohibition, or if they knew anyone who had any information on the topic.

A visit was made to the Kansas State Historical Society at Topeka, Kansas, where a wealth of material may be found in old newspapers, clippings, pictures, books, and manuscripts. Such principal authorities as the territorial and state laws of Kansas from 1855 to 1879, political platforms, the Kansas Historical Collections, and the General Statutes of Kansas were studied. Newspapers such as the Kansas City Star, Topeka Daily Capital, Wichita Beacon, Wichita Eagle, and the Emporia Gazette were given much attention. The Constitution of the

state of Kansas was studied thoroughly as it pertained to the topic of intoxicating liquors.

Additional trips were made to the city libraries of Hutchinson and Wichita where much information was gleaned from an excellent newspaper file on prohibition in the Wichita city library.

A study was also made of many books and periodicals which considered the topic of prohibition. These were found to consist mostly of general studies; however, many were valuable in that the works would give some details of importance on prohibition and then refer to a more specific source for further data.

Organization into Chapters

The author organized the material into periods covering the time prior to the adoption of prohibition in Kansas in 1880, and the era of Kansas prohibition from 1880 until its repeal in 1948. In addition to the overall picture of prohibitory enforcement in Kansas, the author desired to place most of the emphasis of the survey upon the action taken in Ellsworth County, Kansas, to enforce the law during the same period.

¹Ibid.

²Ibid.

CHAPTER II

EARLY SURVEYS AND ACCOUNTS OF PROHIBITION IN KANSAS

In 1855, it was against the law in Kansas to sell liquor to a Negro slave.¹ By 1859, the law forbade anyone to sell liquor to a married man without the consent of his wife.² Kansas prohibited the sale of liquor anywhere in the state with the exception of use for medicinal purposes in 1881.³ By 1909, it was against the statutes of the state to sell liquor even for medicinal purposes.⁴ The state forbade the sale and possession of liquor in 1917.⁵

By these five stages one may get the evolution of the prohibitory liquor law in Kansas, a state erroneously believed to be the originator of the prohibition movement. This was erroneous because Maine adopted statewide prohibition in 1856,

¹Clara Francis, "The Coming of Prohibition to Kansas", Kansas Historical Collections, XV, 194.

²Ibid., 198.

³Franklin Corrick, (editor), General Statutes of Kansas (Topeka: Kansas State Printing Plant, 1936), 21-2101, 638-39.

⁴Ibid.

⁵Ibid.

Charles U. Faulkner, America, Its History and People (New York: Harper and Brothers, 1934), 777.

⁷A. T. Andreas, History of the State of Kansas (Chicago: 1883), 227.

and other New England states adopted it in the early eighties, long before Kansas had enough inhabitants to worry about saloons.⁶

It is not strange that Kansas should have been one of the first states to incorporate a prohibitory amendment in her constitution. At the time, the state was young with few precedents to follow as well as the benefit of other states' experiences. There were no traditions to violate; and, at the time, the vigorous people were attempting to mold a constitution that would be approved by the greatest number of its people. Any enemy that might thwart these aims, of which the liquor traffic was one, must be prohibited. Almost immediately some of its inhabitants with a vision of the future, planned means by which liquor and its evils were to be destroyed.

As has been the case in most of our major decisions concerning the state, the people were to decide upon the question. The entire adult male population of the state was allowed to vote on the amendment; however, only 201,654 men voted on the amendment in 1880 out of the total male population (265,656) over twenty-one years of age.⁷ Kansas, like many other sections

⁶Harold U. Faulkner, America, Its History and People (New York: Harper and Brothers, 1934), 577.

⁷A. T. Andreas, History of the State of Kansas (Chicago: 1883), 227.

of the United States, had become populated by people drawn from every section of the country; therefore, the vote was the final word of the state's people upon a problem that might infringe upon their liberties.

Nearly two years elapsed between the time of the passage of the prohibitory amendment by the legislature and the final vote of the people. During this time each faction, the wets and the dries, discussed the temperance movement in the state. Political platforms, newspapers, town meetings, household groups, and even the pulpit expounded their views upon the principles of temperance. Public opinion often expressed a bitter feeling; however, in most sections the inhabitants in tranquil earnestness desired only what was just and best for the greatest number of the people.

Actions of Territorial and State Legislatures

The legislative act of 1855 concerned the Indians. Governor Reeder in his message to the legislature expressed the sentiments of public opinion on prohibition at the time by stating that:

The presence in our territory of so large a number of Indians, interspersed as they are with the white population, adds a feature to the indiscriminate sale of intoxicating liquors which does not exist in other communities. A portion of them indulge upon almost every opportunity in the excessive use of ardent spirits, and the friends and enemies of prohibition who are

acquainted with the Indian character and its frenzied developments under the influence of intoxication will probably all unite in the admission that special precautions in this respect are necessary, as well for the protection of the Indian against degradation, as of the white against violence. The most estimable members of most of the tribes are using their influence to check this evil, and we should second their efforts, as well for our sake as their own.⁸

Many petitions were presented to the legislature at the time expressing the view that the passage of a law prohibiting the manufacture and sale of intoxicating liquors among the Indians should be passed. Such people of importance as William Rogers, Captain Blackhoof, Graham Rogers, and George McDougal were the most noteworthy; all were Shawness Indians. An act restraining dealings with the Indians was the result of the agitation from the petitions.⁹

The "bogus legislature" of 1855, the laws of which were not recognized by the Free State residents of the Territory of Kansas, passed the first law regulatory of dramshops.¹⁰ It provided that by special elections cities and towns could determine for themselves whether liquor was to be sold within their environs,

⁸Francis, op. cit., 193

⁹Ibid.

¹⁰Ibid., 193-194.

and prohibited sale of liquor to a slave, or the opening of dramshops on Sunday.

Although this was one of the "bogus laws" taken from the Missouri statutes, the act was the first effective liquor law in Kansas. Since all further actions in restraint of dramshops were based upon the act, the statute is given in part:

Section 5. For and during the two years next ensuing the said election, no dramshop or tavern license shall be granted to any person within any township, incorporated city, or town, unless a majority of the votes polled at said election shall declare in favor of granting said license.

Section 8. Upon every license granted to a dramshop keeper and upon any license granted to a tavern keeper or grocer, there shall be levied a tax of not less than ten dollars nor more than five hundred dollars, for county purposes, for a period of twelve months, the amount of tax to be determined by the tribunal granting the license.

Section 9. If any person who, without taking out and having a license as grocer, dramshop keeper or tavern keeper, shall, directly or indirectly, sell any spirituous, vinous, or fermented or other intoxicating liquors, shall be fined in any sum not less than one hundred dollars for each offense; and any person convicted of violating this provision shall, for every second or subsequent offense, be fined in a sum not less than the above named, and shall in addition thereto be imprisoned in the county jail not less than five nor more than thirty days.

Section 10. Any person, having a license as aforesaid, who shall sell any intoxicating liquor to any slave without the consent of the master, owner or overseer of such slave, shall be deemed guilty of a misdemeanor, and shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, and imprisonment in the county jail not less than ten nor more than thirty days, and shall, upon conviction, forfeit his license; and no

license as grocer, dramshop keeper or tavern keeper shall again be granted to said person during two years ensuing the said conviction.¹¹

This law was in force for a period of four years, or until 1859, when the "bogus laws" were overthrown. Many communities sought to accomplish more stringent measures regarding prohibition; therefore, an insertion was placed within the charters whereby a town lost its title should liquor be sold in any building within the limits of the city. The towns of Emporia and Topeka were both founded upon such provisions.¹²

In March, 1856, Topeka held the first prohibition convention in Kansas.¹³ This was at the time of the first Topeka legislature authorized by the Topeka Constitution. Almost immediately after the legislature convened, the temperance people asked permission to use the convention hall for the purpose of a temperance meeting. At the convention, which was led in thought by John Brown, Jr., the legislature was memorialized when Brown spoke:

How can you fail to give attention to a subject which impoverishes a whole nation, brings wretchedness and misery in its train, fills the land with mourning and sends the widow's wail and the orphan's sob to Heaven for relief.¹⁴

¹¹Ibid., 194.

¹²Topeka Daily Capital, June 6, 1926.

¹³Ibid., August 8, 1931.

¹⁴Topeka Daily Capital, op. cit., June 6, 1926.

Temperance workers presenting petitions at Topeka were not the only people active against the liquor traffic. In 1856, at Big Springs, a small town in Douglas County, Kansas, many angered citizens moved against the establishment of a Missourian who had opened a saloon. The people of the hamlet protested in vain against the evil; however, the saloon keeper apparently thought himself secure and continued in business. The saloon was attacked and barrels of whisky were taken out and burned in the streets. This incident left a lasting impression upon that little community; however, such actions were not infrequent fifty years later in Kansas.¹⁵

Another action of the temperance people occurred in the spring of 1857 at Topeka when that city's famous "whisky riot" took place. Every place in the town suspected of having liquor was smashed. The value of this riot from a temperance standpoint is somewhat blurred by the fact that it was started by a drunk, angered because the saloonkeeper would not sell him any more liquor. Barrels of whisky were rolled into the streets, the heads knocked in and the contents allowed to run down the gutter. Of course, in such an action, property was destroyed and lawsuits followed. The total estimate of the loss was valued at \$1,500.¹⁶

¹⁵Ibid., June 6, 1926.

¹⁶Francis, op. cit., 196-197.

¹⁹Ritchey was a delegate from Shawnee County.

There The legislature of 1859 strengthened the liquor laws by making it impossible for the husband to go into a saloon and take a drink of intoxicating liquor without written permission from his wife.¹⁷ The same legislature also established a fine of \$5.00 for anyone who became intoxicated. But the law specifically exempted from its own provisions cities of more than one thousand inhabitants.¹⁸ This provision made enforcement more difficult. The exemption of all incorporated towns of one thousand or more inhabitants did not meet with unqualified approval; other sections of the law failed to satisfy entirely the temperance people. At the time, there was a strong sentiment among them for a law so stringent that prohibition of the liquor traffic would result.

An effort to have a constitutional provision enabling the legislature to enact prohibitory laws was made at the Wyandotte convention in 1859, by John Ritchey of Topeka, but the convention failed to take any action.¹⁹

Temperance sentiment continued to grow and in 1860 an act was passed which prohibited the sale, exchange, gift or barter of spirituous liquors to any Indian within the territory unless directed by a physician for medical purposes.

¹⁷Ibid., 198

¹⁸Ibid.

¹⁹Ritchey was a delegate from Shawnee County.

There was a great need for the enactment of this statute as the Indians had become adept at evasions to obtain whisky; therefore, it was but a matter of protection for them. A heavy penalty was attached to any violations of the law.²⁰

Prior to 1870, the prohibition movement in Kansas as a state was sporadic. The legislature in 1868 passed a liquor act which was mainly a restatement of the law of 1859, and the leaders of the prohibitory movement were getting nowhere in their agitation. Although sentiment for prohibition was becoming so strongly entrenched that many towns and not a few counties were enforcing regulatory measures against the liquor traffic, speakers from abroad were working in the temperance cause in Kansas. Dr. Charles Jewett, of Connecticut, lectured in Topeka during the legislative session, and stimulated legislative activity to a point where dramshop laws of 1859 were amended. It was required that a majority of both male and female residents of a township or town had to sign petitions before a license could be granted. Sale of liquor was prohibited in unorganized counties. A commission was appointed to revise the laws, and in 1868, another dramshop law was enacted. As stated before, it differed very little from the law of 1859.²¹

²⁰Francis, op. cit., 200

²¹Ibid., 202-204.

Temperance Activity Gains Momentum

In 1870, the temperance movement became one of the important topics of discussion in churches and the newly formed organizations to combat the liquor traffic. The "Murphy" or "Blue Ribbon Workers" were increasing in number. This was leading up to the "Woman's Crusade" inaugurated at Hillsboro, Ohio, in 1873, where, after a temperance revival, the women of the town started a crusade of prayer to drive the saloons from their city.

The women of Kansas caught the idea and began their town crusades of prayer, augmented by direct action where necessary to run saloon keepers out of communities. Prior to that time the most potent factor in the temperance movement in Kansas had been the Independent Order of Good Templars, a national temperance society. As early as 1858, Tecumseh had a Good Templar lodge. Lawrence was an early stronghold. A grand lodge was organized at Leavenworth in 1860. In 1871, the Good Templars had 173 lodges, with a membership of 3,000.²²

The fight reached the legislature in 1872, when Dr. James H. Whitford, a representative from Garnett, introduced

²²The Wichita Beacon, February 25, 1929.

²³Francis, *op. cit.*, 205-206.

²⁴Topeka Daily Capital, April 26, 1931.

an act "to provide against the evils resulting from the sale of intoxicating liquors in Kansas."²³ The measure provided that any person responsible for the intoxication of another should be compelled to pay for the care of the intoxicated person, and that the license fee for running a saloon should be placed at \$3,000 a year. The bill, or a substitute, with its main features incorporated, passed the House, but died in the Senate.

During the time the bill was being debated, petitions favoring the measure flooded both houses of the legislature. The newspapers took sides. Many of the larger papers were on the side of the "whisky trust" and many harsh words flew back and forth between the editors. A large group of Germans met in Topeka and adopted resolutions against the bill. The saloon keepers, in the meantime, supplied beer to the legislators.²⁴

The State Temperance Union, recently organized, held a meeting in Topeka. A Leavenworth saloon man sent over a load of beer, which was served on the state house grounds, together with free lunch. It was said that by the time members of the legislature and spectators had attended both the temperance union meeting and the "blow out" given by the saloon

²³Francis, op. cit., 205-206.

²⁴Topeka Daily Capital, April 26, 1931.

keepers, they "were somewhat exhausted and hopeful of harmony."

The agitation aroused by failure of the bill to pass resulted in many other "liquor spillings." It was doubtful whether the liquor men felt worse over having the women pray over them or empty their bottles and barrels of whisky into the streets. At any rate, thousands of dollars were sent to Kansas by whisky distillers to stem the tide of prohibition that was settling in Kansas.²⁵ Many reputable citizens and politicians were "prayed over" by women of towns in which they lived and some husbands forbade their wives to "go out with those praying women."²⁶

The legislature of 1874 was a menace to the liquor dealers. Senator John P. St. John first came into fame as a prohibitionist in this session. Born on a farm in Indiana, he drove an ox team to California in 1852, plodding on foot across Kansas, with no thought that he was destined to be twice governor of the state that would be carved out of the wilderness, or that he would be a candidate for President of the United States.²⁷

²⁵J. M. Barker, The Saloon Problem and Social Reform. (Everett, Massachusetts: 1905), 32.

²⁶Fletcher Dobyns, The Amazing Story of Repeal (Chicago: Willett, Clark & Company, 1940), 122.

²⁷Edith Ross, "The Administration of John P. St. John." History of Kansas, (Chicago: The American Historical Society, Inc., 1928), vol. II, 676-678.

