University of Alberta

From Prohibition to Administrative Regulation: The Battle for Liquor Control in Alberta, 1916 to 1939

by

Sarah Elizabeth Mary Hamill

A thesis submitted to the Faculty of Graduate Studies and Research
in partial fulfillment of the requirements for the degree of

Doctor of Philosophy

Faculty of Law

Spring 2014
Edmonton, Alberta

Abstract

This dissertation is a legal history of Alberta's early twentieth-century battle to control liquor. During this period, Alberta, like a number of other jurisdictions both inside and outside of Canada, enacted some form of legislative liquor prohibition. When prohibition failed to control liquor, Alberta, in common with other jurisdictions which had experimented with prohibition, introduced government liquor sales. Typically this shift from prohibition to government liquor sales has been understood as a gradual liberalization of liquor sales. This dissertation argues, by contrast, that the end of prohibition in Alberta saw the introduction of more effective liquor controls. It shows that Alberta's move from prohibition to government liquor sales did not represent a change in the underlying ideas and beliefs about liquor but a change in how those beliefs were to be enforced. Government liquor sales saw Alberta change from prosecuting liquor law violations to regulating access to liquor which better allowed for the kind of supervision over liquor consumption that prohibition aimed at.

The introduction situates this dissertation in the existing studies of Canadian liquor boards, Canadian legal history, and histories of administrative bodies like the Alberta Liquor Control Board (ALCB). Chapter two provides the background to the emergence of Alberta's 1916 to 1924 period of prohibition by examining the liquor controls of pre-prohibition Alberta and the emergence of the temperance movement in the province. Chapter three explores prohibition's failure to deliver its promises of a law-abiding sober society. In particular it

examines how the *Liquor Act* was actually enforced, or not enforced among Alberta's population to show that the measure lacked the popular support it needed. Chapter four uses the example of the struggle to control prohibition's medicinal exception to argue that Alberta came to see regulating access would be more effective than outright prohibition. The final two chapters explore the design and operation of Alberta's post-prohibition system of liquor sales respectively. Chapter five demonstrates that the government established the ALCB for political and practical reasons while Chapter six shows how the post-prohibition system answered the failures of prohibition outlined in Chapter three.

Acknowledgements

There are a number of people who helped make this dissertation possible and I would like to take the opportunity to thank as many as possible here. The first thank you properly belongs to Brian Garrett who encouraged me to embark on graduate scholarship, as did a number of professors at the University of Glasgow and the University of Toronto.

Writing any dissertation is a challenge and requires the support of a great many people. As a legal historian I must rely on the support and expertise of archivists and librarians. I feel extremely lucky to have had the support of a number of dedicated and efficient librarians and archivists who were able to track down obscure sources and guide me through the sometimes labyrinth-like idiosyncrasies of their particular collection. These archivists and librarians include: Kathryn Arbuckle and Amanda Wakaruk at the University of Alberta; Blanche Jones at the Alberta Gaming and Liquor Commission; Andrea Emberley at the Legislative Library; Laurette Miller, Robin Wallace, Sharry Watson, Karen Simonson and Connie Yaroshuk at the Provincial Archives of Alberta; as well as the wonderful staff at the Glenbow Archives in Calgary.

Similarly there were a number of faculty members at the University of Alberta who showed an interest in both this project and my professional development. During my tenure at the Faculty of Law, Erin Nelson, Barb Billingsley, and Steven Penney all served as Associate Dean of Research and arranged for me to present my work at several faculty seminars. I would also like to thank the various Associate Deans of Graduate Studies, Moin Yahya, Linda

Reif, and Russ Brown, with a special mention to Steven Penney who stepped into Russ's shoes when he was appointed to the Court of Queen's Bench. I would also like to thank Annalise Acorn, Joanna Harrington, Cathy Bell, David Percy, Val Napoleon, Ted DeCoste, Bruce Ziff, Shannon O'Byrne, Rod Wood, and Phil Bryden for their support over the four and a half years it took to complete this dissertation. I would also like to thank the Faculty's support staff who sorted out any number of administrative hiccups and technical problems. Special thanks are owed to Sandra Teves, Kim Wilson, Merle Metke, Pat Neil, Kim Cordeiro, Katherine Thompson, and Tim Young. Since 2010 I have been on the board of the Canadian Law and Society Association. A number of board members, both past and present, have proven to be both valuable mentors and good friends. Thank you.

While writing this dissertation I presented this research at a number of conferences. In particular I would like to thank the organizers and participants of the Canadian Law and Society Association's Annual Meetings as well as their Mid-Winter meetings – I have presented at both of these meetings a number of times and always received excellent feedback. I would also like to thank the organizers and participants in the 2010 and 2011 Osgoode Hall Law School's Graduate Student Conferences, and the 2010 and 2011 University of British Columbia's Graduate Law Student Conferences. The CLSA and the Faculty of Law, University of Alberta provided much needed and appreciated financial support to attend these conferences. As already noted I gave a number of Faculty Seminars at the University of Alberta and I would like to thank those who took

the time to attend and ask engaging and thought provoking questions about my research.

Special thanks are also owed to the two anonymous peer reviewers for the *Canadian Journal of Law and Society* for their comments on a version of what is now Chapter Four of this dissertation. Their comments not only improved my article but also this dissertation. Thanks are also owed to Mariana Valverde and Dawn Moore as Editor-in-Chief and Managing Editor respectively for making the publication process as painless as possible.

The Alberta Law Foundation, the Eleanor Luxton Foundation, the McDermid Law Fund, the Eldon and Anne Foote Fund, the Osgoode Society, and the Faculty of Law, University of Alberta all provided the funds needed to support this research. I am grateful to have received such financial support.

Writing a dissertation on liquor regulation necessarily attracts the attention and interest of a wide range of people. I am indebted to the many people, both academic and not, who shared anecdotes about Canada's odd system of liquor sales. I cannot thank all of you here by name but I enjoyed hearing your stories.

I would like to end these acknowledgements by thanking two groups of people. The first are my supervisory committee, the second are my friends and family. From the outset Eric Adams was the best supervisor a PhD student could hope for. Not only did he read multiple drafts of my work, he did so quickly and along the way he greatly improved my writing abilities. John Law, the former solicitor for the ALCB, provided endless knowledge and insightful comments

about liquor regulation in Alberta and elsewhere. James Muir's knack for spotting logical fallacies and confusing phrasing greatly improved this dissertation. Frances Swyripa graciously shared her expertise on Alberta's history, particularly the history of its Ukrainian community and their run-ins with liquor regulation. As my 'internal-external' Matt Lewans provided insightful and thought-provoking comments which I hope to engage with in future research. Finally Doug Harris acted as my external examiner and provided comments which have made the final product much better than it otherwise would have been.

Last but by no means least are my family and friends. Milena Ingratta, Stephanie Ho, Joseph Kary, Megan Evans Maxwell (and Dave, Nika, and Violet), Andrea Menard, Marcos Cervantes LaFlamme, Pippa Feinstein, the Barrs and others variously provided places to stay, food, and support in person over skype, text, and email. Daniel Sims, Megan Caldwell, Lacey Fleming, Jan Buterman, Ubaka Ogbogu, Gail Henderson, Nikki Burt, Crystal Fraser, Marguerite Koole, Tony Ratcliffe, and the many others who were going through the graduate student experience with me were always available for post-writing drinks or excursions which did not involve anything to do with our studies. Despite being several thousand miles away my family provided an endless stream of much-needed moral support. Particular thanks are owed to my parents who, from a young age, instilled in me the importance of a good education. I am forever grateful for the hardships you endured to see that your children got the best education possible

Contents

1 – Introduction

Early in the twentieth century, social reformers across Canada believed that liquor was at the root of a range of social issues including poverty and vice.[1] Consequently, liquor control came to be seen as a panacea for social ills which made liquor a problem that needed to be, and could be, solved.[2] This dissertation is a legal history of Alberta's struggle to enact a legislative solution to this perceived liquor problem. In particular I focus on the province's shift from prohibition to government sale of liquor. In Alberta, as in other provinces, increased liquor control emerged in response to public pressures to ban alcohol, culminating in the introduction of prohibition in 1916. When prohibition failed to adequately control liquor and eradicate its attendant social ills, Alberta, like other jurisdictions which had banned alcohol, turned to government liquor sales as an alternative solution. While the return to liquor sales has been typically understood as a gradual liberalization of liquor control, this dissertation argues that, paradoxically, the end of prohibition in Alberta actually marked an increase in liquor control.

---

[1] Cheryl Krasnick Warsh, " "John Barleycorn Must Die": An Introduction to the Social History of Alcohol" in Cheryl Krasnick Warsh, ed, *Drink in Canada: Historical Essays* (Montreal: McGill University Press, 1993) 3 at 9, 12; Craig Heron, *Booze: A Distilled History* (Toronto: Between the Lines, 2003) at 64 [Heron, *Booze*]; Nancy M Sheehan, "The WCTU and Educational Strategies on the Canadian Prairie" (1984) 24:1 History of Education Quarterly 101 at 102 ("[c]ommon to all the research on the WCTU is the conclusion that the underlying philosophy which allowed many women to become involved in temperance activities outside of the home was the belief that the innocent victims of the traffic in alcoholic beverages were women and children and family life"); TL Chapman, "The Anti-Drug Crusade in Western Canada, 1885-1925" in DJ Bercuson & LA Knafla, eds, *Law and Society in Canada in Historical Perspective* (Calgary: University of Calgary Press, 1979) 89 at 90 (noting that all vice was seen in light of its relation to alcohol).

[2] Heron, *Booze*, *supra* note 1 at 131; BH Spence, "Prohibitory Legislation in Canada" (1923) 109 Annals of the American Academy for Political and Social Science 230 at 250 (arguing that as a result of prohibition, society was improving).

By examining what Alberta's liquor laws actually said and how they were enforced I argue that the end of prohibition did not mark a shift in beliefs about liquor but a change in how the government enforced these beliefs and ideas. That is to say, Alberta's post-prohibition *Liquor Control Act*[3] reflected the same ideals and anti-liquor attitude as the prohibition-era *Liquor Act*. [4] What was different about the new legislative regime was that it sought to regulate access to liquor rather than simply prosecute those who illegally accessed liquor. In short, the new regime marked a shift to ongoing government supervision. Alberta's post-prohibition liquor laws, by which I mean the *Liquor Control Act* and the new Alberta Liquor Control Board's (ALCB) regulations and policies, contained detailed provisions about the locations of liquor sale, and who could buy liquor and under what circumstances. The new laws also required that each sale be recorded so that the ALCB would know who had bought how much liquor and where they had purchased it. Based on this information about purchases, the ALCB could monitor and limit those who seemed to buy too much liquor.

The content of liquor laws might be, as Robin Room claims, driven "by the necessities of symbolic action;"[5] however, I argue that, in early twentieth-century Alberta, the government wanted the laws to be more than symbolic, it wanted the laws to be effective. It was the government's desire for effective laws that explains the shift from prohibition to government control and the change in method of enforcement. In order to fully examine the shift to government liquor

[3] SA 1924, c 14 [*Liquor Control Act*].
[4] SA 1916, c 4 [*Liquor Act*].
[5] Robin Room, "Evaluating the Effect of Drinking Laws on Drinking" in J Ewing & B Rouse, eds, *Drinking: Alcohol in American Society – Issues and Current Research* (Chicago: Nelson-Hall, 1978) 267 at 269.

control I focus on the liquor laws between 1916 and 1939. This time period allows me to explain the shift from prohibition to government control and detail the increasing acceptance of the latter system as the 1920s and 1930s progressed and as other jurisdictions ended prohibition. The dissertation closes at the start of the Second World War as attitudes towards liquor underwent further change during the war.[6]

Yet an examination of how the *Liquor Control Act*'s provisions were implemented shows that the ALCB was not always as strict in its administration as it claimed to be. The discrepancy between what the law said and how it was enforced should be understood as part of the ALCB's balancing act between selling and regulating liquor. Furthermore, the gap between the letter of the law and how it operated 'on the ground' suggest that there was a difference between what the government wanted from the *Liquor Control Act* and what the drinking public wanted. It was for the ALCB to bridge this gap between the needs of the government and the wishes of the public.

Although it is tempting to read this dissertation in light of the current debate about drug laws,[7] my reasons for choosing liquor regulation, and more specifically liquor regulation in Alberta, speak to concerns about the law more

---

[6] See Heron, *Booze*, *supra* note 1 at 295-296.

[7] Anton RF Schweighofer, "The Canadian Temperance Movement: Contemporary Parallels" (1988) 3 CJLS 175; Cynthia S Duncan, "The Need for Change: An Economic Analysis of Marijuana Policy" (2009) 41 Conn L Rev 1701; Michael Vitiello, "Legalizing Marijuana: California's Pot of Gold" (2009) Wis L Rev 1349; Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2010); Brendan Kiley, "The Mystery of the Tainted Cocaine" *The Stranger* (17 August 2010); "The Mystery of the Tainted Cocaine, Part IV: Human Suffering and How One Act of Congress 100 Years Ago Set Us on a Global Road to Hell" (4 January 2011) available online at http://www.thestranger.com/seattle/Content?oid=4683741&mode=print

generally. I am mindful of Dawn Moore's observations that drugs have their own cultural lives which affect their methods of control.[8] In fact, Moore's work echoes legal history's concern to appreciate the particular contexts in which legal measures arise. My concern in this dissertation is not with designing effective legal controls for illicit substances. Rather, my interest is in uncovering the difference between what the law *provided for* and how it actually operated on the ground, to observe how the operation of the law informed or affected legal changes and, if so, in what ways. The shift from prohibition to government sale of liquor provides a good example of how the law responds to difficulties in implementation. The failure of prohibition was, after all, a failure of law. My objective is to uncover how the law adapted to control liquor and what this can tell us about effective legal controls more broadly.

There are two main reasons why I have chosen Alberta as the focus of this study. The first is because Alberta, unlike other Canadian provinces, reintroduced liquor stores and licensed premises simultaneously at the end of prohibition. Other provinces ended prohibition by bringing back liquor stores and then, after a gap of a few years, allowed a return to licensed premises.[9] The staggered end to prohibition in other provinces paints a picture of gradual liberalization when, in fact, licensed premises likely offered more control over liquor consumption than liquor stores. Licensed premises allowed the government to supervise both the behaviour of drinkers and the environment in which they drank; liquor stores did

[8] Dawn Moore, "Drugalities: the Generative Capabilities of Criminalized 'Drugs'" (2004) 15 International Journal of Drug Policy 419 at 420. Cocaine, for example, is seen as an upper-class drug and is therefore less criminalized while crack cocaine is deeply criminalized as a result of its association with the lower classes, *ibid* at 424-425.
[9] Heron, *Booze*, *supra* note 1 at 272-277.

not offer such additional forms of supervision. Secondly, Alberta differed in how it administered its liquor laws. During prohibition, Alberta was one of the few provinces without a separate liquor board and, as such, the creation of the ALCB in 1924 with the end of prohibition also appears to be a legal change prompted by the failure of prohibition. Importantly, Alberta's lack of a liquor board until 1924 offers a chance to examine why the government created a board and what its relationship with the board was like. The creation of the ALCB could be seen as the government's attempt to disassociate itself from liquor sales yet such bodies remained answerable to the government thus allowing the government to retain control in ways which were not immediately obvious to observers. In the balance of this introductory chapter I situate this dissertation in the existing scholarship, and outline my methodological approach. I argue that given my focus on the prohibition and post-prohibition periods, and my focus on the difference between the law-in-action and the law-as-written, this dissertation addresses an overlooked area of study.

1.1 – Existing Literature

My dissertation, with its focus on the historical development of liquor regulation, necessarily speaks to scholars in a number of disciplines. These disciplines include the existing studies and social histories of Canadian liquor regulation, the history of the Canadian administrative state, and administrative law more generally. Although there has been some cross-pollination between these disciplines, this dissertation is one of the first explicitly *legal* histories of

Canadian liquor regulation.[10] As such, this dissertation perhaps owes more to the existing social histories of liquor than work done by legal scholars. This section surveys the existing literature on Canadian liquor regulation and Canadian administrative agencies and explains how this dissertation relates to both. I begin by examining the social histories of liquor consumption and control before moving on to examine alcohol in Canadian legal history, and the existing studies of the development of Canada's administrative state.

Canadian liquor regulation has proven to be a fertile ground for social historians seeking to examine social regulation and identity formation. Julia Robert's study of taverns in Upper Canada demonstrates how alcohol consumption formed a ritualized sociability which played a key role in defining who belonged and who did not.[11] The theme of alcohol consumption or lack thereof as a way to delineate social groups is echoed by several other scholars including Glen Lockwood who shows that Upper Canadians used their support for temperance to differentiate themselves from the newly arrived Irish immigrants.[12] Similarly, Jan Noel argues that, for a brief period in the mid-nineteenth century, temperance became linked with French Canadian patriotism.[13] In a related vein, Craig Heron's work illustrates that public drinking provided a crucial site of

[10] Mariana Valverde, *Diseases of the Will: Alcohol and the Dilemmas of Freedom* (Cambridge: Cambridge University Press, 1998) at 147 ("[t]he decisions of provincial liquor boards in Canada...have not even drawn the modest interest [of legal academics] shown in better-known areas of administrative law").
[11] Julia Roberts, *In Mixed Company: Taverns and Public Life in Upper Canada* (Vancouver: University of British Columbia, 2009) at 2-3, 5, 78.
[12] Glen J Lockwood, "Temperance in Upper Canada as Ethnic Subterfuge" in Warsh, *supra* note 1, 43 at 46.
[13] Jan Noel, "Dry Patriotism: The Chiniquy Crusade" in Warsh, *supra* note 1, 27 at 35.

working-class male resistance to "bourgeois efforts" of control.[14] The consensus is, then, that liquor and forms of liquor consumption were sites where identity was negotiated and shaped. These studies also highlight that liquor consumption played a key role in social controls and resistance to such controls. Nonetheless, these social histories of alcohol tend to underplay or ignore the shifting role of law in liquor control. Even Heron's broader history of alcohol in Canada emphasizes social history at the expense of legal history.[15]

Perhaps problematically, many social histories of the stricter forms of early twentieth-century liquor regulation often fail to examine the specifically *legal* battles to control liquor. Robert Campbell, Dan Malleck, and Scott Thompson and Gary Genosko's work all focuses on the post-prohibition liquor boards in either British Columbia or Ontario.[16] These studies take the end of prohibition as their starting point for analysis and fail to fully examine the relationship between prohibition and what followed it. Malleck recognises that

---

[14] Craig Heron, "The Boys and Their Booze: Masculinities and Public Drinking in Working-Class Hamilton, 1890-1946" (2005) 86:3 Canadian Historical Review 411 at 412. See also, Peter DeLottinville, "Joe Beef of Montreal: Working-Class Culture and the Tavern, 1869-1889" (1981-82) 8/9 Labour/Le Travail 9.
The history of liquor consumption has proven to be fertile ground for historians of gender relations as well as class relations, Dale Barbour, "Drinking Together: The Role of Gender in Changing Manitoba's Liquor Laws in the 1950s" in Esyllt W Jones & Gerald Friesen, *Prairie Metropolis: New Essays on Winnipeg Social History* (Winnipeg: University of Manitoba Press, 2009) 187; Mary Jane Lupton, "Ladies' Entrance: Women and Bars" (1979) 5 Feminist Studies 571; Mimi Ajzenstadt, "Cycles of Control: Alcohol Regulation and the Constructions of Gender Role, British Columbia, 1870-1925" (1995) 11 International Journal of Canadian Studies 101; MarianaValverde, "A Postcolonial Women's Law? Domestic Violence and the Ontario Liquor Board's "Indian List"" (2004) 30:3 Feminist Studies 566. This list is not exhaustive.
[15] Heron, *Booze, supra* note 1.
[16] Robert A Campbell, *Demon Rum or Easy Money: Government Control of Liquor in British Columbia from Prohibition to Privatization* (Ottawa: Carleton University Press, 1991); *Sit Down and Drink Your Beer: Regulating Vancouver's Beer Parlours, 1925-1954* (Toronto: University of Toronto Press, 2001); Dan Malleck, *Try to Control Yourself: The Regulation of Drinking in Post-Prohibition Ontario, 1927-44* (Vancouver: UBC Press, 2012); Scott Thompson & Gary Genosko, *Punched Drunk: Alcohol, Surveillance and the LCBO* (Halifax & Winnipeg: Fernwood Publishing, 2009).

government liquor sales were supposed to solve the problems of prohibition,[17] but he does not fully compare the two. Campbell's focus, unlike that of Malleck, and Thompson and Genosko, is on the social history of liquor control in BC. While Campbell's work clearly highlights the liquor board's desire to impose certain norms on British Columbians, he does not discuss the legal implications of BC's post-prohibition system.

Malleck, and Thompson and Genosko's work on Ontario is primarily concerned with how the post-prohibition liquor board shaped society through liquor controls. While Malleck's work examines the first few years of licensed premises in Ontario and how the Liquor Control Board of Ontario (LCBO) sought to regulate such premises, Thompson and Genosko's work focuses on the LCBO's bureaucracy and how it regulated Ontarians' drinking. These two works focus on examining the operation of the LCBO as a bureaucracy rather than how it used and adapted the liquor laws. Neither work explains, for example, how the LCBO developed their surveillance methods or if they evolved out of similar practices during prohibition.

Notably Malleck, and Thompson and Genosko use the work of Michel Foucault as their theoretical underpinning, though the use of his theories can actually mask how the liquor board functioned. Thompson and Genosko emphasize the LCBO's power of social surveillance and use Foucauldian theory to argue that the LCBO was a disciplining body which sought to mould Ontarians into good citizens by monitoring and controlling their liquor consumption.

[17] Malleck, *supra* note 16 at 3.

Malleck relies on two of Foucault's key concepts, governmentality and biopower, to explain the actions of the LCBO in regulating Ontario's licensed premises.[18] Governmentality is the ways in which governments seek to direct human behaviour, while biopower refers specifically to the "subjugation of bodies and the control of populations."[19] As useful as Foucauldian theory might be for illuminating the mechanisms of control used by post-prohibition liquor boards, it does not match up with how the LCBO actually operated. As Jessica Warner points out in her review of Malleck's book, despite his attempt to argue that the LCBO used governmentality and biopower to regulate Ontario's drinkers, "the overall impression the early LCBO gives is one of almost laughable laxity."[20] Warner's comment echoes Thomas Lemke's overview of the limitations of Foucauldian scholarship.[21] While Lemke notes that "[s]tudies of governmentality have been extremely helpful in illuminating the 'soft' or 'empowering' mechanisms of power, demonstrating in what ways individuals and social groups are governed by freedom and choice,"[22] he notes that these studies do not always accurately capture the messiness and contradictory nature of what they are examining.[23]

---

[18] *Ibid* at 8.
[19] Michel Foucault, *The History of Sexuality* vol I, translated by Robert Hurley (London: Penguin, 1998) at 140.
[20] Jessica Warner, "A Foucauldian Hangover", Book Review of *Try to Control Yourself: The Regulation of Public Drinking in Post-Prohibition Ontario, 1927-44* by Daniel Malleck (October 2012) Literary Review of Canada 5.
[21] Thomas Lemke, "Foucault, Politics, and Failure: A Critical Review of Studies of Governmentality" in Jakob Nilsson & Sven-Olov Wallenstein, eds, *Foucault, Biopolitics and Governmentality* (Stockholm: Sodertorn University, 2013) 35.
[22] *Ibid* at 37.
[23] *Ibid* at 41.

To put it another way, in some instances reliance on Foucauldian theory presents an overly simplistic picture which is not reflected by the facts. As Lemke puts it "[t]he reader already seems to know in advance what he or she is going to read. As a result any surprising insights derived from the empirical data and material are effectively ruled out."[24] Lemke cautions against using governmentality as a "meta-narrative to be used for any object of investigation – without it being in need of correction or further development."[25] While Foucauldian theory can help and has helped analyze systems of liquor control, there is a risk that the use of these theories will obscure fresh insights.

A further problem with a reliance on Foucault is that it often gives the impression that the liquor boards, and other government bodies and programs, were all-powerful.[26] Mariana Valverde has argued that Foucauldian theory explains the LCBO's use of the knowledge that it collected about problem drinkers. In particular, Valverde argues that this knowledge represented the LCBO's panoptical gaze.[27] Her work, perhaps inadvertently, gives the impression of an incredibly powerful liquor board, though she notes that in the context of controlling alcoholics, "alcoholism by itself was not sufficient to trigger an interdiction request in women as in men. There had to be some additional breach of norms."[28] The different treatment of women suggests that the LCBO was not simply concerned with controlling liquor consumption. Importantly the reference

[24] *Ibid* at 51.
[25] *Ibid* at 51-52.
[26] *Ibid* at 42 ("[g]overnment programs were often depicted as totalizing and powerful").
[27] Valverde, "Postcolonial Women's Law", *supra* note 14 at 578; See also, Ron Levi & Mariana Valverde, "Knowledge on Tap: Police Science and Common Knowledge in the Legal Regulation of Drunkenness" (2001) 26:4 L & Soc Inq 819.
[28] Valverde, "Postcolonial Women's Law", *supra* note 14 at 581.

to an "additional breach of norms" suggest that the LCBO was susceptible to the pressure of external groups and bodies. Yet the existing studies of liquor boards tend to ignore the ways that external pressures, such as the continued demands of the temperance movement and the needs of government, affected liquor boards. The LCBO, in common with other administrative bodies, was a statutory delegate, answerable to government ministers and public opinion. Though my work, like that of Valverde, Malleck, Campbell, and Thompson and Genosko, focuses on liquor control in a single province, I recognise the important influence that the government continued to have on the ALCB and that the board was not as powerful as it may have seemed. I seek to uncover the pressures faced by those who administered Alberta's liquor laws and how these pressures influenced the enforcement of the laws. My goal is not to treat the administration of Alberta's liquor laws as a "closed and coherent entit[y]" but rather to treat it as a "project and endeavour."[29] That is to say I understand Alberta's liquor laws as being a work in progress which changed in response to external pressures and opposition.

Canadian legal scholars have not necessarily ignored Canada's changing liquor laws but they have not yet fully explored this area, or its implications for Canada's legal development.[30] Whenever they do examine the relationship

[29] Lemke, *supra* note 21 at 42.

[30] American legal scholars have historically proved more interested in liquor laws than Canadian legal scholars. See by way of example, Milton V Smith, "Public Administration: Early Administrative Phases of a State Liquor Store System" (1934) 28 American Political Science Review 1064; Stanton J Schuman, "Constitutional Law: Intoxicating Liquors: Powers of a State to Regulate and Tax the Sale and Import of Liquor in a National Park" (1939) 37 Mich L Rev 954; George A Shipman. "State Machinery for Liquor Control" (1940) 7 L & Contemp Prob 600; Harvey J Levin, "Economic and Regulatory Aspects of Liquor Licensing" (1964) 112 U Pa L Rev 785; John M Faust, "Of Saloons and Social Control: Assessing the Impact of Liquor Control on Individual Expression" (1994) 80 Va L rev 745. This list is not exhaustive.

between alcohol and Canada's legal history, legal academics have focused on the constitutional battles over liquor control and have tended to treat the resulting cases as an entertaining quirk of Canada's legal past. Morris Fish's study of the effect on alcohol on the Canadian constitution, for example, is meant to be a light-hearted look at Canada's constitutional history.[31] Fish's article contains some overlap with Richard Risk's earlier article on Canada's constitutional disputes over liquor control.[32] Risk uses the various late nineteenth-century liquor cases,[33] which dealt with conflicts between provincial and federal jurisdiction over aspects of liquor regulation, to argue that the Privy Council failed to understand Canada and instead promoted "an abstract sense of freedom" which was not necessarily helpful in resolving the federalism disputes at issue.[34] Similarly, David Schneiderman contends that the *Local Prohibition Case*[35] "can be understood as a manifestation of judicial anxiety about the potential implications of energetic federalism for property and productivity, anxieties which were prevalent in late-nineteenth century legal thought" and that "the Privy Council laid bare a preference for liberty over authority."[36] Though these concerns about freedom and the appropriate role of government were echoed in the more localized debates

[31] Morris J Fish, "The Effect of Alcohol on the Canadian Constitution ... Seriously" (2011) 57 McGill LJ 189.
[32] RCB Risk, "Canadian Courts Under the Influence" (1990) 40 UTLJ 687.
[33] *Russell v The Queen*, [1882] UKPC 33, [1882] 7 App Cas 829; *Hodge v The Queen*, [1883] UKPC 59, (1883) 9 App Cas 117; *Ontario (AG) v Canada (AG)*, [1896] AC 348, [11] AC 222 (PC) [*Local Prohibition Case*]
[34] Risk, *supra* note 32 at 730.
[35] *Local Prohibition Case, supra* note 33.
[36] David Schneiderman, "Constitutional Interpretation in an Age of Anxiety: A Reconsideration of the *Local Prohibition* Case" (1995-96) 41 McGill LJ 4141 at 415, 435.

over prohibition legislation,[37] neither Risk or Schneiderman link the liquor cases to the lower-level public debates about liquor control. Risk and Schneiderman's interest is in the impact these liquor cases had on Canada's constitutional development rather than *why* liquor laws formed the subject of these constitutional disputes. They do not tell us whether the driving force behind these constitutional cases was the need to delineate federal and provincial powers or the need to control liquor, or both. Just as the social historians of alcohol in Canada are guilty of underplaying the role of law, Canadian legal academics are guilty of underplaying the social aspects of alcohol consumption and control as they examine its impact on Canada's legal history.

A more nuanced approach to the relationship between alcohol and the law can be seen in two recent articles each of which examines a specific incident of targeted prohibition. The first of these articles is Susan Binnie's exploration of the federal government's prohibition of alcohol for those building the trans-Canada railway and the second is Eric Adams' re-examination of *Christie v York* which arose out of the York Tavern's refusal to serve an African-Canadian.[38] Both of these articles point out that liquor was seen as socially threatening and that these examples of localized restrictions on liquor consumption arose out of the need to maintain social control. In these two articles liquor appears as a

[37] Heron, *Booze, supra* note 1 at 192-193; John Phyne, "Prohibition's Legacy: The Emergence of Provincial Policing in Nova Scotia, 1921-1932" (1992) 7:2 CJLS 157 at 174 (noting the uneven enforcement of prohibition in Nova Scotia as a result of classism).

[38] Susan Binne, "Maintaining Order on the Pacific Railway: The Peace Preservation Act, 1869-85" in Barry Wright & Susan Binnie, eds, *Canadian State Trials: Political Trials and Security Measures, 1840-1914* Vol III (Toronto: University of Toronto Press, 2009) 204; Eric M Adams, "Errors of Fact and Law: Race, Space, and Hockey in *Christie v York*" (2012) 62 UTLJ 463 [Adams, "Errors of Fact"]. For the case see, *Christie v York*, [1940] SCR 139, [1940] DLR 81.

problem which needed legal controls. Both highlight the problematic nature of liquor in ways that studies of the high-level constitutional battles over liquor control do not. Yet given the specific and isolated examples of liquor control examined in each of these articles, neither explores the changing nature of Canada's liquor laws.

Jacques Paul Couturier's study of the enforcement of the *Canada Temperance Act* in late nineteenth-century Moncton does offer some insight into the changes seen in Canada's liquor laws.[39] The *Canada Temperance Act* allowed communities to vote themselves dry but, as Couturier notes, just because Moncton adopted the Act does not mean that it was adequately enforced. Couturier argues that in Moncton the *Canada Temperance Act* morphed into a law that sought to regulate sales of alcohol rather than banning alcohol outright.[40] By examining how Moncton's council and population interacted with the liquor laws, Couturier highlights the various forces of legal change and shows how Moncton bridged the gap between what the law said and how it operated. Couturier actually seeks to explore both the law-as-written and the law-on-the-ground which results in a more nuanced understanding of how the liquor laws worked. That the law should shift from strict prohibition to the regulation of liquor sales suggests that liquor control was perhaps more important than an outright ban on alcohol.

While academic lawyers have not paid much attention to Canada's liquor laws, they have paid close attention to the emergence of the Canadian

[39] Jacques Paul Couturier, "Prohibition or Regulation? The Enforcement of the *Canada Temperance Act* in Moncton, 1881-1896" in Warsh, *supra* note 1, 144.
[40] *Ibid* at 164.

administrative state and the development of administrative law. Jamie Benidickson and Bernard Hibbitts have both written legal histories of the Board of Railway Commissioners, one of the earliest federal administrative agencies in Canada.[41] Their work focuses on the relationship between the Railway Commissioners and the courts and explores how judicial resistance ultimately lead to the downfall of the Board. Benidickson's and Hibbitts' focus is on the impact of law on administrative bodies and as most administrative law centres on how these bodies are to be controlled, the agencies' use of the law and exercise of their lawful authority is often overlooked. As such administrative agencies appear as subjects of the law, rather than legal actors who must use and apply the law in ways that may or may not be different from how the courts use the law.

Bendickson's and Hibbitts' work also does not cover what came before the Railway Commissioners in any detail, thus it is not clear whether the Commissioners represented a larger legal change than the delegation of railway regulation to an independent board. We do not know, for example, if the Commissioners used the same methods of control as were used previously to enforce decisions on railway freight rates.[42] The lack of attention to what preceded the Commissioners may result in the novelty of administrative government being over-stated. As I show in this dissertation, the methods of control used by the ALCB had their precursors during prohibition which means

[41] Bernard J Hibbitts, "A Change of Mind: The Supreme Court and the Board of Railway Commissioners, 1903-1929" (1991) 44 UTLJ 60; Jamie Benidickson, "The Canadian Board of Railway Commissioners: Regulation, Policy and Legal Process at the Turn-of-the-Century" (1990-1991) 36 McGill LJ 1222.

[42] The same problem is encountered in Hibbitts' work on the Board of Commerce. See,Bernard J Hibbitts, "A Bridle for Leviathan: The Supreme Court and the Board of Commerce" (1989) 21 Ottawa L Rev 65.

that the creation of the ALCB in 1924 was not necessarily as transformative a legal change as an examination of the board alone would imply.

In addition to studies of specific boards, legal academics have also produced in-depth examinations of leading administrative law cases. In 2010, for example, the *McGill Law Journal* produced a special issue which examined the legacy of *Roncarelli v Duplessis,*[43] a landmark case about the rule of law. Although *Roncarelli* resulted from the cancellation of a liquor license, many of the articles in the special issue focus more on administrative law issues than the Liquor Commission's use of the law. Mary Liston's observations that Quebec's *Liquor Act* was overbroad and that "[t]ribunals like the Liquor Commission ought to act in a judicial manner,"[44] echo her concern over how to prevent arbitrary decisions like that at issue in *Roncarelli*. Liston does not explore how the Liquor Commission actually operated or if situations like *Roncarelli* were normal or abnormal. Similarly the majority of other contributions focused on the broader lessons of *Roncarelli* for Canadian constitutional law,[45] or administrative law,[46] or for ideas of justice and liberty, or some mixture of these lessons.[47] As important as these aspects of *Roncarelli* may be, they do not tell us about the impact of the

[43] [1959] SCR 121, 16 DLR (2d) 689 [*Roncarelli*].
[44] Mary Liston, "Witnessing Arbitrariness: *Roncarelli v Duplessis* Fifty Years On" (2010) 55:3 McGill LJ at 696-697, 705.
[45] Eric M Adams, "Building a Law of Human Rights: *Roncarelli v Duplessis* in Canadian Constitutional Culture" (2010) 55 McGill LJ 437.
[46] Lorne Sossin, "The Unfinished Project of *Roncarelli v Duplessis*: Justiciability, Discretion, and the Limits of the Rule of Law" (2010) 55 McGill LJ 661.
[47] Derek McKee, "The Public/Private Distinction in *Roncarelli v Duplessis*" (2010) 55 McGill LJ 461; Matthew Lewans, "*Roncarelli's* Green Card: the Role of Citizenship in Randian Constitutionalism" (2010) 55 McGill LJ 537; Mark D Walters, "Legality as Reason: Dicey, Rand, and the Rule of Law" (2010) 55 McGill LJ 563; David Mullan, "*Roncarelli v Duplessis* and Damages for Abuse of Power: For What Did It Stand in 1959 and For What Does it Stand in 2009?" (2010) 55 McGill LJ 587; Liston, *supra* note 44.

case on the liquor commission itself. Furthermore, as Robert Leckey notes, the focus on the broader implications of *Roncarelli* "[m]ight ... tend to efface the jurisdiction-specific, local law."[48] *Roncarelli* might be full of important legal principles but if they had no effect on the day-to-day operation of the Liquor Commission then what practical impact can the decision really have had?

Rod Macdonald argues that *Roncarelli* has been abstracted from its time and place and that this abstraction obfuscates important debates about state, society, and the law. [49] In particular he critiques the simplistic representation of the two sides in the case.[50] My point is not to argue that the concerns displayed by the majority of the contributors to the special issue on *Roncarelli* are irrelevant, but that abstracting *Roncarelli* does not help in answering their concerns about the rule of law and the control of arbitrary government action. Abstracting *Roncarelli* tells us nothing about how Quebec's liquor laws actually worked. We do not know, for example, if the liquor board commonly withheld licenses for political reasons as was the case in *Roncarelli*. Nor do we know if the decision in *Roncarelli* affected how the liquor board operated. Without the answers to such questions we do not know if *Roncarelli* actually resulted in ending the arbitrariness issue that the case has come to stand for. The answers to such questions can only be found by examining how administrative agencies understand the law.

[48] Robert Leckey, "Complexifying *Roncarelli's* Rule of Law" (2010) 55:3 McGill LJ 721 at 739.
[49] Roderick A Macdonald, "Was Duplessis Right?" (2010) 55:3 McGill LJ 401 at 403-405, 432.
[50] *Ibid*.

In addition to studies of leading cases such as *Roncarelli*, legal academics, building on the work done by intellectual historians, have also examined the emergence of administrative law as a discipline. Scholars such as Owram, Risk, and Brown have traced the academic responses to the controversy surrounding the rise of administrative government.[51] By administrative government, I mean the increasing delegation of policy decisions and policy implementation to boards and agencies. Owram, Risk, and Brown note the key role that academics played in driving both the development and acceptance of the administrative state. The increasing size of administrative government came under a number of attacks from both the judiciary and legal academics who opposed such government on the grounds that it was undemocratic.[52] Judicial attacks such as those outlined by Hibbitts and Benidickson ultimately led a group of Canadian legal academics, popularly dubbed the Canadian Legal Realists,[53] to defend administrative government. John Willis, in particular, acted as the chief apologist for administrative government and argued that it was really government by experts

[51] RCB Risk, "Volume One of the Journal: A Tribute and a Belated Review" in RCB Risk, *A History of Canadian Legal Thought: Collected Essays* ed by G Blaine Baker & Jim Phillips (Toronto: University of Toronto Press, 2006) 211; "John Willis: A Tribute" in *ibid* 271; "Canadian Law Teachers in the 1930s: 'When the World was Turned Upside Down'" 341; Doug Owram, *The Government Generation: Canadian Intellectuals and the State, 1900-1945* (Toronto: University of Toronto Press, 1986); R Blake Brown, "The Canadian Legal Realists and Administrative Law Scholarship, 1930-1941" (2000) 9 Dal J Leg Stud 36; Kent Roach, "The Administrative Law Scholarship of D.M. Gordon" (1988-1989) 34 McGill LJ 1.

[52] Perhaps the seminal critique of administrative government came from an English judge, Lord Hewart, *The New Despotism* (London: Ernest Benn Ltd, 1929). See also, RW Shannon, "Delegated Legislation" (1928) 6 Can Bar Rev 245. Even those that were in favour of administrative government knew that they had to defend it on democratic grounds, see by way of example, Jacob Finkelman, "The Making, Approval and Publication of Delegated Legislation in Ontario" in John Willis, ed, *Canadian Boards at Work* (Toronto: Macmillan, 1941) 170;WPM Kennedy, "Aspects of Administrative Law in Canada" (1934) 46 JR 203.

