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Morality Legislation in North Dakota, 1920-1954

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MORALITY LEGISLATION IN NORTH DAKOTA, 1920-1954

by

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B.A. in History, St. John's University 1964

A Thesis

Submitted to the Faculty

of the

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in partial fulfillment of the requirements

for the Degree of

Master of Arts

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This thesis submitted by Jerome M. Petry in partial fulfillment of the requirements for the Degree of Master of Arts in the University of North Dakota is hereby approved by the Committee under whom the work has been done.

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ABSTRACT

From 1920 to 1954 morality legislation was a mutual concern for many of the state's voters and legislators. Liquor control and prohibition were the most conspicuous moral issues to face the legislature and the electorate, but other measures to regulate Sunday movies and baseball, smoking, and dancing were introduced. It is the purpose of this study to define these measures and to try to determine selected social and cultural traits of the defenders and opponents of morality legislation.

Since North Dakota's electorate had a direct voice in the legislative process through the use of the initiative and referendum, it was possible to examine the votes for and against morality legislation which appeared as referred or initiated measures. An examination of the state's fifty-three counties revealed that voters in some counties consistently accepted or rejected morality legislation. Religious and ethnic compositions of eight of these counties were compared to determine any differences in the acceptance or rejection of morality legislation among religious or ethnic groups. Four additional counties which contained the state's four largest cities were selected to determine any differences between the reactions of urban and rural voters to morality legislation. The ethnic, religious, urban, and

rural variables which characterized the sample counties provided a gauge to compare votes on morality legislation.

The study revealed that Norwegians, most of whom were Lutherans, tended to favor prohibition and other morality legislation, while German-Russians, most of whom were Roman Catholics, tended to oppose morality legislation. The study also indicated that a greater percentage of rural voters, rather than urban voters, approved morality legislation. Thus, it appeared that North Dakota voters approved morality legislation when there was an important traditional, religious, or social sanction against the use of intoxicants or other activities which were considered immoral.

CHAPTER I

INTRODUCTION

Describing changes in a society from one period to another is a complex and intricate process. A description of changes in manners and morals from one decade to another will certainly invite over-simplification and exaggerations. But a society does change; and the changes in manners and morals during a period of two world wars and the economic depression of the 1930's make it relevant to attempt to analyze any differences in attitudes toward protecting public morality.

Just as Americans as a whole reacted to the changing world of the period from World War I to the middle of the century, new patterns of morals and manners challenged North Dakotans. But the attitude of many North Dakotans, sometimes a majority of them, was to resist changes in what they considered to be the established moral code. By examining the attempts of North Dakotans to protect public morality through legislation against alcoholic beverages, cigarettes, dancing, Sabbath-breaking, Sunday movies and baseball, the votes and arguments for and against morality legislation may reveal the continuity and changes of the state's attitude toward protecting her citizens' morals.

In the period from 1889 to 1914, North Dakota's first

twenty-five years of statehood, the state's legislators made a significant effort to protect public morality. Mariellen MacDonald Neudeck, who has researched North Dakota's morality legislation from 1889 to 1914, found that legislators introduced 147 bills concerned with protecting morals. Thus, over twelve bills per legislative session attempted to regulate drinking, smoking, gambling, divorce, profanity, and Sabbath-breaking.¹

From 1920 to 1954, the scope of this study, morality legislation continued to be a mutual concern for many of the state's voters and legislators. Liquor control was the most conspicuous moral issue to face the legislature and the voters, but other bills to direct public morals also continued to be introduced. It is the purpose of this study to define these measures and to try to determine selected social and cultural traits of the defenders and opponents of morality legislation. Such a study is relevant not only for a better understanding of North Dakota's continuous concern for legislating public morality, but also because morality legislation has been a part of America's past since the famous blue laws of Colonial America.

In her study of morality legislation in early North Dakota, Neudeck found that statutory regulation of morality

¹Mariellen MacDonald Neudeck, "Morality Legislation in Early North Dakota, 1889-1914" (unpublished Master's thesis, Department of History, University of North Dakota, 1964).

appeared in the state a decade before similar laws began to appear throughout the nation during the Progressive Movement (1900-1920).² Progressives believed that economic, social, political, and moral evils could be eliminated if the people could directly control them through legislation and regulation. Regulation of trusts, clean municipal government, woman suffrage, prohibition, eradication of slums, and other social reforms were all a part of the progressive program. The progressives' idealism, however, often led some of them to make their appeals for reform on moral grounds.³

Reformers of the progressive era also tried to make governmental processes more democratic. To prevent privileged interests from dominating state legislative bodies and to guard against unrepresentative government, some state governments adopted the initiative and referendum. North Dakota adopted the initiative and referendum in 1914 and amended their provisions in 1918 to give the electorate more authority to determine the state's constitution and statutes.⁴

²Ibid., pp. 4, 8.

³Richard Hofstadter, The Age of Reform (New York: Vintage Books, 1955), chaps. iv-vi.

⁴North Dakota, Constitution, Art. 2, sec. 25, amended by Art. 15, adopted Nov. 3, 1914, and Art. 26, adopted Jan. 20, 1919; Alfred Bandza, "An Analysis of the Electoral Response to the Initiative and Referendum in North Dakota, 1918-1960" (unpublished Master's thesis, Department of Political Science, University of North Dakota, 1963), pp. 3-8.

For the period from 1920 to 1954, North Dakota's initiative and referendum devices were classified into four categories: (1) statutory initiative; (2) statutory referendum; (3) constitutional initiative; and (4) constitutional referendum. The most frequently used device to submit morality legislation was the statutory initiative. This process enabled the electorate, by petitioning, to propose a statutory law and approve or reject it at a subsequent election. Thus, it enabled the electorate to originate and decide measures which the legislature, apparently, was unwilling to enact. The constitutional initiative method permitted a proportion of the electorate to petition for a constitutional amendment and to approve or reject it at an election. The statutory referendum enabled the voters, through a petitioning process, to force an election to approve or repeal a statutory law which the legislature had enacted. The constitutional referendum provided for submission to the electorate of a constitutional amendment proposed and passed by the legislature.⁵

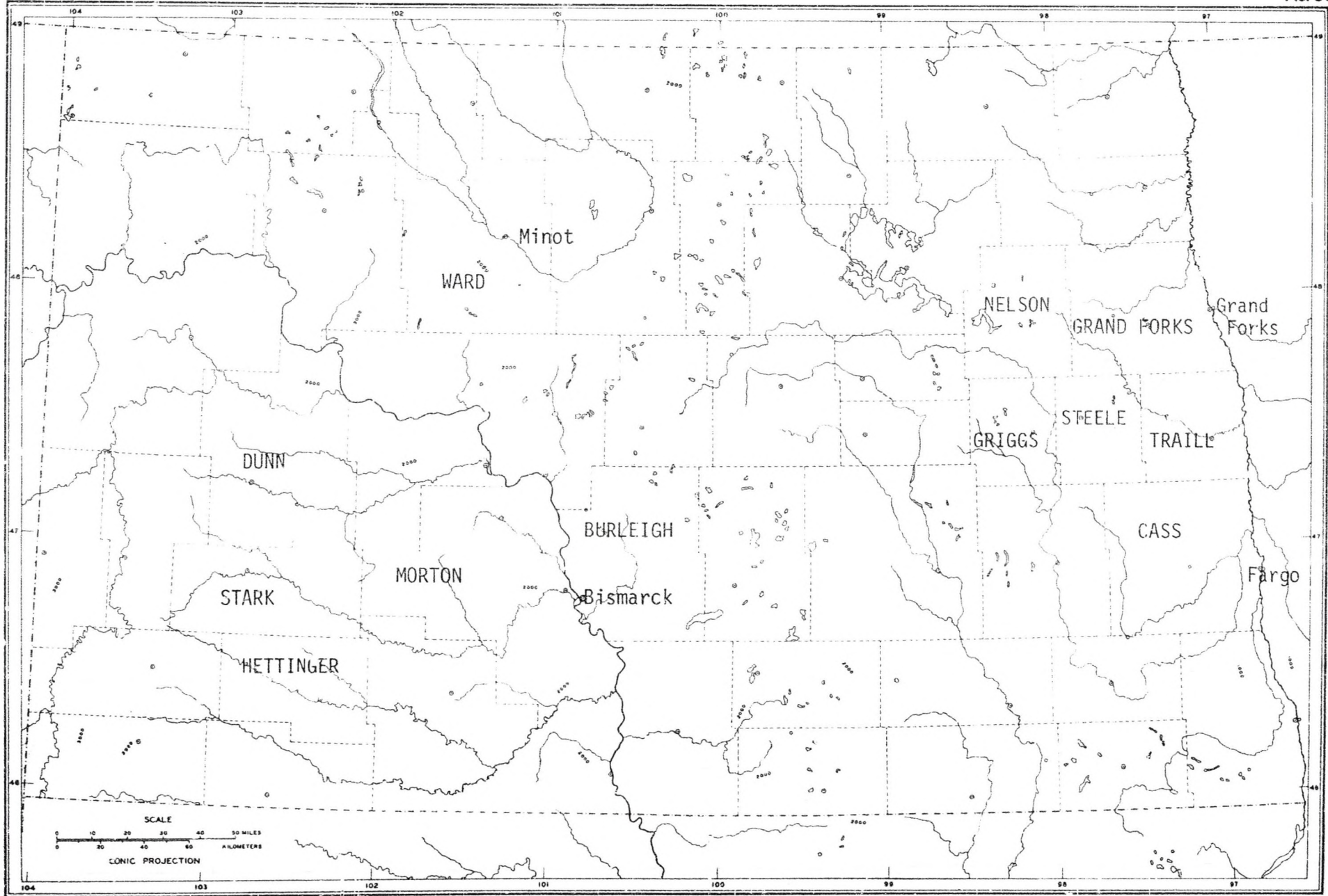
With North Dakota's electorate gaining a direct voice in the legislative process, it is possible to study voter reaction to morality legislation by analyzing the issues and the votes supporting or opposing the measures. Between

⁵North Dakota, Constitution, Art. 2, sec. 25; Bandza, pp. 3-8.

1920 and 1954, twenty-eight initiated and referred proposals concerning alcoholic beverages, cigarettes, dancing, and Sunday baseball and movies reached the electorate. These measures form the basis of this study.

An examination of the state's fifty-three counties revealed that voters in some counties consistently accepted or rejected morality legislation. Griggs, Nelson, Steele, and Traill counties had a high percentage of voters who favored morality legislation. Dunn, Hettinger, Morton, and Stark counties consistently rejected morality legislation. Throughout this study, these eight counties will be referred to as sample counties. The study includes comparisons of religious and ethnic compositions of these eight sample counties to determine any differences in the acceptance or rejection of morality legislation among religious and ethnic groups. Four additional sample counties will be used to determine if there was a difference between the reactions of urban and rural voters to morality legislation. Thus, this study includes an analysis of urban and rural votes in four counties--Burleigh, Cass, Grand Forks, and Ward---in which cities had more than one half of each county's population.

Since this study relies upon the votes of these counties to determine popular support for morality legislation, a brief description of the ethnic, religious, and urban-rural characteristics of the sample counties is necessary. Comparisons of these social



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and cultural variables may help to indicate the extent to which ethnic heritage, religion, and urban-rural differences influenced attitudes toward morality legislation.

Examinations of the United States census reports of population and religious bodies from 1920 to 1950 revealed that ethnic and religious compositions of the sample counties differed little during this period. Rural populations of the state and the sample counties remained static or declined from 1920 to 1950, while the state's four largest cities-- Fargo, Grand Forks, Minot, and Bismarck--steadily gained population during these same thirty years.⁶

The exact ethnic compositions of the sample counties could not be determined beyond 1930 because the 1940 and 1950 censuses did not report the country of birth of the parents of those who had at least one foreign born parent. The ethnic compositions of the rural population may be adequately defined, however, when it is understood that the rural populations of the state and sample counties remained static or declined. North Dakota's total population decreased from 646,872 in 1920 to 619,636 in 1950. This decrease indicated that many people left the state. For example, the state's 5.3 per cent increase between 1920 and 1930 represented only about one-third of the state's excess of

⁶See Appendix III, p. 102.

births over deaths. Moreover, the loss of population by out-migration during the 1950's was double the loss of the previous decade.⁷ Granting that some people moved to North Dakota and that some of the rural population moved to the state's larger cities, it may still be assumed that the same ethnic groups that formed the sample counties before 1930 were similar to those residing there in the following decades. Many left their farms and small towns, but few new people took their places. Thus, the 1930 census report of the ethnic make-up of the sample counties served as a guideline for the remaining years of this study.⁸

Four of the sample counties--Griggs, Nelson, Steele, and Traill--were made up of Norwegians and other Scandinavian people. In Dunn, Hettinger, Morton, and Stark counties the largest ethnic group consisted of those of German-Russian descent.⁹

The dominant religious group in each county was another important factor in the study of attitudes toward morality legislation. Just as schools were the chief

⁷Elwyn B. Robinson, History of North Dakota (Lincoln: University of Nebraska Press, 1966), pp. 378-379, 401, 443-444.

⁸See Appendix I, p. 100.

⁹Ibid. "German-Russian" is a term applied to Germans who had migrated to Russia in the eighteenth century and who eventually came to the United States. The German-Russians retained their German language and loyalties while in Russia. When they came to the United States in the late nineteenth and early twentieth centuries, they were still "Germans" rather than Russians.

social institutions for the young, churches served as the chief social institutions for many of North Dakota's adults. Ethnic origins of the population affected the denominations of North Dakota's churches. Scandinavians and Germans settled North Dakota; most Scandinavians were Lutherans and most of the Germans in the sample counties were Roman Catholics.¹⁰

Church membership in North Dakota grew rapidly between 1916 and 1950. In these same years, the state's population decreased, but church membership rose from 225,000 to 390,000. In 1950, 63 per cent of the state's total population were church members compared to only 49 per cent for the United States. There were 96,000 (42 per cent) Catholics and 76,000 (34 per cent) Lutherans in 1916. Lutheran synods grew rapidly between 1916 and 1926, but in the next decade only the Catholic Church had much growth. After World War II the Lutherans had an absolute and proportional increase in church membership. By the fifties, Catholics totaled only 35 per cent of the church members, while 46 per cent were Lutherans.¹¹

¹⁰Robinson, pp. 536-537. Also see Appendices I, II.

¹¹U.S., Bureau of the Census, Religious Bodies: 1916, Vol. I, Table 63, pp. 295-296; Religious Bodies: 1926, Vol. I, Table 32, pp. 654-655; Religious Bodies: 1936, Vol. I, Table 32, pp. 797-798; National Council of Churches, Churches and Church Membership in the United States: An Enumeration and Analysis by Counties, State, and Region, Series C, No. 25 (New York: National Council of Churches, 1957), Tables 59 and 60. Robinson, pp. 536-546. See Appendix II, p. 101.

While most Lutherans in the sample counties were members of the Norwegian Evangelical Church,¹² all Lutherans were classified together in this study. In Griggs, Nelson, Steele, and Traill counties, for example, about 80 per cent or more of the Lutherans were Norwegian Lutherans. In Dunn, Hettinger, Morton, and Stark counties, about half of the Lutherans were Norwegian Lutherans. There was only a small percentage of Presbyterians, Methodists, Congregationalists, Episcopalians, and Baptists in the state and in the sample counties.¹³

Griggs, Nelson, Steele, and Traill counties were overwhelmingly Lutheran during the period of this study. In each county, Lutherans averaged between 75 and 80 per cent of the total number of church members. In Dunn, Hettinger, Morton, and Stark counties, Catholics predominated. In the most Catholic county, Stark, Catholics averaged 81 per cent of the church membership. Morton County averaged 64 per cent, while about 60 per cent were Catholics in Dunn and Hettinger counties.¹⁴

While the increases in urban population over the rural population in some of the state's counties, it was necessary in this study to compare urban and rural votes in counties

¹²The three Norwegian Lutheran synods in the United States formed the Norwegian Evangelical Lutheran Church of America in 1917. In 1946 "Norwegian" was dropped from its name.