St. John, a Republican, was elected to the state session. Senate in 1872, where he stood out sharply for curbing the liquor evil. In 1874, the Republican state convention put a plank in their platform favoring any legislation that would lessen drunkenness. The endorsement of temperance read:

Resolved, that drunkenness is one of the greatest curses of modern society, demoralizing everything it touches, imposing fearful burdens of taxation upon the people, a fruitful breeder of pauperism and crime, and a worker of evil continually. Hence, we are in favor of such legislation, both general and local, as experience will show to be the most effectual in destroying this evil.²⁸

That was the first time a state political party had recognized the temperance movement in its platform in Kansas.

The "Apostle of Prohibition," St. John, made a desperate effort on behalf of a prohibitory bill at the 1874 session; however, the liquor men came in with petitions containing more than 12,000 names protesting against any changes or amendments in the "present" liquor law.

That year (1874) a temperance convention at Leavenworth resulted in the formation of a Temperance party. Five years before the National Prohibition party had been organized. Dudley C. Haskell was nominated for governor of Kansas, but declined to run. The Good Templars endorsed the movement.

²⁸Francis, op. cit., 209.

Three anti-liquor bills appeared in the 1875 session.

G. M. Glick, afterward governor, protested so strongly against passage of any more prohibitory laws that they were defeated.

A reform ticket was put into the field in 1876, but polled a rather insignificant vote. The Temperance party had nominated St. John, but he refused to leave the Republican party.

During 1877, the "Blue Ribbon" movement swept over the state. The Good Templars watched this movement with apprehension, fearful lest they lost their notoriety. However, the next year all temperance societies backed St. John for governor and started a great temperance revival throughout the state.

From the grass roots came pleas for prohibition that were heard in the legislative halls and created an undying hatred on the part of the "whisky ring." The liquor dealers, in backfiring against the sentiment that was sweeping the state, violated many restrictive features of the liquor laws. In an editorial D. W. Wilder, a member of the state legislature, said of them:

There was a spirit of lawlessness and shamelessness that was more detrimental to their cause than any other one thing. With defiance they sold liquor on Sunday, sold to minors, to besotted drunkards, and to any one who brought the money. So great became their utter disregard of law that not only the well known temperance advocates, but

29 Francis, op. cit., 212.

30 Ibid., 213-214.

all classes of people began to discuss the advisability of advanced legislation on the subject.²⁹

During this orgy of debauchery launched by the liquor dealers, J. R. Detwiler, a zealous temperance worker living at the Osage Mission, counseled a prohibition amendment to the Constitution of Kansas.

In the meantime, the Republican party of Kansas had again in its platform demanded laws that would lessen the liquor evil. In 1878, the Republicans, backed by the temperance people of the state, nominated St. John as their candidate for governor. His campaign was literally a temperance revival throughout the state.

St. John was elected, and in his first message to the legislature, he called attention to the curse of liquor and said that if Kansas could only dry up the great evil that consumed annually so much of its wealth, and destroyed the physical, moral, and mental usefulness of its victims, that the people would hardly need prisons, poorhouses or police. The new governor also said that a large part of the people believed that prohibition could not be enforced. The new executive admitted the hopelessness of getting absolute prohibition, and recommended the passage of a dramshop act that would restrict the licenses granted, and otherwise control the liquor trade.³⁰

²⁹Ibid., 213.

²⁹Francis, *op. cit.*, 212.

³⁰Ibid., 213-214.

world In October, 1878, appeared the first issue of the Temperance Banner, edited by J. R. Detwiler, who advocated both state and national prohibition. It was Detwiler who secured the drafted resolution which finally went to the people of Kansas for their vote on prohibition.

After St. John had been elected governor of Kansas, Detwiler wrote an article on the liquor traffic which angered many of the liquor men. The article was taken to several newspapers, but the editors declined to publish it. Therefore, the advocate of prohibition decided to establish a temperance paper of his own. The Temperance Banner came into being and wielded great influence during subsequent years.³¹

Campanign for the St. John Amendment to Kansas Constitution

The campaign for prohibition opened August 21, 1879, in Bismarck Grove at Lawrence.³² It was a twelve day camp meeting, and at some of the meetings there were as many as ten thousand people in attendance. During the twelve days more than twenty-five thousand people were in attendance who heard the gospel of prohibition. Those present were held spellbound as they listened to speeches from temperance evangelists of

³¹Ibid., 213.

³²According to Eugene Peters, a student at Kansas University, Bismarck Grove is now a cow pasture; however, it has a historical marker designating the former grove of trees.

world fame. The meetings at Bismarck Grove were the fore-runners of the great temperance revival that swept over Kansas during the next few months of 1879-1880 before the vote on the St. John Amendment to the Kansas Constitution was taken by the people.

Many noted people were there. Francis Murphy, whose eloquence moved millions during the 1870's and 1880's and started the great historic Murphy movement, presided at the Bismarck Grove camp meeting.³³ George W. Bain, the temperance firebrand of Kentucky; Neal Dow, the prohibition crusader from Maine; Eli Johnson from Brooklyn; Major Frank Baird and W. H. Doane of Ohio, noted speakers at that time; Mrs. J. Ellen Foster, Iowa's most famous daughter; Amanda Way, the eloquent Quakeress whose name was known from coast to coast, and Governor John St. John of Kansas. These people were at Bismarck Grove for a purpose, to help open the campaign for prohibition in Kansas.³⁴

A picture of the Bismarck Grove meeting was but a picture of the entire campaign that followed. It was not a political meeting; but a fervent, religious gathering, although

³³Murphy was the reformed drunkard from Portland, Maine.

³⁴Francis, *op. cit.*, 221-222. The same information may be found vividly described in the Kansas City Star, September 21, 1930.

³⁵Kansas City Star, September 21, 1930.

there were bands there blaring out the band tunes of the day. Marching military organizations were there, giving drills and maneuvers each day for the entertainment of the crowds. The grove was filled with tents pitched in rows like the streets and avenues of a city.

The governor of the state was at Bismarck Grove to deliver the address of welcome to the distinguished guests. Escorting Governor St. John were the Capital Guards of Topeka, in full regalia; behind them marched the Dwight Rifles of Wyandotte, the Craig Rifles of Kansas City, the Ottawa Rifles, the Ottawa Zouaves and the Lawrence Guards. The entire atmosphere portrayed one of pomp, show and noise.

But in the big tent auditorium where 8,000 men and women sat expectant and awed in the presence of so many famous Americans, the first voice that was heard in the opening of the campaign said:

Let us all sing the old familiar song, and out upon the air there floated the words known to everyone there:

I need Thee every hour,
Most Gracious Lord
No tender voice like Thine
Can peace afford.

I need Thee, O I need Thee
Every hour I need Thee
O bless me now, my Savior,
I come to Thee.³⁵

³⁵Kansas City Star, September 21, 1930.

³⁷Ibid.

It was the opening prayer of the battle for prohibition. Governor St. John sang with the others. The director of music pleaded with the people that they did not put enough spirit into their singing and warned them that they were going into the campaign against the rum traffic and, therefore, they would have to ask for the Lord's help in the next verse. The audience responded lustily but reverently as it sang:

I need Thee every hour
 Stay Thou near by
 Temptations lose their power
 When Thou art nigh.³⁶

The campaign for the prohibition amendment at the election of 1880, more than a year in advance, was opened. Again the audience sang after Governor St. John delivered an eloquent and fiery address of welcome. It was the battle hymn of the prohibition army.

Ho! my comrades see the signal
 Waving in the sky.
 Re-enforcements now appearing,
 Victory is nigh.

Hold the fort, for I am coming
 Jesus signals still.
 Wave the answer back to Heaven--
 By Thy grace we will.

See the mighty host advancing,
 Satan leading on,
 Mighty men around us falling
 Courage almost gone.

³⁶Ibid.

³⁷Ibid.

Saturday Stirred by the speech of St. John, moved by the spirit of the great day, visioning the hard fight ahead, the crowd almost could see the hosts of the "rum power" marching down upon the band of agitators in Bismarck Grove and, as the Peoples Grand Protective Union had been revealed to them by the governor who paid his respects to that organization, the people could readily picture "Satan leading on." But the audience picked up courage at the next verse as they sang:

See the glorious banner waving,
Hear the bugle blow,
In our Leader's name we'll triumph
Over every foe.³⁸

After Francis Murphy spoke, the crowd sat spellbound, as Murphy's crowds always sat, stunned by his burning eloquence, amazed at his picture of the ruin wrought by the "demon rum." And when a woman sang "Where is My Wandering Boy Tonight," the women in the audience sobbed and the men had little success in restraining their emotions.

The camp meeting which opened the prohibition campaign at Bismarck Grove at Lawrence was only the beginning of what was to follow. Camp meetings were held in every county. Picnics were arranged over the weekends in many communities, picnics to which the people took their tents and remained from

³⁹Mrs. Manta Noct (Abilene, Kansas) to author, interview, December 28, 1955.

³⁸Ibid.

Saturday morning until late Sunday night, until the coming of winter forced another plan of campaign.³⁹ At most of the meetings the crowds sang:

I need Thee every hour.
Most gracious Lord,
No tender voice like Thine
Can peace afford.⁴⁰

Before the St. John Amendment was passed, there was a bitter struggle in the legislative halls. The legislature of 1879 took up consideration of the bill. A strong liquor lobby was in the halls to defeat it; however, the temperance forces were there to put it through. A resolution had been introduced by the more radical temperance members to submit to the voters a prohibition amendment to the state constitution, but neither the governor nor the majority of the temperance workers believed the time was ripe for statewide prohibition. Therefore, the temperance people ignored that and pressed for the passage of a stringent dramshop law. As the fight grew hot in the Senate and the wets saw that the measure was likely to pass, they centered their strength on the resolution to submit prohibition, believing that, even if it were adopted in the Senate, the bill would be easily killed in the House, and in

³⁹Mrs. Manta Moot (Abilene, Kansas) to author, interview, December 28, 1955.

⁴⁰Ibid.

any event the prohibition forces believed that the measure would never be voted in by the people.

The liquor people miscalculated as the bill did pass the Senate; and when it came up in the House, the measure squeezed through by only two votes. The number of votes cast were 119; the constitutional majority was 86. On the final vote there were 88 members who voted for the resolution while 31 voted against it; 10 members were absent or abstained.⁴¹ The proposal for a prohibition amendment to the Constitution went to the people for their vote. The trick of the wets, by which they aimed to defeat a restrictive dramshop law, re-acted upon themselves and eventually brought constitutional prohibition to Kansas.⁴²

Writing of the struggle in 1909 in an article for the Kansas Prohibitionist, John P. St. John, then governor of Kansas, had this to say:

The fight was led by the State Temperance Union, the Women's Christian Temperance Union and most of the churches. They worked harmoniously together. It was the fathers and mothers of Kansas battling for the welfare of their homes and their children. And they won. . . . The liquor traffic for beverage purposes is the hotbed for the propagation of misery, poverty, crime, and heartache, and the people have just

⁴¹D. W. Wilder, The Annals of Kansas (Topeka: Kansas Publishing House, 1886), 845.

⁴²Ibid., 931-932.

as much right to suppress polygamy, bawdy houses, pressing vice, gambling and opium, and they are going to do it, despite all its apologies, it matters not what cloth they wear.

At the legislative session of 1879 the Lower House passed a very stringent license law. This so frightened the liquor dealers and their friends, who, fearing this act would be endorsed by the Senate, at once resorted to their usual deceptive tactics by declaring that while they were opposed to the drastic license law, they would many of them at least not object to prohibition. This was no doubt prompted by the hope that it would tend to weaken when it reached the Senate; the measure which had passed the House. Our present prohibitory amendment was then introduced in the Senate and adopted without serious opposition.

It was not until the action of the Senate reached the House that the cloven foot of the Satanic Majesty was plainly in evidence. He used lavishly free whisky, free beer, free cigars, free lunches, and free passes in his efforts to defeat the prohibitory amendment.

The question was discussed in the House for several hours. While the measure was being debated, it was inspiring to see the friends of God, home and humanity stand up fearlessly, and plead for a righteous cause; it was disgusting to see quite a number of spineless politicians, who seemed to have about as much capacity for standing erect, skulk out of sight until at last it came to a vote, a call of the House was necessary and all who could be found were brought in and compelled to make their record.

When the result was first announced, it lacked one vote of having the necessary two-thirds required by the Constitution to submit the question to the people. Just at that point, in the midst of great excitement and confusion a woman came to the rescue. A neatly clad typical Kansas mother hastened down one of the aisles, and stood in front of her husband. Mr. Greever, a member from Wyandotte County, who had voted against the amendment and

pled with him as only a wife can plead, for her sake, for his children's sake, and the sake of his state and his own good name, to change his vote.

Greever was an honest man, and wanted to do the right thing, and thus touched by her earnest but tender appeal stood erect and facing the Speaker said: 'Mr. Speaker, I change my vote from no to aye.' Thus amid the heartiest handshaping and loudest cheers, closing with, 'Praise God from Whom all blessing flow,' was the prohibitory amendment submitted to the people who ratified it at the ballot box by a good majority. . . .

The campaign preceding the election was hotly contested. The liquor element was thoroughly organized and supplied with an immense campaign fund, which was corruptly used wherever and whenever opportunity offered. The state was flooded with their campaign literature full of falsehoods calculated to deceive and mislead the people. Nine-tenths of the metropolitan press were against the amendment, and as a rule, the professional politician was on the fence.⁴³

Both sides got busy. The distillers, brewers and saloonkeepers, with their cohorts, had meetings in which they adopted resolutions pointing to their sterling qualities of citizenship, and charging that the amendment would make for hypocrisy, causing everyone to become ill in order that liquor might be purchased as medicine. In August of 1880, a national camp meeting was held again at Lawrence for two weeks, with twenty-five thousand present, including the great prohibitionist,

⁴³The Topeka Daily Capital, April 28, 1940.

Francis Murphy. The newspapers waxed hot. The Kansas State Journal of Topeka was the organ of the liquor dealers. J. K. Hudson's Topeka Daily Capital supported the prohibitionists.

The politicians and the party newspapers warned the advocates of prohibition to "keep the issue out of politics." Timid office seekers attempted to gumshoe through the campaign, playing fast and loose with the wets and drys alike, and they put their fingers to their lips and whispered that temperance was not a political issue.

But the politicians whispered in vain. In their zeal the people made prohibition a political issue, a religious issue and a social issue. It was the theme of discussion everywhere, on every street corner, on every platform, in church gatherings, in prayer meetings. Down the country in the rural districts and debating societies and the literary clubs, prohibition was made the theme of their programs and almost all debated earnestly such questions as: "Resolved, that intemperance has caused more death than wars."⁴⁴

The victory that gave Kansas the constitutional provision which kept a ban on "booze" in the state for half a

Kansas. That organization was composed largely of

⁴⁴Deets Pickett, Then and Now (Columbus, Ohio: School and College Service, 1952), 17-36.

century was not a one-sided affair. It was a hard, close fight. Prohibition has won many triumphant victories during the long years intervening since that memorable campaign, but it did not win its victory of 1880 in an easy manner. It was won after two years of lively action and after eighteen months of intensive fighting. And then it won only by a slight margin.