[53] Brown, *supra* note 51. RCB Risk argues that if we call this group of scholars realists we will ignore what was distinctively Canadian about them, RCB Risk, "My Continuing Legal Education" (2005) 55 UTLJ 313 at 331.

rather than anything more threatening.[54] The studies of Willis' contribution to the development of administrative law typically depict him as a trailblazer who played a key role in changing attitudes towards administrative law.[55] Though Willis urged for scholars to study what actually happened,[56] administrative law remained largely the study of the legal control of administrative decision-making, even if administrative government itself became less controversial.[57]

Outside of the judicial battles over its legitimacy, the exact shape that the new administrative state took arose out of the need to answer particular problems.[58] The observation about the connection between particular problems and the rise of the administrative state seems particularly relevant to the creation of the ALCB. The provincial government created the ALCB at a time when the

---

[54] John Willis, "Introduction" in Willis, *Canadian Boards at Work*, *supra* note 52, 65 at 68; Brown, *supra* note 51 at 69; David J Mullan, "Willis v McRuer: A Long-Overdue Reply with the Possibility of a Penalty Shoot-Out" (2005) 55 UTLJ 535 at 560. Willis was the subject of a special issue of the *University of Toronto Law Journal*, (2005) 55:3 UTLJ 311-887.

[55] Brown, *supra* note 51; Roderick A Macdonald, "Call Centre Government: For the Rule of Law Press #" (2005) 55 UTLJ 449 at 452 [Macdonald, "Call Centre Government"] (noting that Willis has become, perhaps erroneously the "standard bearer for those who would attack the excesses of judicial review").

[56] John Willis, "Foreword" in Willis, *Canadian Boards at Work*, *supra* note 52, v [Willis, "Foreword"]; "Canadian Administrative Law in Retrospect" (1974) 24 UTLJ 225 at 228 [Willis, "Canadian Administrative Law"]. See also, Jerry L Mashaw, "Between Facts and Norms: Agency Statutory Interpretation as an Autonomous Enterprise" (2005) 55 UTLJ 497 at 497.

[57] For a discussion of the development of administrative law as an academic discipline in the United States and its emphasis on controlling administrative decisions rather than examining administrative decisions see. William C Chase, *The American Law School and the Rise of Administrative Government* (Madison: University of Wisconsin Press, 1982).
The case of *Nicholson v Haldimand-Norfolk Regional Board of Commissioners of Police*, [1979] 1 SCR 311,88 DLR (3d) 671 is generally considered the turning point for administrative law jurisprudence in Canada, see, David Dyzenhaus & Evan Fox-Decent, "Rethinking the Process/Substance Distinction: *Baker v Canada*" (2001) 51 UTLJ 193 at 194, 208, 211;HN Janisch, "Bora Laskin and Administrative Law: An Unfinished Journey" (1985) 35 UTLJ 557 at 577; Genevieve Cartier, "Administrative Discretion as Dialogue: A Response to John Willis (or from Theology to Secularization)" (2005) 55 UTLJ 629 at 640-644.

[58] Edward L Rubin, "Public Choice, Phenomenology, and the Meaning of the Modern State: Keep the Bathwater, but Thrown out that Baby" (2001-2002) 87:2 Cornell L Rev 309 at 347. See also James Willard Hurst, *The Growth of American Law* (Boston: Little, Brown and Company, 1950) at 420.

Canadian administrative state was increasing in size which makes the creation of the ALCB seem to be part of a broader movement towards a new kind of government.[59] Across Canada, liquor boards were one of the earliest administrative bodies to emerge in the provinces. To some, these boards seemed innovative because they "fearlessly" placed the "burden of administration [on] reputable citizens."[60] An equally novel feature was what provincial governments charged these boards with doing: running liquor stores, issuing liquor permits, licensing premises for public drinking, while also preventing excessive or damaging consumption of liquor. The ALCB's governing legislation, the *Liquor Control Act*, granted the board a large degree of power and discretion in the discharge of these duties. As Reginald Hose noted in 1928, Canada's provincial liquor boards "could scarcely be less circumscribed."[61] Yet Hose's study failed to note that bodies like the ALCB did not always exercise the full extent of their powers. Hose made the mistake of only studying what the relevant legislation *provided* rather than examining the liquor boards' actual exercise of their powers.

1.2 - Methodology

In this dissertation my examination of liquor regulation relies on a methodology common to legal history but less common in administrative law scholarship. In

[59] See generally, Owram, *Government Generation*, *supra* note 51 Christopher Armstrong & HV Nelles, *Monopoly's Moment: The Organization and Regulation of Canadian Utilities, 1830-1930* (Philadelphia: Temple University Press, 1986); Brown, *supra* note 51. For a discussion of the growth of the American administrative state see, Chase, *supra* note 56; Hurst, *supra* note 58.
[60] Reginald E Hose, *Prohibition or Control? Canada's Experience with the Liquor Problem 1921-1927* (New York: Longmans, Green and Co, 1928) at 2. It is not clear whether Hose was a disinterested observer or if he had an agenda of his own.
[61] *Ibid* at 7.

particular I rely on a methodology known as "legal archeology."[62] Brian Simpson's *Leading Cases in the Common Law* pioneered the legal archeological approach and saw Simpson uncover, as far as possible, the original contexts surrounding several famous cases.[63] The legal archeology approach has since been adopted by Canadian legal historians,[64] and while it is usually limited to studies of cases,[65] it is equally applicable to legislation and administrative agencies. Put simply legal archaeology requires an in depth examination of the background to the case, legislative act, or administrative agency under study.

Legal archeology resonates with Edward Rubin's call for microanalyses of administrate agencies.[66] Rubin's microanalysis methodology recognises that "generalizations" do not "provide a complete account of the field."[67] As such, microanalysis promises to answer the concerns highlighted in the previous section; namely that we should pay attention to the contexts which give rise to particular legal developments. For the most part the actions of administrative agencies and their use of the law and legal processes remain as under-explored as they were in the 1940s when Willis first called for lawyers to study what actually

---

[62] For a discussion of legal archeology see, Debora L Threedy, "Unearthing Subversion with Legal Archeology" (2003) 13 Tex J Women & L 133 at 135; Jim Phillips, "Why Legal History Matters" (2010) 41 VUWLR 293 at 313-314.
[63] AW Brian Simpson, *Leading Cases in the Common Law* (Oxford: Clarendon Press, 1995).
[64] Adams, "Errors of Fact" *supra* note 29. See also these two essay collections, *Work on Trial: Canadian Labour Law Struggles*, Judy Fudge & Eric Tucker, eds, (Toronto: Irwin Law, 2010); *Property on Trial: Canadian Cases in Context*, Eric Tucker, James Muir & Bruce Ziff, eds (Toronto: Irwin Law, 2012).
[65] Two notable exceptions are Eric Tucker, "The Malling of Property Law?: The Toronto Eaton Centre Cases, 1984-1987, and the Right to Exclude" in Tucker, Muir & Ziff, *supra* note 64, 303; Nicholas Blomley, "Begging to Differ: Panhandling, Public Space, and Municipal Property" in *ibid*, 393.
[66] Edward L Rubin, "The New Legal Process, the Synthesis of Discourse, and the Microanalysis of Institutions" (1995-1996) 109 HLR 1393 at 1394, 1425-1426.
[67] *Ibid* at 1425.

happened.[68] Most of the existing scholarship on Canadian administrative law ignores how administrative agencies use the law and fails to explore whether judicial review changes how they operate. Lorne Sossin attempted to address this gap with his study of how the decision in *Baker v Canada* affected policy making.[69] Sossin concluded that greater transparency and stronger guidelines in policy-making would be desirable, a point Alice Woolley echoes.[70] Yet both ultimately view the soft law of policies and regulations as being something that should be similar as possible, if not identical to the hard law of legislation and jurisprudence without examining whether or not this is actually possible.[71]

It is perhaps not surprising that most administrative law scholarship should focus on the legal control of administrative decision making rather than examining 'the law' of the administrative agencies themselves. Current theories about how administrative government actually works, though generally accepting of the administrative branch, continue to betray some suspicions of this kind of government. Public choice theorists, for example, argue that administrative government is "suffused with self-interested behavior"[72] – a claim which some

[68] Willis, "Foreword", *supra* note 56; "Canadian Administrative Law", *supra* note 56 at 227. See also, Mashaw, *supra* note 56 at 497.
[69] Lorne Sossin, "The Rule of Policy: *Baker* and the Impact of Judicial Review on Administrative Discretion" in David Dyzenhaus, ed, *The Unity of Public Law* (Oxford: Hart Publishing 2004) 87 [Sossin "Rule of Policy"]. For the case see, *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 2 SCR 817, 174 DLR (4th) 193.
[70] Alice Woolley, "Legitimating Public Policy" (2008) 58 UTLJ 153 at 182-184.
[71] Sossin, "Rule of Policy", *supra* note 69 at 90; Woolley, *supra* note 70 at154, 164-165.
[72] Jeffrey J Rachlinksi & Cynthia Farina, "Cognitive Psychology and Optimal Government Design" (2002) 87:2 Cornell L Rev 549 at 551 (outlining the arguments of public choice theorists) [Rachlinski & Farina]; Jonathan R Macey, "Cynicism and Trust in Politics and Constitutional Theory" (2002) 87:2 Cornell L Rev 280 (urging a cynical approach to government behaviour).

scholars have begun to critique.[73] In contrast to the public choice theorists, Rubin points out that "ideology, respect from colleagues, and the desire to act conscientiously have all been empirically confirmed as determinants of political behavior."[74] Though, without actual studies of how administrative agencies operate, it is impossible to know what motivates their actions.

In addition to its similarities with legal archeology, the microanalysis of administrative agencies has some echoes with another new approach to legal history. Within legal history there is a long-standing assumption, first articulated by Robert Gordon in 1984, about "field-level" uses of the law. Gordon theorized that "field-level" uses of law would not be so different from "mandarin ideology,"[75] which is to say Gordon assumed that the ideology seen in case law and treatises would be replicated by more local forms of law such as those used by administrators and legal practitioners. Recent work by Christopher Tomlins, Mariana Valverde, and Laura Edwards have challenged Gordon's theory that the "mandarin legality constructed by elites" was and is simply replicated by "field-level uses of law."[76] Edwards uses the example of the post-revolutionary American south to argue that the "state-level laws and legal institutions that so many historians assume to be authoritative" existed alongside and were

[73] Rachlinski & Farina, *supra* note 72; Edward L Rubin, "Public Choice, Phenomenology, and the Meaning of the Modern State: Keep the Bathwater, but Throw out that Baby" (2001-2002) 87:2 Cornell L Rev 309.
[74] Rubin, *supra* note 73 at 322.
[75] Robert W Gordon, "Critical Legal Histories" (1984) 36 Stan L Rev 57 at 120-21, 124.
[76] Christopher Tomlins, "After Critical Legal History: Scope, Scale, Structure" (2012) 8 Annual Review of Law and Social Science 31; Laura F Edwards, *The People and their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009); Mariana Valverde, "Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance" (2011) 45 L & Soc'y Rev 277 [Valverde, "Seeing Like a City"]. Arguably Hendrik Hartog's article in 1985 did something similar, "Pigs and Positivism" (1985) Wis L Rev 899.

sometimes subordinate to a more "localized law."[77] While the state-level law pushed an agenda of individual rights, Edwards uncovers the more local forms of law that pushed a notion of restoring "the Peace" which was a hierarchical order of collective interests rather than individual rights.[78] Valverde's recent work focuses on how cities govern themselves and argues that "premodern" forms of governance – such as the use of nuisance law to regulate activity – appear alongside more modern methods of control such as zoning.[79] Valverde's point is that identifying newer methods of governance does not mean that the older forms have been completely replaced.[80] Such legal shifts are rarely as clear cut as examinations of the 'hard law' of legislation and jurisprudence imply.

Tomlins uses Valverde's and Edwards' work to argue for a move away from the approach to legal history advocated by Gordon in 1984. Tomlins calls for an approach to legal history which recognizes and problematizes the co-existence of multiple levels or 'scales' of law.[81] Put simply law exists on local, national, and even global levels and the idea of scale offers a way to "study both coexistence and systemic variation" among these different levels of law.[82] Legal archaeology and micro-analysis with their attention to detail seem well placed to tease out the multiple scales of law and how they coexist and interact with each other.

---

[77] Edwards, *supra* note 76 at 3.
[78] *Ibid* at 7.
[79] Valverde, "Seeing Like a City", *supra* note 76 at 280-281, 286.
[80] *Ibid* at 308.
[81] Tomlins, *supra* note 76 at 53-55.
[82] *Ibid* at 53.

This dissertation uses the tools of legal history to capture the distance between what the law aimed to do – namely, control liquor consumption and through this control shape society – and what it actually managed to do. As such I compare what Alberta's liquor legislation actually said and how the provincial government expected it to operate with how it actually operated on the ground. The government largely advocated a rule-of-law approach to liquor law enforcement, whereby the law was to be enforced equally without regard for class or ethnicity. Yet, in practice, some Albertans believed that the liquor laws were really aimed at certain groups of people more than others: Chinese Albertan restaurant owners, for example, instead of British Albertan grocers.[83] Despite the government's claimed adherence to a rule-of-law approach, on occasion the liquor laws' administrators used a status-based approach whereby individuals received and were understood to deserve differential treatment as a result of their ethnicity or social class.

I recognize that just because "field-level" uses of law do not replicate "mandarin legality" does not mean that the latter would not continue to take precedence. Though both the *Liquor Act* and the *Liquor Control Act* were frequently subverted, ignored, or simply not-applied by Albertans, that did not make the Acts any less authoritative. The underpinning assumption of this dissertation is that by enacting the *Liquor Act* and later the *Liquor Control Act*,

[83] I am well aware of the controversial nature of the term 'British' in some areas as an 'ethnic' marker. Here I use it to mean individuals of an English, Scottish, Welsh, and Irish/Northern Irish background, including those Albertans who came directly from the United Kingdom and Ireland, and other Canadian provinces. The term more commonly used is 'Anglo' but that term does not, in my view, capture those of a non-English descent, I prefer British though I recognise its troublesome nature. I have also seen the term 'Anglo-Celtic' used but I feel 'British' is clearer.

Alberta's government aimed to do more than simply express its disapproval of uncontrolled liquor consumption. I take the view that both of these Acts were meant to be more than expressive and that the government meant for them to actually control liquor consumption.[84] I argue that the government's desire for effective liquor laws forced the government to alter the shape of liquor law enforcement in Alberta. The *Liquor Act* had offered a system of control which was too simplistic and relied too much on the belief that law should be obeyed because it was law. The *Liquor Control Act*, though it maintained many of the *Liquor Act*'s biases and goals, provided incentives for obedience in ways that prohibition did not.

By studying how the ALCB actually operated, I show the continuity between prohibition and government liquor control. I also argue that the government monitored the board's actions and, as such, the board was not as powerful as it appeared. By rooting my discussion "in real aspirations and real problems," I not only answer Macdonald's complaint about the ahistoricism of most Canadian administrative law scholarship,[85] but I also suggest that the creation of the ALCB was not part of a conscious move towards a new type of government – that of the administrative state - instead, the ALCB and the *Liquor Control Act* emerged out of an attempt to answer the 'liquor problem.'[86] Even the ALCB's power to sell alcohol was not as novel as it seemed, for during

[84] For law's expressive power see Cass R Sunstein, "On the Expressive Function of Law" (1996) 144 U Penn L Rev 2021.
[85] Macdonald, "Call-Centre Government", *supra* note 55 at 453.
[86] Compare Hurst, *supra* note 58 at 407, 420.

prohibition the government had a monopoly on the wholesale of liquor to drug stores through the liquor vendors in Edmonton and Calgary.[87]

1.3 – Sources and Records

This dissertation relies on a number of archival sources in order to capture, as far as possible, how Alberta's liquor laws operated on a day-to-day basis. While the prohibition-era records are substantial, certain records that might be expected from the post-prohibition-era are missing, particularly the ALCB's records. Although the board's inspection reports and staff memos have survived, other records such as board correspondence do not exist. It is likely that due to the ALCB being a one-man board for much of its early history, including the time period examined in this dissertation, more explicit records of board policies and practices were not needed. However, other records such as the Premiers' papers and the records of the Attorney General's department contain numerous documents about liquor control including correspondence with or about the ALCB. These records are likely incomplete, though they contain enough information to be able to support firm conclusions about the evolution and operation of Alberta's liquor laws. In particular, these records shed light on how the government understood the liquor laws and how they sought to influence and shape their operation.

Due to the sheer size of the ALCB's inspection records and the restrictions on accessing these records I have chosen to focus on a handful of licensed

[87] See Chapter Three at footnotes 22 to 28 and accompanying text.

premises.[88] I had to apply to view these records which were then released to me with certain pieces of personal information, such as ethnicity, removed. I limited my study to the inter-war period in Alberta, as during the Second World War, Canadian attitudes to liquor underwent a further liberalization.[89] I opted not to examine any licensed army canteens given that such canteens did not allow public drinking in the way that licensed clubs and licensed hotels did.[90] In addition, licensed canteens were much fewer in number than either licensed clubs or licensed hotels, and I did not come across any complaints specifically about licensed canteens during the period under study.

Rather than undertaking a random sample of licensed premises, I picked a number of premises for detailed study. The factors which influenced my selection were the length of time the premise was licensed, its location, the ethnicity and gender of the licensee, and the location of the premise.[91] Though ethnic identifiers were removed from the later license files due to *FOIPP* restrictions, they remained in the files not covered by *FOIPP*. As licensed clubs fell into two main categories – veterans' clubs or golf and country clubs – I sampled the

[88] These records are restricted under the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25 [*FOIPP*]. The Provincial Archives of Alberta holds the ALCB's inspection reports from 1924 to 1962. These reports cover hundreds of licensed premises.
[89] Heron, *Booze, supra* note 1 at 295. The attitudinal shift towards liquor occurred between the end of prohibition and the outbreak of war in 1939, but it was only after the war that the shift came to be reflected in legislative changes.
[90] *Liquor Control Act, supra* note 3, s 31.
[91] I tried to study licensed premises which were licensed for the entire 1924 to 1939 period as I wanted to trace the changes, if any, in the ALCB's regulation. It was, however, impossible to know without looking at the license file whether or not the premise had in fact been licensed for the entire fifteen year period. I also wanted to examine licensees from a range of ethnic backgrounds but again the ethnicity of the licensee was not clear until I actually pulled the file. Given the restrictions on the hotel license files I could not pull all of the files to find the kinds of licensees which I wanted to study. Fortunately, based on existing studies and information found on other unrestricted archival records I was able to identify hotels run by Chinese, Ukrainian, and British Albertans. I examined a range of hotels from urban hotels to hotels in developing regions of the province. In total I examined seven hotels and five clubs.

records of both kinds of clubs. As with licensed hotels, I studied both rural and urban clubs. Given that none of the records varied widely in how the ALCB treated each licensed premise, I am confident that the conclusions drawn from these records are representative of licensed premises more broadly. That is not to say that the ethnicity and class of the licensee did not matter, they did, but not always in predictable ways.

In addition to these archival sources, I also rely on other primary sources including legislation, regulations, and newspapers. Many of these sources, particularly those from Alberta, are online and word searchable. While the legislation and regulations allow me to reconstruct the written legal framework surrounding liquor control, the newspapers offer a way to assess the public's opinion of liquor control. The newspaper reports about the changing liquor laws also function as a record of the legislative debates over these laws as Alberta did not have a Hansard until the 1970s.

1.4 – Outline

I begin in Chapter Two with the background to liquor control in Alberta. Before achieving provincial status in 1905, Alberta, as part of the North-West Territories, had experienced an earlier period of prohibition. The earlier period of prohibition became more unpopular as the white population of the Territories increased and its repeal was one of the first actions of the new Territorial assembly in 1891. Once prohibition ended, the Territories adopted an amended version of Ontario's liquor legislation, yet there remained groups such as the Woman's Christian Temperance Union (WCTU) that wanted to see a return to prohibition. This

chapter puts Alberta's battle for liquor control in its broader context by exploring the wider prohibition movement and it also explores why its members wanted *legislative* prohibition rather than simple personal pledges of temperance. I also explore how the Prohibitionists used the *Direct Legislation Act* to secure prohibition in Alberta.[92] In this dissertation, although I consider 'temperance activist' to be interchangeable with 'Prohibitionist,' I use 'Prohibitionist' to refer to temperance activists during the campaigns for provincially legislated prohibition.

As I argue that Alberta's system of liquor control is best understood as a response to the failures of prohibition, the next two chapters deal with aspects of prohibition, while the final two substantive chapters explore how the provincial government implemented the lessons of prohibition into their post-prohibition system of liquor sales. Chapter Three examines the failure of prohibition in Alberta. I argue that the *Liquor Act* offered most Albertans little incentive for compliance and that prohibition actually removed the few controls on liquor consumption which existed in Alberta. This chapter also examines how Chinese and Ukrainian Albertans interacted with prohibition to argue that the *Liquor Act* failed to control these minorities in the way that Alberta's government had hoped. In fact prohibition seemed to encourage these groups to break the law. Prohibition ultimately proved so strict that it alienated many members of what might be considered its core demographic: those British Albertans who were white, Protestant, and middle class.

[92] SA 1913, c 3.

Despite the widespread failure of prohibition, Chapter Four argues that one aspect of the *Liquor Act,* its medicinal exception, proved effective. Initially, medicinal liquor was as difficult to control as ordinary liquor during prohibition and convictions for its abuse were virtually impossible to secure. Rather than accept the abuse of medicinal liquor, Alberta's Attorney General's department – the government department responsible for administering the *Liquor Act* – changed how it controlled medicinal liquor. The department shifted its emphasis from prosecuting violations to regulating medical professionals' access to liquor. The department introduced strict limits and made ongoing liquor privileges contingent on medical professionals supplying the department with information about their usage and disposal of all liquor. I say 'disposal' because medical professionals had to account for all the liquor they bought whether it was dispensed to patients, mixed with other medicines, or used for sterilizing equipment. The success of this method in limiting the abuse of medicinal liquor offered the government an alternative to prohibition. A further liquor plebiscite under the *Direct Legislation Act* in 1923 provided Alberta's government with the chance to end prohibition and introduce effective liquor controls by extending medicinal liquor's alternative method of control to all forms of liquor.

Chapter Five begins by setting out the new legislative framework as well as the ALCB's structure and powers. I show that the design of the *Liquor Control Act* and the ALCB reflected the lessons that the government learned during prohibition. In particular I highlight the new Act's emphasis on regulation rather than prosecution. The main focus of this chapter, however, is on the

government's relationship with the ALCB and the *Liquor Control Act.* Governmental oversight of provincial liquor boards is often overlooked in existing studies of administrative agencies, which results in a failure to examine how or if the government influenced administrative discretion. I argue that if we compare the wording of the Act with the actual relationship of the government and the ALCB, we can see that the government wanted public distance from the ALCB yet private control of it. By private control I simply mean that the government sought to hide its influence and interest over the ALCB's system of liquor sales. Though the government never explicitly defended the ALCB, I argue that if we examine the government's actions in context, in particular its refusal to hold another liquor plebiscite in 1931, it is clear that it did defend the ALCB and the *Liquor Control Act*. Chapter Five emphasizes that the ALCB was answerable to the government and was not as independent as it seemed to be.

Chapter Six's focus is on how the ALCB actually administered the *Liquor Control Act.* I argue that the operation of the Act answered the problems of prohibition and succeeded in controlling or appearing to control the sale and public consumption of liquor. Even Alberta's idiosyncratic decision to reintroduce public drinking simultaneously with the establishment of liquor stores was a response to issues that arose during prohibition. I argue that Alberta's liquor system offered more control than the liquor-store-only system that other English-Canadian provinces tended to adopt with the end of prohibition.[93] This chapter also explores how Alberta's post-prohibition liquor laws were enforced among the

[93] Heron, *Booze, supra* note 1 at 271-272.

province's ethnic minorities and argues that the *Liquor Control Act* offered sufficient flexibility to ensure the compliance of these minorities.

Chapter Seven concludes by synthesising the major arguments of my dissertation and discussing the implications of this research more broadly. Alberta's battle to control liquor was a *legal* fight and by making the legal dimensions of the liquor problem explicit this dissertation highlights an important shift in the relationship between law and social control. The failure of the *Liquor Act* to actually control liquor did not deter the provincial government from a further legal solution to the liquor problem. The *Liquor Control Act*, Alberta's second attempt at a legal response to the liquor problem, had many of the same aims as the *Liquor Act* but sought to achieve them via regulation instead of prosecution. The battle for liquor control in Alberta shows that the law's power to coerce appropriate behaviour is not simply found in punitive sanctions but in the giving and with-holding of privileges.[94]

[94] HW Arthurs, *'Without the Law': Administrative Justice and Legal Pluralism in Nineteenth-Century England* (Toronto: University of Toronto Press, 1985) at 125.

2 – Background to Liquor Control in Alberta

The battle for liquor control in Alberta predated its formation as a province in 1905. Perhaps the most accurate starting point for the study of attempts to control liquor is the arrival of European fur traders and the Hudson's Bay Company (HBC). Liquor quickly proved essential to the fur trade and the HBC supplied it to both its own men and the Aboriginal people it traded with.[1] For the purposes of this chapter, however, I am only interested in legislative controls over liquor backed by the power of the state.[2] Legislated liquor controls were only possible after Canada acquired the North-West Territories in 1870. Shortly after acquiring the Territories from the HBC,[3] the Canadian government established prohibition in the region.[4] This period of prohibition lasted until 1891, when it was replaced with a modified version of Ontario's liquor laws which remained in place until

[1] Craig Heron, *Booze: A Distilled History* (Toronto: Between the Lines, 2003) at 24, 43-45 [Heron, *Booze*]; Arthur J Ray, "The Hudson's Bay Company Fur Trade in the Eighteenth Century: A Comparative Economic Study" in James R Gibson, ed, *European Settlement and Development in North America: Essays in Honour and Memory of Andrew Hill Clark* (Toronto: University of Toronto Press, 1978) 116 at 131-134; Gerald Friesen, *The Canadian Prairies: A History* (Toronto: University of Toronto Press, 1990) at 132-135.

[2] There are those who argue that the HBC should be considered a state of sorts and while these claims are persuasive, the HBC cannot be considered to be a state in the way that the Dominion of Canada was. See Edward Cavanagh, "A Company with Sovereignty and Subjects of Its Own? The Case of the Hudson's Bay Company, 1760-1763" (2011) 26 CJLS 25.

[3] For the background to Canada's decision to acquire these territories see, Doug Owram, *The Promise of Eden: The Canadian Expansionist Movement and the Idea of the West* (Toronto: University of Toronto Press, 1992) at 45-79 .

[4] The prohibition of liquor was introduced in 1870 as an emergency measure and was re-enacted in 1873. See *Review of Liquors, and Liquor Legislation in the Various Provinces of Canada*, PAA (RG 83.192/399) at 19 (noting that Lieutenant-Governor Adams G Archibald introduced prohibition in 1870); *Royal Commission on the Liquor Traffic in Canada*, vol 1 (Ottawa: SE Dawson, 1895) at 176-177; Edmund Henry Oliver, *The Canadian North-West, its early development and legislative records*, vol 2 (Ottawa: Government Printing Bureau, 1914); William D Colwyn, "Law and Institutions in the North West [sic] Territories (1869-1905)" (1963) 28:3 Sask Bar Rev 109 at 112. This prohibition was then later confirmed by *An Act to make further provision as to Duties of Customs in Manitoba and the North West Territories*, SC 1873, c 39, s1(2) and *Northwest Territories Act*, SC 1875, c 49, s 74 [*Northwest Territories Act*].

Alberta introduced prohibition in 1916.[5] Consequently, even before the *Liquor Act* of 1916, Alberta, as part of the North-West Territories, had already vacillated between strict prohibition and a more open form of liquor sales.

The earlier, Territorial battles over the shape of liquor controls took place against a backdrop of increasing temperance sentiment both nationally and internationally. By temperance sentiment I mean increased support for liquor controls or outright prohibition among the population, in part due to the belief that liquor was at the root of most social evils. That the North-West Territories should end prohibition in 1891 does not mean that the Territories lacked temperance sentiment, but merely that such sentiment was not strong enough to maintain prohibition. Yet many of the problems which Alberta would experience under its later period of prohibition were first seen during the period of Territorial prohibition. The later push for prohibition legislation, I argue, ignored the experiences of the earlier prohibition period. The early twentieth-century push for prohibition, however, formed part of a broader progressive reform movement which optimistically advocated relatively simple solutions to complex social problems. These solutions included various forms of moral reform such as prohibition as well as certain kinds of political reforms including universal suffrage and direct legislation. Granted these political reforms may seem like complex solutions, but the Prohibitionists understood them as a means to an end. The proponents of Prohibition hoped that universal suffrage and direct legislation would make it easier to pass legislated prohibition. The Prohibitionists tended to

[5] *Liquor License Ordinance, 1891-1892*, SNWT C18 [*Liquor License Ordinance, 1891*].

ignore the broader political effects of such reforms and failed to explain how such reforms would or could operate within the Canadian legal context. The constitutionality of direct legislation, for example, proved to be a challenging issue.[6]

This chapter is split into two parts, each of which seeks to explain and contextualize the two methods of liquor control used in Alberta prior to 1916. The first section focuses on the Territorial prohibition of 1873 to 1891 and argues that this prohibition was really only aimed at the Territories' Aboriginal population. Territorial prohibition became increasingly unworkable and unpopular as the white population of the area increased because prohibition left little room for the white population to consume liquor in the ways in which they were used to. That is to say the incoming white population were used to drinking together in bars or clubs and consuming alcohol at various social gatherings. In other words the incoming white population was used to liquor playing a role in social gatherings and occasions. I also note that the existence of prohibition stymied the growth of the Territories' temperance movement – by which I mean the organized groups such as the WCTU who campaigned for prohibition – and compare the Territories' temperance activists to those elsewhere in North America. The second section focuses on the temperance response to the end of prohibition in 1891 and compares it to the wider Canadian battle for liquor control. By this time the liquor issue was a politically sensitive topic across Canada, largely as a result of temperance agitation. I also briefly outline the

[6] see *infra* at footnotes 78 to 86 and accompanying text.

provisions of the Territories' post-prohibition system of liquor sales to show that it still aimed at the control of liquor consumption in the region. Both systems of pre-1916 liquor control sought to balance the need to ensure liquor was actually *controlled* with the desires of the community to have access to liquor; the exact form of the balancing was, however, dependent on the region's shifting demographics and politics.

2.1 – Territorial Prohibition, 1873 to 1891

The introduction of Territorial prohibition in 1873 set the tone for Alberta's later liquor laws in that it was paternalistic and primarily aimed at a section of the population rather than the population as a whole. The impetus behind the prohibition of 1873 was to protect the Territories' Aboriginal population from the American whiskey traders. Aiming to staunch the free-flow of whisky crossing the border from the U.S, the federal government banned liquor and created the North-West Mounted Police (NWMP) to patrol the region.[7] Shortly after the creation of the NWMP, the Cypress Hills massacre of June 1873, where a group of Nakoda were slaughtered by American whiskey traders and wolf-hunters, pointed to the need for better policing in the area and for stricter controls on liquor.[8] The arrival of the NWMP succeeded in flushing out the rest of the American whiskey traders and left the NWMP to enforce Territorial prohibition among the remaining population. Despite prohibition, the white population of the North-West Territories could import liquor with the approval of the Lieutenant-

[7] See *supra* note 4.
[8] RC Macleod, *The NWMP and Law Enforcement: 1873-1905* (Toronto: University of Toronto Press, 1976) at 16; Paul F Sharp, *Whoop-Up Country: The Canadian American West, 1865-1885* (Helena: Historical Society of Montana, 1960) at 55-85; Howard Palmer & Tamara Palmer, *Alberta: A New History* (Edmonton: Hurtig Publishers, 1990) at 29-49.

Governor.[9] As the Lieutenant-Governor's approval appeared to be little more than a formality,[10] prohibition was not as comprehensive as it seemed.

That the white population could still import liquor, provided they had the necessary approval, suggests that Territorial prohibition was only a compromise. The real goal was to keep liquor out of the hands of the Aboriginal population and the federal government ultimately banned all Status Indians – those Aboriginal people recognised as "Indians" under the *Indian Act* – from the consumption or purchase of beverage liquor.[11] In 1873 a blanket ban on liquor in the Territories was the easiest way to keep liquor away from the Aboriginal population. As the white population of the Territories increased and came to form the majority of the population by 1885,[12] prohibition became increasingly problematic. According to Stan Horrall, the white population appreciated prohibition when they were in the minority as it offered a way to control what they saw as the threatening Aboriginal population, but once the white population dominated the region they quickly came to resent it.[13]

Many of the Territories' white settlers had either migrated from eastern Canada or emigrated from Britain or the United States where they were used to liquor playing a key social role. Although the temperance movement had begun by the time Canada acquired the North-West Territories, liquor still formed a part

[9] *Northwest Territories Act, supra* note 4, s 74.
[10] Stan Horrall, "A Policeman's Lot is not a Happy One: The Mounted Police and Prohibition in the North-West Territories, 1874-91" in Linda McDowell, ed, *Papers Read Before the Historical and Scientific Society of Manitoba Transactions* Series III, Number 30 (Np: Hignell Printing Ltd, 1973-74) 5 at 9.
[11] *An Act for the Gradual Enfranchisement of Indians, the better management of Indian Affairs*, (1869) 32 & 33 Vict, c 6, s 3; *The Indian Act, 1880*, 42 & 43 Vict, c 28, s 2(3).
[12] Horrall, *supra* note 10 at 6-7; Palmer & Palmer, *supra* note 8 at 65-70.
[13] Horrall, *supra* note 10 at 5, 10.

of daily life for the many people in the rest of Canada, the United States, and in the United Kingdom, though, as Heron observes, it was becoming more of a leisure-time drink rather than something consumed with meals or while working.[14] That being said, liquor consumption was, as Heron notes, "often a highly social act....deeply enmeshed in specific cultural norms and practices."[15] Heron goes on to argue that patterns of consumption were highly ritualized and played a key role in identity formation.[16] Territorial prohibition ignored this social aspect of liquor consumption and limited alcohol to the privacy of a person's own home.

Though the NWMP continued to enforce prohibition as best they could, increased settlement undermined their attempts to do so. For one, many of the settlers acquired the necessary importation permits which increased the flow of liquor in the Territories. Secondly, in addition to this legal supply, Horrall notes that liquor smuggling increased and "soon became an insuperable obstacle to the effective enforcement of the liquor laws."[17] Furthermore, "[p]rofits, combined with the decrease in the probability of detection, gradually removed much of the law's usefulness as a deterrent."[18] In short, increased settlement resulted in increased liquor and the settlers wanted to drink more than they wanted to obey the law. In fact, even those among the new arrivals who supported prohibition failed to supply information about the whiskey smugglers to the NWMP because

[14] Heron, *Booze*, *supra* note 1 at 72-77, 80-86.
[15] Heron, *Booze*, *supra* note 1 at 6.
[16] *Ibid* at 6-7.
[17] Horrall, *supra* note 10 at 7-9.
[18] *Ibid* at 8.

they did not want to be ostracised by their neighbours.[19] Horrall also argues that the NWMP's heavy-handed enforcement and powers of search made prohibition even more unpopular amongst the Territories' population.[20]

Such was the unpopularity of prohibition that its end was one of the first actions of the new Territorial assembly in 1891.[21] The assembly modelled the new *Liquor License Ordinance* on Ontario's liquor laws,[22] though it had a few key differences. Perhaps in a reflection of the transient nature of life in the Territories,[23] the Ordinance required that all purchases of liquor be paid for in cash.[24] There does not appear to have been any sustained objection to the end of prohibition from the Territories' temperance supporters, in fact in 1891 the *Moose Jaw Herald Times* claimed that the prohibition was not "agreeable to the temperance people" because it no longer worked.[25]

Nancy Sheehan argues that the existence of prohibition was one of the reasons why temperance activists like the Woman's Christian Temperance Union (WCTU) got off to a slow start in the region.[26] The WCTU had been founded in the United States in 1874 and quickly spread to Canada. Sheehan argues that the

---

[19] *Ibid* at 11.
[20] *Ibid* at 9, 12.
[21] *Liquor License Ordinance, 1891*, *supra* note 5.
[22] *Liquor License Act*, RSO 1887, c 194 [*Liquor License Act*].
[23] For example Henry Klassen's study of Alberta's early legal profession argues that "transiency was a major feature", which resulted from individuals coming out to the Territories to try their luck and often moving on after a short period of time, Henry C Klassen, "Lawyers, Finance, and Economic Development in Southwestern Alberta, 1884 to 1920" in Carol Wilton, ed, *Essays in the History of Canadian Law: Volume IV – Beyond the Law: Lawyers and Business in Canada, 1830-1930* (Toronto: University of Toronto Press, 1990) 298 at 301.
[24] *Liquor License Ordinance, 1891, supra* note 5,s 66.
[25] "The Liquor Question", *Moose Jaw Herald Times* (17 July 1891).
[26] Nancy M Sheehan, *Temperance, the WCTU, and Education in Alberta, 1905-1930* (PhD Dissertation, University of Alberta, Department of Educational Foundations, 1980) at 88 [Sheehan, *Temperance*].

WCTU expanded into Western Canada early, making its first appearance in the late 1880s.[27] Understandably, given the small size of the Territories' population and the distances between settlements, any form of organization was difficult. Members of the WCTU also struggled to convince their neighbours that liquor was a problem because "intemperance...was not noticeable" or at least not as noticeable in the Territories as it was elsewhere.[28] The Territories lacked saloons and, as a result, whatever drinking took place was more covert and less obvious than the saloons which attracted so much temperance ire in the rest of Canada and the U.S.[29] Sheehan also postulates that the relative inactivity of the Territorial WCTU during prohibition could be attributed to a desire to avoid any suggestion that prohibition was failing.[30]

Elsewhere in North America the rapid influx of immigrants played a key role in boosting support for prohibition.[31] The historical consensus is that temperance activism in North America emerged as a response to the sudden changes that resulted from increased immigration, industrialization, and the

[27] *Ibid* at 86.
[28] *Ibid* at 88.
[29] For discussion of the saloons see, Cheryl Krasnick Warsh, " "John Barleycorn Must Die": An Introduction to the Social History of Alcohol" in Cheryl Krasnick Warsh, ed, *Drink in Canada: Historical Essays* (Montreal: McGill University Press, 1993) 3 at 8, 12; Heron, *Booze*, *supra* note 1at 105-121; Daniel Okrent, *Last Call: The Rise and Fall of Prohibition* (New York: Scribner, 2010) at 9-19; Mary Jane Lupton, "Ladies' Entrance: Women and Bars" (1975) 5 Feminist Studies 571 at 576 (noting that the saloon was seen as the antithesis to the home).
[30] Sheehan, *Temperance*, *supra* note 26 at 88.
[31] *Ibid* at 13; Glen H Lockwood, "Temperance in Upper Canada as Ethnic Subterfuge" in Warsh *supra* note 29, 43 at 43 ("[t]emperance emerged as a cause at precisely the same time a flood of reactionary Orange Irish Protestants fleeing Catholic emancipation in Ireland inundated the colony and threatened to overwhelm the earlier settled population"); Heron, *Booze*, *supra* note 1 at 163-164; Scott Schaeffer, "The Legislative Rise and Populist Fall of the Eighteenth Amendment: Chicago and the Failure of Prohibition" (2010-2011) 26 JL & Pol 385 at 403.

western expansion of national borders.[32] When prohibition ended in the North-West Territories, the area had yet to experience mass immigration and, aside from the Aboriginal population, the majority of the settlers were relatively homogeneous sharing similar Anglo-Saxon roots. It was precisely this group, however, that would come to make up the majority of the temperance movement, partially in response to nativist fears that immigrants from Southern and Eastern Europe would overwhelm them.[33]

By 1891, temperance activists in the rest of Canada had succeeded in winning increased liquor controls, though they had yet to secure strict prohibition. What they had secured was the potential for 'local option' areas. Local option areas allowed villages or towns to vote themselves dry which meant that there could be no licensed bars or liquor stores in that area. The Province of Canada first allowed for local option areas under the *Dunkin Act* of 1864 which was replaced by the federal *Scott Act* in 1878.[34] Such local option areas were, as a later report prepared by the Province of Alberta noted, short-lived because individuals who lived in a local option area could still buy liquor elsewhere and bring it into the area.[35] The failure of local option areas proved frustrating to Canadian temperance activists and with the end of prohibition in the Territories the entire country was more or less under similar systems of liquor sales, which

---

[32] Sheehan, *Temperance*, *supra* note 26 at 87-90; Heron, *Booze*, *supra* note 1 at 163-164; John H Thompson, ""The Beginning of Our Regeneration": The Great War and Western Canadian Reform Movements" (1972) 7 Historical Papers 227 at 227.