¹³Religious Bodies: 1916, pp. 295-296; Religious Bodies: 1926, pp. 654-655; Religious Bodies: 1936, pp. 797-798; National Council of Churches, Tables 59-60.

¹⁴See Appendix II, p. 101.

in which the urban population was equal to or greater than the rural population. In this way, it was possible to indicate differences between urban and rural attitudes toward morality legislation.

North Dakota was a rural state throughout the years of this study. In 1920, 86 per cent of the state's population lived on farms or in towns smaller than 2,500. By 1950 nearly three-fourths of the state's population was still rural. Between 1920 and 1950 about 65 per cent of the urban population was in the state's four largest cities-- Fargo, Grand Forks, Minot, and Bismarck.¹⁵

Fargo accounted for slightly over half of Cass County's population in 1920 and 59 per cent in 1950. Fargo's population increased to 65 per cent of the county's total by 1950, while the rural population remained static. The city of Grand Forks also held half of Grand Forks County's total population in 1920. The rural population declined from 1920 to 1950, while the city's population increased 12,800. By 1950 Grand Forks' population was 68 per cent of the county's total. Likewise, Minot grew from 10,500 to 22,000 in three decades, while Ward County's rural population decreased from 18,300 to 12,800. Bismarck's population was slightly less than half of Burleigh County's population in 1920,

¹⁵U.S. Bureau of the Census, Fourteenth Census of the United States: 1920, Vol. III; Fifteenth Census: 1930, III, Pt. 2; Sixteenth Census: 1940, II, Pt. 5; Seventeenth Census: 1950, II, Pt. 34.

but by 1930 the city contained 56 per cent of the county's total. During the next twenty years, the rural population remained static in Burleigh County while Bismarck's population increased 9,500.¹⁶

Morton and Stark counties also had "urban" areas, but the populations of these cities--Mandan and Dickinson--neither exceeded 8,000 nor did either city hold over half of its county's total. This study, therefore, excludes an analysis of urban and rural votes in Morton and Stark counties.

These ethnic, religious, urban, and rural variables which characterized the sample counties provided a gauge to compare votes on initiated and referred morality legislation. Thus, the attitudes of Scandinavians and Germans, Lutherans and Catholics, and urban and rural populations will be compared in the following chapters.

¹⁶See Appendix III, p. 102.

CHAPTER II

LEGISLATION TO PROTECT THE SABBATH

Sabbath laws had deep roots in North Dakota. Both tradition and practice reminded many of the states citizens to "Keep Holy the Lord's Day." To keep Sunday a day of rest, the penal code of Dakota Territory provided penalties for Sabbath-breaking. After becoming a state, North Dakota retained the territorial penalties for Sabbath-breaking. Sabbath-breaking meant servile labor, public sports, retail and wholesale selling, employment in trades, and manufacturing and mechanical occupations. The State imposed a one dollar fine for each offense.¹ Between 1890 and 1914 legislators attempted to increase the penalties to \$25 or to impose imprisonment from two to five days for each offense. Representatives from the Norwegian-Lutheran counties of eastern North Dakota--Griggs, Nelson, Steele, and Traill--introduced many of the bills.²

The first relaxation of the state's Sabbath laws came in 1920 when voters approved an initiated measure

¹Dakota Territory, Compiled Laws (1887), secs. 6238-6250. North Dakota, Compiled Laws (1913), secs. 9231-9249.

²Neudeck, pp. 85-87.

to allow professional and amateur baseball games on Sundays.³ There were restrictions, however. Baseball games could not interfere with "the peace, repose, and comfort of the community."⁴ To ensure that baseball would not interfere with Sunday worship, the law restricted games to areas which were at least 500 feet from a church. Likewise, it permitted baseball games only in the afternoon between one and six o'clock.⁵

Proponents of the measure, such as the Young Men's Independent League of Fargo (a group within the Fargo Young Men's Christian Association), argued that Sunday baseball was neither immoral nor a commercialization of the Sabbath if games did not interfere with worship services. Baseball was merely a form of recreation and entertainment, they said, and the state's enforcement of the laws prohibiting Sunday baseball was lax. Without

³This was one of four measures initiated by the American Legion for the March 1920 presidential preference primary election. A measure to permit Sunday movies is discussed on pp. 16-22. The measure to legalize the sale of cigarettes is discussed in Chapter III. The other measure was to authorize boxing and to establish a state athletic commission. This measure was defeated 27,677 to 22,712. It was approved by voters in Dunn, Stark, and Morton counties. Each of the state's four largest cities approved it, while rural voters rejected it. In 1935 the state legislature legalized boxing. See Appendix IV, Table 1, p. 104.

⁴North Dakota, Session Laws (1921), p. 253.

⁵Ibid.

Sunday baseball, said some of the proponents, North Dakota could not maintain semi-professional baseball. The larger crowds attending games on Sundays provided the revenue to pay for occasional weekday games. It was not a matter of Sunday baseball, they said, but rather it was a question of whether North Dakota was to have semi-professional baseball at all.⁶ A group called the Home Defenders, the Women's Christian Temperance Union, and some clergymen opposed Sunday baseball because some players received pay and admissions were charged. This, they claimed, was commercialization of the Sabbath even if the games did not interfere with Sunday worship.⁷

Voters approved the measure to permit Sunday baseball 26,681 to 24,885. Each of the state's four largest cities approved it by comfortable margins, while the rural voters in Cass, Grand Forks, and Ward counties rejected it by smaller margins. Dunn, Hettinger, Morton, and Stark counties also returned a majority vote for Sunday baseball. Traill and Steele voted two to one

⁶Fargo Forum, March 4, 1920, p. 4; March 10, 1920, p. 2, cited by Bandza. Grand Forks Herald, March 6, 1920, cited by Albert G. Selke, "A History of the Initiative in North Dakota" (unpublished Master's thesis, Department of Political Science, University of North Dakota, 1940).

⁷Grand Forks Herald, March 6, 1920, p. 4.

against, while Griggs and Nelson counties disapproved by lesser margins. The plurality of votes for baseball in Fargo, Grand Forks, Minot, and Bismarck equaled 94 per cent of the state's plurality approving Sunday baseball.⁸

In 1951 the Senate passed 35 to 10 a bill to permit baseball games on Sundays after 6:00 P.M. Opposition to the bill came from scattered districts with only one urban vote against it. But the House voted 73 to 37 against the Senate's attempt to nibble away the Sabbath laws.⁹ A similar bill to permit Sunday night baseball and other sports received a majority vote in the 1953 House. Lacking a constitutional majority, however, the bill failed.¹⁰ Finally in 1955, Sunday night baseball became legal if it was conducted in an orderly manner more than 500 feet from a church edifice.¹¹

While Sunday baseball became legal in 1920, theaters were closed on Sundays until 1934. In 1911 the legislature first prohibited the operation of theaters on

⁸See Appendix IV, Table 1, p. 104.

⁹North Dakota, Journal of the Senate of the Thirty-second Session of the Legislative Assembly, 1951, Senate Bill 110, p. 193; North Dakota, Journal of the House of the Thirty-second Session of the Legislative Assembly, 1951, pp. 700-702; Fargo Forum, Jan. 26, 1951, p. 1.

¹⁰House Journal, 1953, HB 611, p. 412.

¹¹Session Laws (1955), c. 123.

Sunday. Since theaters in the state scheduled motion pictures, the law therefore banned Sunday movies.¹² By 1920, when motion pictures had become a popular form of entertainment in the state, agitation for repeal of the ban on Sunday movies increased. In that year the American Legion initiated a measure to permit Sunday movies, but it failed to receive a majority vote. Proposals for Sunday movies reappeared in 1930, 1933, and 1934, but the campaigns in each election were similar.

Traditional reverence for the Sabbath was the source of the opposition to Sunday movies. "The Moving Picture Menace," as some called the film industry, was not content with six days a week to pollute the minds of the youth. What should have been one of the most constructive industries was called one of the most destructive for its attempts to ply its "ungodly trade" on the Sabbath.¹³ "No more disgraceful attack was ever made on the morals and conscience of the people of North Dakota," said a Minot pastor, than the movie industry's attempt to steal North Dakota's day of rest.¹⁴

Proponents of the state's blue laws urged strength-

¹²Session Laws (1911), c. 285.

¹³Grand Forks Herald, June 15, 1930, p. 20; June 22, 1930, p. 2; Sept. 22, 1933, p. 1.

¹⁴Minot Daily News, March 1, 1920, p. 1.

ening the moral and Christian foundations rather than undermining them. Sunday movies and baseball, they thought, would deteriorate the moral fibre of the people. "Holy Day or Holiday" seemed to be the only alternatives for the protectors of the Sabbath. For these people, a commercialized Sunday could not be a holy Sunday. Once theaters began to operate on Sundays, other businesses would follow their example, they said, and North Dakota would become a "wide-open" state on Sunday.¹⁵

Theater owners, of course, and those favoring repeal of the state's blue laws contended that showing movies on Sunday was not a question of morality. Sunday movies were a question of individual freedom--those who wanted to attend a movie on Sunday should not be inhibited by those who said Sunday movies were immoral.¹⁶ Movie interests were quick to suggest that the fact that movies shown on Sunday made them no more morally wrong than if theaters showed them on the other six days. Likewise, movies were intended for recreation and most of them were educational and taught a moral lesson, they said. Moreover, gasoline stations, restaurants, and golf courses operated on Sunday, so movies would not be the only

¹⁵Grand Forks Herald, Feb. 22, 1920, pp. 1, 4; Fargo Forum, March 9, 1920, p. 8.

¹⁶Grand Forks Herald, June 22, 1930, p. 23.

commercialization of the Sabbath. The recreational and educational benefits of movies, they argued, more than offset any charge of commercialization.¹⁷

The Grand Forks Herald, as early as the 1920 campaign, suggested that people went to movies to be entertained. No matter which day of the week people attended movies, no one could convert the theater into a classroom.¹⁸ The Herald made no recommendations for the voters during the next two campaigns, but in 1934 it told voters that the ban on Sunday movies discriminated against some North Dakotans. Since states on North Dakota's borders permitted Sunday movies, the people living near the state's borders could attend movies outside the state. But the law prohibiting Sunday movies, said the Herald, treated unfairly those North Dakotans who had no car or lived too far from other states. At the same time, the Herald's policy was to let the legislature argue the merits of Sunday movies rather than to waste the time and money of the electorate on repeated initiated measures.¹⁹

The first initiated measure to permit Sunday movies appeared on the same ballot as the measure to permit

¹⁷Ibid., June 14, 1930, p. 3; Minot Daily News, June 13, 1930, p. 4.

¹⁸Grand Forks Herald, Feb. 27, 1920, p. 4.

¹⁹Ibid., Nov. 4, 1934, p. 1.

Sunday baseball. Women were ineligible to vote, and a March blizzard prevented many rural voters from reaching the polls. Those who were able to vote disapproved Sunday movies 27,363 to 23,522. Each of the four largest cities favored the measure, but rural voters in Cass, Grand Forks, and Ward counties rejected it. Rural Burleigh County voters accepted the measure by less than eight per cent of the county's total rural vote. Griggs, Nelson, Steele, Traill, and Hettinger counties each voted to retain the ban on Sunday movies, while Dunn, Morton, and Stark counties approved Sunday movies.²⁰

The Sunday movies measure failed again at the 1930 primary election by less than seven per cent of the total vote. In 1933 a similar measure lost by a margin of only .48 per cent of the total vote. When voters finally approved Sunday movies in November 1934, the measure passed by only a .61 per cent margin of the total vote. In each of the last three elections, Griggs, Steele, and Traill counties voted two to one against Sunday movies, while Nelson County voted against movies by a smaller margin. Dunn, Hettinger, Morton, and Stark voted for Sunday movies at each election. Cities in general eventually approved the measure. In 1930 Bismarck was the only city to approve Sunday movies; in 1933 only Fargo disapproved. Rural

²⁰See Appendix IV, Table 1, p.104.

voters in Cass, Grand Forks, and Ward counties continued to vote against Sunday movies although rural Burleigh County continued to vote as Bismarck.²¹

Other attempts to repeal Sunday observance laws failed, however. Three bills sponsored by W.E. Matthaei of Wells County failed to become law during the 1933 legislative session. The first bill would have repealed the statutes prohibiting servile labor on Sundays. The effect of the bill, however, was to repeal all Sunday legislation, for the bill repealed all of the punishments for Sabbath-breaking.²² The second bill would have repealed prohibitions against Sunday sports and dances, while the third permitted Sunday movies.²³ Each of the three bills met indefinite postponement in the Senate.

In 1945 the Senate passed a bill to legalize Sunday sports, circuses, carnivals, and horse racing. This time the House killed the bill with an indefinite postponement.²⁴ A House bill to permit rodeos and horse shows for profit or

²¹Ibid.

²²Senate Journal, 1933, SB 108, p. 522; Fargo Forum, Jan. 21, 1933, p. 1.

²³Senate Journal, 1933, SB 109, p. 520; SB 110, pp. 695-696; Fargo Forum, Jan. 21, 1933, p. 1.

²⁴Senate Journal, 1945, SB 108, pp. 204-205; House Journal, 1945, p. 418; Fargo Forum, Feb. 1, 1945, p. 4.

otherwise on Sunday afternoons was indefinitely postponed in 1947.²⁵ A similar bill met the same fate in 1951.²⁶

All of the state's Sabbath laws restricted commerce and amusements because the acts were performed on Sunday, not because the acts or articles of commerce were inherently immoral. Attempts to censor movies failed, but four elections were required to legalize Sunday movies. Few people considered baseball immoral, but it was illegal to play baseball in North Dakota on Sunday after 6:00 P.M. until 1955. Thus, Sunday morning, at least, remained sacred in the state. While some amusements and sports became legal on Sunday between 1920 and 1955, Sunday in North Dakota remained noticeably different from other days of the week.

²⁵House Journal, 1947, HB 131, p. 615; Fargo Forum, Jan. 25, 1947, p. 2.

²⁶House Journal, 1951, HB 771, p. 558.

CHAPTER III

ANTI-CIGARETTE LEGISLATION

While the "immorality" connected with smoking cigarettes was less clear than the "immorality" of breaking the Sabbath or drinking alcoholic beverages, many North Dakotans considered smoking to be morally wrong. Many believed that tobacco products, as liquor, were evils that could be eliminated by legislation. Smoking was both degrading and unhealthful according to some legislators and citizens. Of equal importance in the legislation to ban cigarettes was the intention to make North Dakota a better place to raise the new generations of children. To ensure the protection of the youth, the first anti-cigarette bill introduced in the North Dakota legislature was to prohibit the sale of cigarettes to minors.¹ In 1895 the legislature outlawed the sale of cigarettes to anyone in the state.²

The Woman's Christian Temperance Union's lobby and other anti-cigarette strength in the 1919 legislative

¹Session Laws (1890), c. 195.

²Session Laws (1895), cc. 31-32.

assembly is said to have prevented repeal of the cigarette statutes.³ But the first and only initiated measure concerning cigarettes reached the voters at the 1920 presidential preference primary. The measure, initiated by the American Legion, would have legalized the sale of cigarettes to adults over twenty-one years of age. The Legion said its interest in the campaign ended with the initiation of the measure. The Young Men's Independent League, a group within the Fargo Young Men's Christian Association, campaigned for the sale of cigarettes.⁴

Opposition to the cigarette bill came from some of the Protestant clergy, youth groups, and the Home Defenders. The Home Defenders, a group formed to protect the family and home from disruptive influences such as liquor and tobacco, opposed the sale of cigarettes because of the improper ideals it would place before the youth. The legal sale of cigarettes, they said, would eventually lead to sales to minors. They declared that cigarettes would stunt the physical and mental growth of the state's youth and turn them into moral delinquents.⁵ The Hi-Y, a group of younger members of the YMCA-YWCA, opposed the

³Selke, p. 29, citing interview with O.B. Burtness (n. d.).