Over against the side of prohibition there battled a stubborn army of men determined that Kansas should not close the door against the whisky traffic altogether. That army was generated by adroit leaders and skilled politicians. It was backed by all the funds it could possibly spend in a state like Kansas. It was financed by the brewers of America and the wholesale dealers of rum, who saw in the little cloud that hovered over the Kansas prairies the makings of a storm that some day might swoop down and destroy them. The antiprohibitionists boasted a campaign chest of \$100,000, and in that day of poverty and of hard times a campaign fund of \$100,000 was fabulous.⁴⁵

The opposition to prohibition organized a statewide organization called "The People's Grand Protective Union of Kansas." That organization was composed largely of brewers

⁴⁵Christian Herald, January 12, 1929.

Walruff was the biggest brewer in the state and the last to surrender after prohibition had been adopted.

and saloonkeepers. But not all the opponents of the amendment were of that type. T. W. Cochran of Topeka was the state president of the People's Grand Protective Union, and C. R. Jones was its secretary. John Walruff of Lawrence was a member of the executive committee.⁴⁶

But for the organization of the People's Grand Protective Union of Kansas, the wets might have defeated prohibition. Not all the temperance people of the state were in favor of prohibition. Not all the church members were. There was a large group of the character of citizens described above who felt that prohibition was too drastic. They believed the state was not yet ready for it, and they hesitated to favor a measure they believed was ahead of public sentiment, for fear it could not be enforced. It required months of toil and urging for the prohibitionists to get all the churches in line. Their first efforts were made to convert the temperance men of the state, and they used the organization of the People's Grand Protective Union to arouse them. The temperance lecturers and the preachers pointed the finger of scorn at the temperance men called "moral" citizens, who would be found voting on the side of

⁴⁶Jones was a wholesale liquor dealer of Topeka and Walruff was the biggest brewer in the state and the last to surrender after prohibition had been adopted.

Jones and Walruff and the brewers, who openly attempted to handle the antiprohibition campaign.

"Saloon Christians," was the term used to whip into line the conservatives who were not quite ready for prohibition. At the time, it was often asked whether the conservatives were for God or for John Walruff.

As the campaign for the prohibition amendment approached the election in 1880, there was perhaps as much interest, enthusiasm, earnestness and anxiety as there had ever been before in any political campaign. The shouting of partisans attuned to the music of brass bands; the songs coming from church choirs, platform choruses, soloists and congregations, and the voices of orators rising from many public meeting places awakened the people of Kansas to the highest pitch of excitement. And back of all the music, shouting and oratory, in nearly every church and in hundreds of homes, an army of Kansas women implored the Lord of Hosts to give victory to the cause of temperance, and watered their prayers with tears of anxiety.

¹The three tiers of western counties were not organized yet.

²D. W. Wilder, *The Annals of Kansas* (Topeka: Kansas Publishing House, 1886), 931. See the appendix for the entire vote on prohibition in Kansas in 1880.

CHAPTER III

PROHIBITION COMES TO KANSAS

The Prohibitory Law of 1880

ink, mean to the state of Kansas in happiness, prosperity, and contentment? These items are symbolical of one of the greatest events in Kansas history. A few years ago the pen came into vote of the people on November 2, 1880; however, due to the primitive communications of the time, it was not until twenty days later or November 22, 1880, that the vote was all counted. The following May, 1881, the amendment was added to the Constitution of Kansas.

Many people have the impression that Kansas went overwhelmingly dry at the election, but that is far from the fact. Records obtained from the secretary of state's office showed that of the eighty counties which voted, twenty-eight voted wet and fifty-two voted dry.¹ The margin was only about 8,000 in the entire state.² Had Butler, McPherson and Cowley counties been eliminated from the count, the state would have gone wet.

A few strokes of the pen by Governor St. John and the cause of temperance was won in the state of Kansas. What a

¹The three tiers of western counties were not organized yet.

²D. W. Wilder, The Annals of Kansas (Topeka: Kansas Publishing House, 1886), 931. See the appendix for the entire vote on prohibition in Kansas in 1880.

thrill that must have been to the thousands who worked for the cause of temperance. Their dream was now realized and the battle over prohibition won.

How much would that quill pen, its point stained with ink, mean to the state of Kansas in happiness, prosperity, and contentment? These items are symbolical of one of the greatest events in Kansas history. A few years ago the pen came into the possession of John C. Nicholson of Newton, Kansas, at one time the secretary of the Harvey County Historical Society, to be preserved for posterity.³

The signature of St. John on the document represents the name of one of the greatest fighters for prohibition in Kansas history. From the earliest time, his name appears in the limelight; it is coupled with the cause of temperance. From the minute St. John was announced as a candidate for governor in the seventies, his platform was temperance. He believed in temperance, lived it and talked it. As he stated in his first address as governor to the general assembly of Kansas:

No greater blessing could be conveyed by you upon the people of this state than to absolutely and forever prohibit the manufacture, importation and sale of intoxicating liquors as a beverage.⁴

³See the appendix for a copy of St. John's signature upon the Prohibition Amendment.

⁴Wichita Beacon, February 24, 1929.

On election day the polls had been the scene of hundreds of fist fights, and some casualties. When the smoke had cleared away, the anti-prohibitionists had only to resign themselves that their cause was lost.

The legislature of 1881, passed an enabling act in accordance with the mandate of the people, and each successive legislature amended the law for several years. Kansas kept their prohibitory law from this time until in 1948 when again the wet forces came forward in a drive to repeal the prohibitory amendment.

Propaganda Organizations and Crusaders

The state was beginning to "dry up" in many sections. At the time the amendment went into effect in May, 1881, many towns of Kansas contained several breweries and distilleries and some 1,200 licensed saloons.⁵ The state was faced with the problem of closing the breweries and distilleries and to force the saloons out of existence as open and above board saloons.

In 1882, the Democratic party in convention in Emporia adopted a platform having a plank declaring in favor of temperance, sobriety, morality and good order.⁶ The platform

⁵The Kansas City Star, September 9, 1934.

⁶Wilder, op. cit., 991.

⁸Ibid., 983.

stated in its plank that:

. . . in truth and in fact not as a political hobby for the personal benefit of ambitious demagogues, unprincipled adventurers, and shameless men . . .

By placing such a statement in their political platform, the Democrats were striking at their Republican opponents who had ridden into office on prohibition sentiment.⁸ The party (Democrat) declared for resubmission of the prohibitory amendment at the coming general election to be held in November, 1884.

However, the amendment was not resubmitted. The anti-prohibitionists never gave up the fight for resubmission, but the dries were always strong enough in the legislature to defeat it, and there was never a vote on the amendment until in 1934. Every session of the legislature, instead of loosening up on prohibition, tied an additional knot in the law and made it a little harder for the "joint" keepers.

Ever since prohibition went into effect in Kansas, it was held up by the wets of the nation as a terrible example of the evils prohibition might bring to a state. Probably no state had more publicity on an element within their state. The wets would print statistics to show that under prohibition schools were closed, prisons were overflowing, crime and poverty

⁷Ibid.

⁸Ibid., 983.

¹⁰Ibid., 210.

were rampant. On the other hand, the drys would print statistics to show that no other state was so prosperous, so free from crime, with so low a percentage of illiteracy and unemployment. newspaper man, lawyer and preacher. Carrie married him, but In 1899, the prohibitionists had been advertising widely that at last Kansas was dry. In the very next year, Carrie Nation broke out as a saloon-smashing crusader and found no scarcity of saloons to destroy. She soon dramatized prohibition dirt but out of a piece of the best flesh ever before the nation. God.

Carrie Nation was born in Garrard County, Kentucky. In the fall of 1865, when she was still in her teens, she met a young doctor, by the name of Gloyd. John Gloyd boarded with Carrie's family, and one day he kissed the young lady. Mrs. Nation wrote in her autobiography:

I had never had a gentleman to take such privilege and felt shocked, threw up my hands to my face, saying several times: I am ruined! I had never allowed anyone to sit near or hold my hand.⁹

Of course, there was only one thing that Dr. Gloyd could do after this revolting attack and that was to marry the girl. However, their married life was not happy. Mrs. Nation goes on to state in her autobiography:

I did not find Dr. Gloyd the lover I expected. He was kind but seemed to want to be away from me; used to sit and read, when I was so hungry for his caresses and love.¹⁰

⁹Carrie Nation, The Autobiography of Carrie Nation (New York: Andrew P. Knopp Co., 1911), 206.

¹⁰Ibid., 210.

And furthermore Dr. Gloyd drank. It was because of this that Mrs. Gloyd saw the evils of liquor, and devoted her life to fighting it. She divorced Gloyd, and later met David Nation, a newspaper man, lawyer and preacher. Carrie married him, but her life with him was also unhappy, as it had been with Gloyd. Her married life with Nation no doubt had something to do with these bitter words from her autobiography:

Man was made of dirt. Woman was not made of dirt but out of a piece of the best flesh ever made by the hand of God.¹¹

In 1890, after first having gone to Texas, the Nations came to Kansas, and David Nation became pastor of a Christian church in Medicine Lodge, Kansas. It was from that town that Mrs. Nation became jail evangelist for the W. C. T. U., and such began to wonder why Kansas, a prohibition state, had open saloons. Once she went into a Mr. Arthur Strong's saloon, and began singing this song:

Who hath sorrow? Who hath Woe?
They who dare not answer no;
They whose feet to sin incline,
While they tarry at the wine.

Touch not, taste not, handle not;
Drink will make the dark, dark blot,
Like an adder it will sting,
and at last to ruin bring,¹²
They who tarry at the drink.

¹¹Ibid., 256.

¹²Ibid., 280.

With tears running down her face, Mrs. Nation continued to sing, while the saloonkeeper cried: "Get out of here, . . . you crazy woman."¹³ But the singing had its result. The councilmen closed Strong's place the next day. In June of 1900, Mrs. Nation went to Kiowa, carrying a load of brickbats with her and drove to the Dobson saloon. She threw her bricks at the mirror, smashing it, and then went to two other saloons, smashing in their windows and wrecking bhovac with their interiors. At one of them the bricks had no effect on the mirror, so she threw a billiard ball at it with tremendous effect.¹⁴

Shortly after this episode, Carrie centered her attack upon liquor dealers in Medicine Lodge. Flushed with success, she moved into Wichita and entered the most ornate bar in the city. An oil painting of "Cleopatra at the Roman Bath" offended Mrs. Nation's sense of modesty. When she was finished with the place, bottles and mirrors were strewn everywhere. Cleopatra was in a sad state of disrepair.¹⁵

¹³Ibid., 281.

¹⁴Topeka Daily Capital, September 26, 1948.

¹⁵Ibid.

¹⁶The Wichita Beacon, June 5, 1926.

Carrie's hatchet wrecked Wichita's liquor business almost completely, for she visited and smashed as long as she could find a saloon open.

Towns the size of Wichita were generally not expected to enforce the law, and Carrie found that for which she was looking. Passing one of the open saloons running in defiance to the law, she saw more than she could stand. Rushing in, Carrie grabbed a bottle, and with it smashed bottle after bottle from the shelf and from the bar counter. When the astonished proprietor interfered, she smashed his face. The police were called and Carrie Nation went to jail.

In response to a telegram, Mr. Nation came on the next train, and insisted on managing her defense. However, Carrie wanted no defense and refused all assistance. The crusader had come to Wichita in the interest of the Christian Temperance Union and stated that she would stay in jail as long as they would keep her. She talked temperance so continually to the jailers, that in desperation the sheriff gave her, her freedom and shut the cell door on her.¹⁶

A few months after her first crusade in Wichita, Carrie again visited the fair city. This time she took along a rod of iron, a cane, and some brickbats, and started to enforce

¹⁶The Wichita Beacon, June 6, 1926.

¹⁸Nation, op. cit., 309.

prohibition. She first went to the Carey Hotel, now the Eaton, and threw two rocks at a picture of a nude woman which adorned the bar room wall, smashed the mirror, and with her cane broke up the sideboard. According to reliable sources, she did not use the hatchet at the Carey, although this is generally accepted tradition.¹⁷

Then she went across the street to another place, but was arrested before she could do much damage. That night she was tried in police court and found guilty of malicious mischief. Mrs. Nation was sent to jail, where she remained a month. In her autobiography, the old lady dealt at length with her prison sentence at Wichita.¹⁸

After getting out of jail in Wichita, Mrs. Nation went to Enterprise, where she smashed a "joint." Then she went in February, 1901, to Topeka. While the exciting news of Wichita's raids flashed over the wires, Mrs. Nation arrived in Topeka to continue her one-woman crusade for a "dry Kansas." The Capital City's thirsty politicians and business men knew of her arrival first when shattered glass began crashing about their heads. By this time Carrie's technique enabled her to wreck a "joint" in short order.

¹⁷Topeka Daily Capital, September 26, 1948.

¹⁷T. A. McNeal, When Kansas Was Young (Topeka: The Capper Publications, 1934), 214-218.

¹⁸Nation, op. cit., 309.

Topeka authorities had winked at violations of the prohibitory law, but they didn't overlook the destruction of property by a strange woman, who with one hundred other women raided all the saloons they could find. Mrs. Nation was promptly arrested as the leader and placed in jail; however, popular clamor forced them to turn her loose, with a prayer that she would leave the city. She did not until every saloon had been visited and many forced to close their doors. Some of them were hacked to pieces inside.¹⁹

All in all, Mrs. Nation was jailed in Wichita three times and served fifty-three days; in Topeka seven times and served one hundred and one days; in Kansas City once, in Coney Island, N. Y. once, in Scranton, Pa. once, in Bayonne, N. J., once, in Pittsburgh, Pa., once, and in Philadelphia once. There were also many other arrests which were not mentioned in her autobiography.²⁰

Wherever Carrie Nation went, she left in her wake a series of smashed "joints." And legally she was as much within her rights in smashing property as the liquor dealers were in remaining open against the law.

¹⁹Topeka Daily Capital, September 26, 1948.

²⁰Nation, op. cit., 310.

²¹Woman's Christian Temperance Union of Kansas, Annual Report, 1955.

Mrs. Nation died of paresis in a Leavenworth sanitarium in June, 1911.

The crusade of Carrie Nation and her hatchet served to dramatize the lack of enforcement in Kansas, and in the next few years the administration of the prohibitory law was strengthened. By 1907, it was generally enforced throughout the state, and in 1909, the legislature took out the provision allowing the sale of liquor as medicine.

Quite as important as Carrie Nation were the undenominational societies, particularly the Women's Christian Temperance Union and the American Anti-saloon League. The support of both these organizations came so largely from religious denominations, however, that they represented the church in action.

The W. C. T. U. by 1900 boasted 10,000 local branches and a half million members and had already begun its pressure upon state legislatures to provide for anti-alcoholic propaganda in the public schools.

According to the constitution of the W. C. T. U., the object of that organization has always been to educate public sentiment to the standard of total abstinence for the individual, and total prohibition for the nation; to train the young, save the inebriate; and employ all proper means to secure the legal prohibition and complete banishment of the liquor traffic.²¹

²¹Woman's Christian Temperance Union of Kansas, Annual Report, 1955.