[33] For more on nativisim in Alberta see, Howard Palmer, *Patterns of Prejudice: Nativism in Alberta* (Toronto: McClelland & Stewart, 1982).

[34] S Prov C 1864 (27-28 Vict), c 18 [*Dunkin Act*]; *Canada Temperance Act* SC 1878 (40-41 Vict), c 16 [*Scott Act*].

[35] *Review of Liquors and Liquor Legislation in the Various Provinces of Canada* (undated, c 1923), PAA (RG 83.192/399) at 3, 7; Heron, *Booze*, *supra* note 1 at 159-163.

meant that the path was clear to push for nation-wide action on the liquor problem.

The issues with local option areas and the failure of Territorial prohibition suggested that liquor control would be problematic. Yet Canadian Prohibitionists had good reason for ignoring the problems seen in these localized systems of prohibition. Neither the Territorial prohibition of 1873 to 1891 nor local option areas allowed for *total* prohibition. Canadian Prohibitionists could, therefore, argue that a system of total prohibition would not be undermined by the Territorial permit system or by liquor bought in 'wet' areas. Nonetheless, the enforcement issues seen during Territorial prohibition were more serious and would be repeated during Alberta's later period of prohibition. Prohibition enforcement was unpopular with the population of the Territories and they often refused to co-operate with the NWMP's attempts to uphold the liquor laws. In fact, many NWMP officers would violate the laws themselves. The unpopularity and failure of Territorial prohibition was, however, about to be overshadowed by the sudden arrival of tens of thousands of immigrants to the Prairies. These changing social circumstances would create fertile ground for the spread of temperance sentiment and would create the situation necessary to overlook the earlier failures of prohibition.

2.2 – The *Liquor License Ordinance* Era: Increased Temperance Sentiment in an Emerging Province

With the end of prohibition, the Territories finally had one of the key ingredients for increased temperance sentiment: the presence of public bars where men could

drink to excess. Shortly after the arrival of the bars, the Territories and, later, Alberta would experience the second key ingredient for increased temperance sentiment: mass immigration. Starting in the late 1890s the Territories and the provinces which succeeded them, experienced an influx of immigrants from Eastern and Southern Europe which continued for the next decade.[36] Before exploring how Alberta's changing social conditions led to increased temperance sentiment, this section outlines what the *Liquor License Ordinance* permitted. I argue that the *Ordinance* demonstrates a desire to control liquor and hints at increasing temperance sentiment, or at the very least that temperance ideas about liquor had begun to take root at a legislative level. I also explain why the temperance activists campaigned for legislated prohibition at a provincial level, rather than leaving temperance as a personal or federal matter.

The *Liquor License Ordinance* set up a Board of License Commissioners who would be responsible for administering all issues under the Ordinance. Such powers foreshadowed the authority that post-prohibition liquor boards would have.[37] Craig Heron notes that the Territorial Assembly's decision to place liquor administration in the hands of the License Commissioners echoed trends seen in Ontario and Manitoba whereby the province removed the administration of liquor regulations from local government.[38] The increased centralization of liquor regulation could be read as evidence of the increasingly sensitive nature of the

---

[36] Palmer & Palmer, *supra* note 8 at 76-79; Canada, Department of Trade and Commerce, Census and Statistics Office, *Special Report on the Foreign Born Population* (Ottawa: Government Printing Bureau, 1915) at 7, 14-15.

[37] *Liquor License Ordinance, 1891*, *supra* note 5; Reginald E Hose, *Prohibition or Control? Canada's Experience with the Liquor Problem, 1921-1927* (New York: Longmans, Green & Co, 1928) at 6-7. See also Chapter Five.

[38] Heron, *Booze*, *supra* note 1 at 158.

liquor laws; however, in the case of the North-West Territories, localities likely lacked the resources to adequately administer such laws. An example of the relative lack of local political institutions can be seen in the fact that Calgary, one of the Territories' largest settlements, did not have a town council until 1884.[39] Granted Calgary was a young settlement to begin with, but even so the relative youth of settlements in the region meant that they lacked established systems of local government. In addition to the lack of political institutions, what forms of local governance that did exist often struggled financially. As late as the 1920s, Alberta's towns and villages would struggle to pay their welfare funds and often found themselves in debt to the provincial government.[40] Finally, even during prohibition, liquor control had always been centralized in the Territories as it was the Lieutenant-Governor who issued liquor permits. As much as trends in liquor control in the Territories and later Alberta, would echo those seen elsewhere in Canada, there were always some features that were unique.

The Ordinance finally brought legal public drinking to the Territories by allowing for licensed hotels though the Ordinance envisaged these as being well-regulated. Licensed hotels were allowed to sell "fermented, spirituous, or other liquors,"[41] but licenses were limited to two hotels in places where the population was less than five hundred people, with one additional license for each additional

[39] Sheehan, *Temperance*, *supra* note 26 at 87.
[40] There are numerous letters in the archives from towns and villages to the provincial government about this matter. In 1923, for example, the Attorney General's department refused to pay the town Redcliff its share of the liquor fines until the town paid back what it owed for Mothers' Allowance payments, Letter from the Attorney General's Accountant to FH Courtnell, Secretary-Treasurer of Redcliff (16 February 1923), PAA (RG75.126/3738a). See also, AS Abell, "Rural Municipal Difficulties in Alberta" (1940) 6:4 Canadian Journal of Economics and Political Science 555.
[41] *Liquor License Ordinance, 1891*, *supra* note 5, s 2(6).

five hundred people.[42] Licensees had to be "fit and proper....of good character and repute"[43] and they were not to allow gambling, drunkenness or persons of "notoriously bad character" on the premises.[44] In addition hotels in incorporated towns had to have at least ten bedrooms, those in unincorporated towns had to have at least seven, while all other hotels had to have at least four. [45] The final requirement was that the licensees had to provide both food and lodging at a reasonable price.[46] The last condition should be read as a codification of the old common law requirement that inns had to provide food and lodging to travellers.[47] The Ordinance did not allow a mass proliferation of licensed premises and sought to ensure that licensed hotels actually provided more than just liquor. The Ordinance also provided for a number of license inspectors whose job was to regularly inspect and report on these licensed premises. The work of the inspectors would of course be supplemented by the police's role in enforcement.

In addition to licensed hotels, the Ordinance also authorized wholesale liquor stores, though limited the amount of liquor that they could sell to any one person at a time. According to the Ordinance wholesale liquor stores could not

[42] *Ibid* s 24 (b).
[43] *Ibid* s 27 (4).
[44] *Ibid* s 68.
[45] *Ibid* s 31.
[46] *Ibid* s 65.
[47] Julia Roberts, *In Mixed Company: Taverns and Public Life in Upper Canada* (Vancouver: UBC Press, 2009) at 2-3. For a discussion of how this requirement played out in America see AK Sandoval-Strausz, "Travelers, Strangers and Jim Crow: Law, Public Accommodations and Civil Rights in America" (2005) 23 LHR 53; Joseph William Singer, "No Right to Exclude: Public Accommodations to Private Property" (1995-1996) 90 Nw UL Rev 1283.

sell liquor in amounts less than half a gallon but could not sell more than ten gallons to one person at a time.[48]

The Ordinance also contained provisions governing how medicinal liquor could be sold and who could be prohibited from accessing beverage alcohol. The former allowed druggists to sell up to six ounces of liquor "for strictly medicinal purposes" provided the person had a medical prescription for same.[49] The latter provision, known as interdiction, allowed two Justices of the Peace to prohibit an individual from buying beverage liquor for one year if that person "by excessive drinking of liquor, mis-spends, wastes, or lessens his or her estate, or greatly injures his or her health, or endangers or interrupts the peace and happiness of his or her family."[50] Interdiction aimed to prevent liquor from destroying families and echoed the concern that temperance activists had about excessive liquor consumption.

Finally the Ordinance also allowed for local option votes but required that a majority against liquor licenses be at least three-fifths of the electorate in an area.[51] That the Ordinance should require more than just a simple majority suggests a slight bias in favour of licensed premises. The Ordinance's requirement conflicted with the federal *Scott Act*'s provisions on local option areas which stipulated that local option votes needed nothing more than a simple majority.[52] The two local option procedures were different and, while it is not clear that the

[48] *Liquor License Ordinance, 1891, supra* note 5, s 9(2)(a).
[49] *Ibid*, s 84.
[50] *Ibid*, s 92.
[51] *Ibid* s 48 (12).
[52] *Scott Act*, *supra* note 34, ss 56-57.

two ever conflicted in the North-West Territories or pre-prohibition Alberta, the existence of these two local options measures is yet another peculiarity of Canada's liquor laws.[53]

The anxiety over liquor consumption evident in the Ordinance is not surprising given that it was based on Ontario's liquor laws. By the time the North-West Territories ended prohibition, the WCTU and other temperance groups were active in Ontario. Liquor was becoming increasingly controversial and had become something which was increasingly seen to need stricter controls. Intemperance had begun to be understood as a moral failing and something that was to be avoided by 'respectable' people.[54] At the same time, temperance activists believed that liquor was at the root of many social problems including poverty and disease. Terry Chapman argues that the social reformers of this period saw all other vice in light of its relation to alcohol and, as a result, anti-liquor activism provided a rallying point to the reform movement.[55] Temperance activists may have begun with attempts to win personal pledges of temperance but when such measures proved ineffective, they advanced to attempts to impose external controls on liquor consumption.[56]

The temperance movement's turn to the law reflected their deep faith in what Chapman calls "the power of government and its ability to legislate

---

[53] Presumably these two local option measures were able to constitutionally co-exist under the doctrine of double aspect, which first appeared in an earlier case on Canada's liquor laws, *Hodge v The Queen*, [1883] UKPC 59, 9 App Cas 117.
[54] Heron, *Booze*, *supra* note 1 at 146; Lockwood, *supra* note 31 at 47, 49.
[55] TL Chapman, "The Anti-Drug Crusade in Western Canada, 1885-1925" in DJ Bercuson & LA Knafla, eds, *Law and Society in Canada in Historical Perspective* (Calgary: University of Calgary Press, 1979) 89 at 90.
[56] Heron, *Booze*, *supra* note 1 at 131.

morality."[57] Gerald Friesen notes that the Canadian middle classes defined themselves by their ability to abide by the law and that "by definition, law-breakers belonged to the lower elements in society."[58] Given such attitudes towards the law, it is not surprising that the mostly middle-class temperance movement would seek to use legislation to secure the temperate society they wanted. The push for temperance legislation sought to ensure that middle-class values, particularly the values of the small-town Protestant middle class, were enshrined in law. Yet, at the same time, the desire to legislate such values reflected a deep anxiety on the part of those who called for prohibition legislation and illustrated their very real fear of being overrun by immigration and urbanization.[59] Granted urbanization may have been less of a concern on the prairie frontier but, as pointed out by Valverde, what Prairie cities there were tended to cause even more concern to social reformers given the speed with which they appeared and the large numbers of single men who lived in these cities.[60]

In 1892, in response to the rise in temperance sentiment and activism in Canada, the federal government appointed the Royal Commission on the Liquor Traffic.[61] Heron describes this Commission as an attempt "to bury the [liquor] issue."[62] The Commission's final report recommended nothing more than stricter

[57] Chapman, *supra* note 55at 97.
[58] Friesen, *supra* note 1 at 170.
[59] Compare, Schaeffer, *supra* note 31 at 403 ("[p]rohibition was at core the "noble experiment" of the old American middle class – white, native, small-town Protestants. They had long held power and prestige in society, but their efforts to formalize a dour and anhedonic America with the Eighteenth Amendment ran up against the growing reality of American demographics").
[60] Mariana Valverde, *The Age of Light, Soap and Water: Moral Reform in English Canada, 1885-1925* (Toronto: University of Toronto Press, 2008) at 84.
[61] Royal Commission on the Liquor Traffic in Canada, *Report* (Ottawa: Queen's Printer, 1896) at 3-4.
[62] Heron, *Booze, supra* note 1 at 171.

controls and actually rejected total prohibition.[63] In 1898 the Liberal government of Wilfrid Laurier held a nation-wide referendum on the liquor question, the first national referendum in Canadian history. Although the results showed a slim majority in favour of prohibition, voter turnout was less than fifty percent, and support for prohibition varied widely across the country. Prohibition was particularly unpopular in Quebec and, as a result, Laurier's government decided against any federal measures.[64] At the time Alberta was still a part of the North-West Territories which *as a whole* voted 6,238 to 2,824 in favour of prohibition.[65] A later temperance pamphlet claimed that *by itself* Alberta had a majority of 377 in favour of prohibition; it is not clear whether this claim referred to the old District of Alberta or to the entire territory that would become Alberta.[66] Despite the majority in support of prohibition, Heron claims that fewer than four in ten voters turned out for the 1898 vote and that many of those opposed to prohibition declined to vote.[67] Taken together, Heron's claims and the slim majority in favour of prohibition in pre-provincial Alberta suggest that the area lacked strong prohibition sentiment.

With the failure to secure prohibition at a federal level, Canadian temperance activists turned their attention to provincial and territorial governments. In the North-West Territories, the WCTU succeeded in securing a compulsory course in temperance in public schools by the turn of the twentieth

---

[63] *Ibid*.
[64] *Ibid* at 172-173.
[65] James H Gray, *Booze: The Impact of Whisky on the Prairie West* (Toronto: Macmillan Company, 1972) at 58 [Gray, *Booze*].
[66] *Alberta's Proud Prohibition Record* (c 1923), PAA (RG 69.289/207). James Gray claims that prohibition sentiment was always weaker in Alberta, Gray, *Booze, supra* note 65 at 105.
[67] Heron, *Booze* supra note 1 at 172.

century. Though, as Sheehan is careful to note, "legislative directives did not guarantee a successful program at the classroom level."[68] In fact, Sheehan argues that "[i]nadequately trained teachers, poor reference books, a crowded timetable and a short school experience for the majority of youngsters, meant that the temperance and hygiene course had little impact in the Northwest Territories."[69] At the time, the Territories were experiencing a push for provincial status which likely meant that issues such as temperance and liquor control received less attention from all levels of society.[70]

Once Alberta secured provincial status in 1905 the path ought to have been clear for groups like the WCTU to push for prohibition. The liquor issue was not the only political issue facing the young province; issues such as the province's lack of control over its own natural resources had the potential to attract attention away from alcohol.[71] Nonetheless, as the first decade of twentieth-century progressed, Alberta finally began to acquire some of the features that made prohibition more attractive and more likely to attract political and social support. First, the province underwent a population boom which saw

---

[68] Nancy M Sheehan, "The WCTU and Educational Strategies on the Canadian Prairie" (1984) 21:1 History of Education Quarterly 101 at 103 [Sheehan, "Educational Strategies"].
[69] *Ibid* at 105.
[70] For the campaign for provincial status see Gayle Thrift, ""By the West, for the West": Frederick Haultain and the Struggle for Provincial Rights in Alberta" (2011) 59 Alberta History 2; Palmer & Palmer, *supra* note 8 at 128-130.
[71] For more on the natural resources question and Alberta's struggle to win control of them see, David H Breen, *Alberta's Petroleum Industry and the Conservation Board* (Edmonton: University of Alberta Press, 1993) at 4-73; Thomas Flanagan & Mark Milke, "Alberta's Real Constitution: The Natural Resources Transfer Agreement" in Richard Connors & John M Law, eds, *Forging Alberta's Constitutional Framework* (Edmonton: University of Alberta Press, 2005) 165; Nicole Colleen O'Byrne, *The Answer to the 'Natural Resources Question': A Historical Analysis of the* Natural Resources Transfer Agreements, (LLM Thesis, McGill University, Faculty of Law, 2005)[unpublished]; W Everard Edmonds, *The Natural Resources Question: A Plea for the Completion of Alberta's Status as a Province of Canada* (Edmonton: Np, 1922).

the number of inhabitants jump from 73,000 in 1901 to 374,000 in 1911.[72] A large number of these arrivals to Alberta were from Eastern Europe and by 1911 forty percent of Alberta's population was non-British with one in nine Albertans being of eastern European origin.[73] Patterns of liquor consumption provided a way for ethnic groups to differentiate themselves and, in Canada, prohibition sentiment had a history of being used by the existing population to differentiate and protect themselves from an overwhelming influx of foreigners.[74] With the rapid influx of Eastern Europeans into early-twentieth-century Alberta, the province was primed for prohibition support to take root among the existing British Canadian population. In addition, licensed premises offered these mostly male immigrants a social space where they could build camaraderie and find information about available work.[75] However, the immigrants' tendency to congregate in bars and their behaviour in these bars caused concern to Alberta's British Canadian elite.[76] Consequently, not only did the rapid influx of immigrants prove unsettling by itself, it also seemed to result in the kind of

[72] Palmer & Palmer, *supra* note 8 at 78.
[73] *Ibid* at 92.
[74] Compare with Lockwood, *supra* note 31.
[75] For more on the role of licensed premises during this time see Heron, *Booze*, *supra* note 1 at 105-121; Orest T Martynowych, *Ukrainians in Canada: The Formative Years, 1891-1924* (Edmonton: Canadian Institute of Ukrainian Studies, 1991) at 97, 122-123 (discussing Ukrainian immigrants' drinking practices). For a discussion of alcohol in a northern Ontario frontier community see, Nancy M Forestell, "Bachelors, Boarding-Houses, and Blind Pigs: Gender Construction in a Multi-Ethnic Mining Camp, 1909-1920" in Franca Iacovetta, Paula Draper & Robert Ventreseca, eds, *A Nation of Immigrants: Women, Workers, and Community in Canadian History, 1840s-1960s* (Toronto: University of Toronto Press, 1998) 251. For a discussion of the role of licensed premises in male sociability in Ontario see Craig Heron, "The Boys and Their Booze: Masculinities and Public Drinking in Working-Class Hamilton, 1890-1946" (2005) 86:3 Canadian Historical Review 411. For a case study of a Montreal Tavern during the same time period see, Peter DeLottinville, "Joe Beef of Montreal: Working-Class Culture and the Tavern, 1869-1889" (1982-82) 8-9 Labour/Le Travail 9.
[76] Heron, *Booze*, *supra* note 1 at 116-117, 184 (noting Prohibitionists' "intolerance" of those drinking habits of non-native English speakers).

saloon-like bars that temperance activists elsewhere in Canada and the United States railed against.[77]

As well as the influx of Eastern and Central Europeans, Alberta also attracted a large number of American immigrants who brought their more militant reform ideals with them. In addition to campaigns for prohibition, the western American farm movement also pushed for various forms of political reform as a result of disillusionment with eastern financial interests.[78] The farm movement and its grievances proved readily transferrable to Alberta whose farmers resented the central and eastern Canadian influence on how they ran their farms. The key political reform demanded by the American farm movement was direct political action. In particular, the farm movement demanded various forms of direct democracy because they believed that "all evils might be remedied by direct political action of the people."[79] By the turn of the twentieth century, a handful of American states had introduced various forms of direct legislation which allowed a set proportion of registered voters to petition for a plebiscite on a particular issue.[80] The Canadian Prairie farm movement, including that of Alberta, adopted

---

[77] For the WCTU's actions against licensed premises elsewhere see Sheehan, *Temperance, supra* note 26 at 70-71 comparing early Canadian and American WCTU tactics); Okrent, *supra* note 29 at 24-25.

[78] Burton W Folsom, "Tinkers, Tipplers, and Traitors: Ethnicity and Democratic Reform in Nebraska during the Progressive Era" (1981) 50:1 Pacific Historical Review 53 at 53; Arthur S Link, "What Happened to the Progressive Movement in the 1920's?" (1959) 64:4 American Historical Review 833 at 838; Grant McConnell, *Private Power and American Democracy* (New York: Knopf, 1967) at 30-81; Charles R McCann, *Order and Control in American Socio-Economic Thought: Social Scientists and Progressive-Era Reform* (London: Routledge, 2012) at 1-31.

[79] WL Morton, "Direct Legislation and the Origins of the Progressive Movement" (1944) 23 Canadian Historical Review 279 at 279.

[80] Robert Treat Platt, "Some Experiments in Direct Legislation" (1908-1909) 18 Yale LJ 40 (discussing Oregon's measure); W Rodman Peabody, "Direct Legislation and its Prospects in the United States" (1905) 20:5 Political Science Quarterly 443 at 447 (noting that the measure existed

the campaign for direct legislation with gusto. From 1909 to 1915, the *Grain Growers' Guide*, a leading newspaper of the Canadian farm movement, produced hundreds of articles about direct legislation and its benefits. The existence of direct legislation would, in theory at least, allow the population to force a particular issue such as women's suffrage or prohibition.

Securing direct legislation in Canada proved to be a more uneven process than in the U.S. given the doubts over the constitutionality of the measure.[81] The most problematic version of direct legislation in Canada was Manitoba's *Initiative and Referendum Act*,[82] which the Judicial Committee of the Privy Council held to be unconstitutional because it altered the powers of the Lieutenant-Governor.[83] By the time of Manitoba's legislation, Alberta had had direct legislation for three years. Alberta's Liberal government introduced direct legislation in 1913 as a result of pressure from the United Famers of Alberta (UFA).[84] Unlike Manitoba's unconstitutional legislation, the Alberta statute did not bypass the discretion of the Lieutenant-Governor; instead, the Alberta Act allowed a large enough petition to force a plebiscite but gave no guarantee that the outcome of such a vote would automatically result in legislation.[85] Though Alberta's *Direct Legislation Act*

---

in Oregon, Utah, Missouri and South Dakota); David Inglis, "Direct Legislation and the Law" (1897) 6:10 Michigan LJ 229.

[81] Heron claims that in 1901 the Judicial Committee of the Privy Council ruled against legislative delegation such as direct legislation, Heron, *Booze*, *supra* note 1 at 171. Heron does not, however, cite the case and I could not find any case from 1901 on the matter of direct legislation. The only Canadian liquor case from that year at the Judicial Committee of the Privy Council was a case about whether or not Manitoba could pass a strict temperance act, *Manitoba (AG) v Manitoba License Holders' Association*, [1901] UKPC 52.

[82] SM 1916, c 59.

[83] *Re Initiative and Referendum Act*, [1919] AC 935. See also J Patrick Boyer, *Lawmaking by the People: Referendums and Plebiscites in Canada* (Toronto: Butterworths, 1982) at 34-36.

[84] *Direct Legislation Act*, SA 1913, c 3 [*Direct Legislation Act*].

[85] Boyer, *supra* note 83 at 34-37.

would be challenged in a number of court cases, the Judicial Committee of the Privy Council ruled Alberta's legislation to be *intra vires* in *R v Nat Bell Liquors*.[86]

Alberta's Prohibitionists used the *Direct Legislation Act* to secure a liquor plebiscite in 1915 because they could not convince the provincial government to introduce prohibition in any other way. The failure of Alberta's government to introduce prohibition as a matter of policy is surprising given that Alberta's more militant WCTU had campaigned to elect good temperance men to provincial office. Sheehan argues that they were successful in this endeavour, despite women not yet having the vote, and that many of Alberta's leading politicians supported the temperance movement.[87] Temperance sentiment was not, however, limited to Alberta's politicians. There is evidence that prior to 1915 Alberta's population experienced an increase in temperance sentiment with the founding of the Alberta Temperance and Moral Reform League in 1907 and the separation of the Alberta and Saskatchewan WCTU into two separate provincial organizations in 1913.[88]

By 1915 Alberta had two main groups pushing for prohibition. The first was the WCTU and the second was the Alberta Temperance and Moral Reform

[86] [1922] AC 128. For a contemporary critique of this decision see Berriedale Keith, "Notes on Imperial Constitutional Law" (1922) 4 Journal of Comparative Legislation and International Law 233. See also Boyer, *supra* note 83 at 30-34.
[87] Sheehan, *Temperance*, *supra* note 26 at 114.
[88] "Temperance and Moral Reform", *Edmonton Bulletin* (22 March 1907); Sheehan, *Temperance*, *supra* note 26 at 117.

League, called the Alberta Social Service League from 1917 on.[89] In Alberta, the WCTU had a central organizing committee which guided the efforts of the smaller local unions, making it similar to WCTU organizations elsewhere in North America.[90] Founded in 1907, the Temperance and Moral Reform League shared the WCTU's desire for a temperate society, but sought to organize itself along the lines of a provincial political party. That is, the League envisioned a central executive with minor organizations in the various electoral districts.[91] By 1908, a report in the *Edmonton Bulletin* indicated that the League had been successful in this respect and had "[b]ranches at all the principal points, with large memberships."[92] Like the WCTU, the League agitated for legislative prohibition and sought to ensure that only temperance MLAs were elected.[93]

In addition to the two main prohibition organizations, the UFA, whose policies heavily influenced the Liberal party of Alberta's election platform in 1913, also pushed for prohibition.[94] Yet increased temperance sentiment did not translate into the introduction of prohibition as a matter of policy. The government's failure to introduce prohibition by itself suggests that, as popular as the idea may have been, it was resisted by some.

---

[89] The name change was reported in "Ask Independent Commission to Enforce Liquor Act", *Edmonton Bulletin* (16 February 1917). The name-change seemed to take a while to become effective, at least in the press as the *Bulletin* and others continued to refer to the Temperance and Moral Reform League for much of 1917. See e.g., "Coone Objects to Publicity by the Press", *Edmonton Bulletin* (8 December 1917).
[90] Sheehan, *Temperance, supra* note 26 at 114-118.
[91] "Temperance and Moral Reform", *Edmonton Bulletin* (22 March 1907).
[92] "A Branch in Calgary", *Edmonton Bulletin* (30 April 1908).
[93] "Temperance League is to Demand Prohibition", *Edmonton Bulletin* (15 March 1912).
[94] For the UFA's influence in 1913 see LG Thomas, "The Liberal Party in Alberta, 1905-21" (1947) 28 Canadian Historical Review 411 at 422. For the UFA's view on liquor see, "United Farmers of Alberta Reaffirm Their Endorsation of Provincial Prohibition", *Edmonton Bulletin* (21 January 1915); JP Bate, "Prohibition and the UFA" (1970) 18:4 Alberta History 1.

The historical consensus is that prohibition was almost universally opposed by recent immigrants.[95] Yet opposition to prohibition was not limited to recent immigrants –the bulk of whom had yet to be naturalized and thus remained unable to vote– it could also be found among those of British descent. Although most Prohibitionists were British Canadian, not all British Canadians were Prohibitionists. Even among the core demographic of prohibition's supporters – middle-class, white, Protestant, British Canadians – there were those who opposed prohibition because they doubted the suitability of such government intervention in their daily lives and then there were those who just liked to drink.[96] The concern over what constituted appropriate government action during this period was not limited to liquor controls, to some extent Canada's nascent administrative state attracted similar concerns, with some early administrative boards facing stiff judicial opposition.[97] Richard Risk argues that this tension between liberty and authority also played out in a number of Canadian constitutional cases, particularly those dealing with liquor controls in the Judicial Committee of the Privy Council.[98] Though Risk expressed frustration with the Privy Council's legal abstractions and accused them of valuing ideals over practical realities,[99] the Privy Council's preference for liberty was shared by a sizeable proportion of the

[95] Okrent, *supra* note 29 at 12; Schaeffer, *supra* note 31 at 403; Palmer, *Patterns of Prejudice*, *supra* note 33 at 38. Hostility to prohibition was not universal among immigrants and some immigrant groups had their own internal prohibition movement but these groups never became central to the British Canadian prohibition movement.
[96] Heron, *Booze*, *supra* note 1 at 146.
[97] Bernard J Hibbitts, "A Change of Mind: The Supreme Court and the Board of Railway Commissioners, 1903-1929" (1991) 41 UTLJ 60; Jamie Benidickson, "The Canadian Board of Railway Commissioners: Regulation, Policy, and Legal Process at the Turn-of-the-Century" (1990-1991) 36 McGill LJ 122.
[98] RCB Risk, "Canadian Courts Under the Influence" (1990) 40 UTLJ 687 at 730
[99] *Ibid* at 730, 737.

Canadian population, particularly when it came to liquor consumption.[100] Consequently, politicians remained reluctant to take any firm measures on liquor lest they alienate a significant proportion of the population. The arrival of the *Direct Legislation Act* in 1913, however, gave Alberta's Prohibitionists a route around government inaction and within two years of its legislative enactment, the Prohibitionists had secured a liquor plebiscite. In this plebiscite Alberta voted for prohibition by 58,295 to 37,509, [101] which resulted in the introduction of the *Liquor Act* the following year.[102]

The 1915 liquor plebiscite did not take place under normal circumstances and some scholars have attributed the outcome of this plebiscite to the fact that Canada was at war. Heron, for example, argues that the arrival of the war removed any remaining doubts about the appropriateness of government intervention in everyday life.[103] Certainly the First World War saw a sharp increase in the size and activity of the federal government.[104] Sheehan echoes this view, calling the war the only real reason for prohibition.[105] There was also an efficiency argument to be made about wartime prohibition in that it would free up men and resources for the war effort. Notably, Canada's first wartime prohibition came in during the War of 1812 when Upper Canada faced a grain shortage and

[100] See *infra* at footnotes 107 to 111 and accompanying text.
[101] "Full Results of Plebiscite Vote", *Wetaskiwin Times* (26 August 1915).
[102] *Liquor Act*, SA 1916, c 4.
[103] Heron, *Booze, supra* note 1 at 178. See also, Thompson, *supra* note 32 at229; Doug Owram, *The Government Generation: Canadian Intellectuals and the State, 1900-1945* (Toronto: University of Toronto Press, 1986) at 80-104.
[104] See Owram, *Government Generation, supra* note 103 a t 80-107.
[105] Sheehan, *Temperance, supra* note 26 at 263-264.

briefly prohibited distilling spirits as a result.[106] It is impossible to know whether or not prohibition would have passed if there had been no war. What is more certain is that Alberta's Prohibitionists would have attempted to secure a liquor plebiscite under the *Direct Legislation Act* in any event.

Despite the existence of wartime conditions, some Albertans expressed their concerns about the draconian nature of prohibition in the press. Early in 1915 the *Blairmore Enterprise* reprinted an article by Rev P Gavin Duffy who alleged that prohibition would not solve the liquor problem and that singling out "the distillery, the brewery, the inn and the saloon alone as the great cause of moral defection" was a "gross injustice."[107] Later that year an article in the *Strathmore Standard* argued that prohibition contradicted "British fair play" because it "places the public in the position of perpetual suspected criminals, throwing on the accused in every case the onus of proving himself innocent."[108] Prohibitionists answered these accusations of infringement of personal liberties by arguing that some infringement of personal liberties was necessary in society and that such infringements were the product of an advancing civilization.[109] Another common argument against Prohibition was that it would not actually prohibit liquor because people would continue to drink regardless of the law. The Prohibitionists, however, clung to the belief that "decent m[e]n" would not break

---

[106] William Renwick Riddell, "The First Canadian War-Time Prohibition Measure" (1920) 1 Canadian Historical Review 187 at 187-190.
[107] Rev P Gavin Duffy, "Prohibition Will Not Solve Drink Problem", *Blairmore Enterprise* (29 January 1915).
[108] "What the Liquor Act Means", *Strathmore Standard* (26 May 1915).
[109] "First Shot Fired in Liquor Campaign", *Redcliff Review* (12 February 1915); "Citizen", Letter to the Editor, *Crossfield Chronicle* (22 April 1915).

the law and that these individuals would obey prohibition even if they personally opposed it.[110]

Although much of the debate over prohibition centred on the abstract idea of individual liberty, there were those who actually sought to gauge the efficacy of the suggested prohibitory legislation. In 1915 an article in the *Gleichen Call* examined the proposed *Liquor Act* and argued that it would allow for more liquor than the existing system. The *Call* referenced the failure of the earlier Territorial prohibition and asserted that "[p]eople are not naturally criminal, and when a large proportion are willing to ignore or break legislation...it is an indication, not of criminal tendencies, but of independence and a dislike for oppression."[111] While this latter claim marked a return to the hyperbole common among those opposed to prohibition and a return to the argument about liberty, the overall thrust of the *Call*'s article was that prohibition would not actually prohibit, and on that point, they were correct. What the *Call*'s article highlighted was the potential disconnect between the kind of liquor control Alberta was about to introduce and the desire of many Albertans to access liquor.

2.3 – Conclusion

By the time Alberta voted in the 1915 liquor plebiscite it had most if not all of the ingredients which made prohibition more likely: a rapid influx of immigrants, public bars, increasing urbanization, and a vocal and active temperance movement. The war also provided a deeply persuasive efficiency argument to the call for increased liquor controls. Yet Alberta also had what many other places

[110] "The Silly Arguments of Alberta Booze Sellers", *Western Globe* (19 May 1915).
[111] "New Prohibition Act Worse Than Old Act", *Gleichen Call* (27 May 1915).

did not: prior experience of prohibition. The previous prohibition period does not seem to have featured widely in either the pro or anti-prohibition vote campaigns of 1915, which is perhaps not surprising given the population and leadership changes since 1891. Granted there was ample scepticism in 1915 over whether prohibition would deliver what the Prohibitionists promised, but the difficulties of enforcing and the widespread violations of the Territorial prohibition period were largely ignored.

There were, however, good reasons for the Prohibitionists of 1915 to ignore the lessons of the previous prohibition period. For one, a number of Alberta's Prohibitionists had not actually experienced this prohibition period for themselves. Secondly, the Prohibitionists had succeeded in electing temperance men into provincial office and so had reason to believe that prohibition would be adequately enforced. More importantly Alberta's Prohibitionists clung to a naive belief that the enactment of a prohibition law would be enough to secure general compliance. They further justified the apparently illiberal nature of prohibition with the broader social benefits which would result from it. Such benefits included a reduction of crime, poverty, and insanity.[112] The earlier Territorial prohibition was not the result of such lofty goals and had been imposed on the population, whereas Albertans actually voted for the *Liquor Act*. For Alberta's Prohibitionists, the popular support of prohibition must have been seen as evidence that their message had gotten through and that provincial prohibition would have the necessary support to make it effective. Yet the Prohibitionists, in

[112] JWH Williams, "Prohibition as a Reducer of Crime", Letter to the Editor, *Edmonton Bulletin* (2 June 1915) (quoting figures from various American states both under and not under prohibition).

their eagerness to control liquor and to depict liquor as a danger to society, had overlooked the fact that liquor also played a significant social role and that many people would want to continue to access liquor, even during prohibition. As I now move on to show, prohibition failed to strike a balance between the desire to access liquor and the desire to control it.

3 – A Law without Support: The Failure of Prohibition, 1916 to 1924

Prohibition in Alberta represented an attempt, as Nellie McClung put it, to "cleanse and purify the world by law."[1] The *Liquor Act*[2] clearly reflected Prohibitionist beliefs about alcohol and was an attempt to use the law to impose these beliefs on the rest of Alberta.[3] With the *Liquor Act*, the government tried to force Albertans into a particular kind of drinking – private and moderate consumption – which ignored the social aspects that surrounded much of Alberta's pre-prohibition liquor consumption.[4] Although numerous Albertans, including members of the province's ethnic minorities, would attempt to shape or use the *Liquor Act* for their own benefit, the measure ultimately offered few incentives for the cooperation of those who did not support prohibition. In addition the *Liquor Act* also appeared to encourage lawlessness because the police struggled to prevent violations or even catch those who violated the law. Consequently, instead of resulting in increased social control and a cleansed and purified world, the *Liquor Act* seemed to have the opposite effect. Eight years after the Act's introduction, amid claims that prohibition increased crime and

---

[1] Quoted in Howard Palmer, *Patterns of Prejudice: Nativism in Alberta* (Toronto: McClelland & Stewart, 1982) at 43 [Palmer, *Patterns*].
[2] SA 1916, c 4 [*Liquor Act*].
[3] For an American example of a similar phenomenon see Peter C Hennigan, "Property War: Prostitution, Red-Light Districts, and the Transformation of Public Nuisance in the Progressive Era" (2004) 16 Yale JL & Human 123 at 127, 152; Scott Schaeffer, "The Legislative Rise and Populist Fall of the Eighteenth Amendment: Chicago and the Failure of Prohibition" (2010-2011) 26 JL & Politics 385 at 387, 403.
[4] For the social aspects of liquor consumption in Alberta see Nancy M Sheehan, *Temperance, the WCTU, and Education in Alberta, 1905-1930* (PhD Thesis, University of Alberta, Department of Educational Foundations, 1980) at 11, 232 [unpublished] [Sheehan, *Temperance*]. For social aspects of liquor consumption more generally see, Craig Heron, *Booze: A Distilled History* (Toronto: Between the Lines, 2003) at 1-51 [Heron, *Booze*]; Julia Roberts, *In Mixed Company: Taverns and Public Life in Upper Canada* (Vancouver: University of British Columbia Press, 2009). See also Chapter Two at footnotes 73 to 77, 95-96 and accompanying text.

caused disrespect for all law, Albertans voted to end the measure by 100,521 to 61,780.[5]

In this chapter I explore how and why the *Liquor Act* failed. I focus on the government's difficulties with enforcing the *Liquor Act* and delivering prohibition's promised social control, rather than prohibition's failure to deliver the economic benefits that the Prohibitionists thought it would. I argue that the *Liquor Act* failed because the Act offered individuals few incentives to comply with it and because the government assumed that prosecutions for violations would be enough to coerce compliance. In short, the experiences of prohibition did not match how the government and the public expected it to operate and, crucially, it failed to provide an answer to the liquor problem. The *Liquor Act*'s reliance on prosecutions proved unable to actually control liquor in Alberta because to be successful prohibition needed either a compliant population or a much larger police force than Alberta could then afford.

I begin with an examination of what the *Liquor Act* actually said and how the government thought prohibition would be enforced. I argue that prohibition faced problems from the moment of its introduction which rendered the government's expectations over enforcement impossible. These problems included issues over effective policing and lack of popular support. The second section examines how prohibition actually operated. I show how its enforcement managed to be heavy-handed, in that it criminalized innocuous activities such as selling lemon extract to housewives, and impossible because no matter what the

[5] See Chapter 4 at footnotes 110 to 119 for a discussion of the 1923 plebiscite.

police and government did, too many Albertans seemed able to violate prohibition with impunity. The third section further explores the themes raised in section two but in the context of Alberta's Chinese and Ukrainian populations. Simply put prohibition seemed to be too strict in its application, while also failing to stop the widespread abuse of liquor in Alberta. In this way the *Liquor Act* offers a good example of the dichotomy, identified by Christopher Tomlins, between the government's understanding of law and its more localized enforcement.[6] Both Alberta's government and its Prohibitionists expected prohibition to be enforced without fear or favour among those who violated the *Liquor Act*; that is they expected the law to be enforced and followed because it was law. Yet when it came to actually enforcing the law, prohibition faced an uncooperative population, which included people who expected the law to be enforced among other people or to be able to evade or otherwise be exempted from the provisions of the *Liquor Act*. In short, Albertans expected the enforcement of prohibition to take into account local conditions, or the inadvertent nature of their violations, rather than the neutral application the government envisaged and expected for all laws.

3.1 – Prohibition's Inherent Weaknesses

The introduction of prohibition in Alberta in 1916 was an ambitious experiment in social control that was flawed from the start. First, given the division of powers between the federal and provincial governments, the *Liquor Act* could not actually introduce strict prohibition. Second, Alberta's government naively hoped that the

[6] Christopher Tomlins, "After Critical Legal History: Scope, Scale, Structure" (2012) 8 Annual Review of Law and Social Science 31 at 34-35.

Liquor Act would be enforced like any other law, yet prohibition soon revealed that it required innovative and intensive forms of policing if it was to be enforced effectively. Albertans did not, as the Prohibitionists hoped they would, willingly forego their desire to drink liquor and took advantage of the ways in which the *Liquor Act* allowed them to drink legally. Most importantly the *Liquor Act* proved unable to actually control the sale and consumption of liquor and exacerbated the problems it was meant to solve. In this section I argue that prohibition reflected the British-Canadian outlook of the politicians and civil servants who drafted the *Liquor Act.* This section outlines how liquor could be bought, where it could be stored, and how the government of Alberta envisaged the *Liquor Act* would be enforced. I argue that the government's vision of enforcement was always overly optimistic because it assumed that there would be widespread cooperation rather than repeated attempts to evade or ignore the Act. .

In 1923 Ben Spence, a famous Canadian Prohibitionist[7]explained why he thought people across Canada, including those in Alberta supported prohibition, or should support it:

> [o]ur citizens, as a whole, are accepting with equanimity the new order, recognizing that, while they may not have their own way in this particular manner, the community at large is benefitting enormously. They are ready, therefore, to loyally and unselfishly forego their own desires, even what they may consider their rights, for the common good. Only as men do this can civilization advance.[8]

[7] "Rev Ben Spence", *Edmonton Bulletin* (26 May 1923).
[8] BH Spence, "Prohibitory Legislation in Canada" (1923) 109 Annals of the American Academy for Political and Social Science 230 at 250.