⁴Fargo Forum, March 10, 1920, p. 2; March 4, 1920, p. 4.

⁵Selke, p. 31.

sale of cigarettes because they said their club represented "clean speech, clean sports, and clean living," and they promoted these ideals for the school and the community.⁶

Women voters were not eligible to vote on the measure, but the WCTU, YMCA, and women's clubs arranged meetings to arouse sentiment against the sale of cigarettes. What influence wives exerted on their husbands at home can only be surmised. Leading the state's youth to form good habits, however, concerned many women in North Dakota.⁷

Voters refused to legalize the sale of cigarettes 27,212 to 24,152. Griggs, Nelson, Steele, and Traill counties voted against cigarettes two to one; Hettinger County opposed cigarettes by four per cent of its vote. Voters in Dunn, Morton, and Stark counties approved the sale of cigarettes by comfortable majorities. Bismarck, Fargo, Grand Forks, and Minot each favored the sale of cigarettes, while rural voters in the counties voted to continue the ban on legal sales.⁸

The "mandate" from the people to continue the restrictions on cigarettes produced two more laws in the 1921 session of the legislature. A bill to prohibit smoking cigars, cigarettes, or pipes in dining rooms of

⁶Grand Forks Herald, March 7, 1920, p. 11.

⁷Fargo Forum, March 9, 1920, p. 8; March 10, 1920, p. 2.

⁸See Appendix IV, Table 2, p. 105.

hotels, cafes, or any public eating place serving both men and women passed both houses easily. Supporters of the bill did not fear any bad effect the law might have on strangers and travelers in the state. The purpose of the law was to ensure respect for ladies and to establish a good influence upon children in the state, not to inconvenience outsiders.⁹

The other law passed in 1921 merely amended the old statute prohibiting the sale of cigarettes. The new law outlawed the solicitation of orders for cigarettes. It permitted citizens to possess cigarettes for personal use, but they would have to buy them outside the state.¹⁰ An attempt to permit licensed dealers to sell cigarettes to adults met indefinite postponement without a vote in the same session.¹¹

Again in 1923 the House Temperance Committee killed a bill to license the sale of cigarettes.¹² But Governor A. G. Sorlie, in his 1925 inaugural address, proposed repealing the state's anti-cigarette laws. The governor

⁹House Journal, 1921, HB 51, p. 273; Senate Journal, 1921, p. 58; Session Laws (1921), c. 217.

¹⁰Session Laws (1921), c. 126.

¹¹House Journal, 1921, HB 117.

¹²House Journal, 1923, HB 154, p. 444.

said that

the taking of snuff and the smoking of cigarettes are habits. While to some of us these habits may appear undesirable, unhealthful, and filthy, yet there is nothing inherently vicious in either which should be inhibited by law; and these statutes are not supported by an enlightened public opinion.¹³

Governor Sorlie's address perhaps influenced some legislators to provide for the sale of cigarettes. Since the governor favored repealing the anti-cigarette laws, his attitude lessened the danger of constituents criticizing members of the legislature for voting in favor of cigarettes. The legislature passed two bills--one to legalize the sale of cigarettes to adults and the other to establish the licensing of sales.¹⁴ C. A. Ward of Emmons-Kidder expressed the attitude of the nine senators who opposed licensing. He did not believe in the principle of licensing to do "wrongful acts," nor did he think that licensing would help enforcement.¹⁵

In the 1927 session, the House Temperance Committee killed a bill to repeal the law prohibiting smoking in dining rooms. One representative called the use of

¹³House Journal, 1925, p. 40.

¹⁴Session Laws (1925), cc. 106-107.

¹⁵Senate Journal, 1925, p. 171.

tobacco products in dining rooms an "imposition on decent people."¹⁶ Moreover, some of the representatives argued that if a man did not have enough respect for a lady to refrain from smoking in eating places, then the state should have a law to prohibit smoking.¹⁷

Enforcement of the smoking in dining rooms law was lax and by 1933 a majority in both houses favored repeal. A few legislators, however, still felt that enforcement or non-enforcement was not the issue. The purpose of the law, they said, was to respect those who did not smoke. Laws should not be repealed merely because they were unenforced. If the state repealed all unenforced laws, they argued, then it should also repeal murder and lynching laws (referring to the South).¹⁸

Both the 1933 and 1935 legislative assemblies voted to repeal the law banning smoking in cafes. At the same time, Governor William Langer vetoed the repeal in 1933 because, he said, it was against "good sound public policy."¹⁹ Governor Walter Welford followed in 1935 with

¹⁶House Journal, 1927, HB 14, pp. 239-240.

¹⁷Ibid.

¹⁸Senate Journal, 1933, p. 721; House Journal, 1933, p. 393.

¹⁹Session Laws (1933), p. 491.

another veto of the repeal bill.²⁰ Governor Langer finally approved its repeal in 1937 after both houses had approved repeal by wide majorities.²¹

There was little agitation against smoking until the 1953 session of the legislature when a wave of new morality legislation appeared. Representatives Jerroll P. Erickson of Bottineau County and M. T. Lillehaugen, a long-time proponent of morality legislation from Walsh County, introduced a bill to prohibit smoking at state schools, colleges, and universities. The bill had the declared purposes of fostering higher moral standards and of decreasing the threat of fires. The House Social Welfare Committee, however, recommended indefinite postponement of the bill.²²

In the same session, Senators Agnes Geelan of Ransom County and E. C. Stucke of McLean County introduced a bill to prohibit the manufacture and sale of confectionaries imitating or resembling tobacco products. The bill was designed "to prevent confusion and deception in connection with the sale of candy or confectionary

²⁰Session Laws (1935), p. 491.

²¹Session Laws (1937), c. 217; Senate Journal, 1937, SB 50, p. 194; House Journal, 1937, p. 393.

²²House Journal, 1953, HB 781, pp. 236, 520.

products."²³ Candy resembling tobacco products allegedly created a condition that tended to undermine and interfere with the well-being of the state. The use of these candies by minors, said the proponents of the bill, created a desire to smoke genuine cigarettes and other tobacco products.²⁴ While the bill intended to prohibit imitations of all tobacco products, a House amendment limited application of the bill to candy cigarettes packaged to resemble real cigarettes.²⁵

There was little formal debate on the bill; nevertheless the battle became a war. Failing to win indefinite postponement of the bill, Representative K. A. Fitch of Fargo suggested that the legislature should also ban candy resembling chewing tobacco, for it also would affect the morals of the state.²⁶ His tongue-in-cheek proposal obviously would have rid the state of all candy. Representative Guy Larson of Burleigh County, another opponent of the bill, called it "absolutely ridiculous" and lacking in common sense. It was impossible to legislate morals, he said, because the responsibility for children's morals

²³Senate Journal, 1953, SB 153; Session Laws (1953), c. 151.

²⁴Ibid.

²⁵House Journal, 1953, pp. 757, 782; Grand Forks Herald, March 4, 1953, p. 1.

²⁶Fargo Forum, March 4, 1953, p. 1; Grand Forks Herald, March 4, 1953, p. 1.

belonged in the home. He added that the state might as well legislate against licorice pipes, candy laxatives, toy pool tables, cards, and comic books because those things were also distasteful to many people.²⁷

Legislative employees lampooned the candy cigarette bill in a mock session. One employee with a long cigarette dangling from the corner of his mouth represented Senator Stucke, one of the bill's framers.²⁸ Another gimmick designed to ridicule the bill, however, led to its passage. An exhibit of candy and tobacco cigarettes previously had convinced the General Affairs Committee to approve the bill.²⁹ In an attempt to ridicule the candy cigarette bill, Representative Larson devised another exhibit. On the day the bill appeared in the House, he placed a dozen miniature whiskey bottles on the press desk in the House Chamber. Unlike the candy cigarettes, only liquor stores sold the empty bottles. Obviously, the uses of the bottles and the candy cigarettes were not the same. Candy and grocery counters sold the candy cigarettes to children at a low price. The bottles, on the other hand, cost thirty-nine cents each and children could not easily purchase them in liquor stores.³⁰

²⁷Ibid.

²⁸Fargo Forum, March 3, 1953, p. 1.

²⁹Grand Forks Herald, March 4, 1953, p. 1.

³⁰Ibid., p. 13.

But Larson's idea of ridicule backfired. Supporters of the bill saw another reason for its passage. If children could buy imitation cigarettes, soon stores would offer soft drinks bottled in containers resembling samplers of whiskey. This would be an even more objectionable practice, according to some of the legislators, because they feared that vending machines would sell "little fifths" and candy cigarettes without state control and regulation.³¹

Despite the attempts to ridicule the bill, it had little difficulty passing both houses. While some of the legislators assumed that they could not legislate morality, a majority accepted the state's intervention to prevent inducing minors to smoke genuine cigarettes.³² The legislature was the subject of "boicing and hissing," said Representative A. C. Langseth of Eddy-Foster, "but if the health and morals of our young people are not worth legislating for I don't know what is."³³ Langseth's statement perhaps not only represented other legislators' opinions of candy cigarettes, but his remarks also seemed to indicate that the state had a duty to protect the youth from other demoralizing influences such as dancing and liquor.

³¹Fargo Forum, March 4, 1953, p. 1.

³²Senate Journal, 1953, p. 737; House Journal, 1953, pp. 916-917.

³³Fargo Forum, March 4, 1953, p. 1.

CHAPTER IV

LEGISLATION AGAINST DANCING

Before World War I the subject of dancing failed to prick the moral conscience of North Dakota's legislators. Perhaps they and the public attached more sentiment and support to enforcement of prohibition, anti-cigarette laws, Sabbath-breaking, and divorce.¹ But more likely, the mode and manner of dancing in the 1920's influenced the sudden concern for regulating dancing. Fox-trotting became the "syncopated embrace." Both Protestant and Catholic journals called for an uplifting of the spiritual tone of the youth. The Catholic Telegraph of Cincinnati, for one, called the sensuous music of the saxophone and the embracing of partners on the dance floor "absolutely indecent."² In righteous indignation, the journal refused to describe the motions of the dancers. It was obvious what the Telegraph meant when it said that "there are certain houses appropriate for such dances; but those houses have been closed by law."³ Indecent dancing, said

¹Neudeck, p. 93.

²Fredrick Lewis Allen, Only Yesterday (New York: Bantam Books, 1959), p. 63.

³Ibid., pp. 63-64.

the leader of a national interdenominational organization, was "'an offense against womanly purity, the very fountain-head of our family and civil life.'"⁴

To protect the virtues of North Dakota's women and children, the 1919 legislature passed a law to license, regulate, and supervise dance halls, pool halls, theaters, and places selling soft drinks. The licenses for these establishments read in part: "No immoral or improper practices, gambling, or the sale or permission to drink upon said premises any intoxicating liquors will be allowed."⁵ Since no law existed to provide for adequate regulation and inspection of these places, the law became an emergency measure to prevent lawlessness and danger to the public's safety.

The protection of minors at dances was the target of the 1923 session of the legislature. One of the first bills introduced in that session prohibited dancing in public school buildings. Dancing was not a part of the school curriculum, but evidently some school officials permitted the use of school buildings for dances. Moreover, some taxpayers and citizens opposed dancing in any form for moral and conscientious reasons. While many parents

⁴Ibid., p. 64.

⁵Session Laws (1919), c. 6.

were no doubt anxious to oversee their children's public behavior, this bill appeared to be for the protection of parents. The emergency clause of the bill stated that public school dancing induced, tempted, and brought pressure upon some unwilling children to dance, to the "chagrin" of their parents.⁶ Eliminating dancing, therefore, would have reduced the embarrassment of parents with children who wanted to dance.

The House indefinitely postponed the bill to ban dancing in public school buildings, but a bill requiring a parent or guardian to accompany a minor and pay his admission to a dance became law in 1923.⁷ The effect of the law, as its proponents no doubt realized, nearly eliminated teen-agers from dances. If parents objected to dancing they could have refused to accompany their children. On the other hand, if parents had no moral objections to dancing, many teens would have stayed home or would have done something else rather than be policed by their parents at a dance.

A bill to prohibit public dancing on Sunday had little trouble passing both houses in 1923. Opponents of the bill indicated that amusements that were clean

⁶House Journal, 1923, HB 25, pp. 180-181; Grand Forks Herald, Jan. 11, 1923, p. 2.

⁷Session Laws (1923), c. 169.

six days were also clean on Sunday. They also charged that the bill was an interference with personal liberty--an expression often used with reference to Sunday movies and the sale of alcoholic beverages.⁸

Dancing in the dark and the dance crazes of the 1920's evidently reached North Dakota by 1925. In that year North Dakota joined the chorus denouncing indecent dances and passed a law to "protect and uplift the morals"⁹ of its citizens. Sponsored by two rural legislators from Ward and Cass counties, the bill required municipalities or townships to issue permits for public dances. It prohibited issuing permits to anyone "not of good moral character" and outlawed dances at places "detrimental to public morals."¹⁰ Likewise, the law banned drunkards, prostitutes, and people known to be immoral from licensed dances. It also outlawed indecent or immoral dancing and prohibited dancing while the lights were extinguished or dimmed. Finally, the law required the licensee to maintain a law officer to enforce the regulations at each dance.¹¹

⁸House Journal, 1923, HB 156, p. 498; Senate Journal, 1923, p. 1258.

⁹Session Laws (1925), c. 128.

¹⁰Ibid.

¹¹Ibid.

Drinking at public dances should have been virtually nonexistent in North Dakota until the sale of alcoholic beverages became legal after 1933. In 1921, however, the Senate defeated a bill to prohibit the possession of alcoholic beverages at dance halls, hotels, and theaters.¹² In 1935 two similar bills again met defeat.¹³

Since it was legal to sell all alcoholic beverages in North Dakota by 1937, the 1937 legislature passed a law prohibiting the sale of alcoholic beverages at dances or on premises adjacent to or connected with doorways or stairways leading to dancing areas.¹⁴ The framers of the bill wanted to discourage rowdy dances by eliminating drinking at dances. The law contained an obvious oversight, however, for it did not prohibit drinking at dances--it failed to ban the pint in the hip pocket and drinking in the parking lot. Moreover, the law probably encouraged these types of drinking since it outlawed the sale of alcoholic beverages at dances.

Voters approved the law by a comfortable margin, 109,619 to 77,046, when it appeared as a referred measure

¹²Senate Journal, 1921, SB 142, p. 503; House Journal, 1921, p. 659.

¹³House Journal, 1935, HB 74, p. 505; HB 220, p. 1101; Senate Journal, 1935, p. 1622.

¹⁴Session Laws (1937), c. 124.

at the 1938 primary election. The only sample counties to vote against the law were Dunn and Hettinger. Griggs, Nelson, Steele, and Traill counties approved it two to one. Bismarck and Minot approved the law, while Grand Forks voted against it by four per cent of its total vote. Rural voters in Burleigh, Grand Forks, and Ward counties also approved it.¹⁵

Opponents and proponents of the law came from both the wet and dry camps. Some drys opposed the law because it did not prohibit consumption of alcoholic beverages at dances.¹⁶ Some voters who were unopposed to drinking used the same argument. Clubs, lounges, hotels, and other businesses whose profits would fall if the law was ratified staged a vigorous campaign. Typical of the many advertisements in newspapers was one sponsored by the Belmont Cafe in Grand Forks. The Belmont argued that the law would drive incidental dancing away from the well regulated and policed city centers to isolated outlaw

¹⁵ See Appendix IV, Table 3, p. 106. Official votes by precincts for Fargo and Cass County were not available. Records of the Cass County Auditor were destroyed and the Fargo Forum's published abstract of votes did not include votes by precincts. Cass County approved the law 9096 to 4169, however, with Fargo accounting for about 9800 of the total vote.