Organized in 1874, the W. C. T. U. has continued to the present time. Much effort is still being put forth to further the aims of its constitution. At the present time, (1956), Mrs. Agnes Hays of Ransom, Kansas, a former state president of the W. C. T. U., is the national president. This is the first time that a president of that organization has been from Kansas. Mrs. Anna Lambert of Arlington, Kansas, is the current (1956) state president of the W. C. T. U.²²

Founded in 1893, the American Anti-saloon League with its state branches became the most aggressive of the prohibition organizations. Well supported by public subscription and ably led by men who knew every trick of the political game, the league soon forced politicians to recognize its power.

In brief, the objectives of the league were to convince the American people that the drinking of alcoholic beverages was morally wrong and to organize the sentiment of rural Protestantism to ban the liquor traffic by political means. The program of the Anti-saloon League has always been agitation, including education, against the saloons by attempting to secure progressive legislation toward their aims.

²²Mrs. Mae Hickman, 404 West 8th St., Hays, Kansas, to author, interview, May 28, 1956. Mrs. Hickman is at present the publicity chairman of the Kansas W. C. T. U..

²⁴Ernest Gordon, The Wrecking of the Eighteenth Amendment (Francetown, New Hampshire: The Alcohol Information Press, 1943), 276.

²⁵ibid.

Effects of National Prohibition

Against the onslaughts of the prohibition forces, the organized liquor traffic fought back; but despite its political power and tremendous financial resources, it was unable to withstand the fighting tactics of the prohibition organizations. By the opening of World War I, it appeared that rural America, at least, had determined to go dry.

The revival of prohibition sentiment came first in the South; Georgia took state-wide action in 1907, Alabama in 1907²³, Mississippi and North Carolina in 1909, West Virginia in 1912, Virginia in 1914, and Arkansas and South Carolina in 1915.²⁴

In the meantime, the movement had swung to the Middle and Far West, where Arizona, Colorado, Oregon, and Washington voted dry in 1914, and the legislatures of Idaho and Utah by statute in 1916.²⁵

Where state-wide prohibition did not exist, legislative provision had been made for local option, and by means of this most rural sections had closed their saloons. By 1916, almost half the population and three-fourths of the area of the nation had attempted prohibition. The cities remained the last

²³This state went wet again in 1911.

²⁴Ernest Gordon, The Wrecking of the Eighteenth Amendment (Francetown, New Hampshire: The Alcohol Information Press, 1943), 276.

²⁵Ibid.

stronghold of alcoholic beverages, for here were congregated the large proportion of more recently arrived immigrants, who never dreamed that alcoholic beverages were morally wrong, who were generally out of the reach of anti-alcoholic propaganda, and who were dumfounded at the idea that anyone should want to with-hold from them a commodity that they had always used.

When it was obvious that the cities were not likely to be "dried" by state legislation or local option, prohibition forces turned to federal legislation. The first victory for the prohibition forces was in March, 1913, when the Webb-Kenyon bill passed over President Taft's veto.²⁶

This act prohibited the shipment of intoxicating liquors into any state, territory, or district where they were intended to be used in violation of the local law. In December, 1913, the prohibition forces presented their first resolution in Congress providing for national prohibition by constitutional amendment. Another victory for the prohibition forces was the passage of the Reed-Bone-Dry Amendment to the Post Office Appropriation Bill on March 3, 1917, which forbade importation

²⁶On January 8, 1917, the Supreme Court upheld the constitutionality of the Webb-Kenyon Act prohibiting transportation of liquors in interstate commerce from wet to dry states. *Congressional Record*, 65th Congress, 1st Session, IV, 1917, 5636-5666.

²⁹Gordon, *op. cit.*, 277.

of intoxicating liquor into dry territory and alcohol advertisement in the same territory.²⁷

Although the resolution for national prohibition had been presented to Congress in December, 1914, it was not until August 1, 1917, that the measure passed both houses and was sent to the states for ratification.²⁸

Other elements which entered into the discussion at this time to give the prohibitionists encouragement was the announcement of the American Medical Association that alcohol had no medicinal value. Also in August of 1917, the Food Control Bill which was signed by President Wilson with an amendment providing that the production of distilled spirits for beverage purposes must cease and authorized the President to limit or prohibit the use of food materials in the manufacture of beer and wine. The President in December, 1917, by presidential proclamation reduced the use of food materials for beer by thirty per cent.²⁹

In little more than a year three-fourths of the states had ratified the Eighteenth Amendment to the Constitution of

²⁷Congressional Record, 64th Congress, 2nd Session, LIV, 1917, 4939-4944.

²⁸Congressional Record, 65th Congress, 1st Session, LV, 1917, 5636-5666.

²⁹Gordon, op. cit., 277.

³⁰Congressional Record, 65th Congress, 2nd Session, LVI, 1918, 10,081-10,086.

the United States which was to take effect on January 16, 1920.³⁰

Already enforcement legislation, known as the National Prohibition Enforcement Act, or the Volstead Act, had passed over President Wilson's veto on October 28, 1919. The act defined alcoholic beverages as any that contained more than five percent alcohol and imposed severe regulations upon the manufacture and distribution of alcoholic products.³¹

The desire to conserve grains during the war had speeded the consummation of federal prohibition. This can be borne out by the fact that Congress had passed the Agricultural Appropriation Bill in September, 1918, which forbade the manufacture of beer and wine.³²

Dispite the long agitation for prohibition, it now seems evident in the light of subsequent events that the nation was hardly ready for it. It is doubtful if any federal law was ever more unpopular or more consistently, intentionally, and widely violated. People who used alcoholic beverages as a matter

³⁰The Eighteenth Amendment was eventually ratified by all the states except Connecticut and Rhode Island. The latter brought suit in the Supreme Court to declare the amendment void; however, the high tribunal found the act valid and bound all legislative bodies, courts, and public officers.

³¹Congressional Record, 66th Congress, 1st Session, LVIII, 1919, 7633-7634.

³²Congressional Record, 65th Congress, 2nd Session, LVI 1918, 10,081-10,086.

of course were outraged and, as soon as they had collected their wits, began to make beer and wine at home. Others resented what they considered to be a violation by the government of their personal liberty. Either for this reason or because it was beginning to be the fashionable thing to drink during the hey-days of the twenties, many began to use alcoholic beverages for the first time in their lives. It began to be the smart thing to serve liquor, and, in the face of such a change in the folkways of the people, it was impossible to maintain respect for the law.

In addition to what appeared to be a fundamental change in the attitude of the population, several other factors militated against the success of the experiment. In the first place, the manufacture of alcoholic drinks was a comparatively simple process and could easily be done at home and beyond the eye of the law. In the second place, the tremendous profits in the illicit manufacture and sale of alcoholic beverages built up a powerful underworld element that reduced the illicit manufacture, distribution and sale of alcoholic beverages to a science at the same time that it shocked the nation by the crimes that it committed and by its debauchery of enforcement officials. The speakeasy, nightclub, and roadhouse had taken the place of the saloon in society. The debate as to whether prohibition increased or lessened crime was waged hotly and kept before the nation some of the evil effects of prohibition. A

third influence tending to the failure of the experiment was the sabotage of enforcement by local officials in wet communities, and a fourth was the inefficiency of federal enforcement efforts.

States Enforcement and its personnel were at first largely a football of politics, and the operation was primarily a function of the Internal Revenue Bureau of the Treasury Department, although actually it spread over many departments of the government. By the time the prohibition bureau had been put upon a merit basis and the confusion in enforcement straightened out by greater centralization, the tide against prohibition had risen too high to be stopped. Congress, which had initially passed the prohibition amendment and the Volstead Act in part to be free of a politically annoying issue, showed little interest in appropriating funds sufficient to dry up the nation. By the end of the decade it was evident that any effort to enforce adequately the amendment would cost more than Congress was willing to appropriate.

During the gay twenties the Supreme Court of the United States handed down many decisions that undoubtedly were sincere efforts to strengthen the Volstead Act in enforcing prohibition throughout the nation.

The case of Ruppert vs. Caffey was decided by the court when it declared that one-half of one per cent definition of

intoxicity was held to be valid.³³

Former internal revenue laws were superseded by the Volstead Act and the prohibition tax was sustained in United States vs. Yuginovitch, in June, 1921.³⁴ The liquor problem to the United States vs. Lanza, revealed the information that the Supreme Court decided that an offender against the prohibition law might be prosecuted in both state and federal courts for the same offense.³⁵

A later case, United States vs. Sullivan, declared that profits derived from illicit liquor traffic was not exempt from federal income tax.³⁶

The right to search automobiles without a United States warrant where probable cause existed was sustained in Carroll vs. United States in March, 1925.³⁷

Sellers, not purchasers, of intoxicating liquor for beverage purposes were found to be guilty of an offense under states in the form of an amendment, which, if ratified, would

³³United States Supreme Court Reports, Ruppert vs. Caffey, Lawyers' Edition 67, edited by the Publishers' Company (Rochester: January 5, 1920), CCLI, 894.

³⁴Ibid., CCLVI, June 1, 1921, 450.

³⁵Ibid., CCLX, December 11, 1922, 377.

³⁶Ibid., CCLXXVIII, May 16, 1927, 708.

³⁷Ibid., CCLXXIII, March 2, 1925, 763.

the Volstead Act in United States vs. Farrar.³⁸

The changing attitude toward prohibition was revealed in the national campaign of 1928, when the Democratic candidate, Alfred E. Smith, favored a return of the liquor problem to the states. So unsatisfactory was the situation that President Hoover appointed the Law Enforcement Commission (Wickersham Commission)³⁹ to study the question along with other problems of law enforcement. Its report, submitted in January, 1931, opposed repeal of the Eighteenth Amendment, but admitted from the evidence that enforcement had broken down. While the old argument that alcohol was an anachronism in an age of high-powered motor vehicles still held, it was evident by the campaign of 1932 that prohibition was doomed. The Democrats, in fact, went so far as to demand outright repeal of the Eighteenth Amendment. The Republicans, on the other hand, demanded "revision" or submission of the question to the states in the form of an amendment, which, if ratified, would return liquor control to the states with federal protection of dry states. This solution was virtually that suggested by the Democrats in 1928 and greeted at the time by the Republicans

³⁸Ibid., CCLXXXI, May 26, 1930, 624.

³⁹Congressional Record, 71st Congress, 3rd Session, LXXIV, 1931, 2682. Gordon also devotes one entire chapter of his book, The Wrecking of the Eighteenth Amendment to the Wickersham Commission.

with supercilious scorn.

The overwhelming victory of the Democrats in 1932 presaged quick action. The special session of Congress called immediately after the inauguration in 1933 modified the Volstead Act by permitting the manufacture and sale of beer and wine having an alcoholic content of not more than 3.2 per cent by weight or 0.4 per cent by volume, but forbidding interstate transportation into those states prohibiting manufacture and sale.⁴⁰

Already in the closing days of the Hoover administration, Congress had sent to the states an amendment repealing the Eighteenth Amendment; and, with ratification, the whole matter, as far as the federal government was concerned, was put back about where it had been in 1919. The rapidity of repeal by the Twenty-first Amendment, however, caught the states unprepared; and the variety of liquor control that followed was almost as wide as the number of states.

Efforts made for Repeal of Kansas Prohibition in 1934

In 1880, Kansas adopted the prohibition amendment to its Constitution. From that time, no resolution calling for the resubmission of the prohibition amendment to the people

⁴⁰This action was provided for by the Cullen bill which Congress passed on March 20, 1933, to go into effect on April 7, 1933.

⁴¹Wichita Beacon, November 14, 1933.

ever got through a committee of either house of the Kansas legislature. Prohibition had been regarded as a settled policy in the state until 1933. The repeal of the federal prohibition act early in 1933 caused the anti-prohibitionist forces in Kansas to attempt a drive that would repeal the fifty-three year old prohibition amendment.

Late in the year of 1933, the judiciary committee of the Kansas legislature unanimously voted to resubmit the Kansas liquor question to the people for their vote in 1934.

In support of submission, nearly a score of representatives took the floor. Some typical reactions of the legislators are given to show what the sentiment was at the time in the Kansas legislature:⁴¹

Representative Clyde Blood said the legislature had two questions to decide: First, should the people be allowed to express themselves on the question? Second, what provision should be made for regulation in event of repeal of the dry act?

A suggestion was made by Representative Sidney Payton that the question should be on outright repeal, while Representative David Hilton offered his amendment that the question should be for outright repeal or retention of the present prohibitory amendment. In its support, Hilton said that the original resolution was not understandable to the

⁴¹Wichita Beacon, November 14, 1933.

average man. As originally proposed, the suggested amendment which would have replaced the prohibition amendment now in the constitution, would have given the state legislature the right to regulate and license the manufacture, sale, possession and transportation of all liquor and the right to prohibit it in certain areas. It also provided the state should sell directly or through state-controlled agencies all liquor with an alcoholic content in excess of 3.2 per cent with provisions that the sale would be in the original package with no consumption on the premises where it was sold.

Speaking for submission, Representative Roy Melvin (R) of Douglas County said that the question before them was solely whether they thought the legislators had more judgment than the citizens of Kansas.

Representative Charles Ashur (D) of Kiowa opposed the submission, asserting that it was a responsibility of the legislature to determine what should be submitted.

Declaring that he was a dry and opposed to repeal, Representative Ronald May (R) of Atchison said that he would vote for submission; for the reason that if the people rejected repeal which he thought they would, the state would have stronger enforcement. Similar views were expressed by several other legislators in the Republican column.

Representative Max Fink (D) of Wilson said that he was a dry but favored submission.

Opposing submission, Representative Samuel Morse (R) of Linn stated that such a step would not settle the question. It was Morse's opinion that if the wets came close to repeal, they would demand resubmission every two years.

Representative Ralph Hodgson (D) said if the legislature submitted the proposal to the people, it would be "presupposed" that the legislature wanted repeal.

Declaring that the dry forces were not asking for a vote on the question, Representative Kenneth Blythe (R) of Morris stated that if the amendment were submitted, the wet forces would "pour money into the state" to "put it across."

After long, and sometimes bitter debates, the Senate voted for the resolution, 38 to 2, and the House accepted the proposal, 93 to 23, after having voted for the resolution, 95 to 24. The Governor's signature was not necessary.⁴²

The existing prohibitory clause in Kansas stated that the manufacture and sale of intoxicating liquor were forever prohibited in the state, except for medical, scientific, and mechanical purposes. In contrast, the proposed amendment read that the legislature might license and regulate the manufacture, sale, possession and transportation of all liquors

of the prohibition element itself, new social and economic conditions which made it likely, even presumable,

⁴²Ibid.

having any alcoholic content, and might impose special taxes in the event of ratification on all malt, vinous and spirituous liquors, and could provide for the prohibition of such liquors in certain areas.

In Kansas, the question hinged upon state control of the sale of hard liquor in the original package. There could be no question that sentiment generally in the United States had turned from prohibition as a solution of the problem of the liquor traffic. There was no reason to believe that the result of a Kansas referendum would materially differ from the result of a referendum in any other state. Many people at the time felt that the prohibitory method of solving the liquor problem was dead.

A new generation had come upon the scene which rejected the evil of prohibition as worse than the evil of the liquor traffic. The people in the 1930's may or may not have been wise.

The evil was real for the families of the workers and for the families of others who were attracted to the sardonic crucible of its own experiences. Such an action could only be the final test.