Spence clearly articulates the belief that the community benefit of prohibition justified the infringement on individual rights that the measure imposed.[9] Yet at the same time as Alberta's *Liquor Act* wished to place the needs of the community over and above those of the individual, the Act also strove to reward those individuals who met the middle-class ideals of independence and self-reliance.

Prohibition in Alberta, in common with prohibition in other jurisdictions, continued to allow some forms of liquor sale and consumption. The *Liquor Act* defined liquor as "all drinks and drinkable liquid which are intoxicating" and stated that any such liquid which was more than 2.5% proof "shall be conclusively deemed to be intoxicating."[10] This definition did leave some room for alcohol of less than 2.5% proof to be legally sold popularly known as 'near beer.'[11] While the Act could prohibit the sale of liquor within the province as a provincial measure, the Act could not ban the manufacture of liquor within Alberta, nor could it ban the importation of liquor into the province.[12] Hence from

---

[9] Compare Hennigan, *supra* note 3 at 127 ("[p]rogressives used public nuisance law to place community needs and norms over the individual rights of property owners").

[10] *Liquor Act*, *supra* note 2, s 2 (c). This standard was common across Canada during prohibition, see Heron, *Booze*, *supra* note 4 at 181.

[11] Heron, *Booze*, *supra* note 4 at 181.

[12]The matter of who controlled liquor manufacture was confusing to contemporaries but everything I have read suggests that both the provinces and the federal government thought, perhaps erroneously, that the latter had sole jurisdiction over the question, see *Huson v South Norwich (City of)* [1895] 24 SCR 145 at 148 ("the Dominion may, as has already been conclusively decided, enact a prohibitory law for the whole Dominion, whilst the provincial legislatures may also enact similar laws, restricted of course to their own jurisdictions. Such provincial legislation cannot, however, be extended so as to prohibit importation or manufacture, for the reason that these subjects belong exclusively to the Dominion under the head of trade and commerce, and also for the additional reason that the revenue of the Dominion derived from customs and excise duties would be thereby affected"). For a discussion of this case see David Schneiderman, "Constitutional Interpretation in an Age of Anxiety: A Reconsideration of the Local Prohibition Case" (1995-1996) 41 McGill LJ 411 at 440. See also, Richard N Kottman, "Volstead Violated: Prohibition as a Factor in Canadian-American Relations" (1962) 43 Canadian Historical Review 106 at 107; Cyril D Boyce, "Prohibition in Canada" (1923) 109 Annals of the American Academy of Political and Social Science 225 at 227 ("[i]t should be noted that the

the start the *Liquor Act* could not enact the kind of strict prohibition that Alberta's Prohibitionists claimed it would. More problematically, the continued existence of breweries and liquor export houses threatened to seriously undermine what the *Liquor Act* hoped to achieve.

During the early part of prohibition the main way which Albertans could still access liquor was through private importation.[13] There was little that Alberta could do about this exception as inter-provincial trade fell under federal jurisdiction. In theory anyone could access the private importation exception, yet in practice it worked to privilege the liquor consumption habits of those Albertans who could afford to import alcohol from elsewhere. However, as the private importation exception existed across Canada, it meant that in each province there were liquor export warehouses whose sole purpose was to export liquor to other provinces.[14] Such warehouses, as Zhiqiu Lin notes, were often suspected of bootlegging liquor to their surrounding areas and Alberta was no exception.[15]

In 1917 the Alberta Provincial Police (APP) set out to entrap one of these liquor export warehouses, resulting in *R v Nat Bell Liquors*.[16] In *Nat Bell* the police hired what the Court described as an "*agent provocateur*" by the name of Bolsing and sent him to Nat Bell's warehouse to buy liquor. Bolsing successfully bought twelve bottles of whisky for $45 from a man named Angel who worked at

---

various Provincial [prohibition] Acts...did not entirely stop the consumption of liquor. They did not prohibit manufacture in one province for export into another. That could only be done by the Dominion"). See also JF Davidson, "The Problem of Liquor Legislation in Canada" (1926) 4:7 Can Bar Rev 468 at 474 to 475 (critiquing the confusion over the manufacturing issue).

[13] *Liquor Act*, *supra* note 2, s 72.

[14] Heron, *Booze*, *supra* note 4 at 237.

[15] Zhiqiu Lin, *Policing the Wild North-West: A Sociological Study of the Provincial Police in Alberta and Saskatchewan, 1905-32* (Calgary: University of Calgary Press, 2007) at 133.

[16] [1922] UKPC 35 [*Nat Bell*].

the warehouse.[17] Angel testified that he had sold the whisky but "that he had done it contrary to specific orders and for purposes of his own."[18] Such testimony did not prevent the conviction of Nat Bell Liquors for keeping liquor for sale and the forfeiture of their entire stock to the provincial government.[19]

The *Nat Bell* case highlights the problems that the private importation exception created for provinces under prohibition. Not surprisingly the dry provinces, including Alberta, petitioned the federal government to intervene and in 1918 the federal government banned the interprovincial liquor trade as a war measure.[20] Following the end of the war, the federal government allowed the prohibition on private importation to be extended after provincial plebiscites on the issue in 1920.[21] The end of the private importation exception, however, did nothing to jeopardise the liquor that Albertans had already legally imported into the province nor did it end the other legal exceptions to prohibition.

While the provincial government could not ban the inter-provincial sale of liquor by itself, it used the *Liquor Act* to prohibit the sale of liquor inside Alberta unless it was for "medicinal, mechanical, scientific, [or] sacramental purposes."[22] Under the *Liquor Act* only a government vendor could sell liquor for these purposes.[23] Technically a registered druggist could also sell liquor but only if the

---

[17] *Ibid* at 2-3.
[18] *R v Nat Bell Liquors* Judgement of Justice Stuart, PAA (RG 75.126/2548a).
[19] *Nat Bell, supra* note 16 at 2.
[20] PC 1918-589, (1918) C Gaz 1II, Extra 1 (*War Measures Act*); Heron, *Booze*, *supra* note 4 at 237.
[21] *Canada Temperance Act*, RSC 1908, c152, s157 as am by SC 1922, c11; PC 385 (5 March 1923); James H Gray, *Booze: The Impact of Whisky on the Prairie West* (Toronto: Macmillan Company, 1972) at 190-195 [Gray, *Booze*].
[22] *Liquor Act, supra* note 2, s 4.
[23] *Ibid*.

person buying the liquor had a prescription for the liquor.[24] The existence of these exceptions shows that the government recognised that there were some 'legitimate' uses of liquor which it wished to protect. Each of these exceptions envisaged liquor as more of a tool than anything else, that is to say these exceptions were not for *beverage* liquor but for the various kinds of alcohol needed for preserving samples, sterilizing tools, or for use as a solvent. These exceptions reflected the government's ultimate goal of ending the consumption of liquor as a beverage.

The government set up two government liquor vendors – one in Edmonton and one in Calgary – and all liquor that was legally bought in Alberta had to come from, or at least originate from,[25] one of these two vendors. The Act stipulated that these vendors had to keep detailed records of sale and set out the procedures under which individuals could access liquor for medicinal, mechanical, scientific, or sacramental purposes.[26] Those who wanted liquor for mechanical or scientific purposes had to sign an affidavit swearing that such liquor would not be used as a beverage, while those who wanted wine for sacramental purposes had to be a Minister of the Gospel and had to write to the vendor explaining the purposes for which it would be used.[27] Under the *Liquor Act*, liquor could only be sold

[24] The operation of the medicinal exception is further explored in the next chapter.
[25] By originate, I mean that the prescription liquor dispensed by druggists had to be bought from the liquor vendors in Edmonton or Calgary.
[26] *Liquor Act, supra* note 2, ss 11-16.
[27] *Ibid* ss 11, 15.

between seven in the morning and six at night from Monday to Friday or from seven in the morning to five at night on Saturdays.[28]

These last two provisions, namely the ban on Sunday liquor sales and the limitation of sacramental wine to Ministers of the Gospel, reflected the inherent biases of the Alberta government. Both of these provisions betrayed a Christian worldview which ignored the possibility that those of other faiths might need sacramental wine. The ban on Sunday sales was by no means limited to liquor, but it would be over fifty years before such mandated days of rest were declared unconstitutional.[29] The provision about 'Ministers of the Gospel' was equally longstanding, even though the government knew that Alberta's Jewish population needed wine for sacramental purposes.[30] In a 1919 memo to RB Douglas the Chief Liquor Vendor of Alberta, Deputy Attorney General Browning noted that "[s]trictly speaking Jewish Rabbis cannot be held to be Ministers of the Gospel." However, Browning went on to say that he was willing to allow Rabbis wine for sacramental purposes but only if they wrote to ask for it.[31] Two years later JN MacLean, the Chief Liquor Inspector of Manitoba asked how Alberta dealt with the issue of sacramental wine for Jewish people which prompted further elaboration from Douglas. Douglas noted that initially Alberta had refused to allow Rabbis access to sacramental wine and that the situation was further complicated by the Rabbis asking for hard liquors for Passover. It is not clear that

[28] *Ibid* s 22.
[29] *R v Big M Drug Mart*, [1985] 1 SCR 295, [1985] 3 WWR 481 . The Supreme Court later upheld similar Sunday closing laws in *R v Edwards Books and Art*, [1986] 2 SCR 713, 35 DLR (4th) 1.
[30] Letter from D Bayne, vendor to Browning (16 October 1918), PAA (RG 75.126/1306b); Memo from [unclear] to Browning (7 April 1919), PAA (RG 75.126/2560b).
[31] Memo from Browning to Douglas (27 March 1919), PAA, (RG 75.126/2560c).

Alberta's Jewish population actually needed hard liquors for any rituals connected with Passover. In his letter MacLean opined that Manitoba's Jewish community likely only wanted hard liquors because "[c]ustom has associated wines and brandy with this celebration and they feel the observance is incomplete without these....I suppose the same might be said of our Christmas celebrations."[32] Douglas informed MacLean that Alberta came to an agreement whereby Rabbis could "buy wine like the other clergymen" and allowed a special shipment of the requested hard liquors that Jewish people had to buy via prescription. Douglas noted that while this was not "very satisfactory to the Jewish people, it is as far as we can go under our present Act."[33]

Interestingly, Ontario's prohibition legislation also specifically mentioned "Ministers of the Gospel," though within a decade Ontario revised its wording so that anyone who was entitled to solemnize marriages could access sacramental wine.[34] It is not clear why Alberta failed to change its legislation in the way that Ontario did. Perhaps the small size of Alberta's Jewish population made it easier for Jewish sacramental wine to be dealt with on an ad hoc basis. Alberta did not, however, publicize that Jewish Albertans could access sacramental liquor. The secrecy surrounding Jewish sacramental liquor likely stemmed from the government's desire to promote an image of prohibition. Regardless of the

[32] Letter from JN MacLean to Deputy Attorney General Browning (25 November 1921), PAA, (RG 75.126/2728).
[33] Douglas, Chief Liquor Vendor of Alberta to JN MacLean (29 November 1921), PAA, (RG 75.126/2728).
[34] *Ontario Temperance Act*, SO 1916, c 50 at s 41(3); *Liquor Control Act*, SO 1927, c 70, s 37(2)(d).

reason, Alberta maintained the problematic "Minister of the Gospel" wording until 1967.[35]

Although Alberta's Prohibitionists wanted to target all forms of liquor consumption, the *Liquor Act* primarily targeted the public consumption of beverage alcohol. As such, the *Liquor Act* contained numerous provisions which, one way or another, attempted to strictly segregate liquor consumption from public view and from places of work or employment. This strict segregation was reflected in the *Liquor Act'*s provisions on where Albertans could store liquor – such provisions were needed as a result of the private importation exception. Under the Act an individual could only possess, store, and ultimately consume liquor in a "private dwelling house."[36] To qualify as a private dwelling house, the premises could not be connected to any place of work such as a warehouse, office, shop, or club. A lodging house where there were "more than three lodgers other than members of the family" would also not be considered a private dwelling under the Act.[37] Furthermore if a person was convicted under the *Liquor Act* of "any offence...committed in or in respect of [their private dwelling] the same shall cease to be a private dwelling."[38]

The middle-class Canadian ideal of a strict separation of work and leisure meant that liquor consumption ought to be private. The *Liquor Act*'s attempt to limit the consumption of liquor to private dwellings reflected middle-class

[35] *Liquor Control Act, 1958*, SA 1958, c 37, s 45(1)(c) as am by SA 1967, c 45, s 12.
[36] *Liquor Act, supra* note 2 s 3, 24.
[37] *Ibid* s 3(a).
[38] *Ibid* s 38. These offences included situations where the owner or tenant of a building allowed drunkenness or disorderly conduct arising from drunkenness on the premises, *ibid* s 36.

values,[39] but it meant that the Act had to define what counted as an appropriate dwelling. The obsession with appropriate housing was by no means limited to the *Liquor Act*; in fact as Bryan Melnyk shows, it invaded Alberta's pattern of urban design. The Albertan authorities' preference for single family dwellings reflected their desire to avoid the slums of other provinces and to imbue all citizens with the virtues of self-reliance and independence.[40] Granted such issues about private dwellings were less pressing in the province's rural settlements, which suggests that the Act's discussion of private dwellings spoke to anxieties about urban living. Through its limits on where liquor could be stored, the *Liquor Act* turned the legal consumption of liquor into a privilege that was only available to law-abiding Albertans who could afford to live somewhere that met the statutory definition of a private dwelling and to those who obeyed the law. In short and particularly in the urban areas of the province, the Act limited legal liquor to those Albertans who exhibited middle-class ideals.

The government anticipated that there would be those who would abuse their right to store liquor in their own home and thus imposed a limit on how much liquor could be legally stored. Under the *Liquor Act* if any person possessed more than one quart of spirituous liquors or two gallons of malt liquor this was "*prima facie* evidence of the unlawful sale and keeping for sale and having and keeping of liquor by such person."[41] Despite this provision, Deputy Attorney General Arthur G Browning offered two contradicting opinions on how

[39] Heron, *Booze, supra* note 4 at 133, 163-169.
[40] Bryan P Melnyk, *Calgary Builds: The Emergence of an Urban Landscape, 1905-1914* (Regina: Canadian Plains Research Centre, 1985) at 57, 59-61, 69-70, 72-74, 76.
[41] *Liquor Act, supra* note 2, s 55.

much liquor a person could legally store. In September 1916 he observed that if anyone had more than the statutory limit in their house "he is presumed to have it for illegal purposes, and is liable to be prosecuted on Information being laid";[42] yet one month later Browning wrote that "there is no doubt in my mind that so long as a person has in his own private dwelling house liquor for his own use, he is not restricted as to quantity."[43] To clarify matters, the government amended the Act in 1917 to reference the statutory limit in the section about where liquor could be legally stored by private citizens.[44] Through targeting the storage of liquor, the goal was to further reduce legal liquor consumption. The 1917 amendment resulted from a campaign by Alberta's Temperance and Moral Reform League and marks an early attempt of Alberta's Prohibitionists to more rigorously target all forms of liquor consumption, including those that took place in a person's own home.[45]

Not surprisingly the *Liquor Act*'s provisions on private dwelling houses caused confusion. In 1917, a man who signed himself as "Keenan (citizen)" wrote to the Attorney General for clarification of the law.[46] Keenan's problem was that he and two others were moving into a private dwelling together and he wanted to know whether he and his roommates could each have the regulation amount of liquor or whether they were only allowed the same amount as a single

[42] Letter from Browning to BJ Klebe c/o *Vulcan Advocate* (27 September 1916), PAA (RG 66.166/1240b).
[43] Letter from Browning to Rev AW Coone (27 October 1916), PAA (RG 66.166/1240c).
[44] *An Act to Amend the Liquor Act*, SA 1917 c 22, s 7.
[45] Letter from Browning to the Chief Inspector McLean of Manitoba's *Liquor Act* (27 January 1917), PAA (RG 66.166/1240f) (noting that the Temperance and Moral Reform League were pushing for the amendment about the legal amount of liquor).
[46] Letter from Keenan (Citizen) to Attorney General (7 November 1917), PAA (RG 75.126/736).

person. Keenan assured the Attorney General that each person would store their liquor in their own room. Browning unhelpfully replied that he was not sure "but you will have to take the responsibility of deciding the proper course to be pursued."[47] Browning did not seem to be a fervent social reformer and was personally opposed to prohibition, but his suggestion that Keenan would have to decide for himself, implies that the ideas about individual responsibility were not limited to Prohibitionists. It is also hints that Browning himself was confused about the law.

Outside of the *Liquor Act*'s provisions on legal purchase and possession, all other forms of purchase and possession of liquor were against the law. In 1921 Browning sent letters to the Police Chiefs of various cities which read "[i]n your opinion and mine the *Liquor Act* may be one that should not have been passed, but so long as it is law, it must be enforced and your earnest co-operation in this respect will be appreciated."[48] These letters are important for two reasons. First, Browning's comments suggest that he believed the law should be followed because it was law. His comments also show that he thought through police work violations of the Act would be discovered, those individuals who violated the Act would be prosecuted, convicted and punished through the courts, and that such penalties would deter further violations. The penalties for violation were mostly fines with jail terms in default of payment.[49]

---

[47] Letter from Browning to Keenan (9 November 1917), PAA (RG 75.126/736).
[48] Letter from Browning to Chief Constable Ritchie of Calgary, Chief Constable Schute of Edmonton (8 September 1921), PAA (RG 75.126/3246). The same letter appears to have been sent to other police chiefs.
[49] *Liquor Act, supra* note 2, s 40.

Secondly, Browning's letters betrayed his own personal antipathy towards prohibition and implied that such sentiments were relatively common. In short Browning's comments suggest that antipathy towards the *Liquor Act* existed and was acknowledged throughout the enforcement chain. By contrast, Prohibitionists claimed that Alberta had a "proud prohibition record" by which they meant that Alberta had always supported temperance.[50] According to Hugh Dempsey, over seventy percent of the electorate voted in Alberta's 1915 liquor plebiscite,[51] but this should not automatically be considered evidence of widespread support for prohibition.[52] For one, the number of Albertans who voted in the 1915 plebiscite is lower than might be expected. In 1911, Alberta's population was 374,000,[53] yet in 1915, only 95,804 people voted in the liquor plebiscite.[54] At the time, universal suffrage had yet to arrive in Alberta meaning women were unable to vote.[55] According to the 1911 census the voting population of Alberta was only 107,487,[56] and by 1915 the voting population had only increased to about 136,000 or 137,000.[57] Even though a majority of Alberta's electorate supported prohibition in 1915, this majority only represented a minority of Alberta's population as a whole.

---

[50] *Alberta's Proud Prohibition Record*, (undated c. 1923), PAA (RG 69.289/207).
[51] For a discussion of the plebiscite see Chapter 2 at footnotes 101 to 105.
[52] Hugh A Dempsey, "The Day Alberta Went Dry" (2010) 58:2 Alberta History 10 at 11. There would have been roughly 136,000 to 137,000 eligible voters. See also "Alberta Declares Emphatically for a Prohibition Enactment", *Empress Express* (6 August 1915).
[53] Howard Palmer & Tamara Palmer, *Alberta: A New History* (Edmonton: Hurtig Publishers, 1990) at 78 .
[54] 58,295 voted in favour of prohibition with 37, 509 against. This works out as 95, 804 valid votes. Dempsey, *supra* note 52 at 11.
[55] Universal Suffrage would arrive in Alberta in 1916, *The Equal Suffrage Statutory Law Amendment Act*, SA 1916, c 5.
[56] Canada, Department of Trade and Commerce, Census and Statistics Office, *Special Report on the Foreign Born Population* (Ottawa: Government Printing Bureau, 1915) at 22 [*Special Report*].
[57] I arrived at this number by working backwards from the number of votes and Dempsey's estimate that over 70 percent of the population voted, Dempsey, *supra* note 52 at 11.

Furthermore, only a quarter of the voting population in 1915 was foreign born.[58] Though Alberta's foreign-born population could be found throughout the province, there were certain districts, particularly those north and east of Edmonton where the majority were foreign-born. These districts voted wet in the 1915 plebiscite.[59] Consequently a close examination of the figures for the 1915 plebiscite show that less than a third of Alberta's population actually voted for prohibition and that support for prohibition was less likely to be found among the foreign-born population.

Given these voting patterns it might be thought that what support there was for prohibition would be further diluted by increased naturalization of Alberta's foreign-born population.[60] Yet, even as the rates of naturalization increased, Alberta's foreign-born population remained in the minority compared to the Canadian-born and British-born population. In fact the proportion of naturalized foreign-born population relative to the rest of the population *decreased* from 25% in 1911 to 18.3% in 1921.[61] Therefore the naturalization of non-British immigrants alone cannot account for the vote against prohibition in 1923. As such prohibition's unpopularity among Alberta's foreign-born

---

[58] In 1911 only 26, 787 of the 107,487 men of voting age were foreign-born. *Special Report, supra* note 54 at 22. Prior to 1914 naturalization took three years, after this date it took five, though naturalization was halted during the war for enemy populations. Once the war ended the naturalization period for individuals from an 'enemy' population was ten years, Dominion of Canada, Bureau of Statistics, *Origin, Birthplace, Nationality, and Language of the Canadian People (A Census Study Based on the Census of 1921 and Supplementary Data)* (Ottawa: FA Acland, King's Printer, 1929) at 156 [*Origin, Birthplace, Nationality*].

[59] "Full Results of Plebiscite Vote", *Wetaskiwin Times* (26 August 1915); Sheehan, *Temperance, supra* note 3 at 178-179.

[60] Between 1911 and 1921 the proportion of naturalized immigrants increased from 45% to 62% of the foreign-born population, *Special Report, supra* note 52 4at 19; *Origin, Birthplace, Nationality, supra* note 58 at 154.

[61] *Origin, Birthplace, Nationality, supra* note 58 at 154.

population is perhaps less important than its unpopularity among those Albertans of British descent.

The majority of prohibition's supporters may have been British Albertan but support for the measure was far from unanimous among those of British descent. Given that what British Albertan opposition there was to prohibition centred on concern about government interference and the measure's inherently anti-liberal nature,[62] it was doubtful that experiencing prohibition would win them over. Even though the *Liquor Act* in its 1916 form mostly targeted public drinking, the Act still invaded a person's private home to see if it fell within the legislative definition of a "private dwelling house."[63] As such, prohibition also attempted to control private drinking. Heron argues that the eventual prohibition of private importation in 1918 made it even harder for those who wanted to drink to get legal liquor and led to increased anti-prohibition sentiment across Canada.[64] Manitoba's Liquor Commissioner, JN MacLean, foresaw the unpopularity of the private importation ban in a 1917 letter about the issue to Browning. MacLean warned that "placing such restrictions on the individual might raise up an army in

[62] A 1915 debate over prohibition in Edmonton saw the debater opposing prohibition declare the measure to be an unworkable "infringement on personal liberty", "Commercial Men Discuss Prohibition", *Edmonton Bulletin* (17 May 1915). These views were echoed by other opponents to prohibition, "One Preacher is Out Against Prohibition", *Western Globe* (26 May 1915); "What the Liquor Act Means", *The Strathmore Standard* (26 May 1915); "Opinions of Opponents of the Liquor Act", *Lacombe Guardian* (18 June 1915); "Big Audience Hear Speaker for Liquor Men", *Edmonton Bulletin* (5 July 1915). See also, Sheehan, *Temperance, supra* note 4 at 232; Heron, *Booze, supra* note 4 at 192.
[63] *Liquor Act, supra* note 2, ss 3, 24. See also, *supra* footnotes 35 to 47.
[64] Heron, *Booze, supra* note 4 at 184, 192-196.

opposition, who are now working with us in realizing the aims of this legislation."[65]

In addition to prohibition's infringement on individual rights, British Albertans objected strongly whenever they fell under suspicion of liquor law violations. In 1920, for example, WW Webster of Didsbury, Alberta wrote to Deputy Attorney General Browning to complain about being recently searched for liquor. Webster accused those who informed against him of having limited education, being too sheltered and lacking the intelligence to see things as they really were. Webster blamed the informants' actions on "too much religion" and said that "instead of your informants being drunk on liquor it's religion."[66] Webster may have had some sympathy with claims about the dangers of excessive liquor consumption but he had no sympathy with the Prohibitionists and accused them of offering overly simplistic solutions and clinging to beliefs rather than facts. Webster's assessment of Alberta's Prohibitionists, while a slight exaggeration, proved to be accurate: the Prohibitionists would continue to cling to prohibition even when the evidence showed it was a failure; they failed to see things as they really were.

Clearly the experience of being searched upset Webster as he did not feel he deserved such treatment. Webster was not the only British Albertan to share this view, another man searched for liquor in 1917 complained that he had never sold liquor and would "never drink to the point of becoming intoxicated" and

[65] Letter from MacLean to Browning (29 January 1917), PAA (RG 66.166/1240f).
[66] Letter from Webster to Browning (11 December 1920), PAA (RG 75.126/3262).

described his search as "disgraceful."[67] There may have been widespread agreement that it was right to ban the old bars,[68] but this consensus fell apart when Prohibitionists tried to control the private drinking habits of people, like Webster, who shared their socio-economic background.

Perhaps the largest problem that prohibition faced was in how the measure was to be enforced. Rather than set up an independent liquor commission as other provinces did to administer prohibition, Alberta left the administration of the *Liquor Act* to the Attorney General's department. The government's refusal to set up an independent commission was likely motivated by financial concerns as the province struggled to balance its budget.[69] However, in the legislature Premier Sifton claimed that "we can't get out of our responsibility as a government if we appoint a board of commissioners unless you pass a special act making the commissioners independent of the government and the legislature which would be an absurdity."[70] Sifton's response failed to account for the creation of liquor boards elsewhere and should be read as an attempt to avoid having to create a similar board in Alberta. Whatever the reasons behind the government's decision

[67] Letter from Buswell to the Attorney General (14 June 1917), PAA (RG 66.166/1240j). See also Letter from Attorney General Boyle to L Keel (29 June 1920), PAA (RG 75.126/2727) ("[e]very time the police make a raid upon premises and find liquor this Department receives no complaint, but whenever a search is fruitless we almost invariably receive complaint").
[68] Gray, *Booze, supra* note 21 at 77; Heron, *Booze, supra* note 4 at 178-179; Mariana Valverde, *Diseases of the Will: Alcohol and the Dilemmas of Freedom* (Cambridge: University of Cambridge Press, 1998) at 154.
[69] "Current Revenue in 1915 Exceeded Expenditure by More than $200,000" , *Edmonton Bulletin* (10 March 1916) (despite the headline the article goes on to note a deficit of almost half a million dollars as well as concern for the future financial health of the province); "Mr Michener's Speech Address on the Budget Speech", *Red Deer News* (14 March 1917): EJ Hanson, "Public Finance in Alberta Since 1935" (1952) 18:3 Canadian Journal of Economic and Political Science 322 at 322.
[70] "$80,000in Estimates to put Prohibition Act into Force", *Edmonton Bulletin* (30 March 1916).

against an independent liquor commission, the absence of such a body meant that responsibility for enforcement fell on the government and the police.

The Royal North West Mounted Police's (RNWMP) withdrawal of ordinary policing services in 1916 forced Alberta to scramble to provide its own provincial police force. It would be 1917 before the Alberta Provincial Police (APP) became operative and in the meantime the RNWMP continued to police the province.[71] Though it might seem as though the timing of the RWNMP's withdrawal was a response to the return of prohibition, given the RNWMP's experiences during Territorial prohibition, both Zhiqiu Lin and Steve Hewitt argue that the First World War was the decisive reason for the ending of ordinary policing services.[72] That being said, the RNWMP did not have fond memories of Territorial prohibition and there is some evidence that the force did not enforce the *Liquor Act* as strictly as they could have.[73] In 1916 the Attorney General's department admitted that they would be happy with weekly liquor reports from the RNWMP even if such reports were "only based on general observation or impression." Such comments suggests that the department did not expect the

[71] Lin, *supra* note 15 at 31-35.
[72] Lin, *supra* note 15 at 35; Steve Hewitt, *Riding to the Rescue: The Transformation of the RCMP in Alberta and Saskatchewan, 1914-1997* (Toronto: University of Toronto Press, 2006) at 17 [Hewitt, *Riding to the Rescue*].
[73] For the RNWMP's experiences during Territorial prohibition see Stan Horrall, "A Policeman's Lot is not a Happy One: The Mounted Police and Prohibition in the North-West Territories, 1874-91" in Linda McDowell, ed, *Papers Read Before the Historical and Scientific Society of Manitoba Transactions* Series III, No 30 (Np: Hignell Printing Ltd, 1973-74)5. See also Lin, *supra* note 12 at 44 ("[t]he RNWMP avoided enforcing unpopular provincial regulations because the enforcement tended to create antagonistic attitudes toward the force among the population"). See also, Greg Marquis, "Regeneration Rejected: Policing Canada's War on Liquor, 1890-1930" in Len Green, ed, *Crime and Deviance in Canada: Historical Perspectives* (Toronto: Canadian Scholars' Press, 2005) 366 at 366, 368 (noting that police feared undermining their legitimacy via an aggressive liquor policy).

RNWMP to enforce prohibition, or at least that the department did not expect rigorous enforcement.[74]

When the APP took over policing in 1917 they lacked the manpower of the RNWMP. In fact the APP could initially only provide a hundred and fifty-five officers compared to the three hundred and twelve deployed by the RNWMP.[75] Throughout the eight years of prohibition Alberta would remain unable to provide adequate numbers of police officers and some people considered the lack of police to be one of the reasons why prohibition failed.[76] In 1923 such criticisms led Attorney General John Brownlee to comment, in response to a complaint over enforcement by a member of the public, that

> it must be remembered that the Province of Alberta covers a very large area and that the finances of the Province only permit a force of 185 men of all ranks....One of the great difficulties facing both the police and myself on connection with the administration of the Liquor Act has been the readiness with which criticism is made that the Liquor Act is not properly enforced, without a thought as to the physical possibility of the ....Police force doing what is evidently expected of them.[77]

Clearly policing problems remained an issue and one which the government found impossible to solve. By 1923, Brownlee had realised that the APP could not deliver the kind of prohibition enforcement that the *Liquor Act* needed.

---

[74] Letter from Browning to RWNMP Commissioner Perry (16 October 1916), PAA (RG 66.166/1240f).
[75]Lin, *supra* note 15 at 53.
[76] Letter from WH Erant to Attorney General Brownlee (21 October 1923), PAA (RG 75.126/3728); "Will Not Prosecute Delaney", *Blairmore Enterprise* (11 November 1920) (here the *Enterprise* called for police reform to improve prohibition enforcement); Heron, *Booze*, *supra* note 3 at 235-236. In the US prohibition enforcement was also chronically underfunded and ignored, Schaeffer, *supra* note 3 at 386, 388, 413; Kottman, *supra* note 12 at 106.
[77] Letter from Brownlee to Mrs Robert Riddock (8 November 1923), PAA (RG 75.126/2565).

Prohibition enforcement required a different form of policing, one that was time-consuming, labour intensive, and impossible for the average APP officer to undertake in addition to his other duties. At least initially, the Attorney General's department supplemented the APP's enforcement of the *Liquor Act* with a force of detectives stationed in Edmonton and Calgary under the control of a "Chief Inspector." I found no explicit mention of this force in the *Liquor Act* but they appeared to be a hangover from the *Liquor License Ordinance* and offered a way of enforcing the *Liquor Act* until the APP could take over.[78] As early as November 1916, Browning expressed displeasure with how this group of detectives worked because, due to their head-quartering in Edmonton and Calgary, "we are continually trying to overtake violations of the Act instead of preventing them."[79] Browning's goal was to have a local inspector in every area but this never came to pass. His comments also show that, at this point, he still thought that an adequate police force could go a long way to ensuring effective prohibition.

In addition to their limited manpower, Alberta's police were also challenged by the province's vast size and scattered settlement patterns. Although both Calgary and Edmonton had grown in size since Alberta attained provincial status in 1905, most of Alberta's population was rural and spread across the province. Even though some of the province's larger towns and villages were able to afford their own police forces, many APP officers were responsible for a

[78] *Liquor License Ordinance* CSNWT 1899, c 89, ss 6-7; APP Superintendent AEC McDonnell, "Liquor Act Enforcement", Letter to the Editor, *Edmonton Bulletin* (16 March 1918).
[79] Letter from Browning to Liquor Commissioner JN McLean, Manitoba (2 November 1916), PAA (RG 66.166/1240c).

large area which hindered their ability to do ordinary police work, never mind prohibition enforcement.[80] In 1920, for example, an APP officer's report about his efforts to enforce prohibition in the St Paul des Métis area read:

> Durlingville is fifty miles from here and consequently I can only be in that district occasionally. I know that considerable liquor is illegally manufactured in that locality but I have been unable to give this any special attention up to date, having been kept busy with criminal work. However, I will institute proceedings whenever evidence can be obtained.[81]

The large distances which the officer had to travel, the need to balance prohibition enforcement with more serious matters, and the difficulty in securing hard evidence even where the officer 'knew' that the *Liquor Act* was being violated all worked together to hinder prohibition enforcement. What the officer neglected to mention in his report is that at the time Alberta lacked adequate roads which made travel time-consuming and difficult, as what roads there were quickly become impassable during storms and heavy snowfalls. Faced with such problems, prohibition revealed itself as a measure that was hard to police and easy to violate.[82]

The APP's work was further hindered by the fact that whenever it attempted to investigate prohibition violations its officers were often immediately spotted and others forewarned of their presence.[83] In 1917 Browning commented that *Liquor Act* enforcement in Wainwright, a town in east-central Alberta,

---

[80] Greg Thomas Robinson, *British-Canadian Justice in the Ukrainian Colony: Crime and Law Enforcement in East-Central Alberta, 1915-1929* (MA Thesis, University of Alberta, Department of History, 1992) at 30 [unpublished] [Robinson, *British-Canadian Justice*].
[81] APP Crime Report, St Paul des Métis, (17 May 1920), PAA (RG 75.126/3245).
[82] See also, James H Gray, *Talk to My Lawyer! Great Stories of Southern Alberta's Bar and Bench* (Edmonton: Hurtig Publishers, 1987) at 63 [Gray, *Talk to My Lawyer*].
[83] Lin, *supra* note 15 at 138.

suffered because the APP officer was "too well known to be able to do effective work."[84] Browning later advised APP Superintendent McDonnell to send a plainclothes man to investigate prohibition violations in Big Valley because the alleged violators watched every train into the town.[85] Thus even when the APP was able to devote some of its manpower to prohibition enforcement, the visibility of police officers worked against them. As a result of such problems *Liquor Act* Inspector Gold suggested to Browning that "a plain clothes man with overalls, looking for work, would best succeed in obtaining evidence of [prohibition] violations" in the village of Elnora as "[d]etectives visited some time ago but were at once spotted by some of the citizens."[86] Gold's suggestion here is markedly different from previous requests for plainclothes officers because it points to a realization that effective prohibition enforcement would require more than just a change of clothes, it would require the officer to attempt to blend in with his actions as well as clothes. In other words, prohibition enforcement required undercover work, which was even more time consuming than simply using plain clothes officers.

In 1923 Constable Vernon, the APP Officer for Hanna and District, vowed to undertake night searches for liquor because "practically every farmer has a telephone, and immediately one place is searched the whole country knows it, in fact at times it is known that I am in the district or on the way long before

[84] Memo from Browning to APP Superintendent McDonnell (26 March 1917), PAA (RG 66.166/1240i).
[85] Memo from Browning to McDonnell ((25 May 1917), PAA (RG 1240j).
[86] Letter from Inspector Gold to Deputy Attorney General AG Browning (18 May 1917), PAA (RG66.166/1240j).

reaching my destination."[87] What Vernon failed to realize is that night searches would not solve the problem of farmers communicating with one another. Understandably both the APP Officers and the public became frustrated with how much time the police had to spend on prohibition enforcement. Some Albertans went so far as to call for the return of the RNWMP because the APP officers were always busy with prohibition.[88]

The Attorney General's department attempted to address the province's policing issues as best they could. Over the course of prohibition the department hired "spotters" – typically men who had themselves violated the *Liquor Act* – to catch other violators.[89] Such tactics were unpopular,[90] though in 1920 Attorney General John Boyle vowed to continue to use them.[91] According to Steve Hewitt's study of the Royal Canadian Mounted Police's (RCMP) surveillance methods, part of the aversion to this kind of 'police' work stemmed from its association with "secret police forces" which Canadians "deemed 'un-British.'"[92] However, as Hewitt goes on to argue this kind of undercover work became increasingly common in Canada following the end of the First World War,[93] so it is not surprising that similar tactics should be used by provincial police forces.

---

[87] APP Report, Re: Hanna & District (9 December 1923), PAA (RG 83.192/409).
[88] "Ask to have RNWMP Patrol Restored", *Red Deer News* (9 January 1918).
[89] *Nat Bell, supra* note 16 at 2.
[90] "Liquor Spotters and their Dirty Work", *Macleod Times* (22 June 1922); AH Russell, Letter to the Editor, *Red Deer News* (18 April 1923); Stephen Leacock, "The Case Against Prohibition", *Irma Times* (21 September 1923); "The Prohibition Tree: Its Sweet Fruits", *Stony Plain Sun* (4 October 1923); "Keen Debate at Highlands on Prohibition", *Edmonton Bulletin* (5 October 1923).
[91] Letter from Boyle to TA Burrows (15 May 1920) PAA (RG 75.126/2795).
[92] Steve Hewitt, *Spying101: The RCMP's Secret Activities at Canadian Universities, 1917-1997* (Toronto: University of Toronto Press, 2002) at 19-20 [Hewitt, *Spying 101*].
[93] *Ibid*. Though Hewitt's study explores the RCMP's work at Canadian Universities he provides an overview of the development of the RCMP's intelligence sector, at 18-38. For an overview of the history of informing in the western world see, Steve Hewitt, *Snitch! A History of the Modern Intelligence Informer* (London: Continuum International Publishing, 2010) at 39-67.

Alberta's Attorney General's department also created a separate APP Liquor Squad in 1919 and hired some "foreign" detectives to help with enforcement among Alberta's immigrant population.[94] These solutions, however, continued to rely on the idea that the *Liquor Act* could be adequately enforced through policing and after-the-fact prosecutions. These solutions did little, if anything, to increase the department's control over liquor consumption or to deter liquor law violations.

If anything, prohibition removed what little controls there had been on liquor consumption. Before prohibition, the provincial government had at least been able to prevent excessive abuse of liquor through a process of interdiction. Whether or not interdiction actually worked, its existence allowed problem drinkers to be identified and, in theory, worked to limit their consumption. During prohibition those who really wanted to drink alcohol could find a way to do so and when they did there were no limits on the kinds, quality, or amount of liquor that they consumed. Admittedly, determined pre-prohibition interdicts could and did find ways to access liquor,[95] but the existence of interdiction at least allowed for the *appearance* of control in a way that the *Liquor Act* did not. A strict ban on liquor allowed for no supervision of Albertans' drinking habits and seemed to exacerbate the pre-prohibition liquor 'problem.'[96]

---

[94] For the Liquor Squad see, Lin, *supra* note 15 at 127; for the foreign detectives see Robinson, *British-Canadian Justice*, *supra* note 80 at 193.
[95] See by way of example, "Sold Liquor to Interdicted Man", *Strathcona Evening Chronicle* (30 August 1907); "Death from Broken Neck: Interdicted but Secured All Liquor He Wanted From Friends", *Edmonton Bulletin* (7 June 1910); "Supplied Interdict with Liquor; Fined One Hundred Dollars", *Edmonton Capital* (5 March 1914).
[96] In the United States people actually started to drink *more* during prohibition, Schaeffer, *supra* note 3 at 406.