¹⁶ Bismarck Tribune, June 16, 1938, p. 3, cited by Bandza.

establishments. Thus, regulation of both dancing and drinking would be more difficult.¹⁷

The most active campaigners for divorcing dancing and drinking, the North Dakota Consolidated Drys, expected unanimous approval of the measure.¹⁸ The Drys probably realized that people could still legally bring liquor to dances. Yet the law to prohibit the sale of liquor at dances perhaps indicated that North Dakotans were ready for more restrictions on the sale and consumption of alcoholic beverages.¹⁹

¹⁷Grand Forks Herald, June 10, 1938, p. 12;
June 16, 1938, p. 10.

¹⁸Ibid., June 10, 1938, p. 12.

¹⁹Ibid., July 30, 1938, p. 1.

CHAPTER V

FROM PROHIBITION TO LICENSE, 1920-1936

When the Eighteenth Amendment to the United States Constitution went into effect on January 16, 1920, North Dakota had already experienced thirty years of prohibition. Prohibition may have been a "noble experiment" for the nation from 1920 to 1933; but in North Dakota it was a standard rather than an experiment. From 1889, the year North Dakota became a state, to 1932 North Dakota's constitution provided for prohibition.¹

Voters approved the prohibition clause in 1889 by only 3.2 per cent of the total vote. As the vote indicated, many North Dakotans were not ready to accept prohibition. In nearly every session of the legislature until 1932, there were attempts to repeal either the clause or to authorize a form of county option. On the other hand, legislators repeatedly introduced bills to enforce constitutional prohibition.² But the problems of compelling the observance of prohibition and keeping liquor from entering the state did not lead the majority of North Dakotans to believe that prohibition was unenforceable.

¹North Dakota, Constitution, Art. 20, sec. 217.

²Neudeck, pp. 36-60.

Upholding its policy of prohibition, North Dakota was the fifth state to ratify the Eighteenth Amendment. In a special session, the North Dakota legislature approved the national prohibition amendment in January 1918. With little debate, the House voted 96 to 10; the Senate followed with a 43 to 2 vote. The opposition to ratification came from legislators who represented German-Catholic voters in the southwestern section of the state.³

The Eighteenth Amendment, and the Volstead Act which defined it, added few additional restrictions on liquor in North Dakota. The state's constitution already forbade the manufacture, sale, gift, importation, or possession of intoxicating beverages. Likewise, North Dakota had its own statutes to enforce prohibition and to punish offenders.⁴

But in order to bring the prohibition laws of North Dakota into full accord with the Eighteenth Amendment and the Volstead Act, the 1921 legislature passed a new prohibition law.⁵ In effect, the new law was similar to the Volstead Act. It became the guideline of the state's prohibition statutes for twelve years and it was the only

³Grand Forks Herald, Jan. 25, 1918, p. 1; Jan. 26, 1918, p. 4; Session Laws (1918), c. 11.

⁴Compiled Laws (1913), secs. 10092-10176; Neudeck, chap. vi.

⁵Session Laws (1921), c. 97.

significant new prohibition or liquor control act passed until 1933.

The North Dakota statute, like the Volstead Act, defined intoxicating liquor as any beverage containing one half per cent or more alcohol by volume. It prohibited these beverages and the manufacture, sale, barter, transportation, importation, delivery, export, or possession of them. The law provided for the forfeiture of property or instruments used to manufacture, sell, or transport illegal alcoholic beverages. Sacramental wine and alcoholic products used for industrial purposes were exempt. It was a misdemeanor to be intoxicated, drink, or offer alcoholic beverages within the state or on a public carrier traveling through the state. Finally, the law required an intoxicated person to testify under oath how and when he obtained his liquor. Failure to testify brought a charge of contempt of court.⁶ In 1923 the legislature amended the law to permit retention of alcoholic beverages acquired before February 1, 1920, if the buyers of these beverages kept them in their homes for personal use. The law also permitted the medicinal use of alcoholic beverages administered by physicians and dentists.⁷

⁶ Ibid.

⁷ Session Laws (1923), c. 268.

Newspaper accounts in the 1920's, however, indicated that the prohibition laws were not always prohibiting. Nearly every issue of the major daily newspapers carried articles concerning violations of state and federal prohibition laws. One of the state's enforcement officers showed little embarrassment when he warned readers of the Minot Daily News to use caution when drinking illegal beer sold in the Bismarck-Mandan area. It contained too much yeast, he said, and it should be shaken well before taken.⁸

The proponents of prohibition, of course, contended neither that prohibition was a failure, nor that more liquor was being consumed. It would take decades of re-education, they said, to change people's attitudes and habits. If the youth, at least, were not learning the liquor habit, then future generations would witness the good effects of prohibition, they argued.⁹

Dissatisfaction with prohibition in North Dakota, however, brought renewed attempts to repeal the prohibition clause of the state constitution. After a week-long debate the 1927 House defeated a bill for repeal 92 to 18. One of the authors of the bill, Charles A.

⁸Minot Daily News, June 25, 1928, p. 1.

⁹Ibid., Jan. 17, 1921, p. 2; Grand Forks Herald, June 16, 1928, p. 4; Fargo Forum, June 26, 1928, p. 12.

Streich of Bottineau County, said that if the House members voted as they drank, his measure would have passed. Amid Streich's charges that many of his fellow legislators were hypocrites, his opponents answered that prohibition was for the protection of the American home. There was a difference between a "wicked home" and a "home where the angels flutter over," said one legislator.¹⁰ But this argument did not convince Streich; he said that he knew women who would rather live with a man who drank than with a prohibitionist.¹¹

The attacks on prohibition in the 1927 legislative session indicated that the argument was only beginning. Perhaps Streich was correct when he said that not all of the House members voted as they drank. The House may have dismissed the repeal bill, however, in order to let the electorate decide the fate of the state's prohibition clause.

In 1928 and again in 1932, the electorate received a chance to repeal the prohibition clause in the state's constitution. A North Dakota unit of a national organization formed to work for repeal of the Eighteenth Amendment and the North Dakota Wine and Spirits Association sponsored an initiated constitutional amendment to repeal

¹⁰House Journal, 1927, HB 114, p. 1767.

¹¹Ibid.; Grand Forks Herald, Feb. 2, 1927, pp. 1, 6.

North Dakota's prohibition clause.¹² Since repeal of constitutional prohibition would not affect the state's prohibition statutes, the issue at stake was the repeal of national prohibition. If North Dakota, dry since statehood, repealed her prohibition clause, it was possible that the rest of the nation might think that prohibition was a failure.

Personal liberty, said the wets, was the heart of the controversy surrounding prohibition. Each person, not the government, should decide if he wanted to drink or abstain. They said that prohibition was a "farce" and that it made criminals out of 85 per cent of the population.¹³ C. P. Stone, a wet Republican candidate for the United States Senate, raised the figure to 95 per cent if prohibition were strictly enforced.¹⁴

Likewise, prohibition was unprofitable. Wets argued that prohibition decreased the farmers' income \$70,000,000 annually by reducing the market of grains used to manufacture beer and liquor. Moreover, it cost \$2,000,000 each year to enforce prohibition in North Dakota, Stone

¹²Selke, p. 49, citing letter from G.F. Shafer (n. d.).

¹³Grand Forks Herald, June 14, 1928, p. 5; Minot Daily News, Nov. 5, 1932, p. 7.

¹⁴Grand Forks Herald, June 14, 1928, p. 5.

said, yet anyone could get liquor anywhere in the state.¹⁵

According to the Grand Forks Herald, there was less intemperance in the state than before national prohibition. There were violations of the prohibition laws, the Herald admitted, but repeal of the state's prohibition clause would be a "moral abandonment" of a policy which had benefited the state for nearly forty years.¹⁶ The Fargo Forum agreed that prohibition was part of the fundamental law of North Dakota and that repeal of prohibition would have a "bad moral effect" on the state.¹⁷ The fathers of the state realized that liquor was a curse to the people, according to a resolution of the Norwegian Lutheran Church. Moreover, prohibition promoted both economic and moral growth in the state, said the resolution.¹⁸

The Minot Civic Welfare League and the Ward County Dry Constitution Defenders, in a political advertisement, summarized the economic, social, and moral implications of repeal. A vote for repeal, they said, meant danger to the state's youth, womanhood, and the home. Liquor establishments exposed young boys and girls to the sights of drinking and the temptations to experiment with liquor. They also

¹⁵Ibid.; Minot Daily News, June 25, 1928, p. 6.

¹⁶Grand Forks Herald, June 16, 1928, p. 4.

¹⁷Fargo Forum, June 26, 1928, p. 12.

¹⁸Ibid., Oct. 28, 1932, p. 3.

feared that repeal meant the end of prosperity in the state. Finally, to escape the "wrath of God," each voter had to vote against repeal.¹⁹ Other prohibitionists contended that economists credited national prohibition with an \$8,000,000,000 increase in the earnings of America's labor force. But during the depression in the 1930's the dries appeared to be inconsistent in their argument. They discarded the prosperity argument and declared that the nation could not drink itself back to prosperity.²⁰

Voters retained the prohibition clause of the state's constitution in 1928, 103,696 to 96,837. This was the first time that women, who were expected to favor prohibition, voted in a state-wide election on a liquor measure; the voters nearly repealed the prohibition clause. The vote revealed that the dries had to rally their forces if North Dakota and the nation were to remain dry. It could no longer be taken for granted that women would automatically endorse prohibition.

The year of the attempted repeal was also the year of the presidential campaign between Herbert Hoover and Al Smith. Hoover was a dry Republican; Smith, a Catholic, was a wet Democrat. The Democrats nominated Smith the

¹⁹Minot Daily News, June 23, 1928, p. 2.

²⁰Grand Forks Herald, June 19, 1928, p. 2; Minot Daily News, Nov. 5, 1932, p. 9.

day after the repeal election, but before the election newspaper accounts in the state foretold Smith's nomination. It would be dangerous, however, to immediately relate Smith's impending nomination and the campaign for repeal. The close vote against repeal in June and Hoover's easy victory in November was not necessarily an indication that North Dakotans were less wet in November than in June. It may have been a long hot summer in North Dakota, but traditionally the state was more Republican than it was dry.

Finally in November 1932, voters repealed the state's prohibition clause 134,742 to 99,316. The plurality for repeal was not as large as the majority given to president-elect Franklin D. Roosevelt, who promised repeal of the Eighteenth Amendment. A comparison of votes in 1928 and 1932 for repeal of the state's prohibition clause revealed different voting patterns. In 1928 only German-Catholic Dunn, Hettinger, Morton, and Stark counties voted for repeal. Bismarck favored repeal by only 313 votes. Repeal lost in Minot by 114 votes, but Fargo and Grand Forks defeated repeal by comfortable margins. Rural voters in Cass, Grand Forks, Ward, and Burleigh counties continued to favor prohibition. In Cass County, however, rural voters voted against repeal by only 6.4 per cent,

while Fargo voted against repeal by 16 per cent of its total vote.

In 1932 only Griggs, Steele, Traill, and rural Grand Forks counties voted against repeal; and none of these favored retaining the prohibition clause by more than ten per cent of the total vote in each county. Dunn, Hettinger, Morton, and Stark voted for repeal by larger margins than in 1928. Each of the selected cities voted for repeal in 1932, while only Bismarck voted for repeal in 1928.²¹

But repeal of constitutional prohibition in North Dakota was only the first step to legalize the sale of alcoholic beverages in the state. Repeal of the state's prohibition statutes and legislation to permit the sale of beer and liquor were different matters. Intertwined with these issues was the repeal of national prohibition.

When the North Dakota legislature met in January 1933, one of the first bills to appear in the House provided for the blanket repeal of all the state's prohibition laws. Laws such as those prohibiting Sunday sales and sales to minors would have remained, but the repeal bill would have removed most of the other state restrictions on the

²¹See Appendix IV, Table 4, p. 107.

sale of alcoholic beverages. The bill passed the House 57 to 55, but the Senate voted for indefinite postponement. The arguments were as fierce as the vote was close. Constituents flooded the legislators with letters and telegrams. The Journals of the House and Senate indicated that some legislators feared that if prohibition laws were repealed, the state would become "wide-open" with every pool hall selling hard liquor. One Democratic representative said that he voted "No" to show that a Democrat could be a dry. Others who opposed the bill said that they were simply against the sale of alcoholic beverages.²²

The vote in the legislature seemed to turn on issues other than the "morality" of using alcoholic beverages. Most of the legislators who expressed an opinion contended that they voted as their constituents had voted in the 1932 election to repeal constitutional prohibition. In addition, some of these same legislators cited economy as a reason for favoring repeal of the prohibition statutes. If North Dakota repealed its statutes, the federal government would have to enforce prohibition. Federal enforcement rather than state enforcement, they said, could save North Dakota \$500,000 annually.²³

²²House Journal, 1933, HB 76, pp. 702-703; Senate Journal, 1933, pp. 1341-1342.

²³Ibid.

While a general repeal of the prohibition statutes failed, the 1933 legislature passed Senate Bill 263 to provide for the sale of beer and vinous liquor not unlawful under the constitution and laws of the United States.²⁴ This law specified that only municipal liquor stores--not private stores or clubs--could sell beer. It permitted only package sales and banned drinking in the stores. The law also required each purchaser to sign his name and address in a record book containing the kind and amount of each purchase.²⁵ Some maintained that it was unconstitutional to authorize municipal liquor stores; nevertheless municipal stores throughout the state sold beer.²⁶

The electorate initiated a substitute beer measure in 1933. The initiated measure provided for the repeal of Senate Bill 263 and legalized the sale of beer by any resident of North Dakota who owned a "legitimate" business. It also provided for the establishment of breweries and

²⁴Ten days after the 1933 North Dakota Legislature adjourned, President Roosevelt requested Congress to amend the Volstead Act by legalizing beer containing 3.2 per cent of alcohol by weight. Congress acted quickly, and added 3.2 wine. Roosevelt signed the bill on March 22, and legal sales of 3.2 beverages began on April 7. William E. Leuchtenburg, Franklin D. Roosevelt and the New Deal (New York: Harper Torchbooks, 1963), p. 46.

²⁵Session Laws (1933), c. 176.

²⁶Grand Forks Herald, Aug. 12, 1933, p. 4. See Chapter VI, "Municipal Liquor Stores."

set up machinery to regulate the manufacture and sale of beer.²⁷

The North Dakota Consolidated Drys (officially, The Association Opposed to the Repeal of the Eighteenth Amendment), however, attempted to defeat the proposal to allow the sale of beer. The Drys planned rallies and sent communications to every preacher, women's club, and parent-teacher group in the state. Some Protestant church organizations also sponsored newspaper advertisements. The Drys argued that any departure from North Dakota's prohibition policy was wrong. Likewise, they opposed what they called the "indiscriminate" sales of beer.²⁸

Advocates of the measure wanted North Dakota to keep in step with neighboring states which sold beer. Moreover, illegitimate dealers sold beer in North Dakota without concealment. License fees and a tax of a half cent per pint, claimed the proponents, would give the state a revenue of over a half million dollars. All that was needed, they said, was a vote on the measure and North Dakota would have beer.²⁹

If the vote on the beer measure was an indication, most North Dakotans were dissatisfied with total prohibition

²⁷Session Laws (1935), pp. 495-498.

²⁸Grand Forks Herald, Sept. 8, 1933, p. 1; Sept. 20, 1933, p. 7.

²⁹Fargo Forum, Sept. 16, 1933, p. 2.

in 1933. The final vote was 116,420 to 48,631 in favor of the sale of beer. Each of the sample counties and cities approved the measure. The closest margins came in Griggs and Traill counties which approved beer by about six per cent of each county's vote. Steele County approved the measure by 16 per cent of its vote, while Nelson County and rural voters in Cass, Grand Forks, and Ward counties approved it by comfortable margins. Each of the cities, the four German-Catholic counties, and rural Burleigh County favored the sale of beer by three votes to one.³⁰

Meanwhile, North Dakota's wets were preparing to elect members to a constitutional convention that would give North Dakota's approval to the Twenty-first Amendment of the United States Constitution. The drive began during the 1933 session of the legislature, but the wets introduced too late for consideration a bill to provide for an election.³¹ In August the wets circulated a petition for a special election to select a constitutional convention. Again, they acted too late to get the measure on the September 1933 ballot.³² But it made little difference. On December 5, 1933, the thirty-sixth state ratified the Twenty-first Amendment.