Many things had come into American life during the early years of the 20th century to change public sentiment upon the prohibition of the liquor traffic. Quite apart from the evils of the prohibition element itself, new social and economic conditions had risen which made it likely, even presumable,

that the evils of the over-stimulated sale of liquor as manifested in the old saloon would not return automatically to American life.

At the time that the prohibition movement had its beginning and for thirty years thereafter when prohibition by counties and states and finally by the nation swept the saloon from America, our social and economic life was so ordered that the saloon was about the only cheap, convenient and luxurious resort for the average man of the lower middle class. And for the class economically below that, the class of people verging always upon poverty, the saloon was absolutely the only place for comradeship and pleasure open to the poorer type of working man. The saloon had its pull quite apart from the fact that it was the merchandising place of a habit forming drug. There was a real and devastating evil in the liquor traffic as it was conducted by the saloon.

The evil was real for the families of the workers and for the families of others who were attracted to the saloon by a drab life in a rather cheerless civilization. Men drank because they were poor, to get away from their poverty for a while. And then the same men were poor because they drank.

The conditions of our civilization had changed socially and economically by 1934. A return of the saloon at that time would have been met with new and strong competitors.

The saloon would have been set in another environment from that in which it worked its social evils generations ago.

The motion picture had come to divert the man whose father used to go to the saloon. The radio in the home had a tendency to strengthen the family against such an evil as liquor in many cases. The automobile which was rapidly becoming almost universal in American life furnished a strong pull toward uniting the family by building up the morale and at least absorbing the income with a chattel mortgage, income which otherwise might have gone to a saloon. The use of the automobile in another way encouraged crime while under the influence of liquor. More than that in cities, parks and playgrounds, organized recreation, public libraries, and many other sorts of social diversions were beginning to be in the reach of the poorer man who in 1900 had only the saloon in which to spend his leisure hours and his hard-earned wages. A new generation of people sense such changes, of course not consciously. But the people of 1934 knew that they had built up many defenses against the evils of the liquor traffic which therefore would have made the evils of prohibition overbalance the benefits. Most historians have the conviction that every generation of people should be entitled to follow its own theories, whether progressive or conservative.

Southwestern, Washburn, Friends, McPherson, Bethel, Ottawa, Kansas Wesleyan, College of Emporia, Bethany, Sterling,

Therefore in 1934, most of the legislators felt that it was folly for the dead head of yesterday's experience to impose a civic and social morality upon a new generation of people. The legislators undoubtedly had confidence in the people to choose whether they would try a new experiment or retain prohibition as it was from 1880.

Although most intelligent people have voiced their opinions that it would have been wiser to decide upon the vote on prohibition until a few more states had experimented with various forms of control, the same people felt that for such a referendum to have been denied on principles would have been undemocratic and socially and politically dangerous.

Dr. William M. Balch, a professor of history at Baker University in 1934, stated at that time that if the students in the denominational colleges and other state educational institutions of the state had the final decision, Kansas would certainly have remained dry.

The educator had just returned from a tour of the Kansas colleges and universities. In some twenty chapel meetings from sixty to ninety-five per cent of the students declared in favor of prohibition and pledged themselves to do definite work for the retention of the dry cause.

Prohibition organizations began functioning at Baker, Southwestern, Washburn, Friends, McPherson, Bethel, Ottawa, Kansas Wesleyan, College of Emporia, Bethany, Sterling,

Kansas University and Kansas State College. Dr. Balch stated that letters from administrative officers of the other state institutions indicated wholehearted cooperation in the movement.⁴³

The referendum vote was held in 1934 on the fifty-four year old prohibition amendment. When the final tabulations were made, it was found that the people of Kansas again had voiced their opinion in the affirmative on prohibition. The final vote was 436,688 against repeal, while 347,644 votes were counted for repeal. Sixteen counties gave a vote majority in favor of repeal; eighty-nine counties voted against the constitutional amendment.⁴⁴

Because people were ready to pay high prices for alcohol, illegal dealers, or bootleggers, appeared. These people made huge profits, bribed authorities, and often controlled local governments. Of course, the lesser populated areas of Kansas were not subjected to the crimes connected with the liquor traffic as severely as in the heavier populated centers. For instance, in Illinois, the city of Chicago had the bootleggers

⁴³Topeka Daily Capital, October 29, 1934.

⁴⁴Kansas Business Magazine, December, 1948. Another excellent tabulation on the 1934 vote on the constitutional amendment might be found in the Topeka Daily Capital, November 29, 1948. See the appendix for the county tabulation of the vote.

CHAPTER IV

ENFORCEMENT OF PROHIBITION LAW IN ELLSWORTH COUNTY, KANSAS

Cases Tried in District Court for Violation of Liquor Law

Prohibition enforcement in Kansas closed the saloon, but certainly made way for the speakeasy and the bootlegger. The act raised the price of liquor and lowered the quality, but prohibitionists themselves had to admit that the passage of the act did not make the people stop drinking intoxicating liquor. Endless jokes were told about prohibition in Kansas, and some of them were very funny. There was another side to prohibition that was not funny at all. The experiment in many people's opinion increased crime and disrespect for law and order.

Because people were ready to pay high prices for liquor, illegal dealers, or bootleggers, appeared. These people made huge profits, bribed authorities, and often controlled the local governments. Of course, the lesser populated areas of Kansas were not subjected to the crimes connected with the liquor traffic as severely as in the heavier populated centers. For instance, in Illinois, the city of Chicago had its bootleggers and associates who hired gunmen to kill off their rivals, the most famous being Al Capone. Kansas communities did not have anyone to compare with Capone's infamy; however, there were liquor establishments and illegal bootleggers who were taking

thousands of dollars supplying liquor to the people in defiance of the prohibitory laws.

One county of Kansas and certainly not the most disobedient should serve as an example to show how prohibition worked. Violations of prohibition flourished in Ellsworth County from 1900 until 1948 in spite of the many efforts to enforce the liquor laws.

Over one thousand charges were brought against the inhabitants of that county in violation to the prohibitory laws of the state and nation.¹ Months of research in the records of the Clerk of the District Court's office from 1900 until 1948 revealed the evidence that nearly three-fourths of the cases tried in the District Court were dismissed for lack of insufficient evidence or the jury brought in a verdict of common nuisance. It would take volumes to discuss each case brought before the court; therefore, only selected and typical violations will be discussed herein.

In 582 cases the various county attorneys brought charges against the defendants involving cases where the possession of liquor and maintaining a place of nuisance were the main counts. In too many cases loopholes in the Kansas statutes and the national prohibitory laws allowed the violator to go free

¹Clerk of the District Court, Ellsworth County, Ellsworth, Kansas, Appearance Dockets, F, G, H, I, J, K, L, M, and N. Hereafter the volumes will be cited as Appearance Dockets.

without any punishment.

For instance, a party that took liquor to drink intending to return what was left was not in possession thereof.² Or a person that purchased liquor for others who furnished him the money, merely acting as their agent, committed no offense.³

One woman of Ellsworth County, committed no offense in the eyes of the jury when she was charged with violating the prohibition laws on five counts of selling liquor and maintaining a place of nuisance. Bail was fixed at \$500; however, when the verdict was brought in by the jury, the defendant found that her case was dismissed.⁴

The Kansas statutes at the time read:

In all prosecutions, either under the state laws or under municipal ordinances, for maintaining a common nuisance as hereinbefore defined, the finding of intoxicating liquors in the possession of one not legally authorized to sell the same, shall be prima facie evidence that such liquors are kept for sale or use in violation of the law.⁵

²Earl H. Hatcher (editor), Digest of Kansas Reports (Rochester, N. Y.: The Lawyers Co-operative Publishing Company, 1929), 1233.

³Ibid.

⁴Appearance Docket G, Case 1798, Aug. 2, 1912, 158.

⁵Franklin Corrick (editor), General Statutes of Kansas, 21-2139, 647.

⁷Appearance Docket P, Case 2452, Oct. 18, 1922, 286.

⁸Hatcher, op. cit., State vs. Lewis, 63 K. 265, 55 P. 258.

⁹Ibid., State vs. Giroux, 75 K. 695, 90 P. 249.

A charge was brought against a citizen of Holyrood, Kansas, stating that he possessed liquor and allowed other persons to keep liquor on his premises. The case was dismissed because the Holyroodite disowned the liquor and denied that he knew that any intoxicating beverages were kept on his place in spite of over thirty witnesses testifying that he was a bootlegger.⁶

The state in the case Kansas vs. Joe L. Thomas charged the defendant with distilling liquor, possession, and running a place of nuisance. After a court cost of \$150 was accumulated, the jury's verdict was not guilty.⁷

A test case in the Kansas Supreme Court maintained that a conviction may be had of a person who keeps, owns, or maintains a place where liquors are kept for sale.⁸ Another decision by the same court decided that maintaining of a liquor nuisance, or a place where liquor is kept for sale, was an offense.⁹

Five different counts of selling liquor were brought against a citizen of Ellsworth, Kansas. The case was dismissed by the court; however, soon after the trial the former defendant was sentenced to the penitentiary for larceny from a freight car

Ibid., Case 2486, Mar. 8, 1923, 716.

⁶Appearance Docket G, Case 1845, Jan. 25, 1913, 205.

⁷Appearance Docket P, Case 2452, Oct. 18, 1922, 286.

⁸Hatcher, op. cit., State vs. Lewis, 63 K. 265, 65 P. 258.

⁹Ibid., State vs. Giroux, 75 K. 695, 90 P. 249.

in the same city.¹⁰

Another typical case was that of the State of Kansas vs. Sherman and Lizzie Basye. These people were charged with possession, but the case again was dismissed because of insufficient evidence to secure a conviction in that it was impossible to prove the alcoholic contents of the liquors taken by the sheriff upon which information was based.¹¹

In the test case, State vs. Volmer, the Supreme Court decided that all fermented liquor was presumed to be intoxicating.¹²

A dismissal was given after the plaintiff charged seven counts against a resident of Wilson, Kansas, for possessing liquor, selling on six different times, and operating a whisky still containing malt and mash. The same man had been arrested on similar charges three months earlier and after being tried was found "not guilty."¹³

Thirty witnesses testified that the defendant, William Gile sold and was in possession of liquor. After a plea of not guilty, the case was dismissed.¹⁴

¹⁰Appearance Docket P, Case 2472, Dec. 18, 1922, 306.

¹¹Ibid., Case 2486, Mar. 8, 1923, 716.

¹²Hatcher, op. cit., State vs. Volmer, 6 K. 371.

¹³Appearance Docket P, Case 2884, Jan. 6, 1927.

¹⁴Ibid., Case 2908, Mar. 25, 1927, 208.

A similar case involved Romeo Swehla of Kanopolis, Kansas, when he was charged with ten witnesses testifying that the defendant transported eight bottles of whisky in his Dodge car to a destination unknown. The jury found the man not guilty after considerable expense. The whisky was confiscated.¹⁵

The statutes of Kansas provided at the time that:

It shall be unlawful for a common carrier, or for any person, company or corporation to carry any intoxicating liquor into this state or from one point to another within the state for the purpose of delivery,¹⁶ or to deliver the same to any person, company

In the Supreme Court case, State vs. Peterson, the decision was that the forfeiture of an automobile transporting intoxicating liquors was within the police power of the state.¹⁷

Another case, State vs. Robinson, decided that the acquittal of the owner of the automobile transporting intoxicating liquors was no bar to action forfeiting the car as a nuisance.¹⁸

The automobile belonging to R. R. Clark of Ellsworth was seized when it was used for the transportation of several

¹⁵Ibid., Case 2940, July 7, 1927, 240.

¹⁶Corrick, op. cit., 21-2149, 648.

¹⁷Hatcher, op. cit., State vs. Peterson, 107 K. 641, 193 P. 342.

¹⁸Ibid., State vs. Robinson, 118 K. 755, 236 P. 467.

²⁰Corrick, op. cit., 21-2160, 650.

²¹Appearance Booklet I, Case 3102, April 3, 1929, 401.

bottles of liquor. The car was sold at public auction for \$24 to cover the costs of the court; however, the defendant did not even appear and no further charge was brought against him.¹⁹

Article 21, paragraph 2160 of the Kansas statutes provided that:

It shall be unlawful for any person under the influence of intoxicating liquor or any exhilarating or stupefying drug to drive, operate or have charge of the power or guidance of any automobile, motorcycle or any motor vehicle propelled by other than muscular power, upon any public road, highway, street, avenue, driveway or alley within the state of Kansas. And that the taking or use of any intoxicating liquor or exhilarating or stupefying drug by the person driving, operating or in charge of the power and guidance . . . , within a reasonable time prior to taking charge or guidance of such vehicle shall be construed as prima facie evidence that such person is under the influence thereof.²⁰

Violations of this law were committed many times during the era of prohibition. A typical case was that of Joe Younger of Ellsworth, Kansas, when he was arrested for driving his automobile on the highway while under the influence of liquor. This man was not only drunk as brought out by many witnesses on the stand, but was driving in a reckless manner with his feet instead of with his hands. The accused pled not guilty to the charge. The verdict of the jury was "not guilty."²¹

¹⁹Appearance Docket I, Case 3015, May 1, 1928, 315.

²⁰Corrick, op. cit., 21-2160, 650.

²¹Appearance Docket I, Case 3101, April 3, 1929, 401.

Many cases were dismissed when the citizens of the community would sign and present affidavits swearing that the defendant was not intoxicated. In the case of F. R. Strong, who had been arrested before on a similar charge, possession of intoxicating liquor, drunken driving, carrying liquor from one place to another, being intoxicated on a public highway and disturbing the peace, the jury dismissed the case as the informant did not have sufficient evidence as proof. The plaintiff had to pay the costs of the court.²²

Thirteen counts of selling liquor and maintaining a place of nuisance were brought against Fred Bean, who also had been charged with the same offense before. Over twenty-five witnesses were called at considerable expense in subpoena fees; however, the case was dismissed for lack of evidence.²³

Many cases were dismissed for "lack of evidence" when witnesses could not be found to testify against the defendant. One man had manufactured and sold intoxicating liquors in Wilson, Kansas, for a period of four years preceding the trial; however, his case was dismissed when witnesses to testify were lacking.

²²Ibid., Case 3114, May 27, 1929, 414.

²³Appearance Docket J, Case 3299, Feb. 25, 1931, 49.

Of course, hundreds of arrests were made where the jury in each case handed down a verdict of "guilty as charged." The usual judgement rendered in these cases was sixty to ninety days in the county jail, \$100 fine and cost of the court.

In many cases the fine was paid immediately and the offender was allowed to go free on parole with the understanding that he was not to violate any of the laws of Kansas, especially the prohibition laws and to report to the court for a period of two years on specified dates.

In one such case an elderly couple were adjudged by the court to be guilty of violating the prohibitory liquor law of Kansas and sentenced to serve a term of sixty days in the county jail at Ellsworth, Kansas, and to pay a fine of \$100 and the costs of the prosecution.

After serving thirty days of the sentence, the defendants were paroled because of their age and the fact that they owned a small home, in the confines of which were numerous plants, bulb garden, pet birds and a number of chickens which required their attention.