Prohibition also removed any way for the government to regulate Alberta's hotel business. Prior to 1916, the liquor licensing system offered a way to ensure that hotels provided a baseline of service.[97] By abolishing hotel bars, the *Liquor Act* also removed one of the key sources of hotel revenue and as a result many hotels closed or were sold to individuals who were willing to break the law to turn a profit.[98] In February 1916 the Alberta Temperance and Moral Reform League's annual convention recognised that prohibition might cause a decline in hotel accommodation but thought that the government should force individual municipalities to look after the problem.[99] Later that year, the *Lethbridge Herald* declared that as it was the Prohibitionists who had removed the hotel bar, they should be the ones responsible for maintaining hotel standards.[100] In 1917, Alberta's business travellers petitioned the government for adequate hotel regulation.[101] Such regulation never emerged and while at least one travellers' association, the North-West Traveller's Association, put together a list

[97] *Liquor License Ordinance*, RSNWT1905 c89, s 24. See also Chapter Two at footnotes 39 to 47 and accompanying text.
[98] Dempsey, *supra* note 52 at 12, 15.
[99] "Prohibition Convention," *Claresholm Advertiser* (10 February 1916). The League were not the only ones to realize that prohibition would be detrimental to hotel accommodation, "The Alberta Temperance and Moral Reform League Forcing Province to Expend Huge Sum of Money Which Will Accomplish No Benefit to People," *Coleman Bulletin* (20 May 1915). See also Dan Malleck, *Try to Control Yourself: The Regulation of Public Drinking in Post-Prohibition Ontario, 1927-44* (Vancouver: UBC Press, 2012) at 38-39 (noting the arguments in Ontario about what prohibition would do to hotels). For more on the historical importance of licensed taverns in Canada see Roberts, *supra* note 4.
[100] Editorial, "Prohibition and Hotel Accommodation", *Lethbridge Herald* (15 May 1916). See also, "Travelling Public Must be Accommodated", *Lethbridge Herald* (10 June 1916) (arguing for local Boards of Trade to supervise hotel accommodation).
[101] "Alberta Hotels Need Inspection and Regulation, Premier is Told," *Edmonton Journal* (23 February 1917).

of approved hotels, such organizations lacked the coercive power of government regulation.[102]

There were two main reasons why Alberta needed adequate hotel regulation. First, hotels were essential to a developing province like Alberta because of their role in facilitating local economic and social development. In 1916 the southern Albertan city of Lethbridge suffered the indignity of having the UFA's annual meeting transferred to Edmonton because Lethbridge's hotels did not have enough room for the 1200 delegates.[103] Lethbridge's hotel shortage remained throughout prohibition,[104] and the city's Board of Trade felt that it was detrimental to the city.[105] As important as hotels were for cities like Lethbridge, they were also crucial for small towns as they provided temporary accommodation for newcomers, salesmen, and migrant labour. The local history of Spirit River, for example, shows that many individuals stayed in the town's hotel when they first arrived in the area.[106] Hotels were crucial for all stages of economic development in Alberta: from small towns that wished to expand to cities that wished to become economic centres. Some form of hotel regulation was needed to ensure that hotel accommodations met certain standards so that they would be adequate for visitors and newcomers.

---

[102] "Approve Taber Hotels", *Lethbridge Herald* (31 May 1922).
[103] "Big UFA Meeting Transferred to Edmonton", *Lethbridge Herald* (23 September 1916).
[104] See "Accommodation Needed for Calgary Visitors", *Lethbridge Herald* (9 July 1917); Editorial, *Lethbridge Herald* (16 January 1918).
[105] "Board of Trade Discusses Public Market, Tourist Traffic, Housing and More Hotel Accommodation", *Lethbridge Herald* (19 September 1919).
[106] Spirit River History Book Committee, *Chepi Sepe: Spirit River: The Land, the People* (Spirit River, AB: Spirit River History Book Committee, 1989) at 401, 568, 702, 747, 755, 844 [Spirit River History Book Committee].

Second, some form of hotel regulation was needed to address the anxiety created by hotels due to their "distinctive combination of privacy, anonymity, and transience [which] made [hotels] highly sexualized space[s]".[107] An example of the threatening nature of hotels can be found in an RNWMP report from October 1916. In this report the RNWMP investigated a complaint made by MJ Hewitt of Chinook about the New Acadia Hotel. According to the report Hewitt phoned the RNWMP and stated "that there were three girls working at the [hotel] who in his opinion were prostitutes and asked that Constable Fletcher patrol there at once."[108] Fletcher then spent the night at the hotel investigating Hewitt's claims. The girls appeared to both live and work in the hotel and Fletcher reported that "during the evening he saw two of the girls...walking around in the hall attired in their night gowns and making quite a lot of noise." Fletcher found no proof that the girls were prostitutes but after speaking with the hotel owner he was able to report that the owner promised to fire the girls and make sure they left town. A few days later Fletcher reported that the girls had in fact left town.[109] The girls may not have been prostitutes but their presence in the hotel clearly posed some kind of moral threat. Without some form of centralized hotel regulation, the government had no control over who worked in hotels and had no way to prevent hotel owners from allowing prostitutes or suspected prostitutes onto their premises.

---

[107] AK Sandoval-Strausz, *Hotel: An American History* (New Haven: Yale University Press, 2007) at 3, 55, 211; Malleck, *supra* note 98 at 73.
[108] RNWMP Crime Report, Youngstown Detachment (21 October 1916), PAA (RG 66.166/1240c). All references in this paragraph are to this crime report unless otherwise stated.
[109] *Ibid.*

3.2 – Prohibition on the Ground: Widespread Violations, Lax Enforcement and Unwitting Victims of the Law

In this section I outline how the *Liquor Act* failed to either control liquor or appear to control liquor during prohibition. Although Alberta secured thousands of convictions under the *Liquor Act* during prohibition, this did nothing to challenge the perception, shared by Prohibitionists and the Attorney General's department, that the vast majority of the population repeatedly and flagrantly broke the liquor laws. Even those people that the Prohibitionists and the government might have expected to comply with the law, such as magistrates, police officers, and members of the provincial elite, were, on occasion, accused of violating the *Liquor Act*. Such widespread violations, whether real or perceived, threatened to breed disrespect for all laws but also upset those who were caught and punished for unintentional violations as it made the enforcement of the law appear random instead of rigorous. As a result, prohibition seemed inherently unjust as it appeared to allow bootlegging operations to function with impunity while persecuting small businesses such as grocers and travelling salesmen. In this section I focus on these three problems in turn: the perception of widespread violations; the ease with which unsuspecting people could get caught up in the law, either because they had unintentionally violated the Act or because someone had accused them of so doing; and the ways in which those responsible for enforcing prohibition themselves broke the law. Taken together these three failures of prohibition demonstrate how the law failed to address the problems that it was meant to solve and worked to alienate otherwise law-abiding citizens.

With the introduction of prohibition in 1916, Alberta's Prohibitionists were keen to assist in the successful enforcement of the law. The Alberta Temperance and Moral Reform League (later the Alberta Social Service League) and Alberta's various WCTU chapters led the charge with their members funnelling information to the Attorney General's department. Within two weeks of the *Liquor Act* coming into force, AW Coone, secretary of the Moral Reform League wrote to the Attorney General's department with "several complaints of illicit sale from the Beaver River Country."[110] Coone kept up a steady stream of information: in November 1916 he claimed to have "three letters from the Peace River District," another "complaint of a general nature," [111] and "several reports that point to beer of a much stronger nature than 2%."[112] In 1917 Coone alleged that bootleggers shipped liquor via the Canadian National Railway,[113] that the town of Empress was "in a real mess" because the town's Justice of the Peace was unsatisfactory, and that RNWMP officers had been seen drunk in public.[114] Coone was far from the only concerned citizen reporting alleged *Liquor Act* violations but he and his successor at the League reported more violations than anyone else.[115]

[110] Letter from AW Coone to FG Forster (14 July 1916), PAA (RG 66.166/1240a).
[111] Letter from Coone to Browning (14 November 1916), PAA (RG 75.126/735b).
[112] Letter from Coone to Browning (13 November 1916), PAA (RG 66.166/1240c). Under the *Liquor Act* it was legal to sell beer or any other alcoholic product so long as it was less than 2.5% proof, *Liquor Act*, *supra* note 2 ss2(c), 72.
[113] Letter from Coone to Browning (25 April 1917), PAA (RG 66.166/1240j).
[114] Letter from Coone to Browning (22 February 1917); Letter from Coone to Browning (22 February 1917), PAA (RG 75.126/735b).
[115] It would be impossible to list all of Coone's and his successor's complaints but letters from Coone and his successor, HH Hull, appear throughout prohibition and the early government control period.

Coone was keen to receive updates about the violations he had reported and in May 1917 he wrote to both Deputy Attorney General Browning and Superintendent AEC McDonnell of the APP to ask what was being done about his information.[116] To McDonnell, Coone wrote "[m]any of our informants write again and again asking us to let them know what has been done. If we do not have some knowledge of what the force is doing or what they have done it places us at a great disadvantage as well as the force itself." Coone's letter offers proof that Prohibitionists wanted the *Liquor Act* to do more than simply express disapproval with liquor consumption and that they wanted it to actually result in prohibition. It also demonstrates that Alberta's Prohibitionists wanted to play a role in prohibition enforcement or at the very least that they expected to be kept up to date with how the police enforced the *Liquor Act*. Not surprisingly the Prohibitionists were deeply invested in the *Liquor Act*'s success and wanted confirmation that it worked and was being enforced.

Although the Attorney General's department was initially enthusiastic about the reports it received, many, particularly those given by Coone, proved worthless. In August of 1916, for example, Browning praised DA McLeod for his report about illicit liquor sales in Gadsby, near Red Deer, and said "I shall be glad to hear from you by wire as soon as any more liquor comes in, when an officer will be at once sent down."[117] At this time it is evident that Browning still thought that such reports would be helpful in enforcing the Act. It soon became

[116] Letter from Coone to Browning (25 May 1917); Letter from Coone to McDonnell (17 May 1917), PAA (RG 66.166/1240j).
[117] Letter from Browning to DA McLeod (30 August 1916), PAA (RG 66.166/1240b).

clear, however, that not all of the information received by the department was actually helpful. Within a year of prohibition coming into force, the APP lodged two complaints about Coone's information. In 1917 an APP officer stationed in Athabasca observed that, contrary to Coone's allegations, he had never heard of storekeepers selling "[l]emon extracts for drinking purposes." He sarcastically commented that Coone must have had "some private information" that the APP could not access and concluded that "I do not know where [Coone] has grounds for his complaint [about] the illegal sale of essence of lemon in Athabasca."[118] This officer's sentiment was echoed by APP Superintendent McDonnell who told Browning that "many" of Coone's reports "have proved valueless on investigation."[119] In 1918 McDonnell took his complaints over Coone's information to the *Edmonton Bulletin* in order to defend his force's record over prohibition enforcement.[120] Understandably, such unreliable reports frustrated the police, wasted their time, and did little to secure prohibition.

For the Prohibitionists *everyone* seemed to be breaking the law and no-one seemed to be doing anything to stop them. In the eyes of the Prohibitionists, what the APP described as a few people in Hanna having some drinks to celebrate the end of the First World War became a "hideous" disgrace,[121] while what the police saw as an innocent card game in Olds became a "downtown gambling party." [122]

---

[118] APP Crime Report, Athabasca Detachment (19 May 1917), PAA (RG 66.166/1240i).
[119] Letter from McDonnell to Browning (30 May 1917), PAA (RG 66.166/1240j).
[120] APP Superintendent AEC McDonnell, "Liquor Act Enforcement", Letter to the Editor, *Edmonton Bulletin* (16 March 1918).
[121] Letter from AW Coone to the Chief Inspector of the APP, (12 November 1918); APP Report (25 November 1918), PAA (RG 75.126/1172).
[122] APP Crime Report, Olds Detachment (21 April 1919); Letter from Deputy Attorney General Browning to Mrs Reed (26 April 1919) PAA (RG 75.126/3255).

These incidents point to a problem of perception and, in 1919, led Browning to observe that "there is considerable complaint throughout the Province of the violation of the Liquor Act. These complaints may or may not be well founded, but the fact remains that they are quite general."[123] A few months later, when Mrs D Fowler from Innisfree complained about liquor violations in her town she summed up the Prohibitionists' attitude about the *Liquor Act*: "[i]t is terrible, just think we have prohibition, yet strong drink is prevalent almost everywhere."[124] APP Superintendent McDonnell thought that many of the complaints like those of Fowler and the reports referenced by Browning resulted from legal liquor sales.[125] What Prohibitionists like Fowler and Coone failed to realize or accept is that under prohibition liquor would still be available and would still be consumed. Consequently when the Prohibitionists saw or heard of liquor consumption they assumed it was against the law, when it may not necessarily have been.

In addition to their reports of liquor law violations, the Prohibitionists often suggested that the police should send plain clothes officers to investigate the reported violations. Two examples of such requests are illustrative of what motivated Prohibitionists to recommend undercover officers. In 1920, the Presidents of Consort's Women's Institute, United Farm Women of Alberta, and WCTU wrote to Attorney General Boyle to demand a plain clothes man as proof

[123] Letter from AG Browning to the APP Superintendent (13 February 1919) PAA (RG 75.126/1173b).
[124] Letter from Mrs D Fowler to Attorney General Boyle (17 October 1919), PAA (RG 75.126/3247).
[125] Letter from APP Superintendent to Deputy Attorney General Browning (11 February 1919), PAA (RG 75.126/1173b); Letter from APP Superintendent to Attorney General Boyle, (3 January 1919), PAA (RG 83.192/412).

of the government's commitment to effective enforcement.[126] Similarly, two years later the "settlers of Waskatenau" wrote to demand two plain clothes men "who cannot be bought" to deal with the men who sold "Beno" at every picnic and dance in their village.[127] Neither group could understand why prohibition violations continued to be flaunted and sought to blame either a corrupt police force or a simple failure to properly police the Act. Requests for plain clothes officers betrayed a naive belief that there was a simple solution to prohibition's failure: more and better enforcement. Both Consort's Women's Institute and the settlers of Waskatenu believed that *Liquor Act* enforcement remained the responsibility of the police and they were frustrated that this method of enforcement was proving to be increasingly ineffective.

What frustrated the Attorney General's department was not their inability to afford more police, but the lack of cooperation from the public. As effective as plain clothes officers might have initially been, bootleggers and moonshiners soon learned to avoid them, or as the new Attorney General Brownlee put it in 1921, "for some time people have been learning how to evade the present Liquor Act and we are now getting the full benefit of their experience."[128] Though Brownlee promised to enforce prohibition to the "best of my ability,"[129] his department had long since realised that the public's cooperation was the crucial factor. As early as 1917, in response to a complaint from the town of Lousana, Deputy Attorney

[126] Mrs McGourley, Mrs Anderson & Mrs Holmes to Boyle (30 November 1920), PAA (RG 75.126/3244b).
[127] Letter from the Settlers of Waskatenau to the Attorney General (26 May 1922), PAA (RG 83.192/410).
[128] Letter from Brownlee to Mr Shields (31 October 1921), PAA (RG 83.192/410).
[129] Letter from Brownlee to MJ Connor, MLA (28 November 1921), PAA (RG 83.192/410).

General Browning declared that he was "at a loss to understand why the local citizens interested in the enforcement of the Act did not lay an information against whoever was responsible for introducing the liquor at the dance, so that a prosecution might follow."[130] Browning's comment is surprising given that he was well aware that many people who wanted to see prohibition enforced also wished to remain anonymous. Later that year, for example, Browning assured Rev Thomas Millar of Islay, Alberta that his information about *Liquor Act* violations "will be treated as confidential," and he had previously suggested to DA McLeod that he should use a code to communicate with the department about prohibition violations so that McLeod's business would not suffer.[131] At least some members of the public might have been willing to cooperate with prohibition enforcement but they did not want everyone to know that they had done so. Such requests for anonymity severely limited the effectiveness of their cooperation.

By 1921 an exasperated Deputy Attorney General Browning took to asking those who alleged prohibition violations what they were doing to uphold the law. In April 1921, for example, he asked the Women's Institute of Leduc, who had complained about liquor conditions in their town, "[w]hat is your Institute doing in this connection so that the fathers, husbands and brothers of your members may be educated to an appreciation of the sacredness of the law in

[130] Letter from Browning to JW Smith (25 January 1917), PAA (RG 66.166/1240g).
[131] Letter from Browning to Rev Thomas Millar (9 July 1917), PAA (RG 66.166/1240k); Letter from Browning to McLeod (30 August 1916); Letter from McLeod to Browning (28 August 1916), PAA (RG 66.166/1240b).

general, and this law in particular?"[132] Browning's message was clear: the government and the police could not be expected to do all of the work in enforcing prohibition; they needed the support of the population.

Yet despite Browning's and Brownlee's best efforts to educate Albertans about their role in prohibition enforcement, the message failed to get through. In January 1922, James Paterson of Diamond City wrote to Brownlee to complain of liquor violations and that

> I have a copy of the speech you made at our [UFA] convention in Calgary last week in which you ask the assistance of the people of Alberta in the enforcement of the Liquor Act. I think you must agree that as a citizen I have done my full duty. Undeniably the Provincial Police whose duty it is to enforce the Act have in this instance, not done theirs.[133]

Paterson's letter shows that he still believed that all he had to do was to report *Liquor Act* violations, rather than educate other people or appear as a witness in court. Such comments also betray a view of law enforcement that was strictly divided with clear roles and responsibilities for the public and the police.

Hence the perception that everyone else violated prohibition and the police did nothing about it remained. This perception was even shared by Alberta's politicians. In a 1923 journal article, Cyril D Boyce quoted an anonymous Alberta MLA as saying "eighty or ninety percent of the men of the province treated the law with neglect and contempt."[134] Despite the idea that the police did nothing to

---

[132] Letter from Deputy Attorney General AG Browning to Miss Maude L Smith, Secretary of Leduc's Women's Institute (16 April 1921), PAA (RG 75.126/3252a).
[133] Letter from James Paterson to Attorney General Brownlee (26 January 1922), PAA (RG 75.126/3244b).
[134] Cyril D Boyce, "Prohibition in Canada" (1923) 109 Annals of the American Academy of Political and Social Science 225 at 228. While I could not find the comment Boyce referred to

enforce the *Liquor Act*, the conviction records under prohibition suggest otherwise. In 1919 alone, the Attorney General's department secured over 2,000 convictions under the *Liquor Act* and seized 175 stills.[135] These figures show just how busy prohibition enforcement kept the government and how common violations were.

However, not all of these convictions represented intentional violations of the *Liquor Act*. Given the wording of the legislation, it was easy for Albertans to unintentionally break the law. What had been an innocuous activity before prohibition, such as selling patent medicines or the extracts used in cooking and baking, suddenly became illegal on 1 July 1916 due to the alcohol content of such preparations. From then on such preparations could only be bought on prescription from a drug store. In 1918, the APP arrested Mr Millar of Duhamel because he had Perry Davis's Pain Killer (a patent medicine containing alcohol) for sale in his store. Outraged and embarrassed Millar wrote to the Attorney General's department to explain his situation:

> I have never been arrested for anything so far in my life and do not care to be now and I have always been a strictly temperance man, in fact do not even keep the so called soft drinks for the appearance of intemperance. If this is against the law to keep this I was not aware of it as it was sold to me with the assurance that it was within the law.[136]

Millar clearly thought that he was not the kind of person that the police should prosecute for liquor law violations. Yet, given the ease with which bootleggers

---

here, in 1919 Attorney General Boyle alleged that sixty per cent of men violated prohibition, "60 P.C. Men in Alberta Break the Liquor Act", *Lethbridge Herald* (15 February 1919).

[135] "Four Million for Phone Extension", *Red Deer News* (11 February 1920).

[136] Letter from Millar to Deputy Attorney General Browning (9 October 1918), PAA (RG 75.126/2446).

and moonshiners seemed able to evade the police, well-meaning, temperance advocates like Millar, who failed to realize what was and was not illegal under prohibition, were much easier to catch and convict.

Millar was not the only Albertan to unintentionally violate the *Liquor Act*. In 1919, George L Brown also wrote to Browning to explain how he had come to break the law. Brown owned a drug store in Empress, Alberta and had been "of the opinion that any druggist was allowed to import liquor providing proper record was kept of same." Though Brown conceded that "ignorance of the law is no excuse" he felt that on the basis of his previous exemplary record and the fact that he had already been convicted under the *Liquor Act* that "any further action against me might be dispensed with."[137] Brown's attitude illustrates that he believed both in the rule-of-law approach to liquor law violations where the law was enforced against everyone equally *and* that he expected to be able to win at least some exemption from the law's application based on his previous reputation. Accordingly, Brown's attitude demonstrates that the rule-of-law understanding of the liquor laws could co-exist with a status-based understanding of the law.[138]

On at least one occasion the authorities sympathized with the plight of men like Brown. In 1923 *Liquor Act* Inspector Rudd did not feel he should prosecute Innisfree's new druggist, Alfred Bennett, because Bennett had broken

[137] Letter from George L Brown to Browning (21 February 1919), PAA (RG 75.126/739a). It is not clear what further action Brown was concerned about. It may have been concern about his standing with his professional organization but it is not clear that the Attorney General's department could have had any influence over that.

[138] Compare with Valverde's comments about the shifting uses of 'modern' and 'pre-modern' urban governance. She notes that political preferences do not dictate which governance technique will be used at any time, Mariana Valverde, "Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance" (2011) 45:2 Law & Soc'y Rev 277at 309.

the law unintentionally and "[n]ow that he understands the situation he feels very keenly the fact that he has committed a breach of the law." Rudd wrote that he felt "assured [Bennett] was not aware how he should handle liquor, although technically he is guilty of an offence."[139] Rudd's suggestion shows that on occasion the authorities were able to use their discretion to prevent prosecutions for these unintentional violations, yet some merchants and drug stores were prosecuted for these relatively minor kinds of offences. As these minor prosecutions occurred against a backdrop of widespread, or at least the *appearance* of widespread, bootlegging and moonshining, they could not have done much to convince the public that the *Liquor Act* was being effectively enforced.

Although Millar, Brown, and Bennett show that some Albertans failed to grasp how the *Liquor Act* would work, there were also those Albertans who understood that prohibition would be detrimental to their business interests. In particular, the *Liquor Act* prevented grocers and travelling salesmen from legally selling extracts and patent medicines. Writing on behalf of the Edmonton Board of Trade in 1917, FT Fisher informed Browning "generally speaking these goods [extracts] are used by the ordinary housekeeper only for entirely legitimate purposes." Though sympathetic to the plight of Edmonton's "Retail Grocers," Browning pointed out how hard it was to "to frame an Act which will not seem to work rather harshly in some cases." Browning said that the government was contemplating allowing drug stores to sell extracts without a prescription and that

[139] Memo from Inspector Rudd to Mr Bishop (11 July 1923), PAA (RG 75.126/2815).

if this happened grocers in places without drug stores would be allowed to sell such extracts without a prescription.[140]

The proposed exception for general stores became government policy but it was not extended to travelling salesmen. Under this exception general stores in areas without a drug store were allowed to sell patent medicines and extracts for cooking and baking, though all other sales of such products remained illegal. The law about patent medicines was, however, full of technicalities. In 1920, for example, J McKinley Cameron, a Calgary lawyer, explained that if the patent medication in question would cause sickness before intoxication – meaning that the medicine could not be consumed for recreational purposes – then a travelling salesman could sell it; if not, then only a druggist could sell it.[141] That particular rule stemmed from a court case,[142] and appeared to be a gloss on the general rule that only a registered druggist could sell products that contained alcohol stronger than 2.5% proof and even then these products required a prescription.[143]

Travelling salesmen felt that restricting extracts and patent medicines to drug stores or government vendors was an undue interference with their business. A letter from LE Nelson, despite being written about the proposed controls for post-prohibition liquor sales, captures the attitude of travelling salesmen to the

---

[140] Letter from Fisher to Browning (14 August 1917); Letter from Browning to Fisher (20 August 1917), PAA (RG 66.166/1240k).
[141] Letter from J McKinley Cameron to the WT Rawleigh Company of Winnipeg (8 September 1920), GAIA (RG M-6840-191). The Rawleigh Company manufactured a number of patent medicines.
[142] *R v Maclean* (1918), 13 Alta LR, 40 DLR 443 cited in *ibid* also referenced in Letter from Deputy Attorney General Browning to Chief Constable A Cuddy of Calgary (16 October 1918), PAA (RG 75.126/2446). Browning notes that he could find no mention of this case.
[143] Letter from Deputy Attorney General Browning to Louise C McKinney (25 September 1920), PAA (RG 75.126/2795). The general rule was found in the *Liquor Act, supra* note 2, ss 4, 12, 23.

government's policy on who could sell extracts as the post-prohibition controls were a continuation of the prohibition-era policy:

> And if you law makers pass a law which will put us out of business so people cannot get these good old reliable products any more you will hear the greatest howl of condemnation go up from the people of this province, against this Government, that has ever been heard, as this is a question which concerns every household every day.... Not a province or state has passed a law interfering with a man selling the entire Rawleigh line as he travels over his district and when this bill comes up I ask you, in justice to the people of Alberta, to use your influence in hitting it a blow which will deal it the quick death it deserves.[144]

The fact that Nelson seemed unaware that drug stores and liquor vendors had had a monopoly since the beginning of prohibition suggests that prosecutions of travelling salesmen were not a high priority.[145] Nonetheless, Nelson's letter demonstrates how Alberta's liquor laws affected the business interests of travelling salesmen and grocers, because these laws made it illegal for these businessmen to sell certain products simply because they contained alcohol.

In addition to the apparent widespread violations of prohibition and the prosecutions for minor infractions, there were also reports of police officers and magistrates, among others, working against prohibition. As early as August 1916, the Attorney General's department received a complaint about the conduct of liquor cases by Wetaskiwin's Justice of the Peace:

> On two occasions the Justice of the Peace gave liquor out of the bottles which were placed in the Court as exhibits, & gave to some of his friends

[144] Letter from LE Nelson to Attorney General JE Brownlee (18 February 1924), PAA (RG 75.126/2566c).
[145] Granted the lack of awareness here could stem from travelling salesmen who had been away during the war but I found few, if any, attempts to prosecute travelling salesmen for the sale of liquor.

> a drink therefrom. On one occasion I saw him myself, and on the other Magee [a detective] was a witness to the act. His general conduct was such that would give one the impression of his being prejudiced.[146]

Yet the report goes on to note that all those tried were convicted. Similar complaints of partiality on the part of magistrates appear throughout prohibition.[147] Magistrates at Big Valley, Chancellor, Empress, Burdett, and Tofield were at some point during prohibition accused of either not helping or working against the *Liquor Act*.[148] It is hard to know how reliable such reports were as they often came from the same people that the police accused of giving unreliable information about other prohibition infractions.

Although some allegations against JPs were likely true, at least some of the accusations of bias should be understood as an attempt to explain why prohibition was not working in the way that it should. It was easier for Alberta's Prohibitionists to blame some kind of anti-prohibition conspiracy than to accept that a large number of people simply did not support the law. Prohibitionists also made similar allegations about APP officers. In 1917, for example, Liquor Inspector Gold reported that the "prominent citizens" of Vulcan said that APP

[146] Unsigned Summary Report Re Cases Tried at Wetaskiwin (August 1916), PAA (RG 66.166/1240b).
[147] At the time magistrates were paid on a fee basis rather than being stipendiary magistrates. As such many magistrates may not have had formal legal training and may explain why Prohibitionists felt able to critique their application of the law, Rod MacLeod & Nancy Parker, "Justices of the Peace in Alberta" in Richard Connors & John M Law, eds, *Forging Alberta's Constitutional Framework* (Edmonton: University of Alberta Press, 2005) 267 at 279-281.
[148] Memo from Deputy Attorney General to Superintendent McDonnell (25 May 1917), PAA (RG 66.166/1240j); Letter from Browning to CR Mitchell (21 October 1921), PAA (RG 75.126/3244a); Letter from AW Coone to Browning (22 February 1917), PAA (RG 75.126/735b); Letter from A Kerkham to the Attorney General (18 January 1923), PAA (RG 75.126/1307a); APP Crime Report, Tofield Detachment (24 May 1923), PAA (RG 75.126/1183b).

Constable Edward Harper was "of no service to that community" because he failed to enforce the *Liquor Act*.[149]

More credible evidence of police violating the *Liquor Act* comes from the police's own records. In 1921, for example, Constable Mulvihill, the night constable of Strathmore, Alberta wrote to Deputy Attorney General Browning to complain about the conduct of APP Constable Pakenham. Both Pakenham and Mulvihill arrested a man called Birdson for having liquor. Later on Mulvihill went to visit Birdson in the town's jail only to discover Pakenham had dropped the case and absconded with the liquor. Birdson later found Pakenham in the King Edward Hotel drinking the liquor.[150] Based on the newspaper reports about this incident, Pakenham received no punishment for his conduct, in fact the newspapers fail to mention Mulvihill's claim that Pakenham was drinking.

While Pakenham's behaviour represents a flagrant abuse of the police's powers, police subversion of the *Liquor Act* was not always so obvious. In 1920 two APP Liquor Squad detectives, named Solowan and Dolynuk, paid two visits to Calgary's Liberty Confectionery Buffet and bought a total of eight rounds of whisky.[151] Here we can see two of the APP's 'foreign' detectives abusing their powers of investigation for their own benefit.[152] In theory the detectives only needed to buy a single glass of whisky to show illegal sale of liquor, the fact that

[149] Memo from Gold to Browning (20 June 1917), PAA (RG 83.192/408).
[150] Letter from Constable Mulvihill to Browning (19 November 1921), PAA (RG 75.126/1179). See also, "Liquor Disappears from Town Cells", *The Strathmore Standard* (2 November 1921); "Liquor Investigation Causes Much Excitement: Mayor Suspends Night Constable and Council Re-Instate Him", *The Strathmore Standard* (9 November 1921).
[151] APP Crime Report, Liquor Branch (6 April 1920), PAA (RG 75.126/3244a).
[152] During the inter-war period the government hired a number of 'foreign' detectives and police officers, primarily men of Ukrainian origin, in order to aid law enforcement among the province's Ukrainian community, see Robinson, *British Canadian Justice, supra* note 80 at 193.

they bought so many suggests that they wanted to enjoy a drink or two. Although this particular incident was not made public, similar incidents were, such as the two Liquor Squad detectives in St Paul who encouraged an eighteen-year-old boy to get drunk, sold him liquor and then arrested him for illegal possession of liquor.[153] Such behaviour on the part of the police, if and when it came to the public's attention, did little to endear either the Liquor Squad or the *Liquor Act* to Alberta's population.

Even employees of the Attorney General's department were accused of violating the *Liquor Act*. In 1931, AH Schurer, the head of the ALCB's Enforcement Branch claimed that, during prohibition, Deputy Attorney General R Andrew Smith had bought liquor from Adzich's Chemist in Edmonton – a drug store that was notorious for bootlegging. Schurer's accusation must be taken with a grain of salt given that it emerged in his resignation letter and described an event that allegedly occurred over seven years' prior to the date of the letter.[154] While it is not clear whether or not Smith did violate prohibition in the way Schurer claimed, what can be confirmed is that Adzich's did sell illicit liquor during and after prohibition.[155] Similarly, there were other examples of 'respectable' citizens, such as those in Spirit River in 1917, being in sympathy with the bootleggers, or thinking that the law did not apply to them.[156] An example of the

[153] "Liquor Spotters and their Dirty Work", *Macleod Times* (22 June 1922).
[154]Letter from AH Schurer to Brownlee (10 October 1931), PAA (RG 69.289/99c).
[155] Record of Conviction (21 July 1920) PAA (RG 75.126/2750); Letter from RJ Dinning to JE Brownlee (3 March 1927) PAA (RG 69.289/533).
[156] Memo from Browning for APP Superintendent McDonnell (13 April 1917), PAA (RG 66.166/1240j). See also the letter from Rockyford's Reeve and Secretary-Treasurer which alleged that the village's two other councillors had no interest in stopping bootlegging in the area, Letter

latter can be seen in a banquet that the Shriners were planning to hold in Calgary in 1919. The Shriners' banquet prompted Browning to write to Calgary's Police Chief to say that

> [t]he Shriners should be notified in advance that so long as the law is in force it exists for the rich as well as for the poor and no matter how influential any body of men is... the laws of the Province must be respected, other[w]ise i[f] evidence is obtainable they will be prosecuted.[157]

Here Browning articulates his belief that the *Liquor Act* should apply equally to everyone. Browning's view was not shared by other Albertans, as there were those who felt that the law should not be applied to them and then there were those who felt that the police allowed some people to get away with violating prohibition.

The main problem with the *Liquor Act* was that there was a conflict between how people expected prohibition to operate and how it actually operated. My argument in this section has some overlap with Christopher Tomlins' recent paper on the differences between the mandarin ideology of law and the field-level uses of law,[158] but here I have argued that an equally important difference for the *Liquor Act* was in the difference between what people expected it to do and what it actually did. The Prohibitionists expected the *Liquor Act* to result in a completely dry society which was something the Act never promised; while those who unwittingly found themselves violating the Act expected the Act to control

---

from Reeve and Secretary-Treasurer of Rockyford to Browning (5 November 1919), PAA (RG 83.192/412).

[157] Letter from Browning to Calgary Police Chief Alfred Cuddy (20 May 1919), PAA (RG 83.192/412).

[158] Tomlins, *supra* note 6 at 33-34.

other, less respectable people.[159] Given the Prohibitionists' belief that those responsible for enforcement were biased against the *Liquor Act,* this meant that the enforcement of the *Liquor Act* appeared to ignore the rule of law and left it to the police to decide whether to apply the Act or not. In this way the *Liquor Act* failed to live up to what both Robert Gordon and Christopher Tomlins have called the "mandarin" idea of law,[160] yet given that some self-declared "respectable people" found themselves prosecuted under this Act, it also conflicted with elite ideas of who prohibition was really aimed at.

3.3. – Prohibition and Alberta's Ethnic Minorities

Alberta's Prohibitionists hoped that prohibition would control Alberta's ethnic minorities and reduce crime and immoral behaviour but the *Liquor Act* seemed to have the opposite effect. In this section I use the example of how Alberta attempted to enforce the *Liquor Act* among Alberta's Ukrainian and Chinese populations to show how prohibition failed to teach these groups the 'appropriate' ways to behave. I use the prohibition experiences of these two groups as an elaboration of the arguments about enforcement seen in section 3.2. Ukrainian and Chinese Albertans often found themselves caught up in the law as a result of biases in enforcement yet also stood accused of getting away with violations by the broader public. I begin by explaining why I have chosen to focus on these two groups before moving on to explore each group's prohibition experiences. I argue

[159] This has some echoes with the phenomenon of "the Peace" as identified by Laura Edwards where in the post-revolutionary American south, local law operated on the assumption of restoring everyone to their place in the social hierarchy, see Laura F Edwards, *The People and their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009) at 3, 7, 11, 26.
[160] For Gordon's use of the term see, Robert W Gordon, "Critical Legal Histories" (1984) 36 Stanford L Rev 57.

that both Ukrainian and Chinese Albertans attempted to evade and manipulate the *Liquor Act* for their own benefit but that there was a limit to how successful each group was at using the Act in this way. More importantly, the *Liquor Act* failed to control either of these groups in the way that Alberta's government wanted and seemed to encourage both to break the law.

The police and the public had contrasting yet complementary concerns about Ukrainian and Chinese Albertans' ability to comply with the *Liquor Act* which reflected broader concerns about each group's suitability for Canadian society. Chinese Albertans typically stood accused of selling liquor in their urban or small town restaurants, while Ukrainian Albertans were suspected of illicitly making and consuming liquor. The popular stereotype of Ukrainian Albertans was, as Swyripa puts it, that "Ukrainians beat their wives, drank to excess and ended up in bloody brawls, stole without conscience and engaged in senseless litigation."[161] The authorities adopted a paternalistic concern towards Ukrainian Albertans and their consumption patterns because they wanted to teach, and believed that the Ukrainians could be taught, the appropriate way to behave.[162] Given that most British Albertans considered Chinese Albertans to be incapable of assimilation and undesirable as immigrants,[163] British Albertans understood

[161]Frances Swyripa, "Negotiating Sex and Gender in the Ukrainian Bloc Settlement: East-Central Alberta Between the Wars" (1995) 20:2 Prairie Forum 149 at 149 [Swyripa, "Negotiating Sex"]. See also, Orest T Martynowych, *Ukrainians in Canada: The Formative Years, 1891-1924* (Edmonton: Canadian Institute of Ukrainian Studies Press, 1991) at 97-98 [Martynowych, *Ukrainians*]; Palmer, *Patterns, supra* note 1 at 38.

[162] JS Woodsworth, *Strangers Within our Gates: The Problem of the Immigrant 1909* (Toronto: University of Toronto Press, 1972) at 112. See also, "A Criticism of our Ruthenian Citizens", *Saturday News* (17 July 1909) ("[i]t will take a generation to make a man out of a Galician [Ukrainian], and then another generation to make a Canadian out of the man.").

[163] "Asiatic Question Up In the House", *Edmonton Bulletin* (17 December 1907).

Chinese Albertans' liquor law violations as feeding into larger social issues such as white slavery, drug use, and gambling.[164] British Albertans saw such violations as further evidence of the 'threat' that they believed Chinese people posed to Alberta and Canadian society.[165] Among British Albertans the stereotype of Chinese Albertans was that they were immoral, that Chinese men posed a sexual threat to white women despite being more feminine than white men, and that Chinese Albertans were engaged in illicit behaviour.[166]

Despite the concern that Chinese and Ukrainian Albertans caused the provincial authorities, neither was under any legal disability in respect of liquor consumption, unlike Alberta's Aboriginal population which remained strictly prohibited from the consumption of beverage liquor.[167] Technically some of Alberta's Métis population would have been legally allowed to drink but in practice many white Albertans often failed to differentiate between Status Indians

---

[164] "Underground Road from Canada Aids Criminal Chinese", *Edmonton Capital* (8 September 1913). Chinese men were also accused of smuggling Chinese women for prostitution, "Amazing Evidence Against Chinaman", *Edmonton Bulletin* (4 May1914). See also Hewitt, *Riding to the Rescue*, *supra* note 72 at 45

[165] For a contemporary allegation of the relationship between Chinese people and white slavery see, Emily F Murphy, *The Black Candle* (Toronto: Coles, 1973). See also, Mariana Valverde, *The Age of Light, Soap and Water: Moral Reform in English Canada, 1885-1925* (Toronto: University of Toronto Press, 2008) at 87, 95; Belinda Crowson, "Ethnic Diversity in Lethbridge's Red Light District 1880s to 1944" (2009) 57:4 Alberta History 2 at 6.

[166] Palmer, *Patterns*, *supra* note 1 at 32-35; Constance Backhouse, "The White Women's Labor Laws: Anti-Chinese Racism in Early Twentieth-Century Canada" (1996) 14:2 LHR 315 at 335-336 at 336 [Backhouse "White Women's Labor"]; Nancy M Forestell, "Bachelors, Boarding-Houses, and Blind Pigs: Gender Construction in a Multi-Ethnic Mining Camp, 1909-1920" in Franca Iacovetta, Paula Draper & Robert Ventreseca, eds, *A Nation of Immigrants: Women, Workers, and Community in Canadian History, 1840s-1960s* (Toronto: University of Toronto Press, 1998) 251at 262; Constance B Backhouse, "White Female Help and Chinese-Canadian Employees: Race, Class, Gender and Law in the Case of Yee Clun, 1924" (1994) 26:3 Canadian Ethnic Studies 34 at 35-36; Valverde, *Age of Light*, *supra* note 165 at 111.

[167] The 1951 amendments to the *Indian Act* allowed status Indians to drink in public but it would be 1956 before they could buy liquor to drink at home, *Indian Act*, SC 1951, c 29, ss 94-99; *Indian Act*, SC 1951, c 29 as am by SC 1956, c 40, s 23; Heron, *Booze*, *supra* note 4 at 319-320.

who could not drink and non-Status Indians who could.[168] Like Alberta's Aboriginal population, Alberta's Chinese and Ukrainian populations were highly visible. Though Alberta's Chinese population was small – the 1911 census counted 1,784 Chinese in Alberta of which 1,524 were men – they tended to work in cafes, restaurants, and hotels which made their presence more noticeable than it otherwise would have been.[169] Meanwhile the sheer number of Ukrainians in Alberta made them equally visible. By the time prohibition began there were over 17,584 Ukrainians in Alberta, and like Alberta's Chinese population, the majority of Ukrainians in Alberta were men.[170] Both Chinese Albertans and Ukrainian Albertans could be found across the province, although large concentrations of Ukrainians could be found in the bloc settlement in east-central Alberta and in the lumber and mining camps. Edmonton and Calgary had Chinatowns while most other towns and villages had at least one Chinese-run business.[171] Both Chinese and Ukrainians lived throughout Alberta and were, in theory, free to access prohibition's various legal exceptions, and it is for these reasons that I focus on only these two groups in this section.