³⁰See Appendix IV, Table 5, p. 108.

³¹Grand Forks Herald, Feb. 22, 1933, p. 1; Feb. 23, 1933, p. 1.

³²Ibid., Aug. 13, 1933, p. 1.

National prohibition had ended without North Dakota's approval or disapproval.

Shortly after the Twenty-first Amendment became effective, the electorate initiated two measures providing for sales of beer and liquor containing up to 5.5 per cent alcohol by weight. Without consultation, separate groups in Fargo and Bismarck prepared the measures.³³ The lengthy provisions of both bills covered nearly a full newspaper page. Some of the provisions were similar, but each had distinctive features.

The press commonly called the first measure the "drug store" act. It gave a monopoly of liquor sales to hotels, restaurants, and drug stores. Only drug stores could sell "off sale" liquor. It outlawed saloons and restricted sales to the business district of a municipality. The other measure, the "local option" bill, gave voters of a municipality an option to provide for the sale of 5.5 beverages. Each community would license and regulate private retail stores. School districts would receive the revenue from liquor sales. If the state's voters approved both measures, the one with the largest "Yes" vote would become law.³⁴

³³Selke, p. 82. Neither Selke nor the newspapers examined by the author specified which group sponsored which measure.

³⁴Session Laws (1935), pp. 499-500; Grand Forks Herald, June 18, 1934, p. 7; June 24, 1934, p. 4.

The two measures provoked neither the drys nor those who favored legalizing all forms of alcoholic beverages to wage a campaign of newspaper advertisements. Some wets may have been thirsty enough to vote for these measures even if they rigidly controlled sales and limited beverages to 5.5 per cent of alcohol. Other wets had a good reason to oppose the bills because they were restrictive. During the campaign, the drys said that they rejected the "drug store" measure because it created monopolies. They attacked the other measure because it required the signatures of a majority of a town's voters to secure local option.³⁵

The "drug store" measure failed 119,968 to 88,079; the more liberal "local option" measure lost 114,299 to 90,076. Morton County was the only sample county to approve both measures. Dunn County favored the first, while Stark approved the second. The margins for or against the measures in the German-Catholic counties, however, were generally narrow. Norwegian-Lutheran Griggs, Steele, and Traill counties each voted two to one against the measures, while Nelson County rejected both by about fifteen per cent of its total vote. Grand Forks was the only city to favor the measures, but it accepted each by less than 100 votes. Rural voters in the cities' counties rejected both measures.³⁶

³⁵Grand Forks Herald, June 18, 1934, p. 7; June 24, 1934, p. 4.

³⁶See Appendix IV, Table 6, p. 109.

North Dakotans had their beer, but the state prohibition statutes continued to ban hard liquor. To eliminate this restriction, North Dakota wets initiated a measure in November 1934 to give a general repeal of the state's prohibition statutes. A vote favoring repeal would no doubt persuade the 1935 legislative assembly either to enact new prohibition statutes or provide for the regulated sale of liquor. Until then, if the measure passed, the state would be without statutes regulating the sale of any liquor containing over 3.2 per cent alcohol by weight.³⁷

The measure to repeal the state's prohibition statutes lost 139,733 to 111,511. Each of the Norwegian-Lutheran counties defeated it two to one. The German-Catholic Morton and Stark counties approved it two to one, while Dunn and Hettinger accepted it by less than 15 per cent. Bismarck's 600 vote plurality favoring the measure put Burleigh County into the wet column. Fargo accepted repeal by only 86 votes. The other cities and the rural voters in their counties rejected the proposal to repeal the state's prohibition statutes.³⁸

By 1936 it was no longer a question of the state legalizing the sale of hard liquor. Regulation of sales became

³⁷Session Laws (1935), p. 501.

³⁸See Appendix IV, Table 4, p. 107.

the key feature of campaigns. In 1936 an initiated measure, the Liquor Control Act, provided for licensing privately owned liquor stores. Voters approved the measure 147,330 to 128,064. In 1938 the Consolidated Drys initiated a measure to repeal the Liquor Control Act. Repeal failed 160,365 to 98,478--a much greater margin than the 1936 vote approving the act.

Proponents of licensed sales urged the establishment of orderly places of business in order to gain revenue from licenses and taxes. The drys and the W.C.T.U., who were still opposed to the sale of liquor, contended that liquor was "public enemy number one." They said they feared sales on Sundays and the establishment of liquor stores next to schools and churches. For the children's sake, they said, there should be no sales of hard liquor.³⁹

Only Griggs, Steele, and Traill counties voted against the Liquor Control Act in both elections. While these counties disapproved of the sale of hard liquor two to one in 1936, the margins were reduced in 1938. Nelson County voted against the measure in 1936, but approved the liquor act by less than 100 votes in 1938. Each of the German-Catholic sample counties approved the liquor act with large

³⁹Fargo Forum, June 30, 1938, p. 1; Oct. 27, 1938, p. 7; Grand Forks Herald, Oct. 28, 1938, p. 12; Nov. 1, 1938, p. 10.

majorities in each election. Likewise, each of the selected cities approved the act in 1936 and 1938. Rural voters in Cass and Grand Forks counties, however, opposed the measure in 1936. Rural Ward County voters accepted it by only eleven votes. In 1938 the rural voters in these counties approved the sale of liquor, but their support of the Liquor Control Act was much less than the support indicated by city votes.⁴⁰

After 1938 there were no outward attempts to revert to prohibition. Between 1938 and 1954, however, the state's dry forces and many voters continued to oppose the sale of liquor. The economics of licensed sales during the depression in the 1930's may have overshadowed the question of the morality of liquor sales. But the following chapters will indicate that regulation of sales became a matter of morality and economics in the 1940's and 1950's. The initiative process of legislation which had been the method to legalize the sale of alcoholic beverages in the 1930's became a weapon of the dries to restrict liquor sales.

⁴⁰See Appendix IV, Table 5, p. 108.

CHAPTER VI

MUNICIPAL LIQUOR STORES

By November 1936 North Dakota had legalized the sale of liquor by privately owned businesses. Except for the measure to repeal the Liquor Control Act in 1938, there were no new attempts to reestablish constitutional or statutory prohibition. Regulation of the liquor trade seemed to be the target of the drys. But the campaigns for regulating the sale of liquor indicated that more than the regulation and control of liquor sales was at stake. The morality of drinking continued to influence the campaigns regarding the sale and use of intoxicants.

One of the controversies which reappeared throughout the period from 1936 to 1952 was the establishment of municipal liquor stores. There were both wets and drys who doubted the efficacy of private retail liquor stores. Some wets and drys used the same arguments when they cited the economic reasons for municipal stores. Others from both wet and dry groups said that municipal stores would provide better regulation of liquor sales. But the driest of the drys continued to oppose either private or municipal stores.

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There were proposals to permit municipal liquor stores before voters approved the sale of liquor in November 1936. The first bill to establish municipal stores, the Municipal Control Act, was in fact a bill to provide for the sale of alcoholic beverages (except beer which had been legalized in 1933) which contained more than one per cent alcohol by weight. The 1935 legislature approved the bill, but the electorate defeated its referral at an election in June 1936.¹

The purpose of the Municipal Control Act was clear. The bill stated that it was an exercise of the state's police powers to protect the public health, peace, and morals. It added that its purpose was to prevent the return of abuses associated with saloons. The act permitted any municipality with a population of 200 or more and a regular police force to maintain a municipal liquor store with the approval of the electorate. The bill, of course, prohibited sales to minors and Sunday sales. The hours of sale were 10:00 A.M. to 9:00 P.M. The bill permitted only bulk sales and it required the purchaser to sign his name and address in a record book. It was unlawful for anyone except an employee of the store to sell liquor. Strict interpretation and enforcement of the law meant that liquor sold

¹Session Laws (1935), c. 203; Session Laws (1937), p. 517.

by the municipal stores could be possessed only in the purchaser's home.²

Neither opponents nor proponents of the measure staged an active campaign. Likewise, neither side debated the economic arguments of municipal stores. Both the Fargo Forum and the Grand Forks Herald urged voters to reject the measure. The Forum opposed the law because it did not provide for inspection and certification of liquor stores.³ The Herald criticized the measure because it contained no features for reconsideration after a town established a liquor store. Likewise, there were no restrictions on the frequency of resubmission elections. Arguing that there were elements in every city which would use the liquor store to annoy or to embarrass the city administration, the Herald called for the measure's defeat.⁴

A Senate bill to increase revenue and add respectability to the liquor business through municipal stores failed in the 1939 legislature.⁵ William Langer, however, sponsored an "off sale" municipal liquor store measure for the 1939 special election. Langer argued that the liquor

²Session Laws (1935), c. 203.

³Fargo Forum, June 1, 1936, p. 2; June 21, 1936, p. 22.

⁴Grand Forks Herald, June 7, 1936, p. 4.

⁵Senate Journal, 1939, SB 63, pp. 353-354; Fargo Forum, Jan. 25, 1939, p. 1.

money should go back to the taxpayers. His measure proposed to give 50 per cent of the liquor stores' profits to the state old age assistance fund, 35 per cent to the municipality, and 15 per cent to the county. The measure outlawed privately owned liquor stores.⁶

The North Dakota Taxpayers Association led the drive against the measure because it would:

1. Mix politics and liquor and bring a return to bootlegging;
2. Bring a net loss of income for 10,000 people and result in the loss of a \$2,000,000 payroll; and
3. Weaken temperance and abstinence movements by placing public approval on the sale of alcoholic beverages.⁷

The W.C.T.U., the North Dakota Consolidated Drys, newspapers, and private liquor interests also opposed the measure.

Drys fought its passage because it proposed to finance the old age fund with profits from the sale of liquor. Thus, any further efforts to restrict or destroy the liquor business would result in a fight against the old age fund.⁸ Elizabeth Preston Anderson, a long-time

⁶Session Laws (1941), p. 584; Grand Forks Herald, July 6, 1939, p. 1; July 9, 1939, p. 3.

⁷Grand Forks Herald, July 13, 1939, p. 7; June 20, 1939, p. 2.

⁸Ibid., June 22, 1939, p. 1.

North Dakota temperance leader and honorary president of the North Dakota Women's Christian Temperance Union, said it was wrong to put all citizens into the "nefarious" liquor business.⁹ The legal sale of liquor had already destroyed the "Golden Age" of North Dakota, the state's years under the banner of prohibition. If municipal stores became legal, according to the drys, it would be unfair to the same aged supporters of prohibition to receive assistance from the sale of demon rum. George O. Parish of the Consolidated Drys added that the passage of the measure would deter many of the "best citizens" (those who did not drink) from seeking public office because of their becoming "liquor dealers" if elected.¹⁰

While the Consolidated Drys said that they based their opposition to municipal stores upon moral convictions and because municipal stores encouraged drinking, the wets could not be charged with a lack of moral concern. The municipal store measure prohibited private retail liquor establishments. Thus, municipal sales would force the closing of businesses that the state had legalized, licensed, and taxed. Some wets foresaw higher prices for liquor and the return of bootlegging. Competition from a more active bootlegging business would cut the profits of municipal stores.

⁹Ibid., June 24, 1939, p. 5.

¹⁰Ibid., June 22, 1939, p. 1.

The "immorality" of the measure cited by the wets, therefore, included the state's lack of good faith by enacting a kind of ex post facto law against the private retailers and the possible return of illegal midnight sales by bootleggers to minors and habitual drunkards.¹¹

According to Langer, the private liquor interests were enough concerned with the threat of municipal stores to contribute \$160,000 for the defeat of the measure.¹² If they actually spent that amount, it was not wasted. The proposal lost 170,538 to 41,814 with each of the state's fifty-three counties voting against it.

Despite the overwhelming defeat in 1939, the legislature again in 1941 acted to establish municipal stores. A House Concurrent Resolution for municipal stores passed 65 to 39, but the Senate voted for indefinite postponement. The question of the morality of municipal sales appeared to be that municipal control was the lesser of two evils; public control was better than private sales. The staunch drys in the legislature, however, argued that any compromise with the devil was an assurance of defeat.¹³

¹¹Ibid., pp. 1, 11; July 5, 1939, p. 4.

¹²Ibid., July 6, 1939, p. 1.

¹³House Journal, 1941, HB 216, pp. 470-471; Senate Journal, 1941, p. 730.

Another municipal store measure reached the voters in 1944. This measure was a referred constitutional amendment to give each community the option to establish municipal stores or to license private liquor stores. It did not specify if municipal stores could sell only sealed packages or if they could also sell drinks by the glass.¹⁴ Since there was a question if it was constitutional to establish municipal liquor stores, this constitutional amendment attempted to clear up a legal technicality concerning the operation of municipal stores in twenty-two communities. The Association of Municipal Liquor Stores of North Dakota and the North Dakota League of Municipalities argued that local option on the question of municipal stores would give better control. The experiences of the towns with municipal stores, they said, were beneficial.¹⁵

The North Dakota Voters' League opposed the amendment because it would mix politics and liquor. The Voters' League also feared the return of the saloon, since the amendment did not prohibit selling liquor by the drink.¹⁶ The Herald and Bismarck Tribune urged a "No" vote because

¹⁴Session Laws (1943), c. 99; Session Laws (1945), p. 494.

¹⁵Grand Forks Herald, Oct. 27, 1944, p. 2; Nov. 2, 1944, p. 15.

¹⁶Ibid., Oct. 26, 1944, p. 8; Oct. 27, 1944, p. 10; Oct. 31, 1944, p. 6.

they disapproved of municipalities entering into retail businesses.¹⁷ Voters defeated the measure 100,726 to 84,857.

"In the interest of public welfare and morals"¹⁸ the 1945 legislature passed a bill to establish, by local option, municipal liquor stores in towns having fewer than 2000 inhabitants. It permitted only bulk sales and prohibited the sale of anything other than alcoholic beverages in the stores. The law also banned tables, booths, cards, dice, amusements, and dancing in the stores.¹⁹

The 1945 local option law did not settle the municipal store controversy, however, for the North Dakota Supreme Court declared it unconstitutional. In a special election, Dunseith, North Dakota, had voted to establish a municipal liquor store under the terms of the law passed by the 1945 legislature. The town's government acted accordingly and proceeded to establish a municipal liquor store. It was not long before the opponents of municipal liquor stores challenged in court the constitutionality of municipal liquor stores. Referring to the immorality and evils associated with unregulated liquor sales, proponents of municipal stores argued in court that a municipality's police powers included the power to regulate or prevent "such acts, practices, and occupations as are in themselves immoral or indecent, or

¹⁷Ibid., Nov. 3, 1944, p. 14; Bismarck Tribune, Nov. 1, 1944, p. 1, cited by Bandza.

¹⁸Session Laws (1945), c. 51, p. 107.

¹⁹Ibid., c. 51.

as have a tendency to promote immorality and indecency."²⁰ The constitutionality of municipal liquor stores, however, hinged upon the interpretation of section 185 of the state constitution and the 1932 measure repealing Article 20, the state's prohibition clause. As amended in 1918, section 185 provided that "the state, or any county or city . . . may engage in any industry, enterprise or business not prohibited by Article 20. . . ."²¹ The court ruled that the repeal of Article 20 did not affect section 185's prohibition of municipal liquor stores and that it continued in effect as if Article 20 had not been repealed.²²

The question of municipal sales became a matter of municipal or private enterprise in the 1948 and 1952 campaigns. Both measures were referred constitutional amendments providing for local option in establishing municipal liquor stores. Neither measure permitted nor forbade drinking in the stores. Both measures were to be regulated by subsequent statutory legislation.²³

The Association for Municipal Liquor Stores and the League of Municipalities were the only groups to actively

²⁰Egbert v. Dunseith, 74 N.D. 4 (1947); 24 NW 907.