In the arguments for their parole, the defendants stated that they had never been convicted before, had always borne a good name, been industrious and reared a large and law abiding family. It was also argued that if the defendants were subjected to the jail sentence, their health would be ruined; therefore, they would be unable to secure work after the expiration of the sentence.

Over one hundred names of the most prominent citizens of Ellsworth, Kansas, signed the petition for the parole which was granted on condition that the costs of the court be paid and that the applicants report to the court on the first day of each regular term during the next two years and furnish, at their own expense, evidence that they had observed and kept the terms of the parole. It was found that these two people never again violated the prohibition laws of Kansas.

In another similar case the defendant, a woman, was charged with distilling liquor and keeping a place of nuisance for bootlegging. After being adjudged guilty by the court, the woman was paroled after spending one hour in jail because she was a woman and the foster mother of a child of tender years who needed her care and comfort.²⁴ This defendant did not pay the fine nor the costs of the court as she was insolvent and unable to pay any charges assessed and adjudged against her in the action. The parole was granted on condition that the defendant not again violate the laws of the state of Kansas, especially the intoxicating liquor laws of said state.

Records in the District Clerk's office of Ellsworth, County, Kansas showed that a few of the violators were found

²⁴The child was nine years old at the time.

²⁷*Ibid.*, *State vs. Valmer*, 6 K. 379.

guilty and sentenced to prison terms as persistent violators of the prohibitory liquor laws.

The state statutes have this to say on persistent violators:

Any person who, having once been duly convicted of violations of the prohibitory law and who shall thereafter, directly or indirectly, violate the provisions of the prohibitory liquor law, shall be considered a persistent violator of the prohibitory liquor law and shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the state penitentiary at hard labor for not more than one year; and every violation, directly or indirectly, of any provision of the prohibitory liquor law, by a person who has theretofore been or shall hereafter be once convicted of any violation of the prohibitory liquor law, shall be considered a separate and distinct felony.²⁵

Two interesting test cases on persistent violators were handed down by the Supreme Court. In the case of State vs. Cassady, the tribunal stated that intervening acquittals did not affect the persistent violation prosecution on subsequent offenses.²⁶ The court decided in the State vs. Volmer case that a previous conviction was essential to be convicted as a persistent violator.²⁷

²⁵Corrick, op. cit., 21-2146, 648. Ellsworth County had three convictions as persistent violators from 1900 until 1948, although many persons were arrested twice or more for the same offense of violating the liquor laws of Kansas.

²⁶Hatcher, op. cit., State vs. Cassady, 121 K. 331, 246 P. 469.

²⁷Ibid., State vs. Volmer, 6 K. 379.

In the case of Oscar Priddy, the state charged that he had been operating a place of nuisance and had charge of a still for manufacturing and selling liquor. Boilers, bottles, glasses, jugs, kegs, barrels, cases, and other fixtures were seized as evidence. The defendant entered a plea of guilty. He had been arrested and convicted twice before, one arrest being less than three months prior to the present one. Priddy was found guilty of being a persistent violator and sentenced to hard labor for one year at the penitentiary in Lansing, Kansas.²⁸

Driving an automobile recklessly while under the influence of liquor and injuring another person walking in the street was the charge brought against another defendant. The Kansas statutes state that:

It shall be deemed a felony for anyone under the influence of intoxicating liquor, or any exhilarating or stupefying drug, to injure another person by reckless driving of a vehicle upon any public road, highway, street, avenue, driveway or alley within the state of Kansas.²⁹

The Supreme Court in the case State vs. Ketter handed down the decision that it was a felony and sufficient evidence to sustain conviction for injuring another while driving

²⁸ Appearance Docket I, Case 3174, Feb. 27, 1930, 475.

²⁹ Corrick, op. cit., 21-2174, 653.

³² Id., Case 2882, Jan. 5, 1927, 182.

a vehicle and under the influence of intoxicating liquor.⁷⁵³⁰
After a plea of not guilty had been given and eighteen witnesses testified for the state, the defendant was found guilty by the jury. The person was sentenced to confinement at hard labor in the state penitentiary at Lansing, Kansas, for a period of not less than one nor more than three years.³¹

Having been convicted of violating the prohibitory laws of Kansas in May, 1925, Henry Johnson of Ellsworth was arrested again in early 1927 for the same offense. He was accused of running a still for the purpose of manufacturing intoxicating liquors. Giving a plea of not guilty to the court, the jury found that he was a persistent violator and sentenced him to confinement at hard labor at the penitentiary at Lansing, Kansas, for one year.³²

Although it was found that Ellsworth County never had any case that was appealed to the Supreme Court of Kansas, the state in general had many such cases in which the various judges handed down decisions.

It was found in the case, State vs. Supancic, that keeping and selling intoxicating liquors were distinct and

³⁰Hatcher, op. cit., State vs. Ketter, 121 K. 516, 247 P. 430.

³¹Appearance Docket I, Case 2876, Apr. 21, 1928, 312.

³²Ibid., Case 2882, Jan. 5, 1927, 182.

different offenses.³³

Persons distilling unfermented mixtures could be convicted of attempting to manufacture intoxicating liquor according to the case, State vs. Rooney.³⁴

A complaintant charging that another was keeping a nuisance, but failed to designate the place other than as being in a particular city was held to be insufficient evidence according to City of Kansas City vs. Smith.³⁵

The court decided in the case, State vs. Lindgrove, that allowing jurors to taste and smell evidence in intoxicating liquor cases was erroneous.³⁶

The right to make vinegar was approved by the court decision in the case, State vs. Metzger.³⁷ However, in the opinion of the court as decided by State vs. Schaefer, hard cider was presumed to be intoxicating.³⁸

³³Hatcher, op. cit., State vs. Supancic, 134 K. 147, 4 P. 414.

³⁴Ibid., State vs. Rooney, 118 K. 618, 236 P. 826.

³⁵Ibid., City of Kansas City vs. Smith, 57 K. 434, 46 P. 710.

³⁶Ibid., State vs. Lindgrove, 1 K. A. 51, 41 P. 688.

³⁷Ibid., State vs. Metzger, 121 K. 838, 250 P. 258.

³⁸Ibid., State vs. Schaefer, 44 K. 90, 24 P. 92.

did not In summary, Ellsworth County attempted to enforce the prohibitory laws of Kansas according to the statutes of that state; however, in too many instances, the lack of insufficient evidence to secure convictions was too prevalent.

Of the 1,016 cases that were brought before the district judge of the county, between 1900 and 1948, 582 trials resulted in dismissals or the jury brought in a verdict of "not guilty." It was the opinion of many people of the county that the juries simply were not interested in bringing in verdicts of "guilty." T. C. Wagner of Lorraine, Kansas, stated that after securing some thirty-five witnesses to testify that a man living near that community was involved in the process of manufacturing and selling intoxicating liquors, the jury dismissed the case for lack of insufficient evidence.³⁹

In 434 cases tried in the District Court of Ellsworth County, the defendants were found guilty as charged and usually received from thirty to ninety days in the county jail, a fine of \$100 and the costs of the court. In many of these cases, the guilty persons were paroled after serving one hour of their sentences; however, in 399 cases the guilty individuals served more than thirty days in the county jail. Serving a jail sentence

from 1910 until 1920. Bootleggers were beginning to become

³⁹T. C. Wagner, Lorraine, Kansas, to author, interview, April 16, 1956.

The estimates that are given in summarization of the trials and convictions from 1900 until 1948 were arrived at from an actual count of judgments rendered by the district court of Ellsworth County, Kansas, during that time.

did not convince forty-three of the violators as they again were tried for the same offense. Many of these same people tried for violating the prohibitory laws were never convicted.

The judgment in three cases was a penitentiary sentence of one year; however, these three men were persistent violators of from two to three times prior to their sentence.

A further analysis pointed to the fact that at the turn of the century and until 1910 there were some 343 cases tried in the district court with 185 convictions and 158 dismissals or verdicts of not guilty as charged. At this time there was a sincere effort being made to enforce the prohibitory laws of the state as 53.9% of those tried resulted in convictions.⁴⁰

During the period of the first World War and immediately thereafter, there was found much laxity in the enforcement of the law as only 26.7% of the trials resulted in conviction. There was no way to determine the age bracket of those people arrested for violation; however, it was assumed that many of the younger men were away from the county at the time. But a comparison with the period between 1900 and 1910 would show that the percentage of convictions during the war period was much lower even though there were fewer arrests and trials from 1910 until 1920. Bootleggers were beginning to become

⁴⁰The estimates that are given in summarization of the trials and convictions from 1900 until 1948 were arrived at from an actual count of judgments rendered by the district court of Ellsworth County, Kansas, during that time.

a well-established part of the county's social system.

With the repeal of national prohibition in 1933 and the drive of the wets in the same year for another vote on the Kansas prohibitory amendment, the county was becoming rapidly "wet." The introduction of 3.2 beer into the state did not encourage the people to obey the prohibition laws of the state.

During the period from 1931 until 1940, Ellsworth County had 189 trials for violations of the prohibition laws; however only 38.6% of this number were convicted and 61.4% were found not guilty or dismissed for lack of evidence. There was never found a "hung" jury during the entire period, nor any other period during the history of prohibition in the county.

The state of affairs continued from the 1930's until Attorney General Arn attempted to make the violators conscious of law enforcement late in the 1940's. The reverse was true during this period as compared with the 1930's as 61.5% of those tried resulted in convictions. Perhaps the higher number of arrests and convictions was the result of returning servicemen, who were in the habit of drinking intoxicating liquors in their absence and desired to continue after returning to their homes. However, even rigid enforcement seemed to fail in its purpose and the "noble experiment" was failing in Ellsworth County as well as in the remaining part of the Sunflower State.

The above statistics are based upon the actual count of the District Court of Ellsworth County, Kansas. The percentage basis was arrived at by using 1,016 as 100%.

CASES TRIED FROM 1900 UNTIL 1948.(1,016)		
Total number of convictions	434	42.7%
Paroled or served less than thirty days	32	
Jail sentences for thirty days	176	
Jail sentences for sixty days	138	
Jail sentences for ninety days	85	
Penitentiary sentences	3	
Total number of dismissals or verdicts of not guilty	582	57.3%
Number of men tried	989	
Convictions	428	
Dismissals or verdicts of not guilty	561	
Number of women tried	27	
Convictions	6	
Dismissals or verdicts of not guilty	21	
Number tried twice or more	43	
Men	42	
Women	1	
Number of trials from 1900 until 1910	343	
Convictions	185	53.9%
Dismissals or verdicts of not guilty	158	46.1%
Number of trials from 1911 until 1920	116	
Convictions	31	26.7%
Dismissals or verdicts of not guilty	85	73.3%
Number of trials from 1921 until 1930	142	
Convictions	63	44.4%
Dismissals or verdicts of not guilty	79	55.6%
Number of trials from 1931 until 1940	189	
Convictions	72	38.6%
Dismissals or verdicts of not guilty	117	61.4%
Number of trials from 1941 until 1948	226	
Convictions	140	61.5%
Dismissals or verdicts of not guilty	86	38.5%

⁴¹The above statistics are based upon the actual count of 1,016 cases tried in the District Court of Ellsworth County, Kansas. The percentage basis was arrived at by using 1,016 as 100%.

KANSAS REPEALS ITS PROHIBITORY LAW IN 1948

What Happened in Kansas?

Kansas rocked the nation in 1948 when the people of that state revolted against their nearly seventy year old prohibition law. In July of the following year a thirsty Kansas Jayhawker could walk boldly into a legal liquor store, buy a bottle of legal liquor and take a drink of it legally at home.

The action taken by the voters of the state marked the end of a dry era that started in 1880 and rang down a curtain on state-wide prohibition in its most famous and traditional stronghold.

Two states of the Union, Mississippi and Oklahoma, were left with dry laws on their statute books; however, many people felt that the prohibition laws of these two remaining states were so full of loopholes that they were meaningless.

Thus, in Carrie Nation's home state of Kansas, a dramatic reversal of form which astonished experts and pollsters just as much as the election of President Truman in the same year brought about a phenomenon which was the result of action taken by Kansans at the polls.

At the time it was largely a fight between youth and age, modern ideas and traditional beliefs. Many families were

divided by the issue as brother turned against brother, father against son, and dutiful daughters refused to speak to their own mothers.

The repealists had a champion to lead their fight against prohibition in Leo W. Mulloy of Wichita. Mulloy was a staunch "wet" and a thirty-two year old veteran of World War II. The prohibition forces picked a sixty year old minister, Dr. C. D. Walker of Lawrence, Kansas, to sponsor their cause. The comparative ages of the two men was highly significant.

The campaign will go down in history as one of the most bitter battles ever fought over a political issue. The words "vote yes" and "vote no" were plastered on store windows, cars, painted on the sides of dogs, and even flashed to the Heavens by huge signs.

The Kansas dries swung into the 1948 prohibition battle arena by beginning the distribution of some 170,000 copies of The Kansas Issue, at about the same time the wets started mobilization of an organization at Wichita. At stake was the constitutional referendum to determine whether or not the state's citizens wished to repeal its anti-liquor statutes.

At about the same time the Anti-saloon League changed its name to the Temperance League of America and outlined future policies.

Wichita Daily Capital, January 22, 1948.

Sam Morris from San Antonio, Texas, and nationally known temperance speaker, was elected national superintendent of the new Temperance League of America. Senator Arthur Capper and the Rev. Everet Freeman of Hutchinson, Kansas, were re-elected honorary vice-presidents. Dr. Leslie Miller, Topeka, and Dr. Farley, superintendent of the Kansas United Dry Forces, were named to the board of directors.¹

The dries under the leadership of publicity man, Dr. Farley, published and distributed in every county thousands of leaflets representing their cause in a series of efforts to inform the public of developments.

It was pretty well understood that the dry sentiment was already organized. Prohibition leaders were people of long convictions, and they had an organization through the churches and other groups capable of expressing their sentiments and of getting the maximum dry vote to the polls.

The wets, on the other hand, were comparatively unorganized. Being under the handicap of generations of people who favored prohibition, those in favor of repeal would naturally be the subject of criticism and suspected of operating on "whisky money," funds raised by distillers eager to add

¹Topeka Daily Capital, January 22, 1948.

Kansas as a dependable sales field rather than one supplied uncertainly by bootleggers. About the only open efforts of the wets before the campaign got under way was through a few newspaper editorials pointing to the "shame and hypocrisy" of Kansas voting dry and drinking wet and through a resolution now and then by a political group. Several Democratic organizations passed such resolutions, and it was expected that party would be a supporter of repeal in their party platform in 1948.