---

[168] This problem remained once prohibition ended, ALCB Enforcement Branch Liquor Report (2 July 1924), PAA (RG 75.126/3242). Compare Renisa Mawani, "In Between and Out of Place: Racial Hybridity, Liquor, and the Law in Late Nineteenth and Early Twentieth Century British Columbia" (2000) 15:2 CJLS 9 at 24.

[169] *Special Report*, *supra* note 56 at 14-15, 24-25; Peter S Li, "Chinese Immigrants on the Canadian Prairie, 1910-1947" (1982) 19 Canadian Review of Sociology and Anthropology 527 at 533; Lily Cho, *Eating Chinese: Culture on the Menu in Small Town Canada* (Toronto: University of Toronto Press, 2010) at 8.

[170] William Darcovich & Paul Yuzuk, eds, *A Statistical Compendium on the Ukrainians in Canada, 1891-1976* (Ottawa: University of Ottawa Press, 1980) at 65. By 1923 there were at least 23,827 Ukrainians in Alberta. Caution must be taken with these figures given the chances that some Ukrainian Albertans were counted among the province's Russian or Austrian population.

[171] David Chuenyan Lai, *Chinatowns: Towns Within Cities in Canada* (Vancouver: University of British Columbia Press, 1988) at 61, 66, 92; Cho, *supra* note 169 at 5.

In respect of the Ukrainian Albertans, the first concern of the provincial government was to ensure that they actually understood the law. To this end the government, in tandem with the province's various prohibition organizations set out to educate and 'Canadianize' the Ukrainians. The government translated the *Liquor Act* into Ukrainian, though the Prohibitionists quickly discovered that the government had used the wrong language. In August 1916 the Methodist missionary in the Ukrainian bloc, Miss Ferguson, complained that the *Liquor Act* was in high Russian not Ukrainian,[172] while in November AW Coone of the Alberta Temperance and Moral Reform League complained that the Act was in "Catzap" not Ukrainian.[173] It is unclear whether 'Catzap' was another term for high Russian or if the government mistranslated the *Liquor Act* twice. Either way, the government's failure to use the right language shows that the government knew very little about its Ukrainian population.

The Albertan authorities were also concerned that the Ukrainians would not understand how the British justice system worked.[174] In 1921 a Ukrainian-Albertan woman, Sanda Dwerychuk, who did not speak English, mistakenly pled guilty to the charge of illicit manufacture of liquor. When her lawyers sought the advice of Deputy Attorney General Browning, he observed that

> [o]ne can readily understand how foreigners, in the presence of a Magistrate and uniformed policemen would be very much overcome and

[172] Letter from Miss Ferguson to Rev WF Gold (31 August 1916), PAA (RG 75.126/735b).
[173]Letter from AW Coone to Deputy Attorney General Browning (13 November 1916), PAA (RG 66.166/1240c).
[174] For the importance of 'British Justice' as both a popular and elite idea see Greg Marquis, "Doing Justice to "British Justice": Law, Ideology and Canadian Historiography" in W Wesley Pue & Barry Wright, eds, *Canadian Perspectives on Law and Society* (Ottawa: Carleton University Press, 1988) 43.

> possibly appear to consent to plead guilty when in reality no such plea should have been made or accepted... My own opinion is that in the anxiety of the Dominion Inland Revenue Officer to punish someone, and the desire of the Police to assist him, an innocent person has been made to suffer, and any assistance you can give her or her husband will be greatly appreciated.[175]

Browning wrote to the police magistrate who had overseen Dwerychuk's conviction and told him that "[i]f there is any doubt whether or not she understood that she pleaded guilty, Ottawa should at once be advised, in order that if necessary a new trial might be granted."[176] In this instance Browning willingly accepted that the majesty of the courtroom with its uniformed personal would be overwhelming to a "foreigner" like Dwerychuk. Here Browning echoes the belief, common to other British Canadians, that the Ukrainians had a lack of experience with the 'free' institutions of British government,[177] and, as such, needed to learn about them.

At the same time as the Albertan authorities exhibited this paternalistic concern towards the Ukrainian population, evidence emerged that Ukrainian Albertans did understand the *Liquor Act*. Early in prohibition the RNWMP reported that 'foreigners' in Canmore, who made up "90 percent of ...the population" and who were mostly "Austrian alien enemies,"[178] – likely meaning that there were some Ukrainians among their number, given that at the time parts of Ukraine were under Austro-Hungarian rule – took advantage of the private

[175] Letter from Browning to Messrs Abbott & McLaughlin (4 June 1921), PAA (RG 75.126/3245).
[176] Letter from Browning to Colonel McLeod, Edmonton Police Magistrate (10 June 1921), PAA (RG 75.126/3245).
[177] Martynowych, *Ukrainians*, *supra* note 161 at 161; Woodsworth, *supra* note 162 at 112-114.
[178] RWNMP Weekly Liquor Report, Canmore Detachment (2 December 1916), PAA (RG 66.166/1240d).

importation exception.[179] As these Ukrainians had accessed liquor in accordance with the *Liquor Act*, the RNWMP did not seem troubled. While some Albertans worried about drunk Ukrainians, like the residents of Mundare did in 1917 when they asked for assistance during "Ruthenian Easter" because there will be "quite a little liquor around,"[180] the authorities were only concerned with actual violations of the *Liquor Act*.

On occasion, however, even when Ukrainian Albertans came by their liquor legally they were still suspected of wrongdoing. An APP crime report from the Andrew area in 1917 noted that "nearly all the farmers in the district did have quite big shipments of liquor come in, on the last day of June" and that the officer found liquor in every one of the seven Ukrainian-owned houses he searched. There was nothing obviously illegal about the shipments of liquor or the fact that liquor was found in each of the houses. The officer reported that he had no search warrant for the searches he undertook,[181] which meant that his actions amounted to harassment as he had no right to search the houses. The report claims that the local population had complained about "to [sic] much liquor and drunkenness going on," though, frustratingly for the officer in question, the locals were not forthcoming about *who* was responsible for the liquor and drunkenness. The officer also bemoaned that the closest Justice of the Peace was "thirteen miles from w[h]ere [he] was" which further hindered his ability to lay charges. In fact this crime report is perhaps more confusing than anything else, as it is not clear if

[179] RNWMP Weekly Liquor Report , Canmore Detachment (6 January 1917), PAA (RG 66.166/1240e).
[180] Letter from Some of the Mundare Residents to the Attorney General (11 April 1917), PAA (RG 66.166/1240j).
[181] APP Crime Report, Andrew Division (27 July 1917), PAA (RG 66.166/1240k).

any charges were laid against the people in question or if they had actually broken the law.

Though there is evidence that Ukrainian Albertans bought some of their liquor legally, the Albertan authorities suspected that Ukrainian Albertans, particularly those that lived in rural areas, made their own liquor. In 1920 Attorney General John Boyle observed that

> the process of extracting alcohol from any sort of vegetable matter is very simple and can be done by very crude apparatus. The process is well known by all the people from Central Europe where the practice is common and we have a large number of such settlers in all the Western provinces.[182]

Among the APP, the Ukrainian Albertans quickly became notorious for their ability to hide their stills. An APP officer from the Andrew detachment in 1920 for example, searched the farm of one Mike Kurluik for an illicit still and complained that "[t]he farm of the accused is surrounded by thick bush and anything hidden there would be very difficult to find."[183] It is possible, however, that the police assumed that if they could not find a still, then the accused must have had it well hidden. Hiding stills or liquor was by no means limited to the Ukrainians, in 1917, for example, the APP in Drumheller discovered that two men called Nash and Magee had hidden a stash of liquor in a well shaft.[184] As frustrating as this form of evasion was, it seems as though the authorities expected it.

---

[182] Letter from Boyle to the Hon NW Rowell (29 March 1920), PAA (RG 83.192/412). Boyle repeated this claim in the legislature in 1920, "Hon JR Boyle Gives Precise Review of Whole Questions of Liquor Consumption and Manufacture", *Edmonton Bulletin* (4 March 1920).
[183] APP Crime Report, Andrew Detachment, (14 March 1920), PAA (RG 75.126/3251)
[184] Letter from Kent, Mackay & Mann, Barristers & Solicitors to Browning (30 November 1917), PAA (RG 75.126/736). This letter reports on the resulting court case.

What Alberta's police did not expect was that Ukrainian Albertans would try to frame each other by planting stills on one another's land. In 1923, Martin Woytowich of Krakow, Alberta alleged that his wife was planning to plant a still in his house and have him arrested. According to the letter detailing Woytowich's claim, he and his wife no longer got along,[185] and Woytowich's wife hoped to use the *Liquor Act* as a way to get rid of her husband. The actions of Woytowich's wife echoes Frances Swyripa's study of how Ukrainian Albertans interacted with the criminal justice system during the inter-war period. Swyripa argues that Ukrainian women became more outspoken and some came to view "the Canadian justice system as...an ally to enlist on their behalf" when they sought to escape domestic violence.[186] Such actions did, as Swyripa notes, draw on established practices in Galicia such as asking the church to dissolve unhappy marriages, but they are also evidence of the influence of Canadian norms and ideas, such as women's rights.[187] The example of Woytowich and his wife suggests a more unorthodox attempt to deal with marital strife and one which the Albertan authorities frowned upon.

The provincial authorities did not just want Ukrainian Albertans to learn *what* the law said; they had to learn about the overarching ideals of British justice. Both the Woytowich and Dwerychuk examples share a concern that innocent people should not be wrongly convicted. Yet the incidences of 'planted' stills

[185] Letter from [illegible] to APP of Lamont and Andrew (19 February 1923), PAA (RG 75.126/3262).
[186] Swyripa, "Negotiating Sex", *supra* note 161 at 152-153.
[187] *Ibid*. See also Marquis, *supra* note 174 at 44, 51 (noting the importance of the ideals of British justice to the Canadian masses and that the idea of British justice was not monopolized by one group).

show how hard it was for the Attorney General's department to ensure that prohibition was enforced justly. Woytowich's allegation was not the only instance where Ukrainians attempted to frame each other. Still-planting was enough of a problem for the Attorney General's department to warn the post-prohibition Alberta Liquor Control Board (ALCB) about it.[188] Of course, as ALCB Chairman RJ Dinning noted "[p]ractically all individuals convicted of having 'moonshine' state emphatically they are the victims of plants, thus it is difficult to decide the merits of any particular case."[189] As a result, what initially appeared to the Attorney General's department to be reassuring evidence of Ukrainian-Albertan cooperation with prohibition, turned out to be a way for Ukrainian Albertans to both solve intra-community disputes and explain away the existence of stills on their property. That is to say Ukrainian Albertans would attempt to enlist the British justice system to get rid of troublesome neighbours by planting a still on their property with the goal of having them arrested and imprisoned. While this might show an understanding of *what* the law said, it clearly conflicted with the overarching ideals of justice that the Albertan authorities wanted the Ukrainian population of the province to learn.

The problem of 'planted' stills is evidence of Ukrainian-Albertan attempts to make the *Liquor Act* work in their favour. As much as it suggests that the Ukrainian immigrants were able to understand and manipulate the law, what is more important in the context of liquor control, is that such uses of law,

[188] Letter from Deputy Attorney General R Andrew Smith to RJ Dinning (16 December 1926), PAA (RG 75.126/3242).
[189] Letter from Dinning to Smith (21 December 1926), PAA (RG 75.126/3242).

undermined what prohibition sought to achieve. The Prohibitionists did not envisage prohibition being used as a tool in intra-community or marital disputes; prohibition was supposed to promote a peaceful, law-abiding society. In addition, the confusion over who, if anyone, actually owned the discovered stills made it harder for the police and courts to convict individuals of prohibition violations. Consequently, the government's hope to enforce prohibition via prosecution was, on a few occasions, rendered impossible by some Ukrainian Albertans' attempts to use or subvert the liquor laws for their own ends.

As illegal as planting stills may have been, the laws surrounding the actual practice of home-made liquor were less clear. Part of the confusion over the legality of home-made liquor stemmed from the fact that the manufacture of liquor for export was believed to fall under federal control. Exactly which government had jurisdiction over liquor manufacture was confusing but at the time both levels thought and acted as though it fell under federal control.[190] While home distillation remained illegal, the federal liquor laws contained a little known provision whereby it was perfectly legal for anyone to make wine from "fresh native fruits" such as choke cherries without needing a federal license.[191] When read together the provincial and federal liquor laws resulted in a paradoxical

[190] See *supra* note 12.
[191] Letter from Asst Commissioner GW Taylor to Alex M Morrison (2 June 1924) PAA (RG 75.126/2566c); Letter from Deputy Attorney General R Andrew Smith to JA Eckess, JP, (26 November 1924) PAA (RG 75.126/3254); Memo from Superintendent Hancock of the RCMP (January 1934), PAA (RG 83.192/420).

situation where it was legal to make wine from fresh fruits but illegal to possess it if it was stronger than 2.5% proof.[192]

For much of the prohibition period and beyond, the federal government's legislation about home-made wine proved challenging to all concerned. Just after prohibition ended Deputy Attorney General R Andrew Smith wrote to JA Eckess, the JP at Smoky Lake to say that Eli Nykolaychuk "has a perfect right to make Choke Cherry Wine for his own consumption, regardless however of the *Liquor Act* or the *Inland Revenue Act*" but that making spirits was illegal.[193] A decade later the Attorney General's department prepared a detailed memo on the issue of home-made liquor for RCMP Superintendent Hancock. The memo noted the difficulties with interpretation of the *Excise Act* which governed the legal manufacture of alcohol.[194] The result of the confusion over the legality of home-made liquor likely meant that some Albertans, both Ukrainian and non-Ukrainian were erroneously prosecuted in the courts for making such liquor both during and after prohibition. Certainly after prohibition ended, several Albertans including some of Ukrainian descent asked the government or the ALCB for permission to make liquor at home, though the answers they got suggested that all home-made liquor would be illegal.[195] Whether this was true or not, both during and after

[192] The *Liquor Act* defined intoxicating liquor as anything stronger than 2.5% proof, *Liquor Act, supra* note 2, s 2(c).
[193] Letter from Deputy Attorney General R Andrew Smith to JA Eckess, JP (26 November 1924), PAA (RG 75.126/3254). Here Smith is referring to the *Liquor Control Act*, SA 1924, c 14 and not the *Liquor Act*, SA 1916, c 4.
[194] Memo for RCMP Superintendent Hancock (c. January 1934), PAA (RG 83.192/420).
[195] In 1925, for example, Lacombe's Police Magistrate, EH Jones, wrote to the Attorney General's department to ask if it was legal to make home-made wine. Jones wrote because people were always asking him these things though he did not specify as to who was asking him h. At any rate Jones professed that he thought there was nothing wrong with home-made wine. Deputy Attorney General Smith's reply disagreed and thought that the possession of such liquor would be illegal.

prohibition, the provincial government had no authority to issue permits or permission for Albertans to make alcohol as the federal government retained control of this.

Those Ukrainian Albertans who asked for permission to make home-made wine revealed that they understood liquor was under strict control. In theory permission to make wine at home was only needed if the wine was stronger than 2.5% alcohol, yet given the difficulty of monitoring the alcohol content of home-made wine, it would be prudent to get some form of permission. The standard response from the provincial government was that only the federal government could grant such permission. That several Ukrainian Albertans eventually realized that they might need to ask for permission to make homemade wine suggests both that they knew about the liquor laws and that they wished to abide by them. Asking for permission suggests that at least some Ukrainian Albertans had learned how the Canadian legal system worked and could seek out the protection of the law; in short, some Ukrainian Albertans were being or appearing to be 'Canadianized.'

Two years later George Nicuriuk got much the same response when he asked about the legality of home-brewed beer. Ukrainians were far from the only ones to ask about home-made liquor and in response to this the ALCB drafted a letter about the situation, though in 1928, four years after this first letter on the issue, the ALCB complained that it continued to receive requests for home-brewing permits, Letter from EH Jones, Police Magistrate, Lacombe to RA Smith, Deputy Attorney General (30 June 1925), PAA (RG 75.126/2567a); Letter from Smith to EH Jones (3 July 1925), PAA (RG 75.126/2567a); Letter from a solicitor in the Attorney General's Department to George Nicuriuk (21 October 1927), PAA (RG 75.126/2569); Draft letter from ALCB dealing with Home Consumption of Wines (24 June 1924), PAA (RG 75.126/2566c); Letter from Deputy Attorney General Smith to Emile Sodmont (15 December 1924); Letter from solicitor in Attorney General's department to E Sodmont (or Sodnwut) (31 July 1924) PAA (RG 75.126/2566a).

In some ways the asking of permission to make wine should be considered part of the same phenomenon as the planting of stills. Both were attempts to use the liquor laws for their own benefit, though the Albertan authorities approved of asking for permission. Ironically, when the Ukrainian Albertans behaved in the way that the government approved of, their attempts to secure the protection of the law were unsuccessful because they asked the wrong level of government. While the requests for wine-making permits can be considered evidence of some Ukrainian integration into Canadian society, the government's failure to provide a clear answer about the legality of home-made alcohol suggest that the provincial government did not want to facilitate such practices. While at least some Ukrainian Albertans seemed willing to adapt to their new Canadian environment, the government had their own view of what this adaption should look like and it did not include home-made alcohol.

In addition to illicit distillation, Ukrainian Albertans also came under suspicion of illicit sale of liquor. In many ways the two went hand in hand as the sale of illicitly-made liquor often provided an extra source of income for poor Ukrainian-Albertan farmers.[196] On occasion Ukrainian-Albertan businesses also came under suspicion of illicit sale. The APP's 1923 allegation that the proprietors of Hillcrest's Union Hotel, Angus Krawchuk and Alec Lazarenko, were selling liquor can hardly be considered surprising.[197] Hotels, regardless of ownership, often came under suspicion of illegal liquor sales, and Hillcrest, given

[196] Martynowych, *Ukrainians*, *supra* note 161 at 98.
[197] APP Crime Report, Blairmore Detachment (1 August 1923), PAA (RG 75.126/1183a).

its position in the Crow's Nest Pass, was considered a bootlegging hotspot.[198] It would have been more surprising had Krawchuk and Lazarenko *not* come under suspicion of *Liquor Act* violations.

The more surprising allegation of illicit sales comes from 1922 when Chief Constable Shute of Edmonton suspected the local Ukrainian book store of selling liquor. Shute wrote that the proprietor of the book store "bears a very good reputation, and is looked upon as a very reputable citizen and Church Member."[199] That Shute considered a member of the Ukrainian-Albertan community to be a respectable person, suggests that some Albertan authorities did not consider all Ukrainians to be primitive and brutish. However in this case, the Ukrainian Albertan in question owned his own business and went to church and, as such, he offered a better match for the middle-class ideals of self-reliance and respectability that were inherent in the *Liquor Act*. Shute seemed surprised by the allegations against the book store owner which illustrates how an appearance of respectability could protect against suspicions of illicit activity. It is not clear how this incident was resolved but there are no newspaper reports of this allegation which likely means that the investigation went no further.

At least one Ukrainian Albertan, TJ Matichuk, attempted to access the protections afforded by a good reputation. In 1921, Matichuk, who signed himself as the Secretary-Treasurer of the Bellis branch of the United Famers of Alberta (UFA), wrote to the Attorney General to report that someone was hiding

[198] For bootlegging in the Crow's Nest Pass see "Clean-Up in Crow's Nest", *Red Deer News* (8 September 1920); "Boyle Challenges Critics on Liquor Law", *Edmonton Bulletin* (25 March 1921) (detailing the actions Boyle and the police had taken in the Pass).
[199] Letter from Shute to Browning (17 August 1922), PAA (RG 75.126/3260).

whiskey in his building at night in an attempt to undermine his reputation. He appealed to the Attorney General "in the name of civilization, British rights and humanity that the above offence should not be tried by any person in order to destroy some body [sic] else."[200] Deputy Attorney General Browning replied to say that he hoped the attempt to discredit him was not successful.[201] By the time of Matichuk's letter, the UFA were the governing party and Matichuk may have hoped that by signing himself as a member he would win some favour from the government. More importantly, Matichuk's reference to "British rights and humanity" echoes Swyripa's argument that the Ukrainian immigrants understood Canada as free country, though they sometimes took this to mean that they could do whatever they wanted.[202] Matichuk's letter also shows that he was status conscious and had grasped the idea that respectable people were those that did not break the law.[203] The idea that the law was meant to control less respectable people was commonly held by those British Albertans who found themselves caught up in the liquor laws;[204] that it should be adopted by Matichuk suggests that he had either adopted this idea for himself or thought that using such language would better serve his cause.

While British Albertans concerned themselves with reshaping Ukrainian Albertan consumption habits, they viewed Chinese Albertans as a threat to society

---

[200] Letter from TJ Matichuk to Attorney General Brownlee (12 December 1921), PAA (RG 75.126/3243b).
[201] Letter from Browning to Matichuk (14 December 1921), PAA (RG 75.126/3243b).
[202] Swyripa, "Negotiating Sex", *supra* note 161 at 158; Frances Swyripa *Wedded to the Cause: Ukrainian- Canadian Women and Ethnic Identity, 1891-1991* (Toronto: University of Toronto Press, 1993) at 67-68 [Swyripa, *Wedded to the Cause*].
[203] Swyripa's study also identified some "status conscious and upwardly mobile" Ukrainian men, Swyripa, "Negotiating Sex", *supra* note 161 at 153.
[204] See *supra* section 3.2.

more broadly. Ukrainian Albertans tended to distill or sell liquor only to other Ukrainian Albertans, the Chinese Albertans, through their role as small town hoteliers and restaurateurs, had the potential to sell liquor to anyone who wanted it. In 1920, for example, the Chinese-run restaurant at Delburne, Alberta was suspected of selling liquor because "persons frequenting [the restaurant] place act in such a way after leaving there as to lead the general public to think that they are intoxicated."[205] Such allegations resulted from the idea, commonly held among British Albertans, that Chinese people were somehow more immoral than other groups.[206]

Chinese immigrants faced similar suspicions in the United States which, as in Canada, resulted in anti-Chinese legislation.[207] Challenging the idea that Chinese immigrants were merely passive victims of the law, Richard Cole and Gabriel Chin argue that Chinese immigrants used "legal activism" to defend themselves against anti-Chinese laws and practices.[208] By "legal activism" Cole and Chin mean the legal and political advocacy Chinese Americans undertook, including a huge number of lawsuits challenging racist legislation that sought to treat them like second-class citizens.[209] Although the Chinese in Alberta did not face the same explicitly anti-Chinese legislation that they faced elsewhere in

---

[205] Memo from Browning to APP Superintendent (16 June 1920), PAA (RG 75.126/3242).
[206] Backhouse, "White Women's Labor", *supra* note 166 at 335-336 ; Woodsworth, *supra* note 162 at 142-152.
[207] Charles J McClain, *In Search of Equality: The Chinese Struggle Against Discrimination in Nineteenth-Century America* (Berkeley: University of California Press, 1994) at 10.
[208] Richard P Cole & Gabriel J Chin, "Emerging from the Margins of Historical Consciousness: Chinese Immigrants and the History of American Law" (1999) 17 LHR 325.
[209] Cole & Chin, *supra* note 208 at 335. For other lawsuits launched by Chinese Americans see, Christian G Fritz, "A Nineteenth Century Habeas Corpus Mill: The Chinese Before the Federal Courts in California" (1988) 32 Am J Legal Hist 347; Lucy Salyer, "Captives of the Law: Judicial Enforcement of the Chinese Exclusion Laws, 1891-1905" (1989) 76 Journal of American History 91.

Canada,[210] they still faced discriminatory attitudes,[211] which they sought to challenge as best they could through the use of lawyers and legalistic language.

Other work that has been done on Chinese Canadian legal history has also mentioned their willingness to rely on lawyers and engage with legal institutions. Constance Backhouse's work on Saskatchewan's anti-Chinese labour laws, for example, explores how two Chinese Canadians brought a test case against the legislation.[212] Similarly her work on Lem Wong, an Ontario restaurant owner, refers to how he always consulted his lawyer, though Backhouse attributes this to the web of legal disabilities that he faced rather than recognising it as something more unique.[213]

In the case of engagement with Alberta's *Liquor Act* Chinese Canadians attempted to pre-emptively secure the protection of the law as well as challenging its racist applications. In May 1922, for example, the Pon Brothers of Kerrobert, Saskatchewan instructed their lawyers to write to Alberta's Attorney General about the behaviour of their Albertan business partner. The Pon Brothers co-owned a cafe in Sedgewick with another Chinese Canadian man called Pon Won or George Won. Pon Won had been convicted under the *Liquor Act* and the brothers had heard that he was once again violating prohibition. The brothers' lawyers wrote that "[o]ur clients are very anxious to have George Won conform to the laws of the Province of Alberta, and do not wish to be in any way held

[210] Constance Backhouse, "White Women's Labor", *supra* note 166 at 346.
[211] Palmer, *Patterns*, *supra* note 1 at 32.
[212] Backhouse, "White Women's Labor", *supra* note 166 at 315.
[213] Constance Backhouse, "Legal Discrimination Against the Chinese in Canada: The Historical Framework" in David Dyzenhaus & Mayo Moran, eds, *Calling Power to Account: Reparations and the Chinese Canadian Head Tax Case* (Toronto: University of Toronto Press, 2005) at 25, 31.

responsible for the illegal acts of their partner."[214] Here we can see two businessmen acting to defend their business interests. The Pon Brothers' communication suggests that whatever punishment Pon Won had suffered under the *Liquor Act* was not enough to persuade him to obey the law.

The actions of the Pon Brothers were an attempt to paint themselves as law-abiding citizens who also disapproved of their partner's actions and thus they challenged the stereotypical view of the Chinese as immoral. During prohibition, many Chinese Albertans found themselves under suspicion of illicit activity because of their ethnicity. The suspicion that Chinese Canadians like the Pon Brothers faced had some similarities with that faced by Ukrainian Albertans. The then dominant British Albertan view, however, held, in common with those of British descent across Canada, that the Ukrainians could ultimately be redeemed while the Chinese were immoral and incapable of becoming good Canadians.[215]

In common with the Ukrainian Albertans, there were those Chinese Albertans who violated prohibition. Two crime reports from 1919, one from the APP and one from the RNWMP discussed the case of Kwong Chun Yuen. Yuen lived in Banff, which due to its location in a national park meant that the RNWMP were responsible for policing, including prohibition. Both reports describe Yuen as shipping liquor to Banff disguised as "bean sauce."[216] The APP

[214] Letter from Hanbridge and Handbridge to Alberta's Attorney General (5 May 1922), PAA (RG 75.126/3256).
[215] Compare Woodsworth's discussions of the "Galicians" or Ukrainians with his discussion of "Orientals" in Woodsworth, *supra* note 162 at 112, 154-155. See also Palmer *Patterns, supra* note 1 at 32-35.
[216] RNWMP Report, Banff Detachment (4 September 1919); APP Crime Report, Banff Sub-division (10 September 1919) PAA (RG 75.126/2726).

said that Yuen would not pick up his 'sauce' because he knew the police were onto him and the police could not secure a prosecution until Yuen took possession, or attempted to take possession of the liquor. The RNWMP complained that it was "almost impossible to get a conviction against him under the *Alberta Liquor Act* which is full of loopholes for cases of this kind, where according to a recent decision of the Attorney General a man must be in absolute possession of the goods."[217] The ease with which bootleggers like Yuen could violate the *Liquor Act* and avoid prosecution suggests that part of the problem with prohibition was that it was too easy to evade either through statutory loopholes or lax enforcement. As one anonymous complainant in 1922 from Lacombe put it, his town's "four Chinese restaurants...don't seem to have any fear of the law."[218] Here we can see both the suspicion that attached to Chinese Albertans and the idea that the law was inadequately enforced.

As with the Ukrainian Albertans, Chinese Albertans attempted to make the liquor laws work in their favour. In 1922, Louie Sing's lawyer lobbied the government to allow his client to exploit a loophole in the liquor laws. Sing had received an illegal shipment of Chinese liquor which the provincial government confiscated. Sing's lawyer wanted the government liquor vendors to take Sing's liquor into stock so that Sing and his friends might be able to buy it on prescription. At the time, Alberta only stocked a small range of liquors for sale on prescription which did not include any Chinese liquors. Deputy Attorney General Browning approved Sing's request, perhaps because the government stood to

[217] *Ibid.*
[218] Letter from Anonymous to JA Fairley (11 June 1922), PAA (RG 75.126/3247).

make $500 to $600 from the sale of this liquor. Thus for the first time since prohibition started, Chinese liquor became legally available for sale in Alberta – provided, of course, that the purchaser had a prescription.[219]

As a result of popularly held beliefs about Chinese people,[220] the police often singled-out Chinese-owned businesses for special attention. An APP crime report from Lacombe, for example, notes that the police searched all the Chinese cafes and three other cafes and that "[w]e warned all thses [sic] Chinamen, that they must not allow any drinking of liquor to be done on their premises."[221] That the officer should separate Chinese-run cafes from the other cafes points to the belief that Chinese cafes were somehow worthy of more police attention. Similarly, the mere presence of Chinese Albertans even seemed to be evidence of lax morals. In 1917, for example, a memo from *Liquor Act* Inspector WF Gold described Lloydminster's Alberta Hotel as having a bar run by a white man "whilst Chinese are in charge of the other parts of the hotel. It is further stated that it is the resort of immoral women ...The condition evidently is bad and investigation ought to be made soon."[222] Gold did not explicitly say that the Chinese Albertans at the Alberta Hotel were linked to the illicit activity but the fact that he felt the need to mention their presence suggests that they offered further proof of the immorality of the hotel. There was little that prohibition

[219] Letter from Peacock of Peacock & Skene to the Attorney General (17 June 1922); Letter from Peacock of Peacock & Skene to Deputy Attorney General AG Browning (23 June 1922),;Memo from Browning to Chief Liquor Vendor Douglas (20 June 1922) PAA (RG 75.126/1180a); "Vendors Store Had a Very Busy Day With Permits and Selling Liquor", *Calgary Albertan* (13 May 1924). For more on 'medicinal' liquor see Chapter Four.
[220] See *supra* footnotes 162 to 166 and accompanying text.
[221] APP Crime Report, Lacombe Detachment (19 October 1922), PAA (RG 75.126/3252a).
[222] Memo from Inspector Gold to Browning (4 September 1917), PAA (RG 83.192/408).

could do to change such views because the *Liquor Act* could not challenge how British Albertans perceived Chinese Albertans. If anything, the *Liquor Act* only increased the sense of moral panic that British Albertans felt towards Chinese people because the law seemed unable to do anything to address the real or imagined Chinese-Albertan prohibition violations.

Instead of teaching Alberta's ethnic minorities how to behave, the *Liquor Act* appeared to have the opposite effect. Prohibition even seemed to encourage the 'wrong' kind of behaviour such as planting stills or evading justice via a legal loophole as Yuen did. Although some Ukrainian and Chinese Albertans attempted to work within the confines of the law, such as Louie Sing's request to buy his liquor back on prescription, and the various Ukrainian-Albertan attempts to take advantage of the home-brewing exception, for the most part they struggled to get the *Liquor Act* to work in a way that afforded them the benefits they wanted. Rather than controlling Alberta's ethnic minorities, the *Liquor Act* seemed to allow or even encourage them to break the law for their own benefit. Granted British Albertans would also violate the liquor laws for personal gain, yet when they did so it did not fan nativist fears in the way that Chinese and Ukrainian prohibition violations did. As such prohibition had the potential to reinforce the negative ideas that Albertans already had about their Ukrainian and Chinese populations, much like it seemed to exacerbate the liquor problem instead of solving it.

3.4 – Conclusion

As prohibition progressed, Prohibitionists, like Alberta's WCTU, continued to call for Albertans to stand behind the law and demand better enforcement.[223] Such claims overlooked the reality of how prohibition actually operated. The government drafted the *Liquor Act* so that its success depended upon the widespread cooperation and support of the public. I have shown that this support failed to materialise and that if anything, both the government and the public believed that the legislation was widely and often violated. Though Alberta's prohibition was never total, the existence of prohibition led some people to report liquor law violations when they had really witnessed legal sales. Such erroneous reports wasted police time and fed the perception that everyone violated prohibition and that the police did nothing to stop it.

The government, in common with Alberta's Prohibitionists, believed that by making prohibition the law, people would feel compelled to obey it. Furthermore, in the eyes of the Prohibitionists, prohibition's promised social improvements were reason enough to comply with the law. These social improvements would result from prohibition's ability to curtail or even stop liquor consumption which, in turn, would limit the evils associated with liquor. However, I have argued that the *Liquor Act* actually removed controls on liquor consumption because rather than seeking to impose stricter controls on existing patterns of public liquor consumption, the government sought to force all Albertans into the private consumption of liquor. Though Alberta's Ukrainian and

[223] Alberta Social Service League, Letter to the Editor, *Lethbridge Herald* (5 April 1918); Report of Alberta's WCTU Eighth Annual Convention (29 September to 1 October 1920) GAIA (RG M-1708-28); "Central Alberta Dis Convention of WCTU", *Red Deer News* (10 May 1922).

Chinese populations attempted to use the *Liquor Act* to their advantage, the legislation proved unable to accommodate them. Ultimately, the *Liquor Act* offered no incentives for compliance and, as such, it offered no way to actually deliver the social controls that the Prohibitionists wanted. In short, prohibition enforcement did not match the government's expectation that the simple enactment of a law would be enough to ensure compliance. Prohibition lacked public support because ordinary Albertans of all classes and ethnic backgrounds wanted to continue to drink alcohol.

Yet even when people did comply with the *Liquor Act* and when the police did attempt to enforce it, many members of the public continued to believe that violations were widespread. Liquor remained legally available, though under heavy restrictions, during prohibition and this availability fed the perception that the *Liquor Act* was not and could not be enforced. Though the government introduced various 'innovations' to prohibition enforcement from 1916 to 1924, to attempt to address the perception of violations and non-enforcement, these changes did not fundamentally change how the government sought to enforce the *Liquor Act*. The government's decision to introduce and rely on plain clothes detectives, 'spies', and a separate APP Liquor Squad continued to depend on the after-the-fact model of enforcement. In this way prohibition enforcement always remained unable to actually control how people drank; the best the Attorney General's department could do was punish people for drinking in the 'wrong way' and hope that they would learn their lesson. However, the department did introduce one change in the control of liquor that proved more effective than the

changes that focused on policing. As prohibition progressed the department changed how it controlled prohibition's medicinal exception and, as I now move on to show, medicinal liquor offered both an exception and an alternative to the kind of liquor control seen under the *Liquor Act*.

4 – The Shift from Prosecution to Regulation: Controlling Prohibition's Medicinal Exception, 1916 to1924.[1]

Alberta, in common with other jurisdictions under prohibition, allowed for a medicinal exception to the ban on alcohol.[2] Under the medicinal exception, liquor remained available for 'medical' purposes. Studies done on prohibition elsewhere in Canada speak of "the prescription racket" and imply that during prohibition doctors prescribed liquor freely, and that druggists became bootleggers.[3] Alberta's medical professions attracted similar accusations during prohibition which prompted Attorney General John Boyle to comment in 1920 that "[t]here is a great deal being said these days as to the frailties of the medical profession."[4] In other words prohibition's medicinal exception seemed to be as much of a farce as prohibition itself. Yet an examination of how Alberta's medicinal exception actually operated reveals a different story, one where the government succeeded in limiting much of the abuse of medicinal liquor by changing how it controlled such liquor. In the process, the administrative lessons learned from the medical exception, went on to shape the regulation of alcohol in the decades that followed.

The government was precluded from simply abolishing the medicinal exception as many considered liquor to be a key tool in the practice of medicine.

---

[1] A version of this chapter has been published. Sarah E Hamill, "Making the Law Work: Alberta's *Liquor Act* and the Control of Medicinal Liquor from 1916 to 1924" (2012) 27:2 CJLS 249.

[2] *Liquor Act*, SA 1916, c 4, s 4. For medicinal liquor in other provinces see Craig Heron, *Booze: A Distilled History* (Toronto: Between the Lines, 2003) at 237-239.

[3] Robert A Campbell, *Demon Rum or easy Money: Government Control of Liquor in British Columbia from Prohibition to Privatization* (Ottawa: Carleton University Press, 1991) at 24-25 [Campbell, *Demon Rum*]; Heron, *Booze, supra* note 2 at 237-239; Zhiqiu Lin, *Policing the Wild North-West: A Sociological Study of the Provincial Police in Alberta and Saskatchewan, 1905-32* (Calgary: University of Calgary Press 2007) at 136-138.

[4] See for example Attorney General Boyle's March 1920 speech to the legislature, "Hon JR Boyle Gives Precise Review of Whole Question of Liquor Consumption and Manufacture", *Edmonton Bulletin* (4 March 1920).

Granted, individual doctors differed over what medical purposes liquor could serve: some doctors used whiskey for anything from pneumonia to heart failure, diabetes to cancer, preeclampsia to insomnia, while other doctors urged that its use be severely limited.[5] Even those medical professionals who did not believe in prescribing liquor for ailments might still need alcohol for sterilising purposes. Dentists, for example, would use alcohol to sterilize their equipment between patients. Yet medicinal liquor had come under attack in medical journals,[6] as well as in the public sphere as temperance activists pushed for stricter liquor controls.[7] Rather than continuing to rely on prosecutions to enforce the *Liquor Act*'s medicinal exception the Attorney General's department realised that regulating medical professionals' access to liquor offered a more effective check on such liquor. As such, prohibition's medicinal exception provides the leading example of Alberta's shift from a prosecutorial model to a regulatory model in the control of liquor. The shift from prosecution to regulation is best understood as a shift in emphasis as the two were not mutually exclusive.

The success of the change in the model of enforcement encouraged the department, and by extension the rest of government, to reassess how they controlled liquor more broadly. The government's own changing attitudes

---

[5] Bartlett C Jones, "A Prohibition Problem: Liquor As Medicine, 1920-1933" (1963) 18:4 Journal of the History of Medicine 353 at 361-362 [Jones, "Prohibition Problem"].
[6] *Ibid* at 357-358; Jonathan Zimmerman, ""When the Doctors Disagree": Scientific Temperance and Scientific Authority, 1891-1906" (1993) 48:2 Journal of the History of Medicine 171; James H Cassedy, "An Early American Hangover: The Medical Profession and Intemperance, 1800-1860" (1976) 50:3 Bulletin of the History of Medicine 405.
For examples of the debate in the medical journals see, "The Alberta Medical Association" (1918) 8:11 Canadian Medical Association Journal 1054; "Congress Interferes with Physicians' Prescriptions" (1924) 14:9 Canadian Medical Association Journal 878.
[7] Bartlett C Jones, "Prohibition and Eugenics" (1963) 18:2 Journal of the History of Medicine 158 at 158, 160; Jones, "Prohibition Problem", *supra* note 5 at 353.

towards the liquor laws, helped usher in the end of prohibition, as the medicinal exception demonstrated what effective liquor control would entail. The Attorney General's department found a way to make compliance with its controls on medicinal liquor in the interests of even those doctors who did not agree with the *Liquor Act*. The need to make the control of medicinal liquor effective forced the Attorney General's department to change how they implemented the liquor laws. As Hudson Janisch notes, one of the weaknesses of administrative government lies in enforcement.[8] I argue that the example of prohibition's medicinal exception suggests a way that administrative bodies can effectively enforce their regulations.

Although events elsewhere in Canada and, to a lesser extent, the United States, shaped how Alberta controlled medicinal liquor, the development of Alberta's liquor control was much more insular than it at first appears. There is surprisingly little attention paid to the variation between provincial liquor systems during the early years of government control. The existing studies of British Columbia and Ontario's liquor systems only mention other provinces' systems in passing, if at all. In addition these studies also fail to examine the prohibition period and hence miss the antecedents of the methods used by liquor boards.[9] Although Craig Heron's work does examine the history of liquor regulation in

[8] HN Janisch, "Bora Laskin and Administrative Law: An Unfinished Journey" (1985) 35 UTLJ 557 at 563.
[9] See by way of example Dan Malleck, *Try to Control Yourself: The Regulation of Public Drinking in Post-Prohibition Ontario* (Vancouver: UBC Press, 2012); Scott Thompson & Gary Genosko, *Punched Drunk: Alcohol, Surveillance and the LCBO, 1927-1975* (Halifax & Winnipeg: Fernwood Publishing, 2009); Robert A Campbell, *Sit Down and Drink Your Beer: Regulating Vancouver's Beer Parlours, 1925-1954* (Toronto: University of Toronto Press, 2001); Campbell, *Demon Rum*, *supra* note 3.