²¹Session Laws (1919), p. 508.

²²Egbert v. Dunseith, 74 N.D. 11 (1947).

²³Session Laws (1947), c. 118; Session Laws (1949), p. 514; Session Laws (1951), c. 345; Session Laws (1953), p. 591.

campaign for the amendments. Municipal stores, they said, offered the best means of control. Attempting to attract the votes of the drys, they also claimed that municipal stores encouraged temperance and protected young people from experimenting with liquor.²⁴ —

The Committee for Protection of Free Enterprise led the campaign against municipal liquor stores in 1948. The Committee called municipal stores the beginning of the ruin of private enterprise.²⁵ The Committee and the Labors' and Farmers' Educational and Political League saw the roots of political dictatorship and collective farming in municipal liquor stores. Opponents of municipal stores told farmers to vote against the stores because they would mean that farmers would not share in the benefits of liquor taxes.²⁶ The Citizens' Committee against Municipal Stores urged defeat of the amendment in the 1952 campaign. They opposed the mixing of politics and liquor, the loss of taxes and license fees, and the threat to private businesses. With municipal stores, they said, the buyer and seller of liquor would become policeman, judge, and jury at once.²⁷

²⁴Grand Forks Herald, Oct. 28, 1948, p. 14; Oct. 31, 1952, p. 18.

²⁵Ibid., Oct. 24, 1948, p. 22; Oct. 27, 1948, p. 10.

²⁶Ibid., Oct. 23, 1948, p. 3; Oct. 31, 1948, p. 33.

²⁷Ibid., Oct. 28, 1952, p. 7; Oct. 25, 1953, p. 11.

The United Temperance Union took a neutral position during the campaigns. Those drys favoring municipal stores liked to see the profit motive removed from the liquor trade. Others who were against the stores were opposed to putting unwilling citizens into the liquor business. Officially, however, the Union opposed the sale of liquor in any manner.²⁸ Other drys, especially the W.C.T.U., recognized that it would be more difficult to get a dry vote in the future if municipal sales became legal. Once the sale of liquor had attained a degree of respectability and citizens became accustomed to the revenue from it, many people would not be willing to outlaw liquor sales, said these drys. The W.C.T.U. openly stated that municipal stores were contrary to their efforts to remove all liquor businesses from communities.²⁹

Voters rejected all five attempts to establish municipal liquor stores. The pattern of votes in the sample counties varied as the issues of each campaign changed. In 1936, when the municipal store measure would have legalized the sale of liquor in North Dakota as well as provide for municipal control, the German-Catholic sample counties either approved the measure or narrowly defeated it. Bismarck and Minot, likewise, approved the same proposal.

²⁸Ibid., Oct. 31, 1948, p. 14.

²⁹Ibid., pp. 14, 23; Fargo Forum, Oct. 31, 1948, p. 30.

But after the sale of liquor through private stores became legal in November 1936, neither the German-Catholic counties, Bismarck, nor Minot approved municipal stores again. In 1936 the other sample counties, cities, and the rural voters in Burleigh, Cass, Grand Forks, and Ward counties easily defeated municipal liquor stores.³⁰

Each of the sample counties and cities in 1939 defeated Langer's proposal to finance the old age assistance fund with profits from municipal liquor stores. By 1944, however, the Norwegian-Lutheran sample counties approved the municipal stores amendment. Voters in rural Grand Forks and Ward counties narrowly defeated the amendment in that year. Traill County approved municipal stores in 1948 and 1952 also, but Griggs and Steele approved the amendments only in 1944 and 1948. Nelson County's only approval came in 1944. The city of Grand Forks' approval of municipal stores in 1952 was the only example of a sample city approving municipal liquor stores after the sale of liquor became legal in November 1936.³¹

The campaigns revealed that retailing liquor through municipal monopolies rather than through private enterprise was not a moral issue for those who were unopposed to drinking. It was an economic matter. Municipal stores

³⁰See Appendix IV, Table 7, p. 110.

³¹Ibid.

meant increased revenue for the state and the local units of government, said some of the proponents of municipal stores. Other wets contended that the loss of license fees and taxes derived from private sales of liquor would be greater than the revenue received from municipal stores. Moreover, many of these opponents of municipal stores objected to placing restrictions on any type of private enterprise.

North Dakota's non-drinking citizens were also divided between those who favored and those who opposed municipal liquor stores. Prohibitionists continued to oppose the sale of alcoholic beverages through either private or municipal stores. Other drys said that municipal sales would give the liquor trade an air of respectability which it did not deserve. If the state established municipal stores, they said, people would become accustomed to them and prohibition would never return to North Dakota. Others said that municipal stores would implicate many unwilling citizens in the sale of products which they opposed for moral, economic, social, and medical reasons. Others opposed placing "blood money" in the public treasury.

In the same manner as some of the wets, some drys argued that municipal stores would decrease, rather than increase, local and state treasuries. Some drys also opposed restricting private enterprise by establishing

municipal liquor stores. For other drys, however, municipal stores meant better control of the liquor trade. These drys conceded that liquor was going to be sold. With municipal stores, they said, at least the sale of liquor could be regulated or banned by each community. Also, the profits from municipal stores would benefit all citizens rather than only those who owned liquor stores.

Each campaign for municipal stores emphasized some of these arguments regarding municipal liquor sales. The state legislature approved five proposed constitutional amendments, statutory laws, or resolutions to permit municipal liquor stores. But no one could persuade the electorate of North Dakota to accept municipal sales. Municipal liquor stores did not become a method of controlling the sale of alcoholic beverages in North Dakota.

CHAPTER VII

ATTEMPTS TO CURTAIL THE SALE OF LIQUOR

During the campaigns for municipal liquor stores, another question of liquor control reached the voters. To restrict the sale of beer and liquor and to protect the health and morals of minors, the Consolidated Drys initiated three measures to isolate the sale of intoxicants from any establishment which sold food. In the eyes of the state's wets, however, liquor-food divorce-ment had other implications. To them, it was a part of the plan of "prohibitionists" to revert to total prohibition in North Dakota.

The first attempt to prohibit the sale of alcoholic beverages in cafes appeared in the 1939 session of the legislature. Although one of the bill's sponsors was chairman of the House Temperance Committee, the committee members indefinitely postponed the bill.¹ Again in 1941 two members of the House Temperance Committee introduced a bill to prohibit the sale, gift, or consumption of alcoholic beverages in places serving food.² Perhaps

¹House Journal, 1939, HB 236, pp. 410, 490.

²House Journal, 1941, HB 295, pp. 433, 704.

the anti-liquor members of the 1941 legislature sensed that a liquor-food divorcement measure would be initiated and passed in 1942, for the sponsors of the bill withdrew it before the House voted.

Indeed, the electorate initiated a divorcement measure in 1942 and similar measures reappeared throughout the 1940's. The measure on the 1942 ballot prohibited serving alcoholic beverages in any place selling anything except tobacco or soft drinks. It also forbade serving liquor and food in adjoining rooms.³ In sponsoring the measure, the Consolidated Drys intended to protect children from patronizing liquor establishments when they wanted to buy some ice cream or candy. The Drys contended that the regulatory features of the measure applied only to beer parlors and liquor stores.⁴

Liquor dealers and those favoring more liberal liquor laws saw the divorcement measure as an indirect method to lay the foundations for the return of prohibition while the young male voters were defending the nation during World War II. Moreover, they expected the young men in military service to oppose any further restrictions on the sale of intoxicants. According to the wets, the

³Session Laws (1943), p. 414.

⁴Grand Forks Herald, Nov. 1, 1942, p. 5.

drys would have a better chance to win elections while the young men were absent.⁵ Newspaper advertisements depicted the wets' argument that the divorcement measure was an attempt to make "peace-time changes" as soon as the states fighting men turned their backs. One cartoon showed an unarmed American boy in shorts fighting the Japanese, while the masked figure of "Prohibition" lurked in the background.⁶ Thus, the wets' campaign emphasized preserving the rights of the soldiers to vote on liquor questions until the end of the war. There were few campaign advertisements in the states major newspapers, but the measure lost by only 1700 votes.

An initiated measure to separate drinking and eating appeared again in 1944 with similar campaigns and arguments.⁷ The Citizens Advisory Committee urged voters to let 50,000 fighting men return to North Dakota as they left it. The North Dakota Affiliates of the United Temperance Movement and other drys, meanwhile, again wanted to protect the youth from alcohol and ensure better enforcement and the restriction of the sale of alcoholic beverages.⁸

⁵Ibid., Oct. 28, 1942, p. 10.

⁶Ibid., Oct. 31, 1942, p. 16.

⁷Session Laws (1945), p. 491.

⁸Grand Forks Herald, Oct. 25, 1944, p. 2.

The Fargo Forum, Bismarck Tribune, and Grand Forks Herald opposed the measure because it would prohibit drug and grocery stores from selling medicine and flavoring extracts which contained alcohol. They contended that the provisions of the measure prohibited the sale of beverages and other products fit for consumption which contained alcohol.⁹ This feature of the measure confused voters because some of them may have favored liquor-food divorcement, yet they did not want to prohibit the legitimate sale of medicines and flavorings. The Herald added that if the drys wanted to separate the sale of intoxicants and food they should have said so explicitly.¹⁰ The drys' measure clouded the divorcement issue, for its "inverted" wording prohibited the sale of alcoholic beverages "in any establishment where there is sold any commodity other than tobacco, tobacco products, and soft drinks."¹¹ Its definition of alcoholic beverages as products containing more than one half per cent alcohol added to the confusion, for medicines and flavorings contained more than that amount and grocery and drug stores sold products other than tobacco and soft drinks.

⁹Fargo Forum, Nov. 2, 1944, p. 4; Bismarck Tribune, Nov. 3, 1944, p. 4, cited by Bandza; Grand Forks Herald, Nov. 3, 1944, p. 4.

¹⁰Grand Forks Herald, Nov. 3, 1944, p. 4.

¹¹Session Laws (1945), p. 491.

The liquor-food divorcement measure failed again in 1944 by 3000 votes. In 1942 and 1944 opponents of the measure had urged postponement of any "prohibitory" measures until after the war and the return of North Dakota's fighting men. Instead of gaining an easy defeat of divorcement when it appeared on the ballot in 1946, however, the wets saw the state place an additional restriction upon the sale of intoxicants.

The North Dakota Committee for Regulation led the campaign against the divorcement proposal in 1946. They attacked the drys for driving North Dakota back into the "evil ways of prohibition."¹² The prohibitionists, they said, had no regard for the expense involved in their attempts to bring back prohibition. Acceptance of the proposal, said the measure's opponents, would be a backward step for the state. Some of the best eating places would be forced to close. Tourists and visitors in the state would ridicule North Dakota for its ban on having a drink with a meal.¹³

Perhaps the Committee's best argument was its pitch for moderation. The measure's opponents were not attempting to force anyone to drink, nor were they expanding the

¹²Grand Forks Herald, Oct. 24, 1946, p. 10.

¹³Ibid., Oct. 27, 1946, p. 7.

sale of intoxicants.¹⁴ A drink with food was, in fact, more conducive to sobriety than a drink without food. It was doubtful, too, that many cafe owners were tempting ten-year-olds to drink a beer and buy a chocolate soda for a chaser.

But the drys finally won the battle in 1946 , 86,114 to 82,332. Attempts in the 1947 legislature to repeal liquor-food divorcement failed because repeal required a two-thirds majority. Protecting their seats in the legislature, the lawmakers were not willing to tamper with a bill passed by the voters at the same time they were elected.¹⁵ An initiated measure to repeal divorcement also failed in 1948 by 3000 votes. While voters defeated the proposal by less than 3000 votes in 1942 and 1944, they accepted it by only 3800 votes in 1946. Divorcement received the largest plurality in 1948 when the repeal measure failed. Evidently the results of liquor-food divorcement between November 1946 and June 1948 satisfied the voters.

The voting pattern of the sample counties was consistent with other measures to restrict the liquor trade. Each of the Norwegian-Lutheran sample counties

¹⁴Ibid.

¹⁵House Journal, HB 242, pp. 422-423; Grand Forks Herald, June 23, 1948, p. 18.

approved liquor-food divorcement by substantial majorities at each election. Each of the German-Catholic sample counties rejected the measures in the first three elections by large majorities. In 1948 voters reduced the majority against divorcement, although all of the German-Catholic counties voted for repeal. Bismarck, Fargo, and Minot each voted against divorcement four times. Rural voters in Burleigh County accepted divorcement only in 1948, but in the other elections they voted against it by less than 100 votes. Rural Cass and Ward voters favored divorcement each time. The city of Grand Forks voted for divorcement in 1942 and 1948, while rural Grand Forks voted for it at each election.¹⁶

The drys' victories in 1946 and 1948 encouraged them to take another step to restrict the sale of liquor. Their next proposal, an initiated measure at the 1950 primary election, provided for a system of local option to determine the legal sale of alcoholic beverages. Voters of each county, city, village, township, school district, or any voting ward or precinct would have had the option to license or ban the sale of alcoholic beverages.¹⁷ Approval of the initiated measure meant that voters could prohibit liquor from their county. If county prohibition failed,

¹⁶See Appendix IV, Table 8, p. 111.

¹⁷Session Laws (1951), p. 530.

voters could have continued to hold elections in the other units of government. Thus, it was possible for only one precinct in a county to enact prohibition. This local option measure, then, would have given the drys a chance to outlaw alcoholic beverages in areas where they had the most votes. For example, voters in Traill County could have dried up their county with one election. On the other hand, in a county such as Burleigh, some townships could have been dry while adjoining ones were wet. In Fargo one side of the street could have been lined with bars, while across the street voters could have banned sales.

The local option proposal differed from those to authorize municipal liquor stores in another way. The measures to establish municipal stores by local option, of course, permitted the voters or the governing body of a municipality to decide whether they wanted a municipal store. Only the 1936 and 1939 measures, however, forced a municipality to either establish a municipal store or have no sales of liquor. Municipal stores were a means to regulate the sale of liquor and to provide revenue, not a means to outlaw liquor. Likewise, some drys said that if the state established municipal liquor stores, the return to prohibition was unlikely. With local option

operating from the county to the precinct, however, prohibition in selected areas was possible.

Temperance leaders submitted the local option measure, they said, because it was the most democratic process of handling the sale of liquor.¹⁸ If a majority of voters in an area wanted liquor they could have it; if a majority opposed the sale of liquor, it could be outlawed. Denying that the sale of liquor was profitable, for local units of government, the drys said that there could never be any revenue from the sale of intoxicants. Crime, broken homes, death, and economic losses were always the result of legal or illegal sales of alcoholic beverages, according to the drys. Furthermore, they said that the proper upbringing of children was more important than the tax "revenue" from licensed sales.¹⁹

North Dakotans United Against Prohibition, as their name implied, recognized that the drys were attempting to gradually bring a form of prohibition to the state. The wets fought the local option measure with numerous advertisements in newspapers. They argued that liquor sales provided needed revenue and that the local option

¹⁸Grand Forks Herald, June 23, 1950, p. 4.