Stand of Political Parties on Prohibition Question

The amendment that Kansans voted upon in November, 1948, brought about many predictions by pollsters and newspapers that the state would retain its prohibition amendment. For instance, Dr. Forest L. Whan, a Wichita University professor, was of the opinion that the state would stay dry by 50,000 votes. His basis was arrived at by a state-wide survey which he had made in March, 1948. At that time fifty-four per cent of those polled favored retention of prohibition; forty-one and one half per cent favored repeal and four per cent were undecided. Dr. Whan stated that veterans, persons between twenty-one and thirty-five and most of the Democrats formed the backbone of those favoring repeal. Rural residents,

women and most of the Republicans appeared to be opposed to a change from the status quo.²

A breakdown of the results obtained by Dr. Whan showed that World War II veterans were for repeal more than two to one, with sixty-nine per cent for and only twenty-eight per cent opposed. Six out of ten women were opposed to repeal, while the men were about evenly split on the matter. A further breakdown according to place of residence revealed that while urbanites were evenly divided, residents of villages and farm areas were in favor of prohibition.³

Republicans and Democrats were seemingly on entirely different sides of the fence. More than sixty-six per cent of the Republicans favored prohibition, while among the Democrats fifty-nine per cent indicated a preference for repeal.⁴

In the twenty to thirty five year old group sixty-four per cent were for repeal. On the other hand of those over fifty years, sixty-five per cent advocated prohibition. The

²The Wichita Eagle, October 27, 1948. Dr. Forest L. Whan also served as the director of research for the Wichita University Foundation for Industrial Research.

³Ibid.

⁴Ibid.

⁵Ibid.

⁶Topeka Daily Capital, September 1, 1948.

thirty-six to fifty year age bracket was almost evenly split.⁵

By September, 1948, the political parties of Kansas were forced to take their stand on the proposal to repeal the Kansas prohibitory amendment to the constitution which was to be voted upon by the people at the November election.

The Republican party in their platform reiterated the traditional belief of their party by expressing that the people of Kansas were entitled to an expression of opinion upon any constitutional question; therefore, the party reaffirmed their position of 1946 by stating that prohibition was a moral, not a political issue. The Republican party promised that if the people of Kansas should determine by ballot in November, 1948, whether they desired the Prohibitory Amendment in the State Constitution to be retained or repealed, that the alteration of the laws would be a matter for the immediate consideration of the next legislature. The party stood for a non-partisan vote upon a separate non-partisan ballot, and further reiterated their stand for an absolute prohibition of any and every type of saloon.⁶

The Democrat party platform for the year did not differ materially from that of the Republicans. The party believed that the ultimate question concerning the constitutionality

⁵Ibid.

⁶Topeka Daily Capital, September 1, 1948.

of the manufacture and sale of intoxicating liquor in the state of Kansas was of so much importance that it transcended ordinary politics; and, therefore, it was not a proper subject for inclusion in a party platform. The party believed that the matter affected the lives of all the citizens so vitally that they should be allowed to vote upon it at the election without regard for or reference to the success or failure at the polls of any party or candidate. The party pledged itself to the proposition that if the people should decide by their ballot to retain the prohibition amendment, the party would support and enforce the liquor laws without fear or favor; on the other hand, if the people voted to repeal the amendment, the Democrat party pledged that it would bring its best efforts to bear in the legislature for the passage of a suitable control bill.⁷

The Prohibition party was definitely opposed to repeal of the constitutional prohibitory amendment. The party believed that the proposal of any question for the purpose of obtaining votes constituted an issue. The Prohibitionists also condemned the attitude of any party or candidate who failed to take a definite stand on an issue that concerned a

⁷Ibid.

Ibid.

moral question and involved the welfare of all the people of the state. The Prohibition party criticized the "false" definition of intoxicating liquor that was on the statute books of Kansas which in their belief created resorts of dissipation, disorder, and crime. The party proposed that the legislature should replace the law commonly known as the 3.2 law with an enactment defining intoxicating liquor as any beverage containing more than one-half of one per cent alcohol by volume.⁸

The Socialists again traditionally stood for the state to manufacture liquor and sell it at cost, thus having control by making illegal sales unprofitable. The party pledged itself to carry on an educational campaign against the use of liquor.⁹

Repeal of Prohibition Victorious in Kansas

The amendment that Kansans voted upon in 1948 read:

A proposition to amend Sec. 10, Article 15, of the Kansas constitution to read as follows: Sec. 10. The legislature may provide for the prohibition of intoxicating liquors in certain areas. Subject to the foregoing, the legislature may regulate, license and tax the manufacture and sale of intoxicating

⁸Topeka Daily Capital, September 1, 1948.

⁹Ibid.

liquors, and may regulate the possession and transportation of intoxicating liquors. The open saloon shall be and is hereby forever prohibited.¹⁰

Kansas removed the constitutional ban on intoxicating beverages by the peoples' vote in November, 1948, thereby ending the state's sixty-eight years of prohibition. The vote for repeal carried by 63,984 votes with forty-five of the one hundred and five Kansas counties going wet. The official count showed that 422,294 votes were cast for repeal while 348,310 people voted the prohibition amendment's retention. The forty-five counties had sixty-one of the state's one hundred and twenty-five members of the House of Representatives.¹¹

Actually, the election on the referendum was like witnessing a thrilling football game, fraught with the thrills of the sport, the nostalgia of last year's victory, the despondency at this year's loss to wake up the next morning to read about the battle in the morning paper.

A look at the official county vote reveals the statistics that forty-five of the state's one hundred and five counties voted wet by varying majorities; however, it was left to Sedgwick County to hand the dry's their most vicious setback,

¹⁰Paul R. Shanahan, Secretary of State, Constitution of the State of Kansas (Topeka: Kansas State Printing Plant, 1953), 22.

¹¹Wichita Beacon, November 27, 1948. See the appendix for the complete tabulation on the vote for the removal of Kansas' constitutional prohibition amendment.

a plurality for repeal of 20,466 votes.¹² Wyandotte County whipped up a majority of 20,029 votes against the time-worn prohibitory amendment, but it was left to Ellis County to provide the greatest repeal percentage by almost five-to-one. Leavenworth held nearly a three-to-one wet margin with Russell at two-to-one and Crawford, a little less.¹³

In an attempt to analyze why such a revolution swept over Kansas and officially cast aside a sixty-eight year old puritanical mantle, the author is of the opinion that the influx of military camps and trainees demanding liquor, the migration of workers from rural to industrial areas such as Wichita, and that Kansas had become a bootlegger's paradise were the underlying reasons that so many voters favored the repeal of the "bone dry laws" which were found almost impossible to enforce.

What the vote has meant to Kansas since 1948 can not yet be measured in dollars and cents. The revenue that alcoholic beverages will produce is merely incidental. It has been established through competent statistics that Kansas under prohibition purchased huge stocks of liquor outside the state's boundaries.¹⁴

¹²Ibid.

¹³Ibid.

¹⁴Deets Pickett, Then and Now (Columbus, Ohio: School and College Service, 1952), 44-45.

Since repeal the liquor business has, in the main, been kept at home. Along with it has remained the other inestimable amounts of business activity done by clothing stores, cafes, hotels, automobile dealers, and countless other enterprises which were benefitting Colorado, Nebraska and Missouri business men because of Kansas' staunch attitude toward prohibition.

Only time will tell how much the Sunflower State will benefit by the repeal of its anti-liquor amendment to the Constitution.

campaign so much as it was by a steady march of events which proceeded for decades. If one should glance backward into the long and checkered career of the "noble experiment" in Kansas, what happened is easily understood.

The state had always set high ideals for itself. It had been settled largely by slavery abolitionists and struggled before the Civil War with the question of slavery. The point is that the people in the state have always believed that any evil should be eliminated.

Regarding liquor as the devil's own juice, many of the pioneers wrote prohibition provisions into the charters of towns they founded, and in 1880, Kansas became the first state after the Civil War to adopt a dry amendment to its Constitution. Under the law, the one which was repealed in 1948, the manufacture, sale, and transportation of liquor was forbidden, except for medicinal purposes.

CHAPTER VI

CONCLUSION

The wet victory which was the result of the revolution in Kansas in 1948 against prohibition was in the making long before that time, not a sudden reaction that took place a few years prior to 1948.

The issue was not decided by any one thing which happened during the campaign so much as it was by a steady march of events which proceeded for decades. If one should glance backward into the long and checkered career of the "noble experiment" in Kansas, what happened is easily understood.

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Regarding liquor as the devil's own juice, many of the pioneers wrote prohibition provisions into the charters of towns they founded, and in 1880, Kansas became the first state after the Civil War to adopt a dry amendment to its Constitution. Under the law, the one which was repealed in 1948, the manufacture, sale, and transportation of liquor was forbidden, except for medicinal purposes.

But, right from the beginning, historians have revealed that Kansas was never really dry. In the latter part of the 19th century anyone who wanted a drink of liquor could get one. With a doctor's prescription, some "topers" bought all the whisky they wanted "for their health."

Such a condition gave rise to Carrie Nation. After raging out of Medicine Lodge, Kansas, and smashing illegal joints in many Kansas towns, a spotlight of publicity followed her wherever she went; other militant drys took up the cause, and Carrie became one of Kansas' most famous daughters. She once got herself arrested in the U.S. Senate for screaming her beliefs there, and on another occasion even told President Theodore Roosevelt that he was a "vile divekeeper" because the executive rode through Kansas in a private railroad car which contained liquor.

Carrie Nation dramatized the prevalence of the liquor establishments; consequently, as a result, the legislature passed a law which abolished liquor for medicinal purposes. The law brought in the bootleggers and provided a market for the liquor dealers just across the borders in neighboring states. It has often been said that the "wettest block" in the world at the time was one made up of saloons in Kansas City, Missouri, just across the line from dry Kansas.

But Kansans remained convinced that they could make people moral by statute, and between 1909 and 1917 the legislators passed other prohibitory legislation.

In 1917, Kansas adopted its famous "Bone Dry-Law." During national prohibition, Kansas was perhaps as wet as other states. Illicit stills were operated in virtually every county, and one brand of the "panther juice" became known as "Deep Shaft" because it was said to be manufactured in abandoned mines in Southeastern Kansas and became known all over the Middle West.

Kansas also refused to join the other states in repealing the 18th Amendment by ratifying the 21st Amendment to the United States Constitution. A referendum was submitted to the people of Kansas in 1934 to repeal its constitutional prohibition amendment of 1880; however, it was defeated by an overwhelming majority of some 90,000 votes.

During the Roosevelt administration of the 1930's, the Kansas legislature passed a law permitting the sale of 3.2 beer in the state. The lawmakers of Kansas were denounced for this action by the drys of the state.

The depression of the 1930's and early 1940's changed the social pattern in Kansas. Military camps sprang up with their trainees demanding liquor; migration of workers from rural to industrial areas increased the demand. Kansas soon

developed into a bootleggers' paradise.

A sincere effort was made during the war years to enforce prohibition laws in Kansas. The Alcohol Tax Unit of the United States, Internal Revenue Bureau, seized much of the illegal liquor and made scores of arrests. These raids set off a chain reaction which resulted in the 1948 referendum to repeal prohibition in Kansas. Reform was demanded by both the wets and drys. Perhaps, Edward F. Arn's enforcing the laws regardless of who got hurt after he was elected Attorney General of Kansas in 1946 was the most rigorous enforcement program launched that the state had ever known.

Of course, such an effort had its effect upon the liquor traffic. The open sale of liquor was curtailed, prices rose, and many people became nervous about carrying liquor in their cars or luggage. The whole state became very conscious of dry laws, but Arn found it almost impossible to dry up Kansas. As the Attorney General stated at the time that it would take one officer to every two hundred families to adequately enforce the prohibition laws. The records of Ellsworth County, for instance, show that the juries in too many cases did not convict violators; and when the sentences were pronounced, the penalties were very light. By this time, the wets had excellent ammunition. They compelled the legislature again to submit a repeal proposition

to the people. Both the prohibition people and the wets became active. The wets with Leo Mulloy of Wichita, one of the wettest cities in the state, chose excellent propaganda methods with pamphlets and leaflets reaching virtually every family listed in the telephone directories. The drys under the leadership of the aged Rev. Walker and many other speakers such as Willard Mayberry of Elkhart and the former athlete, Glenn Cunningham, along with the W. C. T. U. and national dry organizations took up the opposition to challenge Mulloy and the wets.

Feeling was tense as the election drew near. On Sunday before election, Protestant ministers preached sermons urging their congregations to oppose repeal. The Methodist and Baptist clergy presented a virtually united dry front; however, several Presbyterian, Congregationalists, Christian, and Episcopalian ministers maintained neutral ground and some even leaned toward repeal. The majority of Kansans had made up their minds.

The wet forces, of course, scored a smashing victory at the polls. Carrie Nation's own home county, Barber, had gone wet.

Many observers were of the opinion that youth was mostly responsible for the wet sweep according to an analysis of the vote. Pre-election polls indicated that veterans favored repeal

almost six to one. It is understandable that between 1934, the time of the last referendum vote on prohibition in Kansas, and 1948, that many of the old staunch dry voters had died.

The wets were jubilant and could see a new era for the state of Kansas. The state could use the revenue from tax. The bootleggers were to be forever abolished from the scene. A revolutionary action against prohibition swept over the Sunflower state in 1948.

County	Day	Nat	Marion
Allen	1,305	951	D- 344
Anderson	909	870	D- 39
Atchison	1,343	3,347	W-1,200
Barber	290	211	D- 7
Carton	490	1,058	D- 553
Cherokee	1,410	1,324	W- 554
Brown	1,347	1,288	W- 57
Butler	2,211	1,141	D-1,070
Chase	507	480	D- 83
Chautauqua	1,091	619	D- 233
Cherokee	1,421	1,944	D- 477
Clay	1,324	1,327	D- 283
Cloud	1,554	1,301	D- 191
Coffey	1,329	1,309	D- 181
Cowley	2,243	1,470	D-1,273
Crawford	1,055	1,459	D- 100
Davis	526	507	D- 21
Decatur	146	251	W- 105
Dickinson	1,477	1,222	D- 355
Doniphan	821	2,250	W-1,329
Douglas	2,711	1,603	D-1,109
Edwards	121	194	W- 73
Elk	1,212	504	D- 488
Ellis	358	461	W- 108
Ellsworth	611	781	W- 170
Ford	126	488	W- 353
Franklin	1,967	1,403	D- 671
Graham	207	358	W- 151
Greenwood	1,059	941	D- 118
Harper	424	316	D- 128
Harvey	1,148	858	D- 200
Hodgeman	147	65	D- 83
Jackson	1,038	1,028	W- 42
Jefferson	1,206	1,723	D- 417
Jewell	1,657	1,256	D- 301
Johnson	1,555	1,787	D- 242
Kingman	268	346	W- 81
Labette	2,082	2,123	W- 41
Leavenworth	1,486	3,882	W-2,396
Lincoln	613	713	W- 100
Linn	1,494	1,202	D- 262
Lyon	2,337	877	D-1,460
Marion	1,020	823	D- 191
Marshall	1,426	1,853	D- 425
McPherson	2,134	911	D-1,223
Miami	1,486	1,751	W- 293