Canada, his study focuses on general patterns. Heron's brief discussion of prohibition's medicinal exception is illuminated by examples from across Canada,[10] yet he fails to examine the shifting nature of this exception and he does not discuss how prohibition experiences shaped post-prohibition laws. When Alberta ended prohibition in 1924, it was only the third Canadian province to do so. In hindsight it might look as though the end of prohibition was inevitable and part of a Canada-wide movement but that is not entirely accurate. I show that the changes made to the control of medicinal liquor during Albertan prohibition were motivated by a need to make that control more effective in Alberta and were not copied from other provinces.

I begin by explaining why the medicinal exception to prohibition existed. Next, I examine how the Attorney General's department expected the medicinal exception to operate, how it actually operated, and how the department responded and adapted its control of medicinal liquor to ensure that it actually worked. The third section explores how a change in governing party highlighted the effectiveness of the *Liquor Act's* medicinal exception, particularly when compared to prohibition more broadly. Here I examine how the United Farmers of Alberta (UFA) government expanded the regulatory model of medicinal liquor to further liquor control and to provide benefits for the government. In order to fully explore the UFA's changes to the liquor laws, I examine the UFA's decision to seize their chance to end prohibition via a further liquor plebiscite under the *Direct Legislation Act*. I conclude that the control of prohibition's medicinal

[10] Heron, *Booze, supra* note 2 at 237-239.

exception provided the model of effective liquor control that the government extended province-wide with the introduction of the *Liquor Control Act* in 1924.

4.1 – The Rationale behind the Medicinal Liquor Exception to Prohibition

The *Liquor Act*'s medicinal exception was not an innovation of prohibition. Alberta's pre-prohibition liquor laws contained a provision for medicinal liquor,[11] and medicinal liquor stayed in Alberta's liquor laws until 1990 although its use declined.[12] Put simply the medicinal exception allowed members of the province's various professional medical associations to handle liquor and to use it as a drug or as a disinfectant. Accordingly, only a doctor who was a member in good standing of the Alberta College of Physicians and Surgeons[13] could prescribe liquor and only a druggist who was a member of the Alberta Pharmaceutical Association could fill this prescription. That the *Liquor Act* only allowed properly qualified medical professionals to dispense medicinal liquor points to a desire to strictly control such liquor. The government's decision to limit medicinal liquor privileges to medical professionals suggests such liquor was thought to be a dangerous drug that required medical supervision. Perhaps more important, however, is that limiting liquor privileges to the members of the professional organizations implies that the government expected the help of these

[11] *Liquor License Ordinance*, RSNWT 1905, c 89, s 81
[12] *Liquor Control Amendment Act*, SA 1990, c 27, s 74(1)(b). See appendix A for a graph of the use of liquor prescriptions from 1924 to 1939.
[13] In correspondence the government tended to refer to this College as the Alberta Medical Association, or simply the Medical Association. Technically the two bodies were (and remain) separate though they appeared to work closely with one another. In this chapter I use 'Medical Association' as that was the name most commonly used by the government.

professional organizations in controlling the medicinal use of liquor. This section explores why the *Liquor Act* had a medicinal exception and why it was worded in the way it was.

The *Liquor Act*'s medicinal exception reflected the growing cultural authority of medical professionals. Although liquor had long been used in folk medicine, prohibition prevented the unsupervised use of medicinal liquor. That is to say, prior to prohibition, individuals could have self-medicated with liquor they had bought; during prohibition if an individual wanted liquor for a particular ailment, he or she would need a prescription. During the nineteenth century doctors and pharmacists underwent a process of professionalization and attempted to exert their authority over healthcare, including appropriate treatments for various ailments, and the prescription and dispensation of drugs.[14] By 1916, doctors in Canada and the U.S. had their own professional organizations which regulated their members and spoke for their interests.[15] Prohibition's medical exception could be understood as recognition of the professions' monopoly; however, Albertan druggists did not yet have a monopoly as the *Pharmacy Act* was inoperative north of the fifty-fifth parallel.[16] In addition, evidence from other

[14] Daniel Joseph Malleck, *Refining Poison: Defining Power: Medical Authority and the Creation of Canadian Drug Prohibition Laws, 1800-1908* (PhD Dissertation, Queen's University, Department of History, 1999) [unpublished] at 23, 25, 101, 294; RJ Clark, "Professional Aspirations and the Limits of Occupational Autonomy: The Case of Pharmacy in Nineteenth-Century Ontario" (1991) 8 Canadian Bulletin of Medical History 43; Barbara Clow, *Negotiating Disease: Power and Cancer Care, 1900-1950* (Montreal: McGill University Press, 2001).

[15] For a history of the development of professional organizations in Ontario see, RD Gidney & WPJ Millar, *Professional Gentlemen: The Professions in Nineteenth Century Ontario* (Toronto: University of Toronto Press, 1994).

[16] *Alberta Pharmaceutical Act*, SA 1910, c 38, s 40. It is not clear why the Act was inoperative north of the fifty-fifth parallel but it was likely due to the sparse nature of northern settlement and the impracticality of granting a druggists' monopoly in an area where there were none or too few for it to matter. In 1916 Deputy Attorney General Browning observed that many druggists in "the

provinces suggests that their professional medical associations were relatively weak during this period and struggled to assert their monopoly over healthcare.[17] Despite their weaknesses, the government expected professional organizations to assist in prohibition enforcement, primarily by disqualifying their members who violated prohibition.[18]

As beverage liquor became controversial during the nineteenth century, medicinal liquor also became controversial both among medical professionals and the public, though many doctors continued to prescribe it. [19] From 1916 to 1924, the period of Albertan prohibition, the American Medical Association (AMA) oscillated between denials that liquor had any medicinal properties to assertions that it did.[20] The Canadian Medical Association (CMA) seemed equally torn but did not appear to take an explicit position on the matter.[21] Likewise the provincial medical association in Alberta did not appear to lobby the government one way or the other, though individual doctors did make their views known. Alberta's doctors were clearly divided over the issue, with some doctors accusing other doctors of using liquor prescriptions for profit.[22] Similarly, letters sent by Albertan doctors to the Attorney General's department during prohibition

---

North Country" would not be entitled to practice under the *Pharmacy Act*, Memo from Deputy Attorney General Browning to Dr Strong (31 October 1916), PAA (RG 75.126/735b).
[17] Catherine Carstairs, *Jailed for Possession: Illegal Drug Use, Regulation, and Power in Canada, 1920-1961* (Toronto: University of Toronto Press, 2006) at 116-117.
[18] "The Liquor Act Comes into Force July 1", *Lacombe Guardian* (26 May 1916).
[19] Jones, "Prohibition Problem", *supra* note 5 at 353.
[20] *Ibid* at 367.
[21] Though the CMA kept its members informed of the news surrounding medicinal liquor, "Congress Interferes with Physicians' Prescriptions" (1924) 14:9 Canadian Medical Association Journal 755; Arthur Jukes Johnson, "Report of the Ontario Medical Council in Relation to the Ontario Temperance Act" (1918) 8:8 Canadian Medical Association Journal 746 .
[22] RE Finlay, Letter to the Editor, *Red Deer News* (6 August 1919); "Doctors Opposed to Liquor Business", *Red Deer News* (10 September 1919).

suggested that doctors could not agree whether liquor had medicinal properties. John Smith MD, for example, claimed that, despite being a teetotaler, he knew that liquor was sometimes the only thing that saw a patient through, [23] while JH Duncan MD alleged that whiskey prescriptions only increased the chances of the patient dying. [24] In contrast to both, Dr W Weston Upton argued that liquor was only of use in the case of alcoholics suffering from pneumonia.[25] The Albertan public also occasionally expressed their scepticism over liquor's medicinal benefits,[26] though the public also had some doubts over whether it was appropriate for the government to intervene in matters of medical judgement.[27]

The *Liquor Act* contained a medical exception in response to a longstanding belief that liquor could be used to treat certain ailments. That the Act should limit medicinal liquor to trained professionals points to both the growing cultural authority of Canadian professions and to the idea that liquor was a dangerous substance which required medical and legal supervision. The wording of the *Liquor Act*'s medicinal exception implicitly assumed that Alberta's professional organizations would cooperate with the government in the enforcement of the Act. That being said, the partnership envisaged by the Act did

[23] Letter from John Smith, MD to Deputy Attorney General AG Browning (28 November 1918), PAA (RG 75.126/739b).
[24] Letter from JH Duncan, MD to Deputy Attorney General AG Browning (6 November 1918), PAA (RG 75.126/739b).
[25] Letter from Dr W Weston Upton to Deputy Attorney General AG Browning (7 November 1918), PAA (RG 75.126/739b).
[26]RE Finlay, Letter to the Editor, *Red Deer News* (6 August 1919); *Alberta WCTU: Story of the Years 1913-1963*, GAIA (RG M-1708-2; *Ontario Six Years Dry, 1916 to 1922* (17 September 1922), GAIA (RG M-1708-181).
[27] Letter from HA Switzer to Attorney General JE Brownlee (4 July 1923), PAA (RG 75.126/2824). Concern over undue interference in medical judgement was also seen in Ontario and Nova Scotia, Johnson, *supra* note 21; "The Nova Scotia Temperance Act and the Profession" (1926) 16:9 Canadian Medical Association Journal 1125 ["Nova Scotia Temperance Act"].

betray some suspicions of the medical professionals, for example, the Act required medical professionals to supply the government with information about their use and, if applicable, prescription of liquor. The wording of the *Liquor Act* suggested that medicinal liquor had the potential to be abused and it suggested that medical professionals, unless closely watched, might over-prescribe or simply sell liquor.

4.2 – From Prosecution to Regulation

Notwithstanding the uncertainty over whether liquor had medicinal qualities, the medicinal exception was a standard, albeit controversial, exception to prohibition legislation across Canada and the U.S.[28] The challenge for governments was to design a system of control that would prevent wide-open abuse of medicinal liquor. Although several other jurisdictions showed an interest in how Alberta controlled medicinal liquor,[29] I found only one recorded inquiry from Alberta to another jurisdiction. In 1919 Alberta asked the American federal government how it controlled medicinal liquor but this inquiry appears to have gone unanswered.[30] Alberta did not acknowledge any debts to the innovations of other jurisdictions' control of medicinal liquor and, at times, even appeared to be ignorant of them. In 1920, for example, Attorney General John Boyle falsely

[28] Heron, *Booze*, *supra* note 2 at 237-239; Daniel Okrent, *Last Call: The Rise and Fall of Prohibition* (New York: Scribner, 2010) at 194; Jones, "Prohibition Problem", *supra* note 5 at 354.
[29] Letter from Prohibition Commissioner of British Columbia to the Attorney General of Alberta (12 January 1920), PAA (RG 75.126/2795); Chief Inspector of Liquor Act to JN MacLean, Manitoba Liquor Commissioner (12 November 1920), PAA (RG 75.126/2795).
[30] Letter from Deputy Attorney General Browning to Dr Harvey W Wiley, Washington DC (29 December 1919), PAA (RG 75.126/2795).

claimed that Alberta was the only jurisdiction to limit liquor prescriptions.[31] Even though Boyle was unaware of how other provinces controlled medicinal liquor, he claimed that Alberta had the best enforced prohibition law and the least amount of liquor abuse anywhere in Canada – a line which his successor John E Brownlee would echo.[32] This section explores how Alberta came to develop the system of which its Attorney Generals seemed so proud. I argue that the Attorney General's department's goal of restricting the abuse of medicinal liquor forced it to abandon its initial ideas about how to control medicinal liquor once they proved ineffective. Instead the department developed a system of control which left medical professionals with no choice but to cooperate with the government's requirements if they wanted to continue to receive medicinal liquor.

Alberta's original 1916 system for the control of medicinal liquor was relatively simple. The *Liquor Act* allowed medical professionals such as doctors, dentists, druggists and veterinarians to have liquor in their offices for the purposes of their job. Doctors could issue prescriptions for liquor to be filled by any registered druggist. Medical professionals could only buy their liquor from one of the two government liquor vendors in Edmonton or Calgary. The Act required all medical professionals, regardless of whether they actually used liquor or not to file a report, known as a return, of all purchases and disposals of liquor. Doctors'

[31] "Hon JR Boyle Gives Precise Review of Whole Question of Liquor Consumption and Manufacture", *Edmonton Bulletin* (4 March 1920); "Four Million for Phone Extension", *Red Deer News* (11 February 1920); Heron, *Booze, supra* note 2 at 239. Nova Scotia, for example had doctor specific limits, John Phyne, "Prohibition's Legacy: The Emergence of Provincial Policing in Nova Scotia, 1921-1932" (1992) 7:2 CJLS 157 at 165.
[32] "Attorney General Says Liquor Law Strictly Enforced", *Lethbridge Herald* (11 November 1920); Letter from Attorney General Brownlee to WH Erant (1 November 1923), PAA (RG 75.126/3728).

liquor returns had to include the details of liquor prescriptions issued to patients.[33] This system, which I will call the return system, was supposed to work in the following way: through the information provided by the returns, the Attorney General's department would monitor medical professionals and be able to catch those professionals who violated the *Liquor Act* through improper or excessive usage of liquor.[34] While it is not clear how *improper* use would be identified, excessive purchases of medicinal liquor would be, and ultimately were, identified by comparing medical professionals. Following the Spanish Flu epidemic, for example, Deputy Attorney General Browning lamented that "if it had not been for the 'Flu' epidemic the [liquor] records would have been of great assistance. As it is proceedings against Druggists and others will have to stand until later."[35] As whiskey was a common treatment for the flu, it seems that the epidemic had skewed the liquor records making them impossible to use. Browning's comments reveal that the Attorney General's department expected that violations of the *Liquor Act* would be prosecuted through the courts, that the liquor returns would provide enough evidence for prosecutions, and that such prosecutions would act as a deterrent for other delinquent medical professionals. Though the return system did have some aspects of regulation to it, the department expected prosecutions to be the main form of enforcement. The department also hoped that the enactment of the *Liquor Act* would be enough to convince the province's medical professionals to comply with it. As medical professionals benefited

[33] *Liquor Act*, *supra* note 2 ss 17-19.
[34] Letter from Deputy Attorney General AG Browning to A Phimester (18 November 1918), PAA (RG 75.126/3395).
[35] *Ibid*.

financially from their liquor privileges, doctors, for example, charged between $1.50 and $2.00 per prescription,[36] they had an incentive to comply with the department's requirements, or so the department hoped.

The provincial government faced several challenges to the successful enforcement of prohibition which also affected its control of medicinal liquor.[37] The first challenge centred on the province's policing problem. Upon the withdrawal of the Royal North West Mounted Police (RNWMP), Alberta struggled to maintain the same level of policing. In addition to hindering prohibition enforcement, the APP's lack of manpower also limited their ability to monitor the *Liquor Act*'s medicinal exception.

The lack of cooperation by ordinary Albertans formed the second major challenge to prohibition enforcement. In the case of medicinal liquor the lack of support manifested as the widespread failure of medical professionals to supply their liquor returns during the first two years of prohibition. The failure to make returns was a clear violation of the *Liquor Act*, yet the Attorney General's department seemed at a loss over what to do about it. Browning stated that he was reluctant to institute prosecutions but did not say why.[38] Instead, Browning wrote to the professional organizations to ask them to help by reminding their members that liquor returns were a legal requirement. [39] Although, the professional organizations complied with Browning's request for reminder letters,

[36] "Who Wouldn't Be an Alberta Doctor?", *Lethbridge Herald* (2 February 1920).
[37] For a more detailed examination of these problems see Chapter Three, section one.
[38] Letter from Deputy Attorney General Browning to Dr FA McCord (7 September 1917) PAA (RG 66.166/1240l).
[39] Letter from Deputy Attorney General Browning to Dr Revell of the Alberta Medical Association (7 September 1917) PAA (RG 66.166/1240l).

these letters did not seem to have the desired effect. Consequently, late in 1917, the Attorney General's department undertook what Browning called "token prosecutions" of delinquent medical professionals with the hope that this would shock them s into compliance.[40] By this time the APP was operative and keen to enforce all of the province's laws. Thus the department's initial reluctance to prosecute delinquent medical professionals likely stemmed from the RNWMP's unwillingness to enforce the *Liquor Act.* [41]

The token prosecutions of 1917 soon proved to be the exception in the control of medicinal liquor. The government found it difficult, if not impossible, to argue against a doctor's medical judgement over whether or not a person needed liquor.[42] When it came to medical judgement, Alberta's courts, in common with courts elsewhere in Canada, deferred to those with formal medical training, so much so that Deputy Attorney General Johnson of British Columbia declared prosecutions over liquor prescriptions to be a waste of money. [43] In addition, the liquor returns alone did not provide enough evidence to successfully prosecute doctors and other medical professionals who used excessive amounts of liquor.[44] The liquor returns did not provide any evidence of wrongdoing beyond

[40]Letter from Browning to APP Superintendent (23 October 1917), PAA (RG 66.166/1240m); "Doctors Accused of Failing to Report Sales of Liquor", *Edmonton Journal* (30 October 1917).
[41] See Chapter Three at footnotes 68 to 71 and accompanying text.
[42] Letter from Deputy Attorney General Johnson of BC to Deputy Attorney General AG Browning (10 July 1919), PAA (RG 83.192/412); "The Nova Scotia Temperance Act", *supra* note 27 at 1125; Lin, *supra* note 3 at 138.
[43] Letter from Deputy Attorney General Johnson of BC to Deputy Attorney General Browning, (10 July 1919) PAA (RG 83.192/412). See also, "The Nova Scotia Temperance Act", *supra* note 27 at 1125. This was a problem that would later be seen in the federal control of opiates, Carstairs, *supra* note 17 at 115-122.
[44] Letter from the Attorney General to H Quarterman (26 April 1920), PAA (RG 75.126/2795) "I think it must be perfectly clear to any person that there is no way of preventing people from using

excessive usage of liquor and without hard proof that the medical professional in question sold liquor for beverage purposes, convictions were impossible. In February 1919 APP Superintendent Bryan observed that "[t]aking the returns that I have received so far, it certainly is an eye-opener to see the amount of liquor being dispensed by druggists."[45] Though Bryan thought that most, if not all of these sales were legal, the sheer amount of liquor prescribed threatened to make a mockery of prohibition. The actual records of the returns do not appear to have survived but the *Red Deer News* estimated that in 1919 the province's drug stores as a whole made over $500,000 from liquor sales with Alberta's doctors making almost double that amount.[46] A further example of the kind of abuse that prohibition medicinal exception permitted came in June 1919 when an Edmonton woman, Mrs Scarth, complained that her husband continued to drink "very heavily" because he got "prescriptions from various doctors in town."[47] Yet so long as the medical professionals made their returns, there was nothing Bryan or his men could do to prevent them from dispensing such amounts of liquor.

In response to the failure of the return system to support successful prosecutions, the Attorney General's department changed their enforcement of prohibition's medical exception from after-the-fact prosecution to the regulation of access to liquor. Concerned at the excessive amounts of liquor that some

---

liquor which has been purchased for medicinal purposes for any other purpose for which the patient may prefer to put it").

[45] Letter from the Superintendent of the APP to the Deputy Attorney General (11 February 1919), PAA (RG 75.126/1173b).

[46] "Four Million for Phone Extension", *Red Deer News* (11 February 1920).

[47] Browning relayed her complaint to the APP in a memo, Memo from Browning to APP Superintendent Bryan (2 June 1919), PAA (RG 83.192/412).

doctors prescribed,[48] Browning consulted with the Alberta Medical Association and introduced a quota of a hundred liquor prescriptions per month with an absolute maximum of a hundred and fifty liquor prescriptions if the doctor worked in an isolated area.[49] It is not clear where this number came from, but it appeared to allow for one liquor prescription, per Albertan, per year.[50] In addition to setting this quota, the Attorney General's department also made the continuation of liquor privileges contingent on medical professionals supplying their liquor returns, which, for doctors, included their prescription pads and records.[51] If a doctor, or any other medical professional, failed to make the necessary liquor returns, he did not get any more liquor until he filed his return. If a doctor used his monthly quota and desired more liquor prescriptions, he had to write to the Attorney General's department to explain why.[52] The reason why *all* medical professionals had to make their own returns was so that the Attorney General's Department could cross-check the records and make sure they matched.

---

[48] The records of the liquor returns have not survived thus it is not clear how much liquor doctors were actually prescribing. All that it certain is that, however many liquor prescriptions there were, Browning thought that there were too many.

[49] Letter from Deputy Attorney General Browning to Deputy Attorney General Johnson of BC (16 July 1919), PAA (RG 83.192/412). In 1920 Attorney General Boyle would claim that the maximum limit was two hundred but based on the archival sources, Boyle was incorrect, see "Hon JR Boyle Gives Precise Review of Whole Question of Liquor Consumption and Manufacture", *Edmonton Bulletin* (4 March 1920).
According to a 1926 judgement from the US Supreme Court, the *National Prohibition Act* limited American doctors to a hundred liquor prescriptions per ninety days, *Lambert v Yellowley* 272 US 581 (1926) at 592.

[50] In 1921, the population of Alberta was 588,454 and in October of that year 499 doctors received liquor prescription pads which based on 100 prescriptions per month would give a maximum of 598,000 prescriptions per year, or just over one per person., Ontario Six Years Dry, 1916 to 1922 (17 September 1922), Calgary, GAIA (RG M-1708-181); Memo from Chief Inspector Simpson (Liquor Act) to Deputy Attorney General Browning (15 November 1921), PAA (RG 75.126/2799).

[51] Memo from Chief Inspector Simpson to Deputy Attorney General Browning (25 November 1921), PAA (RG 75.126/2799).

[52] Memo from Deputy Attorney General AG Browning to Mr Simpson (24 October 1921); Memo from Deputy Attorney General Browning to Mr Simpson (25 October 1921), PAA (RG 75.126/2799).

These changes meant that medical professionals would not be prosecuted if they used excessive amounts of liquor or failed to make their liquor returns, instead they would not get any more liquor. As a result the control of medicinal liquor shifted to what Harry Arthurs calls the "characteristic and most effective form of administrative 'coercion'" namely "the power to give or withhold" rather than "the power to punish."[53] In June 1920, for example, Browning wrote to Dr LA Sylvain, a veterinary surgeon in St Paul des Métis to ask why he had bought fifty-two quarts of alcohol and rye in May of that year. Browning claimed that this amount was "very much in excess of that which could possibly be used in connection with your legitimate business...no further orders will be honoured until further notice. In the meantime I will await your explanation as to what disposition has been made of liquor purchased."[54] The Attorney General's department had reminded Sylvain in March of 1921 that he had to administer liquor directly to the animals in his care and could not just give it to their owners.[55] Though the letter in March could be read as evidence that the department suspected Sylvain of handling liquor improperly, Sylvain did not request an unusually large amount of liquor until May and it was only then that the government took action. Given the widespread scepticism over the medicinal qualities of liquor, the department seemed to accept that there would be some abuse of medicinal liquor; its goal was to limit this abuse as far as possible.

[53] HW Arthurs, *'Without the Law': Administrative Justice and Legal Pluralism in Nineteenth-Century England* (Toronto: University of Toronto Press, 1985) at 125.
[54] Letter from Browning to Dr LA Sylvain (15 June 1920), PAA (RG 75.126/2795).
[55] Letter from Browning to Sylvain (11 March 1920), PAA (RG 75.126/2795).

The desire to limit abuse rather than stopping it outright can also be seen in how the department handled liquor prescriptions. Initially Browning wrote a number of letters to doctors suspected of excessive liquor prescriptions of which Browning's letter of June 1918 to Dr McColgan of Provost is typical:

> I trust you will not be offended at my calling to your attention to the fact that the department is inclined to the opinion that some doctors are to [sic] freely granting prescriptions to persons for alcoholic liquors...Your name has been among those in question, and in case there is any cause of complaint I trust it will be avoided in future.[56]

There are a number of similar letters from October 1918 but after that point such individual letters fell out of use. I did not find any evidence that the department would take further action against doctors if they continued to over-prescribe. Based on Browning's comments in his letter to McColgan it is clear that the Attorney General's department harboured doubts about the medical necessity of many, if not all liquor prescriptions. It is also obvious that Browning was resigned to at least some abuse of the *Liquor Act*.

Although liquor prescriptions were officially limited to one hundred with an absolute maximum of one hundred and fifty, in practice only a few doctors used the full amount. The department frowned upon those doctors that used the full amount and would refuse to issue them further liquor prescriptions. In 1919, when Dr Rose of Gleichen, Alberta used his entire quota, a woman named Mrs Collins wrote to the Attorney General's department to petition for more liquor prescriptions. Browning replied with the observation that

[56] Letter from Browning to Dr McColgan (27 June 1918), PAA (RG 75.126/3395).

> the number of persons requiring liquor for medicinal purposes in your vicinity must be very great as Doctor Rose received one hundred and fifty prescription forms per month and apparently wants more... I would be very sorry to feel that your family was suffering for want of brandy, and trust that when the next supply of prescriptions reaches the Doctor he will be able to help you, and that nothing serious will have happened in the meantime.[57]

The department did not take any disciplinary action against Dr Rose but they did not issue him with additional liquor prescriptions. Browning's letter to Collins suggests that by 1919 the department was willing to tolerate the free-use of liquor prescriptions so long as the doctors stayed within their limit. The quota functioned as an absolute limit rather than a guideline which meant that the department would not issue further liquor prescriptions, even if a doctor personally requested them.[58]

In addition to the prescription quota, the Attorney General's department grouped the province's doctors according to how many liquor prescriptions they dispensed which allowed the Department to identify those doctors that issued more prescriptions than the rest.[59] This classification system meant that in 1921 Browning suggested that those doctors who used fewer liquor prescriptions should be issued liquor prescriptions pads with only twenty-five prescriptions rather than a hundred.[60] The smaller pads were likely motivated either by a desire to save money or to limit the potential for unused prescriptions to be stolen.

---

[57] Letter from Deputy Attorney General AG Browning to Mrs Collins (12 August 1919) PAA (RG 75.126/3244b).
[58] For other examples, see Letter from Deputy Attorney General Browning to CW Wilson, MD (6 December 1921); Letter from Deputy Attorney General Browning to Dr ME Grimshaw (20 December 1921), PAA (RG 75.126/2796).
[59] *Classification of Physicians According to Number of Liquor Prescriptions Issued* (June 1923 to March 1924), PAA (RG 69.287/D1).
[60] Memo from Browning to Mr Simpson (25 October 1921), PAA (RG 75.126/2799).

Whenever medical professionals such as doctors, supplied their liquor returns, they found themselves co-opted into the system of their control. While the Attorney General's department would question some liquor prescriptions or excessive usages of liquor, actual prosecutions were unlikely as long as the medical professionals followed the appropriate procedure before dispensing liquor or liquor prescriptions. By appropriate procedure, I mean that doctors had to actually examine the patient before issuing a liquor prescription, and druggists had to ensure that patients had a liquor prescription before dispensing alcohol. The department's occasional queries served to remind medical professionals that they were under surveillance but in a manner that was less expensive and time consuming than sending an APP officer to spy on them. The APP did undertake regular inspections of drug stores, and produced reports of these inspections. Based on the sparseness of these reports – they focused on liquor on hand, liquor received, liquor sold on prescription, and liquor on hand at the date of the previous inspection – such inspections were little more than a formality and appeared to serve as an extra check on the Liquor Vendors' records and the druggists' own returns.[61] Apart from these regular inspections, the APP had little to do with the control of medicinal liquor, though much of their time remained taken up by other provisions of the *Liquor Act*.[62]

The shift to a regulatory system in the control of medicinal liquor did not entail a total abandonment of the prosecutorial model. In a way the regulatory

[61] For examples of such reports see, PAA (RG 75.126/2813).
[62] "Ask to Have RNWMP Patrol Restored", *Red Deer News* (9 January 1918); Sean Innes Moir, *The Alberta Provincial Police, 1917-1932* (MA Thesis, University of Alberta, Department of History, 192)[unpublished] at 157 ("the senior command of the APP argued that the force's continued enforcement of prohibition was impeding the administration of the law in general,").

model of medicinal liquor complemented the previous prosecutorial model rather than superseding it.[63] The Attorney General's department continued to try to catch doctors and druggists who violated the *Liquor Act.* The department used 'stool pigeons', who posed as patients, to catch medical professionals who committed technical violations of the *Liquor Act* such as not properly examining patients before prescribing liquor. While these tactics were criticised because they seemed unfair and were called "both vicious and morally indefensible,"[64] those responsible for enforcement complained that stool pigeons became less effective once Albertans knew of their existence.[65] After only four years of prohibition, Attorney General Boyle observed that "[w]e can't convict the doctors [for prohibition violations] because we can't catch any more....They don't prescribe liquor now until after they examine the applicant and we can't prove the patient wasn't sick."[66]

The Attorney General's department was well aware that the liquor return system still allowed doctors and other medical professionals to abuse prohibition's medicinal exception. The department knew, for example, that doctors would sell signed prescriptions and knew that a disproportionate number

[63] For more on the idea of continuity between techniques of control see Mariana Valverde, "Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance" (2011) 45:2 Law & Soc'y Rev 277 at 309.
[64] Letter from TA Burrows to Attorney General Boyle (1 May 1920), PAA (RG 75.126/2795); "Alleged Justice", Editorial, *Blairmore Enterprise* (19 January 1922). See also the advert against prohibition in 1923, "Prohibition is Being Enforced in Penitentiaries, In Turkey, and in Asylums", *Strathmore Standard* (24 October 1923) ("[i]f you are prepared to ... see your fellow-citizens bullied, entrapped, and suborned by the host of policemen, spies, and informers..VOTE FOR PROHIBITION" [emphasis in original]). See also Chapter Three at footnotes 85 to 90 and accompanying text.
[65] Letter from Inspector Gold to Deputy Attorney General AG Browning (18 May 1917), PAA (RG66.166/1240j).
[66] "Four Million for Phone Extension", *Red Deer News* (11 February 1920).

of liquor prescriptions signed by Calgary doctors were filled in the resort town of Banff but the department could not prove that such prescriptions were for non-medical purposes and therefore illegal.[67] Banff's status as a place used for convalescence may account for the higher number of prescriptions but the department still seemed skeptical of the numbers. The opinion of Deputy Attorney General Browning towards Alberta's doctors was summed up in 1923 when he commented that if the Alberta Medical Association struck off "every Doctor who is a wine bibber [someone who drinks wine to excess] and of somewhat immoral habits, their numbers would be somewhat reduced."[68] In other words, Browning thought that a significant number of Albertan doctors violated prohibition, and did not think that much could be done about it.

Boyle and Brownlee's suspicions about medical professionals were widely shared by Alberta's population, though the APP's view was more ambiguous. The police oscillated between defending the medical profession and blaming them for prohibition violations.[69] In January 1919, APP Superintendent Bryan told the Attorney General's department that most of the liquor sold in Alberta was sold legally; one month later he asserted that witnesses who claimed to have seen illicit liquor sales in drug stores had actually witnessed legal sales.[70] On occasion, the APP even considered Alberta's drug stores to be relatively law-abiding, with the

[67] *Suspected Irregularities re Liquor Prescriptions* (2 April 1924), PAA (RG 75.126/4574).
[68] Letter from Deputy Attorney General Browning to Mr Langfeldt, (28 March 1923), PAA, (RG 83.192/402).
[69] For the views of the public see, RE Finlay, Letter to the Editor, *Red Deer News* (6 August 1919); "Who Wouldn't Be an Alberta Doctor?", *Lethbridge Herald* (2 February 1920).
[70] Letter from APP Superintendent to Attorney General Boyle, (3 January 1919), PAA (RG 83.192/412); Letter from APP Superintendent to Deputy Attorney General Browning (11 February 1919), PAA (RG 75.126/1173b).

exception of drug stores in Edmonton and Calgary which stood accused of buying liquor prescriptions from doctors.[71] Druggists faced the same penalties as doctors if the Attorney General's department suspected them of illicit liquor sales: the suspension of their liquor privileges. While Deputy Attorney General Johnson of BC complained that he could not control medicinal liquor, Alberta's Chief Inspector under the *Liquor Act*, John Fairley, seemed to think that Alberta had liquor prescriptions under control, or at least as much control as was possible.[72] Despite Bryan and Fairley's sentiments, the APP still seemed to think that some druggists and other medical professionals were bootlegging, though the police struggled to prove or catch such violations.[73]

A study done after the 1921 provincial general election revealed the extent to which Alberta's system for controlling medicinal liquor actually worked. The report suggested that Albertan doctors barely issued half of the liquor prescriptions available to them. In addition, a majority of liquor prescriptions were issued by a minority of doctors, which suggests that even if some doctors were selling liquor prescriptions, these doctors were firmly in the minority. Based on a further study from January 1924, 35% of Alberta's physicians issued 78% of the liquor prescriptions.[74] Although the number of liquor prescriptions varied

[71] Memo from Inspector Downey to Commissioner Bishop (3 November 1922), PAA (RG 75.126/3321b); Letter from Chief Inspector Fairley to APP Superintendent WC Bryan (29 December 1920), PAA (RG 75.126/2795).
[72] Letter from Chief Inspector Fairley to JB MacLean of Manitoba's Liquor Commission (12 November 1920), PAA (RG 75.125/2795); Letter from Deputy Attorney General Johnson of BC to Deputy Attorney General AG Browning (10 July 1919), PAA (RG 83.192/412).
[73] Lin, *supra* note 3 at 136-138.
[74] In October 1921, 499 doctors received prescription pads giving a maximum of 598,000 legal liquor prescriptions. However in 1921 a total of 242, 570 liquor prescriptions were issued which works out at about forty per month per doctor, Memo from Chief Inspector Simpson to Deputy Attorney General AG Browning (15 November 1921) PAA (RG 75.126/2799); *Liquor*

from year to year, at no stage did Alberta's doctors issue more prescriptions than their quota allowed.[75] That being said, as Appendix A shows, once prohibition ended the number of liquor prescriptions issued in Alberta declined sharply and never came close to the old quota of just over half a million per year. Alberta's liquor prescriptions may not have always been *bona fide* – by which I mean that a doctor issued the prescription for an actual medical condition – but the prescription quota prevented the level of abuse of liquor prescriptions seen in other jurisdictions. For example, one doctor in BC issued four thousand liquor prescriptions in one thirty day period; another doctor in Windsor, Ontario, issued one hundred and fifty liquor prescriptions a day for ten days; and a doctor in Chicago, Illinois issued seven hundred and fifty prescriptions in four days.[76]

The Attorney General's department's success in limiting the potential for the abuse of the medicinal exception was due in part to its success in gaining the cooperation of medical professionals. These professionals benefited from their cooperation with the department's requirements because their liquor privileges not only provided them with extra money but respected their professional judgement. Arguably those doctors and other medical professionals who sought to sell liquor

---

Prescriptions Dispensed by Druggists and Returned to Vendor's Store (undated); *Classification of Physicians According to Number of Liquor Prescriptions Issued* (June 1923 to March 1924); *Liquor Prescription Record* (undated), PAA (RG 69.289/D1).

[75] *Ibid.* Heron notes that in 1920, Alberta's doctors issued over 500,000 liquor prescriptions but he omits to mention that such a number would be in keeping with the liquor prescription quota and was much less than issued by doctors in other provinces. The greater number of liquor prescriptions in 1920, might also be a response to the recent closing of the private importation loophole, thus leaving medicinal liquor as the only legal exception open to ordinary Albertans, Heron, *Booze*, *supra* note 2 at 238; James H Gray, *Booze: The Impact of Whisky on the Prairie West* (Toronto: Macmillan Company, 1972) at 190-195 [Gray, *Booze*].

[76] Campbell, *Demon Rum*, *supra* note 3 at 24; "Picked Up in Passing", *Lethbridge Herald* (17 April 1919); "Chicago Doctor Boasts of Prescription Record", *Lethbridge Herald* (25 September 1920).

did not benefit from the quotas imposed by the Attorney General's department but, as long as these unscrupulous medical professionals adhered to the quotas, there was little the government could do to stop them. In the case of such medical professionals the government's success rested on its ability to limit the amount of liquor that could be sold. The provincial government as a whole also benefited from the existence of the medicinal exception because it, along with the other prohibition exceptions, provided money for the provincial treasury. Granted prohibition's exceptions did not provide as much revenue as government sale of all liquors would, particularly if there was a government monopoly on liquor sales.[77]

From 1916 to 1924, Alberta's control of prohibition's medicinal exception changed significantly. Initially, the Attorney General's department expected that medical professionals would cooperate with the return system and that if they did not, prosecutions would follow. The department also assumed that the return system would supply enough information to prosecute those medical professionals who used excessive amounts of liquor. Within two years of prohibition's introduction, the department realised that the return system was ineffective at securing prosecutions. The return system was, however, effective at monitoring how much liquor medical professionals used. While such information may not have been enough for a successful prosecution under the *Liquor Act*, it was enough justification for the Attorney General's department to suspend the liquor

[77] The Attorney General's Department estimated that the profit from liquor in Alberta during 1920 including that of illicit liquor and legal liquor amounted to $8 Million, "Eight Million Dollars Liquor Profit", *Red Deer News* (27 April 1921).

privileges of those professionals who used too much. If any medical professional failed to make his liquor return, then his liquor privileges were also suspended. Although the department still tried to catch doctors and druggists who sold liquor by the glass, the return system's shift in emphasis from prosecution to regulation had more success in preventing the abuse of medicinal liquor by limiting the availability of such liquor. In addition to this, the regulation of access to liquor privileges was cheaper and required less police manpower, although it did require a centralised bureaucracy and as prohibition progressed, the bureaucracy responsible for the *Liquor Act* increased in size.[78]

4.3 – Making the Liquor Laws Work for the Government

Given the shift seen in the control of medicinal liquor, it was perhaps only matter of time before the lessons of the medicinal exception would be applied to liquor more broadly. Yet Alberta seemed to remain politically committed to prohibition. In 1921 two events occurred which would push Alberta towards an end to prohibition by changing the province's political climate and by offering an alternative to prohibition. The first event was the landslide election victory of the UFA; the second was the end of prohibition in BC.[79] Though the UFA arrived in office with the promise of saving the drought-stricken farmers of southern Alberta,[80] they were also determined to do something about the failure of the *Liquor Act*. Prior to their election the UFA had campaigned for better prohibition

[78] Many of the early prohibition letters were dealt with by the Deputy Attorney General but as prohibition progressed the letters were delegated to departmental solicitors. The increased delegation suggested that the number of responsibilities and the size of the attorney general's department had increased.
[79]For the end of prohibition in BC see, Campbell, *Demon Rum*, *supra* note 3 at 1-2, 68.
[80] David C Jones, *Empire of Dust: Settling and Abandoning the Prairie Dry Belt* (Calgary: University of Calgary Press, 2002) at 170-175.

enforcement and had urged the then Attorney General John Boyle to make the liquor legislation stricter as they thought that both the *Liquor Act* and its enforcement were too lax.[81] At the time Boyle had replied that there was nothing more he could do, but once in office the UFA thought they could do better and the new Attorney General John Brownlee vowed to make "drastic changes" to the liquor laws in order to ensure that prohibition was finally enforced.[82] Better prohibition enforcement and farm relief would, of course, require significant amounts of money, a resource that the province had long been short of.[83] Meanwhile the post-prohibition BC government began to make significant amounts of money from liquor sales.[84] This section explores how and why Alberta ended prohibition when the government remained publicly committed to it. I argue that the successful control of medicinal liquor played a crucial role in the government's willingness to end prohibition but, at the same time, the government relied on the *Direct Legislation Act* to disguise its desire to end prohibition and make it appear as though prohibition ended as a result of direct public action.

Initially prohibition had seemed highly successful. Shortly after prohibition's introduction in 1916, Albertan banks and business leaders stated that they were delighted with the measure and claimed that it had resulted in

---

[81] "Four Million for Phone Extension", *Red Deer News* (11 February 1920); Gray, *Booze*, *supra* note 2 at 82-83, 192

[82] "To Consult With Druggists and Doctors of Alta", *Lethbridge Herald* (15 August 1921).