¹⁹Ibid., June 24, 1950, p. 8.

measure invited a "patchwork of prohibition laws" which defied enforcement.²⁰

Editorials in the Herald and Forum usually refrained from trying to influence votes for or against "morality" legislation. Both newspapers, however, often opposed any initiated or referred measure because they said that the legislature, not the voters, was better qualified to make laws. But a Herald editorial opposing the local option measure explained the issue and revealed the motives of the drys. Local option, said the Herald, would not bring back prohibition immediately, but it would give the drys a new weapon. The Herald had no quarrel with local option, but it opposed the construction of the measure to make local option apply to all political subdivisions. If the drys had said that they wanted to slowly return to prohibition, at least the issue would have been more clear to the voters. The Herald urged voters to recognize local option as a "piece by piece" attempt to return to prohibition throughout the state. Rigid control of liquor sales, not so-called prohibition, was the Herald's answer to liquor regulation. If the drys wanted a democratic method of selling liquor, said the Herald, they should forget

²⁰Ibid., June 21, 1950, p. 16; June 25, 1950, p. 20.

about local option and defend the right of each person to choose whether to drink or to abstain.²¹

The local option law found few friends on election day. The measure lost by more than two to one, 116,235 to 48,250. No sample county or city gave the proposal a majority. Rural voters in counties containing the four cities likewise rejected local option. Even the four Norwegian-Lutheran counties, which had the most consistent dry votes, defeated the measure by over twelve per cent of each counties total vote.²²

But the defeat of local option in 1950 did not discourage the drys. In 1952 and 1954 they initiated measures for earlier closing of places selling alcoholic beverages. The 1952 measure set the hours of sale from 8:00 A.M. to 10:00 P.M. The 1954 measure increased the hours to 11:00 P.M.²³

The United Temperance Union argued that earlier closing would send drinkers home sooner, and probably

²¹Ibid., June 23, 1950, p. 4.

²²See Appendix IV, Table 9, p. 112.

²³Session Laws (1953), p. 591; Session Laws (1955), p. 646. The 1945 Senate Committee on Temperance proposed a bill to prohibit the sale of all alcoholic beverages between 1:00 A.M. and 8:00 P.M. The bill was approved and became the governing measure through the remaining period of this study. Session Laws (1945), c. 49.

less intoxicated. Thus, automobile accidents would decrease. They denied that early closing was a planned step toward the return of prohibition. For them, it was a moral conviction; "We are on the side of God and the Ten Commandments."²⁴ A vote against early closing, they charged, entailed moral responsibility for every liquor caused traffic fatality.²⁵

North Dakota United Against Prohibition led the campaign against early closing. "Crime begins at 10:30," they said, if the hours of legal sales were reduced. According to the wets, early closing was an invitation to bootleggers to sell liquor to teen-agers and habitual drunkards. If the voters approved early closing, the wets said that signs reading "Closed Permanently" would appear on bars and off sale stores. As in previous campaigns, the wets again accused the drys of masquerading eventual prohibition with new restrictions on the sale of liquor.²⁶

Protecting their own interests, the North Dakota Beverage Dealers' Association agreed that early closing

²⁴Grand Forks Herald, Nov. 2, 1952, p. 6.

²⁵Ibid., Oct. 27, 1954, p. 9; Nov. 2, 1952, p. 6.

²⁶Ibid., Oct. 28, 1952, p. 2, Oct. 18, 1954, p. 10; Oct. 24, 1954, p. 5; Oct. 29, 1952, p. 12.

was one of a series of steps leading to total prohibition. They added that early closing was a question of legal sales part of the time and illegal sales the rest of the time.²⁷ If the legal sale of liquor stopped at 10:30 or 11:00 P.M., it meant that bootleggers had an additional two hours to sell illegal and untaxed liquor. Border counties and cities, of course, envisioned thousands of dollars leaving North Dakota to be spent in the bars of adjoining states if the voters passed the early closing measures.²⁸

The early closing measures received more support than the measure to provide local option. Both measures to send drinkers home earlier, however, failed. Each of the German-Catholic sample counties defeated them by substantial margins, while the Norwegian-Lutheran counties approved them. In 1952 Griggs, Steele, and Traill counties narrowly accepted 10:30 closing and Nelson County voted against it. In 1954 when the time was raised to 11:00 P.M., each of these counties approved the measure. None of the cities approved early closing, although rural voters in Grand Forks and Ward counties nearly accepted the measure.²⁹

²⁷Ibid., Oct. 27, 1954, p. 12.

²⁸Ibid., Oct. 31, 1954, p. 4.

²⁹See Appendix IV, Table 9, p. 112.

CHAPTER VIII

CONCLUSION

Whether the measure on the ballot was protection of the Sabbath, the sale of cigarettes, or liquor control, there was a conspicuous difference in attitudes in the sample counties. Griggs, Nelson, Steele, and Traill--the Norwegian-Lutheran counties--either approved measures to protect public morality through legislation or narrowly voted against them. The German-Russian-Catholic counties--Dunn, Hettinger, Morton, and Stark, almost invariably voted against measures to legislate morality.

In the eight counties used to determine ethnic and religious differences in the support of morality legislation, the votes indicated that the counties with the largest percentages of Catholics and German-Russians seldom voted like the Norwegian-Lutheran counties. The votes of Stark and Morton counties to ban dancing in places selling intoxicating beverages, and Hettinger County's narrow defeat of the measures to license boxing, legalize the sale of cigarettes, and to permit Sunday movies in 1920, were the only times that any of the German-Catholic counties accepted morality legislation.

Griggs, Nelson, Steele, and Traill counties each opposed Sunday movies, cigarettes, boxing, and the repeal of the state's prohibition statutes. Likewise, each county favored the law to ban dancing in places serving liquor and the measure to divorce liquor and food. Each of the Norwegian-Lutheran counties gave a much larger vote for municipal liquor stores after 1939 than the German-Catholic counties. Nelson County, however, was the only Norwegian-Lutheran county to favor repeal of constitutional prohibition in 1932 after all four counties opposed the measure in 1928. Nelson County voted against repealing the Liquor Control Act in 1938, while each of the counties opposed the sale of liquor in 1936. Although Griggs, Steele, and Traill counties voted for early closing in 1952 and 1954, Nelson County voted against the measure in 1954.

Both urban and rural voters in Burleigh County usually voted like the German-Catholic counties. This was not unusual, since Burleigh County had a larger percentage of German-Russians and Catholics than Cass, Grand Forks, or Ward counties. The latter three counties were predominantly Norwegian and Lutheran,¹ although their percentages

¹Census: 1920, Vol. III, pp. 757-764; Census: 1930, Vol. III, Pt. 2, p. 429; Census: 1940, Vol. II, Pt. 5, pp. 450-452, 471-472; Census: 1950, Vol. II, Pt. 34, pp. 34-60. Religious Bodies: 1926, I, 654-655; Religious Bodies: 1936, I, 797-798; National Council of Churches, Series C., No. 25.

of Norwegians and Lutherans were not as large as in Griggs, Nelson, Steele, and Traill counties. Bismarck's only acceptance of morality legislation was its approval of the ban on dancing and drinking. Rural voters in Burleigh County, however, opposed boxing, cigarettes, and the repeal of the state's prohibition statutes. Rural voters approved liquor-food divorcement in 1942, 1944, and 1948 (by less than ten per cent of the rural vote), while Bismarck rejected the same measures by wide margins.

In Grand Forks County, the split between urban and rural voters was more noticeable. The city of Grand Forks favored boxing and the sale of cigarettes, but rural voters rejected these measures two to one. Rural voters opposed Sunday movies almost two to one at each of the four elections, while city voters approved Sunday movies at each election except in 1933. The city opposed the measure to prohibit dancing where liquor was sold; rural voters favored it. There was little difference between city and rural votes opposing repeal of constitutional and statutory prohibition, although Grand Fork's plurality of 55 votes to repeal constitutional prohibition in 1932 carried the county. In 1934 the city approved the measures to legalize 5.5 beverages, but rural voters voted two to one against them. Both urban and rural voters rejected the early closing measures, but

the rural vote was within 200 votes of approving early closing. Rural voters accepted liquor-food divorcement with substantial majorities; city voters approved it only in 1942 and 1948 by less than 200 votes.

Rural voters in Ward County, too, voted differently from the voters in Minot. Rural Ward County opposed Sunday movies and baseball, the sale of cigarettes, and boxing, while Minot favored all of these measures. Both urban and rural voters opposed repealing constitutional and statutory prohibition; both voted for legalizing the sale of hard liquor through the Liquor Control Act. Minot, however, favored the Liquor Control Act by a greater percentage than the rural voters. Similarly, Minot's percentage for repealing prohibition was greater than the rural percentage for repeal. Minot opposed the early closing of liquor establishments two to one; less than 100 votes prevented rural Ward County from accepting the measures. Although Minot voted against liquor-food divorcement at each of the four elections, rural voters approved the measure four times.

Votes cast in Cass County again demonstrated a difference between urban and rural attitudes. Fargo voters approved and the rural electorate rejected all four measures on the 1920 ballot--to approve Sunday movies, Sunday baseball, boxing, and cigarettes. Voter attitudes toward

Sunday movies in 1930, 1933, and 1934, however, were the same for both rural and urban voters. Both disapproved Sunday movies in 1930 and 1933; both accepted a Sunday movie measure in 1934. Both urban and rural voters rejected the measure to repeal constitutional prohibition in 1928, although the rural majority was less than Fargo's. Both accepted repeal in 1932, but rural voters voted for repeal by a larger margin. The drys attempted to repeal the state's statutory prohibition laws in 1934, however, Fargo favored repeal by one per cent while rural Cass County voters rejected the measure by thirteen per cent. Both approved the sale of beer in 1933, but only Fargo's voters accepted the 1936 Liquor Control Act. The municipal liquor store measures did not reveal a rural-urban split. The local option and early closing measures of the 1950's were opposed by both rural and urban Cass voters, although the rural vote was closer to approval. The most noticeable split occurred on the liquor-food divorcement measures. At each of the four attempts in the 1940's, rural voters favored divorcement (by less than 200 votes each time however), while Fargo voted against divorcement by larger majorities.

That there was a difference in voting behavior has been noted. But the reasons for the differences between

the descendants of Norwegians and German-Russians may not be found simply by saying that the German-Russians had a tradition of drinking, dancing, and living a carefree life, while the Norwegians had a tradition of abstaining from alcoholic beverages and "worldly activities."

The German-Russians who settled in Dunn, Hettinger, Morton, Stark, and other counties of North Dakota, have been described as "unaccomplished, uncultured, and uneducated."² Although the German-Russians were deeply religious, they were accused of excessive drinking, a lack of respect for women and children, and being inferior to their neighbors of other nationalities. While in Russia, many of the Germans were patrons of the government-owned saloons and used whiskey for medicinal purposes. Drinking was widespread and many were heavy drinkers. Women did not drink as much as the men, but women upheld the right of men to drink. Wives considered it their duty to tolerate a drunken husband. The German-Russians retained their appetite for alcoholic beverages when they came to North Dakota. Although they were no more criminally inclined than other citizens of North Dakota, they saw nothing wrong with violating state and national prohibition laws.

²Joseph B. Voeller, "The Origin of the German-Russian People and Their Role in North Dakota" (unpublished Master's thesis, University of North Dakota, 1940), p. 23.

In Russia, in fact, the government sponsored national liquor; but in North Dakota the government forbade it or refused to be a retailer of liquor. In a word, prohibition and laws against dancing, smoking, and restricting entertainment on Sundays were foreign to them.³

Most of the German-Russians in the sample counties were Catholics. Although the Catholic Total Abstinence Union supported prohibition, the Catholic Church's leaders and members, on the whole, supported temperance rather than prohibition.⁴ The Jesuit weekly America, one of the most influential organs of Catholic thought in the United States, typified Catholic attitudes toward morality legislation:

The decalogue is no longer up to date. "Thou shalt not kill," in certain contingencies, is of less moment than "Thou shalt not drink wine"; "Thou shalt not commit adultery" is on a par with "Thou shalt not use tobacco"; whereas, "Thou shalt not steal," appears to be of less consequence to a class of reformers than "Thou shalt not play Sunday baseball."⁵

Catholic temperance societies never numbered more than one Catholic out of two hundred. After 1913, when the Anti-Saloon League began to press for national prohibition,

³Voeller, pp. 23, 54-55, 90.

⁴Sinclair, p. 68.

⁵America, March 6, 1915, cited by Sinclair.

Catholic temperance societies reacted against the idea of prohibition.⁶

For the German-Russians it appears to have been both their ethnic traditions and their religion, Catholicism, that disposed them to oppose prohibition and other morality legislation. For the Norwegian element in North Dakota, it was Lutheranism which led many to accept laws against immorality. Although the Norwegian-Lutheran immigrants in North Dakota were more familiar with whiskey and home brewed ales than lemonade, Norwegian Lutherans in the state became proponents of morality legislation and prohibition. The Norwegians had a tradition of social drinking and carried it to the United States in the mid-nineteenth century. They not only passed the jug at weddings, baptisms, and funerals, but they also patronized saloons and liquor stores and had their traditional drinking songs. A historian of Norwegian immigrants in the United States, J. L. Nydahl, suggested that with the easy access of liquor in the United States, drinking among Norwegians became common.⁷ Theodore Blegen, perhaps the leading authority on Norwegian migration to the United States,

⁶ Sinclair, pp. 426-427.

⁷ Theodore C. Blegen, Norwegian Migration to America (Northfield, Minn.: Norwegian-American Historical Assoc., 1940), II, 204.

suggested that Norwegians in America drank less frequently than the people of Norway.⁸ While some Norwegians had a friendly tolerance of liquor, protests against drinking increased in the last quarter of the nineteenth century under the direction of prominent Norwegian Americans. Gradually, temperance gained support among the people. Accompanying the protests against liquor was the disapproval of dancing, card playing, the theater, and other activities which were considered "worldly and sinful."⁹

Evidence in North Dakota suggests that Blegen's statement concerning the Norwegian-Americans' support of morality legislation is correct. The temperance movement and the legislation of blue laws among the Norwegian immigrants and their descendants drew its original impetus from American sources. But, according to Blegen, it was nevertheless independent of American puritanism. Concern for protecting public morality was brought to the United States by the adherents of the pietism taught by Hans Nielson Hauge and the Haugean preacher, Elling Eielsen. The pietistic Haugean conventicle was an informal group, devoted to evangelism

⁸Ibid., II, 204-206.

⁹Ibid., II, 221.

and edification. While in Norway, they had reacted against the state church's emphasis on pure doctrine and ceremony. Regarding pure living as more important, the Haugeans left the symbols of organized Lutheranism to the state.¹⁰

When the Norwegian Haugeans came to the United States, the teachings of Hauge came with them. Through the work of Eielson in the United States, the Norwegian Lutherans became as strict in matters of morals and religion as the Puritans of New England. Pietism, for the Haugeans, was Godliness united with a distrust of human frivolities that detoured people from the straight and narrow path--and dancing and drinking were the principal causes of ungodliness among many of them.¹¹ When the high-church synod and the low-church Eielson synods united to form the Norwegian Evangelical Lutheran Church of America in 1917 (the majority of North Dakota Lutherans belonged to this synod), the new church was "low" when compared with the high-churchism of other Lutheran bodies. Both the pietistic and high-church synods of Norwegian Lutheranism had become puritanical.¹²

The contrast between urban and rural attitudes, in part, corresponds to the religious and traditional views

¹⁰Ibid., II, 100-101, 169-171.

¹¹Ibid., II, 223.

¹²Ibid., II, 170-171.

of what constituted a sin. In rural Cass, Grand Forks, and Ward counties, there were more Norwegians than German-Russians. In rural Burleigh County, which voted less often for morality legislation, there were more German-Russians than Norwegians. While the ethnic and religious compositions of the cities were similar to their counties, the cities were more "cosmopolitan" in ethnic and religious make-up. For the nation as a whole, according to Richard Hofstadter, prohibition was one of the most symptomatic issues for an understanding of urban-rural conflicts and the ethnic tensions in American politics. Prohibition was transported by a "rural-evangelical virus," said Hofstadter; it was a "grim reminder of the moral frenzy that so many wished to forget; a ludicrous caricature of the reforming impulse of the Yankee-Protestant notion that it is both possible and desirable to moralize private life through public action."¹³ Andrew Sinclair, another historian of reform, re-emphasized the urban-rural split: "Prohibition was the final victory of the defenders of the American Past. On the rock of the Eighteenth Amendment, village America made its last stand."¹⁴

Evidence in North Dakota suggested that an urban-rural conflict was present between 1920 and 1954, for

¹³Hofstadter, p. 289.