APPENDIX

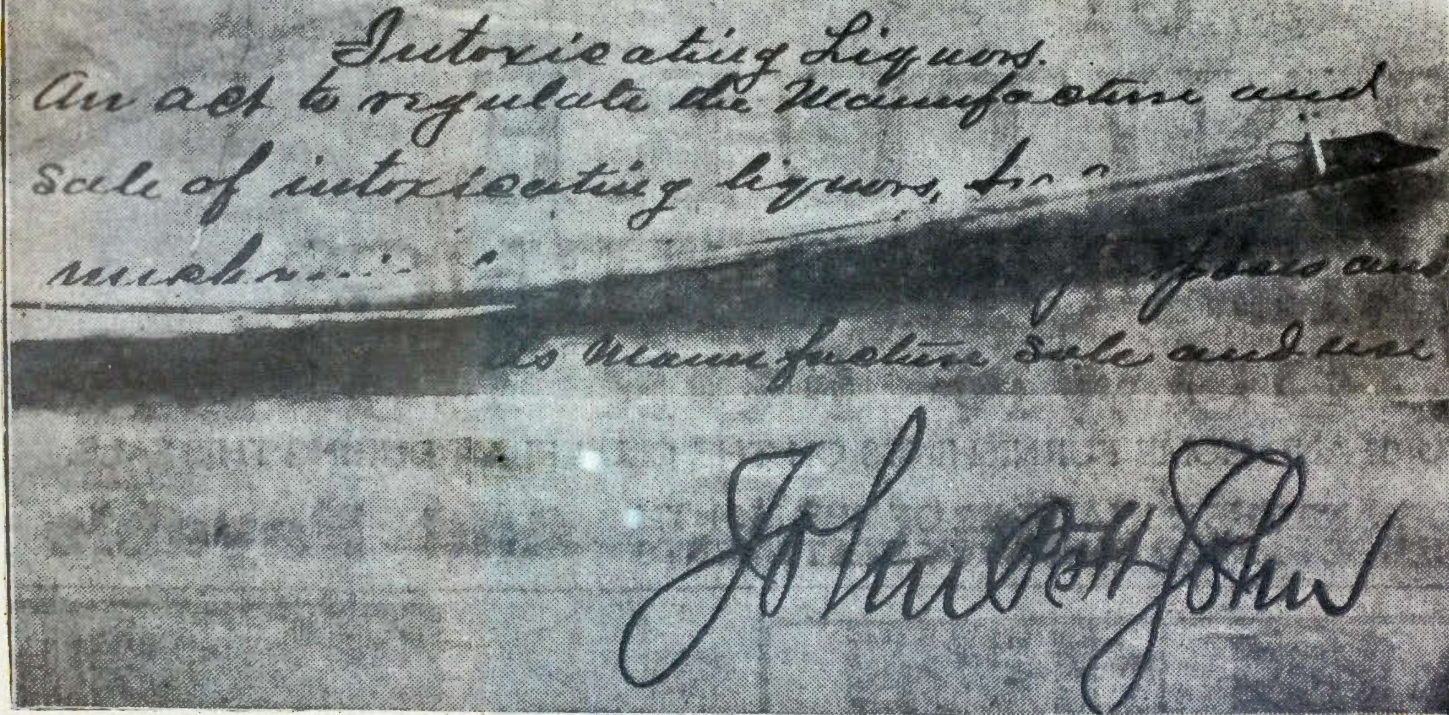
<u>County</u>	<u>Dry</u>	<u>Wet</u>	<u>Margin</u>
Allen	1,305	951	D- 344
Anderson	909	870	D- 39
Atchison	1,343	3,147	W-1,804
Barber	220	213	D- 7
Barton	490	1,058	W- 563
Bourbon	1,410	1,964	W- 554
Brown	1,345	1,288	W- 57
Butler	2,211	1,141	D-1,070
Chase	597	660	W- 63
Chautauqua	1,051	819	D- 233
Cherokee	2,421	1,944	D- 477
Clay	1,296	907	D- 389
Cloud	1,454	1,261	D- 193
Coffey	1,025	1,209	W- 184
Cowley	3,243	870	D-2,373
Crawford	1,655	1,469	D- 186
Davis	528	607	D- 21
Decatur	146	251	W- 105
Dickinson	1,477	1,222	D- 255
Donophan	821	2,150	W-1,329
Douglas	2,711	1,602	D-1,109
Edwards	121	194	W- 73
Elk	1,232	564	D- 668
Ellis	355	463	W- 108
Ellsworth	611	781	W- 170
Ford	125	488	W- 363
Franklin	1,967	1,293	D- 674
Graham	207	358	W- 151
Greenwood	1,059	941	D- 118
Harper	424	316	D- 108
Harvey	1,148	858	D- 290
Hodgemen	147	65	D- 82
Jackson	1,058	1,098	W- 42
Jefferson	1,306	1,723	W- 417
Jewell	1,557	1,256	D- 301
Johnson	1,545	1,787	W- 242
Kingman	265	346	W- 81
Labette	2,082	2,123	W- 41
Leavenworth	1,486	3,882	W-2,396
Lincoln	613	733	W- 120
Linn	1,494	1,292	D- 202
Lyon	2,337	877	D-1,460
Marion	1,020	823	D- 195
Marshall	1,428	1,853	W- 425
McPherson	2,134	912	D-1,922
Miami	1,488	1,751	W- 263

<u>County</u>	<u>Dry</u>	<u>Wet</u>	<u>Margin</u>
Mitchell	1,348	1,178	D- 170
Montgomery	1,939	1,250	D- 689
Morris	895	885	D- 10
Nemaha	1,213	1,185	D- 28
Neosho	1,528	1,164	D- 384
Ness	200	216	W- 16
Norton	575	491	D- 84
Osage	2,287	1,684	D- 583
Osborne	1,035	873	D- 162
Ottawa	1,173	835	D- 228
Pawnee	604	218	D- 336
Phillips	978	708	D- 270
Pottawatomie	1,549	1,475	D- 74
Pratt	151	142	D- 9
Reno	1,006	932	D- 74
Republic	1,330	919	D- 411
Rice	1,087	625	D- 462
Riley	1,178	828	D- 350
Rooks	503	696	W- 193
Rush	315	305	D- 10
Russell	443	655	W- 212
Saline	1,410	1,207	D- 203
Sedgwick	1,868	1,716	D- 152
Shawnee	3,159	2,513	D- 646
Sheridan	101	69	D- 32
Smith	1,274	851	D- 423
Stafford	393	301	D- 92
Sumner	2,394	1,202	D- 192
Trego	220	120	D- 100
Waubaussee	622	990	W- 268
Washington	1,112	1,610	W- 488
Wilson	1,487	1,069	D- 418
Woodson	748	530	D- 218
Wyandotte	1,222	2,481	W-1,259
Totals	92,302	84,304	D-7,988

The vote for the prohibition amendment in 1880 is shown by the table above. The column listed as "Dry" voted for the prohibition amendment. The column listed as "Wet" shows those who voted against the amendment. The margin is shown with "D" for a dry margin and "W" for a wet margin in each case. (Wichita Eagle, Oct. 21, 1934.)

<u>County</u>	<u>Dry</u>	<u>Wet</u>	<u>Margin</u>
Mitchell	1,348	1,178	D- 170
Montgomery	1,939	1,250	D- 689
Morris	895	885	D- 10
Nemaha	1,213	1,185	D- 28
Neosho	1,528	1,164	D- 384
Ness	200	216	W- 16
Norton	575	491	D- 84
Osage	2,287	1,684	D- 583
Osborne	1,035	873	D- 162
Ottawa	1,173	835	D- 228
Pawnee	604	218	D- 336
Phillips	978	708	D- 270
Pottawatomie	1,549	1,475	D- 74
Pratt	151	142	D- 9
Reno	1,006	932	D- 74
Republic	1,330	919	D- 411
Rice	1,087	625	D- 462
Riley	1,178	828	D- 350
Rooks	503	696	W- 193
Rush	315	305	D- 10
Russell	443	655	W- 212
Saline	1,410	1,207	D- 203
Sedgwick	1,868	1,716	D- 152
Shawnee	3,159	2,513	D- 646
Sheridan	101	69	D- 32
Smith	1,274	851	D- 423
Stafford	393	301	D- 92
Sumner	2,394	1,202	D- 192
Trego	220	120	D- 100
Waubaussee	622	990	W- 268
Washington	1,112	1,610	W- 488
Wilson	1,487	1,069	D- 418
Woodson	748	530	D- 218
Wyandotte	1,222	2,481	W-1,259
 	<hr/>	<hr/>	
Totals	92,302	84,304	D-7,988

The vote for the prohibition amendment in 1880 is shown by the table above. The column listed as "Dry" voted for the prohibition amendment. The column listed as "Wet" shows those who voted against the amendment. The margin is shown with "D" for a dry margin and "W" for a wet margin in each case. (Wichita Eagle, Oct. 21, 1934.)



Governor St. John's signature and the pen he used to sign the measure enacting constitutional prohibition in Kansas in 1880

Counties	For	Against
Allen	2,890	5,733
Anderson	2,332	3,796
Atchison	5,847	4,816
Barber	1,566	2,645
Barton	4,941	3,543
Bourbon	3,589	6,018
Brown	2,794	5,807
Butler	5,532	8,272
Chase	1,163	1,944
Chautauqua	1,515	2,673
Cherokee	5,855	5,308
Cheyenne	1,056	1,659
Clark	771	1,425
Clay	2,003	4,838
Cloud	3,815	4,387
Coffey	1,737	4,213
Comanche	655	1,554
Cowley	6,097	10,029
Crawford	10,883	8,087
Decatur	1,476	2,533
Dickinson	4,004	6,946
Doniphan	2,732	3,065
Douglas	3,896	7,034
Edwards	1,428	1,818
Elk	1,345	2,668
Ellis	4,293	1,592
Ellsworth	2,953	1,672
Finney	1,980	2,614
Ford	3,755	4,291
Franklin	3,077	7,035
Geary	2,719	2,165
Gove	888	1,554
Graham	1,295	2,084
Grant	479	698
Gray	924	1,327
Greeley	294	565
Greenwood	3,238	4,733
Hamilton	746	1,007
Harper	1,740	3,810
Harvey	3,204	5,825
Haskell	422	685
Hodgeman	774	1,168
Jackson	2,382	4,651
Jefferson	2,115	4,517
Jewell	1,437	5,847
Johnson	5,810	6,781
Kearney	462	834
Kingman	1,928	3,356
Kiowa	588	2,027
Labette	5,050	7,764
Lane	563	1,071
Leavenworth	10,758	4,491
Lincoln	1,847	2,393
Linn	1,733	4,493
Logan	733	1,262
Lyon	4,652	7,617
Marion	3,084	5,159
Marshall	4,774	5,646
McPherson	2,975	7,001
Meade	973	1,623
Miami	3,710	4,930
Mitchell	2,349	3,518
Montgomery	9,402	10,460
Morris	1,679	3,691
Morton	659	1,073

Nemaha	3,557	4,291
Neosho	3,676	6,152
Ness	1,169	2,070
Norton	1,817	3,412
Osage	2,834	5,541
Osborne	1,573	3,754
Ottawa	1,698	3,225
Pawnee	1,849	2,617
Phillips	1,712	3,786
Pottawatomie	3,333	3,949
Pratt	1,984	3,616
Rawlins	1,726	1,709
Reno	9,236	10,854
Republic	2,772	4,257
Rice	2,616	3,945
Riley	3,275	6,019
Rooks	1,566	2,837
Rush	1,965	2,003
Russell	2,438	2,266
Saline	6,433	5,944
Scott	720	1,039
Sedgwick	29,760	19,950
Seward	1,285	1,965
Shawnee	19,573	18,154
Sheridan	1,170	1,529
Sherman	1,361	1,876
Smith	1,680	4,712
Stafford	1,550	3,060
Stanton	312	711
Stevens	679	1,276
Sumner	3,851	7,465
Thomas	1,366	2,054
Trego	1,536	1,319
Wabaunsee	1,951	2,542
Wallace	560	752
Washington	3,229	4,838
Wichita	605	586
Wilson	2,858	5,003
Woodson	1,315	2,967
Wyandotte	32,688	18,702
Totals	347,644	436,688

The official complete county by county vote for repeal of Kansas' prohibition amendment in 1934 which was defeated.

Topeka Daily Capital, Nov. 29, 1948.



Wet counties in Kansas in 1933 (Wichita Eagle, Nov. 8, 1934)

County:	Yes	No
Allen	3,571	4,027
Anderson	2,163	2,077
Atchison	4,518	3,557
Barber	1,956	1,950
Barton	8,333	3,298
Bourbon	3,122	4,893
Brown	2,330	4,170
Butler	6,337	6,469
Chase	1,085	1,346
Chautauqua	1,295	1,866
Cherokee	4,586	4,260
Cheyenne	891	1,328
Clark	838	954
Clay	2,144	3,653
Cloud	3,809	3,254
Coffey	1,844	2,920
Comanche	585	1,158
Cowley	6,955	8,637
Crawford	10,728	6,817
Decatur	1,272	1,071
Dickinson	4,888	4,926
Douglas	1,563	2,502
Douglas	7,519	6,851
Edwards	1,464	1,364
Elk	1,285	1,811
Ellis	5,547	1,245
Ellsworth	2,917	1,090
Finney	2,947	2,053
Ford	5,261	3,374
Franklin	3,384	5,529
Geary	3,824	2,000
Gove	1,063	822
Graham	1,162	1,191
Grant	705	619
Gray	920	980
Greeley	330	405
Greenwood	2,885	3,235
Hamilton	678	804
Harper	1,662	2,305
Harvey	3,690	5,411
Haskell	454	620
Hodgeman	689	861
Jackson	1,977	3,079
Jefferson	2,122	3,000
Jewell	1,359	3,546
Johnson	13,797	8,546
Kearney	642	372
Kingman	2,142	2,364
Kiowa	700	1,467
Labette	6,541	5,945
Lane	658	649
Leavenworth	9,511	5,354
Lincoln	1,839	1,449
Linn	1,404	2,721
Logan	848	829
Lyon	6,326	5,598
Marion	2,776	4,535
Marshall	4,465	3,859
McPherson	4,304	6,120
Meade	985	1,385
Miami	3,730	3,362
Mitchell	2,359	2,434
Montgomery	10,497	9,138
Morris	1,750	2,225
Morton	542	653
Nemaha	3,625	2,693
Neosho	4,260	4,519
Ness	1450	1,500
Norton	1,692	2,314
Osage	2,518	3,625
Osborne	1,671	2,468
Ottawa	1,632	2,066
Pawnee	2,045	2,183

Phillips	1,593	2,567
Potawatonic	3,382	2,456
Pratt	2,732	2,921
Rawlins	1,411	1,665
Reno	11,000	10,038
Republic	2,427	3,094
Rice	3,467	3,504
Riley	7,368	6,140
Rooks	2,007	1,851
Rush	1,966	1,352
Russell	3,984	1,549
Sallie	9,654	5,210
Scott	928	872
Sedgwick	40,974	29,508
Seward	1,771	1,756
Shawnee	28,378	16,636
Sheridan	1,123	862
Sherman	1,343	1,371
Smith	1,585	2,947
Stafford	1,880	2,465
Stanton	289	445
Stevens	734	795
Sumner	4,587	6,091
Thomas	1,659	1,366
Trego	1,531	837
Wabunsee	1,870	1,737
Wallace	452	602
Washington	2,730	3,054
Wichita	604	465
Wilson	2,979	3,565
Woodson	1,225	1,966
Wyandotte	41,619	21,590
Total	422,294	358,310

The official complete county
by county vote for repeal of
Kansas' constitutional prohibi-
tion in 1948

Wichita Beacon, November 27, 1948

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