¹⁴Sinclair, pp. 64-65.

there was a difference between rural and city votes for liquor control and other morality legislation. The voting patterns of the state's four largest cities supports an "urban-rural thesis" to the extent that larger urban populations usually returned higher percentages of wet and anti-morality legislation votes than the rural population.

The significance of an urban-rural split is obscured, however, by North Dakota's large number of foreign born and their offspring during the period of this study. North Dakota was neither a state with a large percentage of old American, Angle-Saxon stock, nor was it a state with many evangelical Protestants (such as the Methodists and Baptists) who were the alleged carriers of the prohibition and morality legislation viruses. Moreover, North Dakota's cities were small.

It would be well to keep in mind the view of James H. Timberlake, who has recently examined progressivism and prohibition, that the prohibition and moral reform movement has been a class struggle rather than purely an urban-rural conflict.¹⁵ In North Dakota most of the German-Russians and Norwegians lived in rural areas, yet the relatively unprosperous and unassimilated German-

¹⁵James H. Timberlake, Prohibition and the Progressive Movement, 1900-1920 (Cambridge, Mass.: Harvard University Press, 1963), p. 152.

Russian group opposed prohibition and morality legislation and the more prosperous and "Americanized" Norwegians generally favored direct legislation to uplift the state's morals. Intertwined with the Norwegian-Lutheran emphasis on "pure living" was the more rapid assimilation of Norwegians into the ideals of the American middle class. More than the German-Russians, the Norwegian element in North Dakota shared the hope of progressives that they could restore the purity of the state and nation and legislate a better world.

It should be remembered, also, that this study is not an attempt to probe the minds of the state's voters. Likewise, it is not known whether a "typical" German-Russian Catholic voted against morality legislation because he was a German-Russian, or a Catholic, or if there may have been other reasons for his attitude. Nor can it be said with certainty whether a Norwegian Lutheran voted for morality legislation because he was a Norwegian, a Lutheran, or because he lived on a farm in Traill County.

The study indicated, however, that Norwegians, most of whom were Lutherans, favored prohibition and morality legislation by greater majorities than the German Catholic populations of the sample counties. The study also indicated that a greater percentage of rural voters, rather than urban

voters, approved morality legislation. In North Dakota, therefore, it appeared that voters accepted morality legislation only when there was an important traditional, religious, or social sanction against the use of intoxicants and impious frivolities.

APPENDIX I

ETHNIC COMPOSITION

Most numerous foreign born and those of foreign,
or mixed parentage for selected counties, 1930 ¹

County	Total Pop.	Total Norw.	Total Swede	Total Germ.	Total Germ- Russ.
Griggs	4612	3123	416	395	9
Nelson	6637	4241	457	461	21
Steele	4442	2957	438	237	20
Traill	8194	6261	495	740	10
Dunn	6639	1024	183	540	3477
Hettinger	5840	629	190	645	2342
Morton	13961	1022	527	2996	6454
Stark	11361	563	167	1271	5292

¹U. S., Bureau of the Census, Fifteenth Census: 1930,
III, Pt. 2, pp. 428-429.

APPENDIX II

RELIGIOUS COMPOSITION OF THE SAMPLE COUNTIES, 1926-1957¹

Year	County	All Denominations	Roman Cath.	All Luth.	Norw. Luth. (E.L.C.)
1926	Griggs	2621	208	2035	1755
1936		2454	299	1946	1681
1957		2964	382	2256	2002
1926	Nelson	4634	563	3714	3381
1936		5679	1097	4355	4037
1957		6239	1041	4980	4867
1926	Steele	3697	240	2855	2377
1936		5984	150	2238	1759
1957		4097	301	3304	3080
1926	Traill	6786	374	5567	4202
1936		5984	390	5053	3884
1957		6786	463	5638	5286
1926	Dunn	4884	2792	1642	663
1936		4638	2634	1770	728
1957		6074	3769	2068	901
1926	Hettinger	4144	2450	1089	431
1936		4482	2653	1133	436
1957		5158	3287	1230	618
1926	Morton	11976	7484	1495	1012
1936		13044	8893	1586	959
1957		15771	9507	2790	1553
1926	Stark	10507	8758	795	290
1936		11365	9264	1154	456
1957		12315	9622	1711	394

¹U.S., Bureau of the Census, Religious Bodies: 1926, Vol. I, Table 32, pp. 654-655; Religious Bodies: 1936, Vol. I, Table 32, pp. 797-798; National Council of Churches, Churches and Church Membership in the United States: An Enumeration and Analysis by Counties, State, and Region, Series C, No. 25 (New York: National Council of Churches, 1957), Tables 59-60.

APPENDIX III

URBAN-RURAL STATISTICS

Urban and rural populations of sample counties and cities, 1920-1950¹

Year	County	Total Pop.	Rural Pop.	City	Urban Pop.
1920	Burleigh	15578	8456	Bismarck	7122
1930		19769	8679		11090
1940		22736	7240		15496
1950		25673	7033		18640
1920	Cass	41477	19516	Fargo	21961
1930		48735	20116		28619
1940		52849	20269		32580
1950		58877	20621		38256
1920	Grand Forks	23795	14785	Grand Forks	14010
1930		31956	14844		17112
1940		34518	14290		20228
1950		39443	12607		26836
1920	Ward	28811	18335	Minot	10476
1930		33597	17498		16099
1940		31981	15404		16577
1950		34782	12750		22032

¹U. S., Bureau of the Census, Fifteenth Census of the United States: 1930, III, Pt. 2, 418-426; Seventeenth Census: 1950, II, Pt. 34, 34-37.

APPENDIX IV

TABULATION OF VOTES ON MORALITY LEGISLATION, 1920-1954

The primary source of votes by counties for the elections in North Dakota between 1920 and 1954 was the North Dakota Secretary of State's Compilation of Election Returns, National and State, 1914-1954. The Compilation did not contain votes for the 1932 initiated constitutional amendment to repeal the state's prohibition clause. The votes for the amendment were obtained from the Secretary of State's Office at Bismarck, the Nelson County Auditor at Lakota, the Fargo Forum, the Grand Forks Herald, and the Minot Daily News.

To determine urban and rural votes, it was necessary to tabulate the votes by precincts. For Burleigh, Grand Forks, and Ward counties, the author tabulated the votes from the counties' auditors' official abstracts. The official abstracts of votes for Cass County were destroyed. Thus, the votes for Fargo and rural Cass County were obtained from the Fargo Forum's official publication of abstracts.

Table 1

Sunday movies and baseball

County	Movies 1920		Movies 1930		Movies 1933		Movies 1934		Baseball 1920	
	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO
Griggs	209	454	642	1452	463	1098	951	1903	292	366
Nelson	327	504	1190	1721	1089	1424	1909	2421	402	427
Steele	204	552	766	1535	585	1269	931	2028	271	490
Trail	418	928	1074	2487	1078	2255	1770	3389	545	809
Dunn	256	151	1164	923	1061	801	2178	1500	255	149
Hettinger	169	203	1409	995	1257	1019	2034	1500	190	183
Morton	838	459	3126	2349	2861	1741	5094	2822	926	388
Stark	635	281	2563	1270	2279	1204	4146	1831	684	241
Rural Burleigh	213	206	1295	1136	1286	811	1975	1487	226	198
Bismarck	734	272	2464	1287	2438	1105	4204	1820	765	243
Rural Cass	774	1165	1799	2355	2040	2391	4107	3773	924	1015
Fargo	1424	1200	2897	3888	3450	4470	5418	4796	1561	1072
Rural G.F.	330	835	1317	2753	1554	1878	2252	3561	426	724
Grand Forks	887	825	2024	2773	2687	1931	3718	3255	1028	706
Rural Ward	348	513	1853	2713	1740	2422	2966	4093	410	455
Minot	626	392	1882	2073	2338	1867	3858	2749	690	330
Total State	23522-27363		84629-96990		81435-82235		136743-135073		26681-24885	

Table 2

Cigarettes

County	1920	
	YES	NO
Griggs	222	446
Nelson	306	520
Steele	210	553
Trail	440	913
Dunn	227	174
Hettinger	179	195
Morton	861	455
Stark	628	290
Rural Burleigh	203	220
Bismarck	727	285
Rural Cass	776	1167
Fargo	1364	1253
Rural Grand Forks	339	796
Grand Forks	909	823
Rural Ward	379	494
Minot	621	389
Total State	24152	27212

Table 3

Dance-drink

County	1938	
	YES	NO
Griggs	1501	596
Nelson	1974	1085
Steele	1572	673
Traill	2031	1176
Dunn	1077	1283
Hettinger	1095	1305
Morton	2775	2683
Stark	2444	1846
Rural Burleigh	1318	1200
Bismarck	2416	2209
Cass County ¹	9096	4169
Rural Grand Forks	2185	1429
Grand Forks	2141	2312
Rural Ward	3145	1938
Minot	2660	1917
Total State	109619	77046

¹The records of the Cass County Auditor were destroyed and the Fargo Forum's publication of the Auditor's Abstract did not give the tabulation of votes by precincts.

Table 4

Votes by counties to repeal prohibition

County	Repeal Article 20 1928		Repeal Article 20 193		Repeal Prohi- bition Laws 1934	
	YES	NO	YES	NO	YES	NO
	Griggs	837	1312	996	1195	840
Nelson	1457	2262	2304	1518	1542	2441
Steele	744	1880	1072	1273	752	2086
Traill	1312	3105	1998	2422	1356	3511
Dunn	1487	851	1379	625	1933	1439
Hettinger	1789	1220	1988	1127	1634	1568
Morton	4731	2623	6424	1832	3615	1731
Stark	2682	1538	4387	1546	3674	1874
Rural Burleigh	1217	1253	1714	1194	1547	1701
Bismarck	2068	1755	3025	1841	3150	2512
Rural Cass	2802	3183	2483	2099	3194	4123
Fargo	3290	4540	6678	6420	4797	4711
Rural G.F.	1521	3080	2453	2459	1579	3989
Grand Forks	1811	2528	3584	3529	2821	3280
Rural Ward	2222	2619	3107	2444	2457	4191
Minot	2017	2131	3799	2416	2957	3225
Total State	96837-103696		134742--99316		111511-139733	

Table 5

Votes by counties to legalize sale of alcoholic beverages

County	Beer 1933		Liquor Control Act 1936		Repeal LCA 1938	
	YES	NO	YES	NO	YES	NO
Griggs	832	723	915	1842	1367	1321
Nelson	1720	826	2008	2541	2080	2120
Steele	1053	821	863	2020	1625	1215
Traill	1809	1574	1689	3665	2898	2083
Dunn	1479	417	2234	1169	939	2197
Hettinger	1722	558	2170	1229	924	2155
Morton	3953	780	6424	1832	1450	6088
Stark	2861	647	4101	2118	1890	3838
Rural Burleigh	2887	824	1989	1280	985	2024
Bismarck	1431	584	4379	2096	1543	5071
Rural Cass	3049	2437	3672	4038	2864	5052
Fargo	5405	2537	7081	6364	3850	7832
Rural G.F.	2068	1630	3154	2972	2746	2913
Grand Forks	3325	1175	4508	3819	2594	4489
Rural Ward	2772	1496	3374	3363	2516	3854
Minot	3029	1109	4624	2866	1917	4692
Total State	116420	48731	147330	128064	98478	160365

Table 6

Votes to legalize 5.5 liquor

County	"Drug Stores" 1934		"Local Option" 1934	
	YES	NO	YES	NO
Griggs	819	1799	755	1511
Nelson	1295	1809	1272	1774
Steele	759	1717	752	1662
Trail	1304	2937	1239	2915
Dunn	1555	1496	1307	1313
Hettinger	1073	1703	1257	1470
Morton	2849	2751	3175	2336
Stark	2063	2241	2199	1973
Rural Burleigh	1164	1769	1368	1542
Bismarck	1811	2296	2974	2234
Rural Cass	2629	2756	2560	2696
Fargo	3589	3706	3529	3593
Rural Grand Forks	1451	2905	1407	2846
Grand Forks	2216	2160	2187	2120
Rural Ward	2015	3557	1997	3504
Minot	1959	2552	2047	2408
Total State	88079-119968		90076-114299	

Table 7

Municipal liquor stores

County	1936		1939		1944		1948		1952	
	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO
Griggs	479	1335	310	1823	1106	818	1119	1059	1124	1267
Nelson	1215	1968	764	3340	1483	1331	1570	1784	1260	2234
Steele	593	1550	485	1854	1173	746	1138	1006	1036	1131
Trail	993	2864	633	3950	2501	1558	2202	1987	2389	2248
Dunn	1175	1329	564	1761	841	1173	784	1610	796	1985
Hettinger	1346	1120	662	1607	858	1211	1048	1378	884	1911
Morton	2806	2819	1131	4899	1688	3142	1907	4373	2171	5335
Stark	2224	2221	707	3371	1348	2158	1642	3481	1642	4498
Rural Burleigh	1016	1208	644	1703	688	961	708	1653	735	1709
Bismarck	2055	1582	581	4551	1990	3226	2106	3979	2779	6122
Rural Cass	2133	4607	688	6222	2515	3378	Total Cass ²		2770	4834
Fargo	1724	4341	993	12284	4670	7132	6402	14302	5894	10940
Rural G.F.	1294	2911	624	4021	2228	2009	2350	2421	2064	2899
Grand Forks	1578	2292	786	5836	3141	3726	3976	4545	3629	6094
Rural Ward	2005	2598	1236	3719	1938	2264	1583	2858	1563	3429
Minot	2613	1763	550	4687	2182	3279	1963	4524	2335	6341
Total State	78337-105832		41814-170538		85874-100726		84857-127529		85923-159250	

Table 8

Liquor-food divorcement

County	1942		1944		1946		Repeal Divorcement 1948	
	YES	NO	YES	NO	YES	NO	YES	NO
Griggs	1206	778	1265	765	1348	605	726	1281
Nelson	1560	1027	1758	1234	1879	1138	1237	2032
Steele	1316	560	1405	725	1206	645	743	1210
Traill	2189	1277	2694	1564	2395	1297	1532	2225
Dunn	798	1294	719	1217	752	1078	1202	1076
Hettinger	850	1275	869	1236	855	1299	1282	1219
Morton	1540	3409	1669	3132	1849	3562	3529	2722
Stark	1141	2174	1394	2412	1246	2582	3125	2246
Rural Burleigh	971	985	807	821	1058	1141	889	1157
Bismarck	1522	2927	1836	3244	1946	2769	3371	2795
Rural Cass	2207	2176	3504	3386	2397	2368	2600	2870
Fargo	3307	5080	4229	8016	4180	5130	6380	5155
Rural Grand Forks	2108	1321	2550	1925	1964	1309	1592	2340
Grand Forks	2228	2125	2977	3888	2161	2507	2584	2697
Rural Ward	2465	1638	2537	1961	2213	1762	2067	2357
Minot	1784	2206	2437	3205	2027	2245	3414	2472
Total State	84049	85733	94071	97058	86114	82332	92717-100612	

Table 9

Local option and early closing

County	Local Option 1950		Early Closing 1952		Early Closing 1954	
	YES	NO	YES	NO	YES	NO
	Griggs	731	934	1364	1133	1094
Nelson	859	1731	1673	2086	1433	1355
Steele	621	839	1193	1126	1045	887
Traill	1265	1891	2852	2172	2144	1660
Dunn	393	1615	1041	1820	825	1536
Hettinger	547	1565	1231	1691	899	1337
Morton	744	4463	2542	5543	2098	4066
Stark	626	3437	1668	4838	1340	3580
Rural Burleigh	543	1378	1099	1543	903	1183
Bismarck	1178	4560	2793	6245	2127	4350
Rural Cass	1329	3073	3529	4728	2588	3352
Fargo	2359	6624	6215	11637	4447	7966
Rural G.F.	1191	1866	2625	2816	1941	2107
Grand Forks	1676	3345	3086	7296	3289	3957
Rural Ward	1308	1886	2660	2725	1996	2064
Minot	1367	3620	3177	6088	2220	3954
Total State	48250-116235		110506-150231		87203-111228	

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