[83] Patricia Roome, "Alexander C Rutherford" in Bradford J Rennie, ed, *Alberta Premiers of the Twentieth Century* (Regina: Canadian Plains Research Centre, University of Regina Press, 2004) 3 at 13; Franklin L Foster, "John E Brownlee, 1925-1934" in *ibid*, 77 at 84; Preston Manning, "Federal-Provincial Tensions and the Evolution of a Province" in Richard Connors & John M Law, eds, *Forging Alberta's Constitutional Framework* (Edmonton: University of Alberta Press, 2005) 315 at 319, 325.

[84] Robert A Campbell, ""Profit was just a circumstance": The Evolution of Government Liquor Control in British Columbia, 1920-1988" in Cheryl Kransick Warsh, ed, *Drink in Canada: Historical Essays* (Montreal: McGill University Press, 1993) 172 at 172, 175.

significant economic improvements.[85] Alberta's economic prosperity was not, however, the result of prohibition. Alberta's economic fortunes peaked in 1916 because of the war and because of an unusually wet growing season in the south-eastern quarter of the province, which bolstered crop production. The subsequent drought and the widespread labour unrest that followed the end of the First World War, suggested that there was more to economic buoyancy than prohibition.[86] In addition, the impossibility of enforcing prohibition suggested that the measure lacked the public support it would need to be successful in the long term. It was clear that the Act itself was exacerbating the problems it promised to solve and only a change in the law could address the problems surrounding prohibition enforcement.

Two years after his election Brownlee wrote that "[w]hen I first assumed office I felt, as many others do, that by increasing the penalties and providing gaol sentence a better enforcement of the Act would result" but that was not necessarily the case.[87] For Brownlee and the UFA, medicinal liquor and lax enforcement had acted as scapegoats for the problems of prohibition and saved Prohibitionists like them from having to admit that prohibition itself was the problem because it lacked the public support it needed to be successful.[88] Once

[85] Department of the Attorney General (6 September 1916); Statement of Banks of Alberta (undated), PAA (RG 66.166/1241).
[86]David Bright, "1919: A Year of Extraordinary Difficulty" in Michael Payne, Donald Wetherall & Catherine Cavanaugh, eds, *Alberta Formed Alberta Transformed* Vol II (Edmonton: University of Alberta Press, 2006) 412; Harry Gene Levine, "The Birth of American Alcohol Control: Prohibition, the Power Elite, and the Problem of Lawlessness" (1985) 12 Contemporary Drug Problems 63 at 72.
[87] Letter from Attorney General to HH Cragg (22 March 1923), PAA (RG 75.126/2564a).
[88] Compare, Richard N Kottman, "Volstead Violated: Prohibition as a Factor in Canadian-American Relations" (1962) 43 Canadian Historical Review 106 at 117.

the UFA entered government it was only a matter of time before they too faced criticism over its inability to enforce prohibition even though many UFA members, Brownlee included, supported the measure and opposed its end. Not surprisingly, the UFA's support of prohibition necessarily shaped how it went about ending prohibition and designing its replacement.

When he became Attorney General in 1921, in keeping with his initial belief that prohibition could be made workable, Brownlee announced a review of the liquor laws and their enforcement.[89] The information that Brownlee received revealed that the system adopted by the previous Attorney General for the control of medicinal liquor worked as well as was possible without an outright ban.[90] The reports that Brownlee received did suggest one change to the system of liquor control. The report on sales made by the two government liquor vendors noted that "the Liquor Branch of the Government's activities is a commercial undertaking, for which reason we are strongly of the opinion that the accounting should be conducted on commercial lines."[91] This statement appears to have been little more than a comment about appropriate accounting practices rather than being indicative of any desire for further control. These reports illustrate that the issue was not a lack of enforcement but the impossibility of enforcement and thus offered few, if any, suggestions for how to change the liquor laws.

---

[89] "Legislature to Deal with Prohibition", *Redcliff Review* (24 November 1921).
[90] Memo from Chief Inspector Simpson (*Liquor Act*) to Deputy Attorney General Browning (15 November 1921), PAA (RG 75.126/2799); *Government of the Province of Alberta Liquor Branch Report and Statements* (31 October 1921), PAA (RG 69.289/120B).
[91] *Government of the Province of Alberta Liquor Branch Supplementary Report* (31 October 1921), Edmonton, PAA, (RG 69.289/120B). Chief Inspector Forster had looked upon the "Liquor Business" as a business as early as 1918 but evidently this view was not held by the government's accountants, memo from Chief Inspector Forster to deputy Attorney General Browning (21 May 1918) PAA (RG 75.126/735a).

The actual legislative amendments introduced by Brownlee in early 1922 were token gestures that failed to make any substantive changes to the liquor laws.[92] Oddly the 1922 amendments explicitly gave the government the power to regulate the number of liquor prescriptions, the amount of liquor that any doctor could prescribe, and the amount of liquor any "privileged person" such as a doctor or druggist could have.[93] Yet the Attorney General's department had regulated such matters since 1918. The 1922 amendments also created a Liquor Act Commissioner, but this commissioner's job was limited to promoting compliance with prohibition and left control of prohibition enforcement with the Attorney General's department.[94] The 1922 amendments could hardly be considered "drastic changes" and point to a tacit admission that there was little the government could do to the existing legislation to improve the effectiveness of prohibition.

Attorney General Brownlee may have entered government with the idea that law should be obeyed because it was law but he soon learned that this idea did not always work in practice. The *Liquor Act's* medicinal exception worked because it involved the doctors in their own regulation. Nonetheless, despite the relative success of Alberta's control of medicinal liquor, many Albertans continued to consider it the source of illicit liquor. As such, under Brownlee, the Attorney General's department continued to take steps towards further and stricter control of medicinal liquor in an attempt to address the widespread belief that

[92] *An Act to Amend the Liquor Act*, SA 1922, c 5 [1922 amendments].
[93] *Ibid* s 4.
[94] *Ibid* s 13; Alberta Liquor Control Board, *Fifty Years*, PAA, (RG76.2) at 11.

doctors and druggists could dispense liquor freely. In March 1923, the department used the 1922 amendments to strip Edmonton's and Calgary's drug stores of the right to fill liquor prescriptions.[95] It is not surprising that the city drug stores should be targeted given that the police suspected these stores of playing a key role in illicit urban liquor sales. Typically these illicit sales involved doctors selling blank liquor prescriptions to taxi drivers who then sold these prescriptions to individuals who wanted liquor.[96] From then on, liquor prescriptions in these two cities could only be filled by one of the two government liquor vendors. This move allowed the Attorney General's department to exert further control over medicinal liquor as it meant that in Edmonton and Calgary only government employees could dispense liquor to the public. As much as these changes resulted from amendments to the *Liquor Act*, they also represented a shift towards increased regulation, rather than increased prosecutions.

The *Lethbridge Herald* claimed that the government's actions towards city druggists in 1923 were "a last desperate attempt ... to make the *Liquor Act* effective." [97] The *Herald*'s comments echo the sentiment expressed by Browning two weeks before the 1922 amendments became law. In a letter to the Chairman of the Saskatchewan Liquor Commission, Browning said that if the *Liquor Act*

---

[95] OC 358-23, (1923) A GazI, 137 (*Liquor Act*); OC 357-23, (1923) A Gaz I, 138 (*Liquor Act*). These orders-in-council were allowed for by *An Act to Amend the Liquor Act*, SA 1922, c 5, s 88. See also, "Dispensary to Issue Liquor for Edmonton", *Edmonton Bulletin* (12 March 1923).

[96] Letter from RCMP Inspector Denis Ryan to the Deputy Attorney General (8 June 1922), PAA (RG 75.126/2797); Suspected Irregularities re Liquor Prescriptions (2 April 1924), PAA (RG 75.126/4574). It should be noted that this problem was found beyond Alberta's major urban centres, though in the case of Banff, where the problem was apparently prevalent, many of the taxis' liquor prescriptions originated in Calgary.

[97] "Stop Sale of Liquor in Alberta Drug Stores", *Lethbridge Herald* (21 January 1922). These amendments made the 1923 orders in council possible. See also HH Hull, "Closing up the Leaks", Letter to the Editor, *Edmonton Bulletin* (6 April 1923) (praising the removal of liquor prescription privileges from city druggists and claiming that this would improve enforcement).

should fail "legislation along other lines may have to be considered."[98] Browning also said that the UFA government were attempting to devise "ways and means" to make prohibition effective but that "if failure results it will not be for lack of intention." The *Lethbridge Herald* had it at least partially right, though there is an alternative explanation for the government's decision about city drug stores. By March 1923, the removal of urban drug stores' liquor privileges can also be seen as a distraction from what the government really wanted from the liquor laws.

By 1923 the UFA had controlled prohibition enforcement for two years and had two years of government control in BC to compare itself against.[99] The government may not have undertaken any official investigation prior to ending prohibition but BC's liquor profits were common knowledge.[100] BC's provincial treasury had reaped the benefits of government sale of liquor while Alberta had struggled to avoid further crippling budget shortfalls.[101] The UFA government may have been prohibitionist in outlook but "they were also overwhelmingly tight-fisted by instinct and necessity,"[102] and they had watched BC's liquor profits with "yearning eyes."[103] Meanwhile, the problems with prohibition enforcement which Brownlee had promised to fix in 1921 remained.

---

[98] Letter from Browning to Chairman Leech, Saskatchewan Liquor Commission (14 March 1922), PAA (RG 75.126/2564b).
[99] For more on British Columbia's post-prohibition system see Chapter Six.
[100] "Immoderate 'Moderation'", *Edmonton Bulletin* (1 November 1923).
[101] "Alberta Needs New Revenue Sources; Budget is Sure to Show Big Deficit", *Lethbridge Herald* (14 February 1923); Gray, *Booze, supra* note 75 at 204-205. Robert Campbell notes that prior to ending prohibition BC's government was aware of liquor's "revenue potential", Campbell, *Demon Rum, supra* note 3 at 33.
[102] Gray, *Booze, supra* note 75 at 204.
[103] "Alberta Needs New Revenue Sources; Budget is Sure to Show Big Deficit", *Lethbridge Herald* (14 February 1923).

Legal liquor sales in BC further undermined Alberta's prohibition enforcement and if anything, disrespect for the *Liquor Act* seemed to increase by the day. Arguably much of Alberta's 'lawlessness' was an exaggeration based on sensationalist press reports,[104] particularly those surrounding the 1923 execution of bootlegger Emilio Picariello and his alleged mistress Florence Lassandro for the murder of APP Constable Steve Lawson.[105] Nonetheless, within two years of their election, the UFA came to realise that prohibition was not only impossible, but it threatened to breed disrespect for all laws.[106] The fear that the lack of respect for prohibition would affect public attitudes towards all laws may have been more myth than reality but it was a myth believed by many in Alberta.[107]

Given the controversial nature of liquor and the UFA's own opposition to beverage liquor, Alberta's government could not just end prohibition as a matter of policy; it would need a popular mandate. In 1923, the opportunity for the government to secure such a mandate presented itself when the Moderationists made a second attempt to secure a provincial plebiscite under the *Direct Legislation Act.* A few months prior to the UFA's election victory, Alberta's Moderationists – a loose coalition of hotel owners and brewers who argued that moderate consumption was better and more achievable than strict prohibition –

---

[104] This was a problem across Canada, Campbell, *Demon Rum, supra* note 3 at 23.
[105] "Daughter of Murdered Constable Swore She Saw Lasandre [sic] Woman Fire First Shot at her Father", *Edmonton Bulletin* (30 November 1922); "Blot on Civilization Repulsive Hanging", *Bow Island Review* (4 May 1923); "Picariello and Lasandro Die on the Gallows; Protest Their Innocence to Last", *Red Deer News* (9 May 1923).
[106] "Public Opinion and the Law", *Blairmore Enterprise* (2 March 1922) ("[s]urely, the man or woman who winks at the violation of one law has failed to appreciate that he or she is thereby undermining all the forces of law and order which exist for his or her protection"). For accusations that prohibition encouraged lawlessness see Amos Wilton, Letter to the Editor, "Since Prohibition", *Red Deer News* (16 May 1923);
[107] *Ibid*.

presented a petition to the legislature in the hope of forcing another liquor plebiscite under the *Direct Legislation Act*. The then Liberal government rejected the petition as invalid.[108] Two years later the UFA-dominated legislature accepted the Moderationists' second petition by forty-nine votes to seven, despite some concerns over the validity of certain signatures.[109] Lest anyone think that the government wished an end to prohibition, the government issued the orders-in-council which stripped Edmonton and Calgary's druggists of the right to fill liquor prescriptions in the same month as they approved the Moderationists' petition. The Moderationists' petition was approved ten days before the orders-in-council were issued, which suggests that the latter was a deliberate attempt by the government to position itself as remaining in favour of prohibition while facilitating a vote over its future. The government's actions over drug stores in 1923 foreshadowed the government monopoly on liquor sales that would result from the 1923 plebiscite. It is not clear whether the change to urban drug stores was a planned move on the part of the government in that they expected Alberta to vote against prohibition, but it did signal a move towards more control over liquor sales.

In 1923, the Albertan government, once they received the Moderationists' petition, did everything possible to ensure that it would result in a mandate to end prohibition. First, the government accepted the petition as valid, against the

---

[108]"Liquor Act Tightened by Heavier Fines; No Plebiscite on Moderation Petitions," *Lethbridge Herald* (18 April 1921).

[109] "Legislature By Overwhelming Vote Accepts the Beer Petition as Valid", *Lethbridge Herald* (15 March 1923); AL Marks, Solicitor for the Social Service Council of Alberta, Letter to the Editor, *Irma Times* (2 February 1923); Letter from Claresholm WCTU to Premier Greenfield, (22 February 1923), PAA (RG 69.289/97a).

protests of temperance activists. Then they presented Alberta with what Heron describes as an "odd" liquor ballot.[110] Rather than the usual two-choices, the 1923 plebiscite ballot offered four: Clause A – prohibition; Clause B – sale of beer in licensed premises; Clause C – government sale of beer with hard liquors available via prescription; Clause D – government sale of all liquor and sale of beer on licensed premises.[111] Finally, the government decided to use the transferable vote system for the first time. The transferable vote system had been another political reform popular among the farm movement. The UFA had discussed adopting the transferable vote system prior to entering politics because of its ability to better reproduce public opinion.[112] In 1923, the government claimed that they wanted to get a full range of opinion on the liquor issue and that only the transferable vote system could provide this. The government even urged Albertans not to "plump for prohibition" – by which they meant only picking prohibition – and encouraged voters to rank their choices.[113] Such ranking would potentially allow the government to show that there was little opposition to government control. Given that three out of the four choices on the ballot were for some form of government sale of liquor, it is hard to avoid the conclusion that whatever the result of the plebiscite, the government hoped to construe it as a mandate to change Alberta's liquor laws. The mechanism of direct legislation allowed the government to

---

[110] Heron, *Booze*, *supra* note 2 at 273-274.
[111] "Liquor Referendum – Notice to Voters", *Lethbridge Herald* (25 October 1923).
[112] PP Woodbridge, General Secretary of the UFA, UFA Circular No 12 – Proportional Representation, printed in, *The Grain Growers Guide* (5 November 1913). See also, PP Woodbridge, "Alberta", *The Grain Growers Guide* (4 October 1916); "Red Deer UFA Provincial Political Association", *Red Deer News* (6 April 1921) (reporting that the Red Deer UFA had decided to advocate for the transferable vote and proportional representation).
[113] "Government Urges No Plumping When Casting Ballot on Nov 5 Referendum", *Lethbridge Herald* (23 October 1923). 'To plump' in the context of an election means to give a vote to one candidate when there are two or more to be elected.

distance itself from the decision to end prohibition while trying to influence the vote to ensure that the government got the mandate it wanted. That mandate was about maintaining strict liquor controls but not necessarily prohibition.

Given the UFA's ideological support of prohibition, it is reasonable to conclude that its reasons for tacitly supporting its end were likely motivated by more practical concerns. Chief among these was having enforceable laws which actually controlled liquor consumption and offered the potential of liquor revenues.[114] As prohibition came to an end across Canada, at least one other provincial government, that of Ontario, relied on a questionable mandate to justify repealing its prohibition legislation in order to access liquor revenues.[115] In 1924 Ontario's government declared that even though Ontario's most recent provincial liquor plebiscite still showed a majority in favour of prohibition, the fact that there had been a decline in the majority was reason enough to end prohibition.[116] Like Alberta, Ontario replaced prohibition with a system of strictly controlled government liquor sales.

Though the UFA government did not admit to wanting an end to prohibition, a letter written by Brownlee a few days before the liquor plebiscite offers a glimpse of the government's mindset. On 1 November 1923 Brownlee replied to a letter sent by Mr WH Erant, a UFA member from Drumheller. In his letter Brownlee addressed Erant's claim that people were voting for an end to prohibition because it was "not carried out....[everyone] want[s] prohibition, but

[114] Heron, *Booze*, *supra* note 2 at 273-274.
[115] Thompson & Genosko, *supra* note 9 at 24-29.
[116] *Ibid.*

not with the police and doctors bootlegging and the Bars wide open."[117] Brownlee's reply stated that he hoped prohibition would continue and that if it did "the Government will continue exactly as it has in the past, using every effort within reason to enforce the Act with such means as are available at present." Granted such comments seem like a practical compromise but Brownlee chastised Albertans for failing to realize that proper prohibition enforcement required popular support. Brownlee also asserted that whatever form of liquor laws existed, there would always be infractions.[118] He also refused to make the public statement that Erant wanted, namely that the government would make sure prohibition would be enforced if people voted for it. Brownlee pointed out that such a comment would imply that the government was "not doing everything in its power at the present time to enforce the present Act." Reading Brownlee's letter it is clear he was frustrated with the current state of prohibition enforcement and the criticisms the government received because of prohibition's failure. As much as Brownlee wanted prohibition, what he really wanted was a more enforceable system of liquor control, though given the UFA's commitment to legislated prohibition Brownlee could not be candid on the issue.

On 5 November 1923, fifty-eight percent of Albertans who voted in the liquor plebiscite chose Clause D – government sale of all liquors and sale of beer on licensed premises – prohibition was over.[119] The *Government Liquor Control*

[117] Letter from WH Erant to Brownlee (21 October 1923), PAA (RG 75.126/3728).
[118] Letter from Brownlee to WH Erant (1 November 1923), PAA (RG 75.126/3728).
[119] The first choice votes were: Clause A – 61, 647; Clause B – 3, 936; Clause C – 3, 078; Clause D – 93, 680. 78, 268 voters did not rank their preferences, Statement of Votes Polled, 5 November 1923 (undated), PAA (RG 76.2).

Act received Royal Assent within five months of the vote,[120] and with its passage, the UFA government finally delivered the "drastic changes" it had promised two years earlier, but not in the way the UFA had expected. When presented with an opportunity to acquire a mandate to end prohibition, the government seized it and successfully gained the votes they needed to introduce government sale with higher liquor revenues. The potential benefits of government control and sale of all liquors extended far beyond simple profits, it also presented the government with the chance to have properly enforced and enforceable liquor laws. Although the 1923 plebiscite ended prohibition, all of the non-prohibition choices envisaged some form of strictly controlled and government-supervised liquor sales.

The chance to end prohibition in 1923 presented the government with an opportunity to extend the success of its control of medicinal liquor to all forms of liquor. The government could not, however, admit to the failure of prohibition and was able to use the *Direct Legislation Act* to downplay its role in repealing the *Liquor Act*. As the 1923 plebiscite resulted from popular opinion the government could claim that they were only following the wishes of the majority, rather than seeking to secure workable liquor laws or a sound source of provincial revenue. Due to the controversial nature of liquor, the government could not extend the lessons of prohibition's medical exception without an explicit mandate from the people. Brownlee may have said that he wanted prohibition to continue but the actions of the government suggest otherwise.

[120] SA 1924, c 14 [*Liquor Control Act*].

From its experience with controlling medicinal liquor, the Alberta government had learned that it was easier to control access to liquor rather than discover and prosecute liquor violations. The apparent freedom of government control of liquor masked the degree to which individual liquor consumption would be regulated under the new system.[121] The new system required liquor permits for all take-home purchases of liquor;[122] allowed for any individual to be barred from consuming beverage liquor;[123] and closely monitored and controlled all licensed premises.[124] Many of these methods of monitoring were first seen in the regulatory system for controlling medicinal liquor during prohibition.[125]

4.4 – Conclusion

Given the constraints faced by the Attorney General's department when prohibition came into force in 1916, it is not surprising that the control of medicinal liquor did not work as originally envisaged. The liquor return system could not provide enough evidence for prosecution and, even where the returns did provide such evidence, successful prosecutions were difficult to secure because judges tended to defer to medical opinion. Consequently, the threat of

---

[121] See Chapter Five.
[122] *Liquor Control Act, supra* note 120, ss 19-26.
[123] *Ibid* ss 101-102. The *Liquor Control Act* revived the interdiction provisions previously seen in Alberta under the *Liquor License Ordinance, 1891-1892*, SNWT 1891 c 18, s 92 [*Liquor License Ordinance*].
[124] *Liquor Control Act, supra* note 120, ss 33-37; ALCB Club and Hotel Inspection Reports, PAA (RG 74.412).
[125] It could be argued that some of the monitoring measures of the *Liquor Control Act* were first seen in the *Liquor License Ordinance, supra* note 123, which contained many similar provisions about hotel and club licenses, interdiction and so on. However, it is not clear that the provisions of the Ordinance were ever properly enforced and the consensus is that in Alberta, prohibition sentiment and by extension, liquor control, was relatively weak prior to 1916, James H Gray, *Bacchanalia Revisited: Western Canada's Boozy Skid into Social Disaster* (Saskatoon: Western Producer Prairie Books, 1982) at 40; Nancy M Sheehan, "The WCTU and Educational Strategies on the Canadian Prairie" (1984) 24:1 History of Education Quarterly 101.

prosecution for medical professionals who violated the *Liquor Act* was not enough of an incentive to cooperate with the law. The Attorney General's department discovered that limiting the amount of liquor prescriptions each doctor could have per month, closely watching how much liquor medical professionals used, and demanding explanations where usage was excessive, was much more effective at controlling the flow of medicinal liquor. The department adapted the *Liquor Act's* medicinal exception so that doctors and other medical professionals had to comply with the letter of the Act, if not the spirit, in order to continue to receive liquor privileges. The department's ability to coerce cooperation from the medical professions could not ensure that every liquor prescription issued or disposal of 'medicinal' liquor in Alberta was *bona fide*, but it did ensure that only a limited amount of liquor was available.

The change in the control of medicinal liquor was from a top-down imposition to a more cooperative effort, one where both medical professionals and the Attorney General's department benefited from the former's compliance with the *Liquor Act*. Many medical professionals still violated the liquor laws but such violations were limited by the restricted amount of liquor available to them. The lesson the department learned from its experience with medicinal liquor was that if people were allowed to access liquor under close surveillance, it was much easier to control its use and potential abuse, than if liquor was subject to an outright ban. The former method required only suspicious purchases of liquor for liquor privileges to be suspended, while the latter method required the department to prove that the liquor had been used improperly which was more expensive,

time consuming and difficult. A regulatory system of control still left room for individuals to use the liquor laws for their own ends, such as accessing 'medicinal' liquor for beverage purposes, but regulatory control allowed the Attorney General's department to achieve their goal of restricting the abuse of medicinal liquor. In fact the government would extend regulatory control to all forms of liquor under the *Liquor Control Act*. Thus the regulation of prohibition's medicinal exception provided several precursors for Alberta's system of government liquor control such as increased individual surveillance, liquor permits, and the with-holding of liquor privileges instead of criminal sanctions such as fines or jail terms.

The government also hoped that an end to prohibition would provide greater revenues as well as effective liquor laws. The government, based on BC's example, hoped that Alberta's liquor laws would do more than just control liquor; it hoped the liquor laws could provide the government with a source of income.

5 – The *Liquor Control Act*, the Alberta Liquor Control Board, and the Government: Designing and Defending Government Liquor Sales in Alberta

The longstanding narrative of Canadian post-prohibition systems of liquor sales is that they were a compromise between the 'wets' and the 'drys'.[1] The compromise narrative is typically also accompanied by depictions of the post-prohibition liquor boards as incredibly powerful bodies that appear completely separate from government.[2] Yet studies of these liquor boards usually fail to examine the board's relationship with government or compare these boards with the previous system of prohibition. This chapter with its critical examination of the design of the *Liquor Control Act*, the creation of the ALCB, and the government's relationship with both, challenges these two long standing assumptions about post-prohibition liquor sales. First, I argue that a close reading of the *Liquor Control Act*[3] shows that it maintained many of the goals of prohibition and continued to reflect the Prohibitionists' beliefs about the dangers of liquor. Secondly, I challenge the image of the ALCB as a powerful body completely separate from the government. I argue that while the government wanted public distance from the new system of liquor sales, it also wanted to maintain private control of the ALCB. By 'private control' I mean that the government did not

[1] Reginald E Hose, *Prohibition or Control? Canada's Experience with the Liquor Problem 1921-1927* (New York: Longmans, Green & Co, 1928) at 2; Dan Malleck, *Try to Control Yourself: The Regulation of Drinking in Post-Prohibition Ontario, 1927-44* (Vancouver: UBC Press, 2012) at 3; Craig Heron, *Booze: A Distilled History* (Toronto: Between the Lines, 2003) at 269-277.
[2] Hose, *supra* note 1 at 7. The image of powerful bodies separate from government is also seen in more recent work done on the LCBO but this work is less awed by the boards than Hose was. See by way of example, Malleck, *supra* note 1; Scott Thompson & Gary Genosko, *Punched Drunk: Alcohol, Surveillance, and the LCBO, 1927-75* (Halifax & Winnipeg: Fernwood Publishing, 2009).
[3] SA 1924, c 14 [*Liquor Control Act*].

want the public to be aware of its continued oversight of the ALCB. The *Liquor Control Act* may have maintained many of prohibition's aims but it remained unacceptable to Alberta's dedicated Prohibitionists. Consequently the government, which itself claimed to support prohibition, needed public distance from the ALCB in order to placate its Prohibitionist supporters.

In order to make these interconnected arguments about the relationship of the government to the ALCB and the *Liquor Control Act* I perform what Edward Rubin would call a "mircoanalysis" or what legal historians might call "legal archeology."[4] That is to say, I seek to recapture and explain as far as possible all of the circumstances and pressures surrounding the government's interactions with both the ALCB and the new liquor laws. I do not simply examine what the *Liquor Control Act* had to say about the board's powers or about its relationship to the government. Rather, I seek to outline whether the board was as independent or as powerful in practice as commentators like Reginald Hose or the *Liquor Control Act* claimed it was.[5] As much as the government wanted to maintain its Prohibitionist credentials, I argue that it also wanted the new liquor laws to work and that it was these twin concerns which explain the government's actions in respect of the *Liquor Control Act* and the ALCB.

I begin by outlining the legislative framework of Alberta's post-prohibition system of liquor sales. I argue that the *Liquor Control Act* reflected

[4] Edward L Rubin, "The New Legal Process, the Synthesis of Discourse, and the Microanalysis of Institutions" (1995-1996) 109 HLR 1393; Jim Phillips, "Why Legal History Matters" (2010) 41 VUWLR 293 at 313-314 (defining legal archeology and exploring its use in American and Canadian legal history).
[5] Hose, *supra* note 1 at 6-7.

prohibition's idea that liquor was dangerous and should be limited to the well-behaved. I also argue that the new Act sought to regulate access to liquor rather than simply relying on prosecutions and that this was one example of how the new Act sought to answer the problems of prohibition. The fact that the new Act maintained many of the goals of prohibition offered a reason for the government and other Prohibitionists to support it but the new Act remained controversial among Prohibitionists. With such controversy surrounding the new system of liquor sales, the government needed to distance itself from it. The second section critically examines the ALCB's relationship with government and argues that the board offered a way for the government to maintain public distance yet private control over liquor sales. This section is sub-divided to explore the design of the ALCB, the rationale behind its creation, and the actual relationship between the board and the government. It is clear that the *Liquor Control Act* does not fully capture how the ALCB operated and that in reality the board was not, and perhaps did not want to be, as independent as the legislation suggested it was. The third section explores the government's continuing attempts to placate Alberta's Prohibitionists while doing little to see the return of prohibition. In particular I argue that the government's responses to an attempted liquor plebiscite in 1931 and the end of American prohibition in 1934 amounted to a defence of the *Liquor Control Act* and its system of liquor sales. I conclude with the observation that the government's defence of the ALCB in the 1930s, much like its decision to end prohibition, was motivated by a number of practical, rather than ideological, concerns.

5.1 – The Legislative Framework of Government Control

In May 1924, a little over six months after Alberta voted for Clause D in the provincial liquor plebiscite, the *Liquor Control Act* came into force.[6] Despite this relatively rapid turnaround, the provincial government managed to undertake a study of other provinces' liquor laws, including a detailed study of British Columbia's system of liquor sales.[7] Ultimately Alberta adopted a unique, at least among Canadian provinces, system of liquor control which functioned as a hybrid between Quebec's more permissive system of sales and BC's more restrictive system of sales.[8] Alberta's new system appeared relatively liberal, scandalously so to Prohibitionist eyes. Yet, as I argue in this section, the *Liquor Control Act* maintained the aims of prohibition, namely increased liquor control, while changing how this control was to be achieved. Above all Alberta's system of liquor sales emphasized *control* and, as had been the goal with the *Liquor Act*, the hope was that greater social control and stability would flow from liquor control. I first outline how Alberta developed its new system of liquor sales before examining what the new liquor laws actually provided for. I argue that the *Liquor Control Act* reflects the lessons learned during prohibition's medicinal exception, particularly the fact that regulation of access was a more effective method of control than prosecution for violations.

[6] *Liquor Control Act*, *supra* note 3; "Saturday is Day Set Proclaim Liquor Act", *Lethbridge Herald* (8 May 1924); "First 'Wet' Day Brings a Rush", *Edmonton Bulletin* (13 May 1924).
[7] *Report on other Provinces' Liquor Legislation* (November 1923), PAA (RG 83.192/399); *Report on the Workings of the British Columbia Liquor Control Act* (7 December 1923), PAA (RG 83.192/397-398).
[8] For a brief overview of these two systems see Heron, *Booze*, *supra* note 1 at 272-273.

Given that Alberta had voted for government sale of all liquors and the sale of beer on licensed premises, the government was precluded from introducing a liquor-store-only system as BC had done in 1921.[9] While BC's system did not allow public drinking, Alberta's system did, but only on licensed premises. The exact meaning of "licensed premises" was, however, unclear. In particular the government struggled to decide whether it meant hotel bars or restaurants or both. Less than four weeks after the 1923 plebiscite, the *Lethbridge Herald* noted the multiple meanings of Clause D and said that it was for the government to decide what it meant.[10]

Late in 1923 Premier Herbert Greenfield and Attorney General John Brownlee held a series of conferences with interested parties about the meaning of licensed premises. Understandably the province's restaurateurs wanted licenses for restaurants as they feared that liquor sales in hotels might drive people away from restaurants.[11] The Alberta Hotel Association (AHA) was just as adamant that licenses should be limited to hotels and in a follow up letter, three weeks after their conference with the government, promised that "[i]f the sale of beer by retail is confined to government properties" that the licensee would "obey the law in its entirety" due to having "so much at stake."[12] Ultimately the UFA legislative caucus decided to limit beer licenses to hotels but that no beer could be sold in a

[9] Robert A Campbell, *Demon Rum or Easy Money: Government Control of Liquor in British Columbia from Prohibition to Privatization* (Ottawa: Carleton University Press, 1991) at 1-3 [Campbell, *Demon Rum*].
[10] "The Government and the New Liquor Act", *Lethbridge Herald* (10 November 1923); "No Prohibition Organization Advice Will Be Given Cabinet", *Lethbridge Herald* (24 November 1923).
[11] Conference with Restaurant Keepers (3 December 1923), PAA (RG 69.289/97c).
[12] Letter from AHA to Premier Greenfield (14 December 1923); Conference with the Hotel Keepers (22 November 1923), PAA (RG 69.289/97c).

place where food was consumed.[13] The UFA's decision here could be seen as a compromise as it would offer hotels a source of income, while leaving at least some room for restaurants to remain in business. However, the separation of food and beer also respected the Prohibitionists' desire to separate liquor consumption from everything else.

The UFA offered no explanation for the shape that the Act ultimately took;[14] nonetheless the province's investigations into other liquor systems offer some insight into why Alberta adopted the system that it did. At the time only Quebec, Manitoba, and British Columbia allowed for legal sales of liquor within their borders: Quebec had liquor stores and licensed premises; BC only had liquor stores; while Manitoba had a system of beer delivery whereby the government would deliver beer to the houses of those who had ordered it. Much of the report on other provinces' liquor controls focused on how each province had arrived at prohibition and outlined the various pre-prohibition systems of liquor sales and how well they worked.[15] This report suggests that the government was concerned with actually *controlling* liquor consumption. As the UFA claimed to support prohibition they wanted legislation that would control, rather than encourage, drinking.

---

[13] "Caucus Decides Beer May be Sold in Alberta Hotels", *Wetaskiwin Times* (27 December 1923). Though the Act itself did not mention food, the ALCB's first set of regulations prohibited food from being sold in the same room and at the same time as beer, *ALCB Regulations*, Reg 13, found in OC 604-24, (1924) A Gaz I 320 (*Liquor Control Act*).

[14] "Some Hotels to sell Beer", *Lethbridge Herald* (21 December 1923) (observing that the UFA caucus has drafted the Act but is keeping quiet about its content).

[15] *Review of Liquors and Liquor Legislation in the Various Provinces of Canada* (c 1923), PAA (RG 83.192/399).

Of the various liquor systems, Alberta spent the most time investigating British Columbia's system and prepared a separate report on the situation there.[16] Much of this lengthy report focused on the business-side of government liquor control: what the stores looked like; where the stores were located; the system of accounts used; how to sell liquor to people in places with no liquor stores; how the Liquor Commission bought liquor; and how the permit system worked. This report also betrayed a concern for control and for a workable system of liquor sales. For example, the report's interest in how British Columbians who did not live near a liquor store accessed liquor demonstrated a desire to ensure that all liquor sold in Alberta would come from legal sources. It would not reflect well on government liquor control if bootleggers and moonshiners continued to operate.

Crucially, the report on British Columbia's liquor system sheds light on the potential benefits of public drinking. In the report, an anonymous "prominent [British Columbian] official connected with Law Enforcement" asserts that "if Alberta would provide means of obtaining beer by the glass it would be helpful in general liquor law enforcement" and would "to a large extent relieve the government of criticism."[17] Licensed premises then, offered the government a chance to supervise *how* individuals drank. Yet beer by the glass also recognised that people might want to drink together in public. The reason such drinking would be limited to beer stemmed from the claim that beer was a more moderate

[16] *Report on the Workings of the British Columbia Liquor Control Act* (7 December 1923), PAA (RG 83.192/397-398).
[17] *Ibid* at 100-102.

drink than hard liquor, the Canadian equivalent to the "native wine" of Latin countries.[18] Though prohibitionists decried such claims – WCTU President McKinney called it the "old fallacy"[19] – the *Liquor Control Act* explicitly pushed Albertans towards beer. The hotel beer license made beer easily and instantly available in *every* settlement across Alberta, unless the locality in question had opted out of liquor sales via a local option vote.[20] Beer licenses, then, aimed to produce moderate, supervised drinking.

With the introduction of beer parlours, the government stood accused of allowing a return to the old saloons, yet the government designed beer parlours to be as different from the pre-prohibition bars as possible. The *Liquor Control Act* stipulated that there could be no stand-up bar inside beer rooms which meant that patrons had to be served by waiters.[21] Stand-up bars had been common in the raucous pre-prohibition saloons, hence the ban under the new legislation. The Act also prohibited those under the age of twenty-one (minors), as well as "gambling, drunkenness or any violent, quarrelsome, riotous or disorderly conduct" from beer rooms.[22] That is to say the *Liquor Control Act* limited access to the beer parlours to well-behaved adults but also limited these adults to doing nothing more than drinking in the beer parlour. By imposing such limits on the beer parlours and

[18]This claim proved long-lived, Moderation League of Alberta, Reprint for *Farm and Ranch Review* (March 1934), PAA (RG 69.289/99b). For similar claims during prohibition see "The Problem of Prohibition", *Red Deer News* (20 December 1922). For the claims of Moderationists elsewhere in Canada see Heron, *Booze, supra* note 1 at 196-199.
[19] Report of Alberta's WCTU Tenth Annual Convention (20 to 22 September 1922), GAIA (RG M-1708-28).
[20] *Liquor Control Act*, *supra* note 3 ss 32-37.
[21] *Ibid* s 36 (2). The actual operation of the ALCB's hotel regulation is further explored in Chapter Six.
[22] *Liquor Control Act*, *supra* note 3 s 36(d).

their patrons, the government attempted answer to the Prohibitionists' critique that government sale of liquors acted as tacit encouragement to drink liquor.[23]

Hotel beer licenses also offered a way to regulate and monitor the facilities provided by Alberta's hotels. The Act required that in order to receive a license a hotel had to provide "sufficient bedrooms, with suitable complement of bedding and furniture, public sitting rooms, and other conveniences, reasonably suited to the requirements of the public likely to make use of the same" as well as "clean and ventilated" toilets.[24] The hotel licensees themselves had to be of good character with no recent convictions for "keeping, frequenting or being an inmate of a common bawdy house."[25] These requirements about the hotel facilities and operator were a response to the declining quality of Alberta's hotel accommodation during prohibition.[26] Intentionally or not, beer licenses were de facto hotel licenses as hotels without a license tended to go out of business.[27] The Act's provisions about bawdy house convictions sought to prevent prostitutes from using or being allowed to use Alberta's hotels. By imposing standards on licensed hotels, the *Liquor Control Act* attempted to address the perceived immorality of hotels.[28]

---

[23] Report of Alberta's WCTU Fourteenth Annual Convention (6 to 8 October 1926), GAIA (RG M-1708-29).
[24] *Liquor Control Act*, *supra* note 3, ss 33(a)-(b).
[25] *Ibid* s33(1)(d).
[26] The decline in hotel accommodation was common across Canada during prohibition and consequently the potential for improved hotels was often used by Moderationists as an argument against prohibition. For the use of this argument in Ontario see Malleck, *Try to Control Yourself*, *supra* note 1 at 54-62.
[27] See Chapter Six at footnotes 49 to 51 and 147 to 150 and accompanying text.
[28] For the actual operation of the beer licenses and the ALCB's standards see Chapter Six. For the perceived immorality of hotels see Chapter Three at footnotes 107 to 109 and accompanying text.

The hotel licensees were responsible for most of the costs of running the beer room, the only expense to the ALCB, at least initially, was the cost of inspection. The licensees were even responsible for having beer shipped to their hotels and bearing the costs of any beer that spoiled. In other words, the licensee had to treat beer like any other perishable food stuff and would get no assistance from the board if the beer he bought turned bad. As late as 1936, the ALCB wrote to a licensee to inform him that if he overstocked draught beer he would suffer a loss.[29] Consequently not only did the hotel license offer ways to push Albertans towards beer, monitor the consumption habits of beer parlour patrons, and maintain hotel standards, it did so at very little cost to either the ALCB or the government.

Alberta's system of beer distribution would, however, prove to be problematic. The board's decision to allow each brewery to warehouse and deliver its own beer to hotels or individual permittees meant that beer distribution quickly proved inefficient.[30] The ALCB was reluctant to take over beer distribution itself as beer was perishable and the board did not want to be blamed for stale beer.[31] Stale beer would have left the board open to much criticism as beer was the most popular form of liquor in Alberta. Eventually in 1928 the

[29] Letter from Dinning to Edward McAdam, Manager of the Fairview Hotel (30 November 1936), PAA (RG 74.412/ 1309). Draught beer also caused problems in the ALCB's stores, Letter from AJ Mason to All Vendors, Circular GEN no 179 (12 December 1936), PAA (RG 74.422/4) ("[t]he board has already been involved in loss in connection with draught beer kept at some stores for too long a time, and it is essential that we take immediate steps to prevent a recurrence").
[30] Alberta, Legislative Assembly, "Second Annual Report of the Alberta Liquor Control Board, 1925" in *Sessional Papers* No 12 (1926) at 5-6; Alberta, Legislative Assembly, "Third Annual Report of the Alberta Liquor Control Board, 1926," in *Sessional Papers* No 3 (1927) at 5; "Breweries in AB Advised to Arrange Joint Distribution," *Edmonton Journal* (11 March 1925).
[31] "Beer Parlours Make Gross Profits of from 150 to 193 percent on Sales by Glass," *Calgary Albertan* (7 April 1925).

government amended the *Liquor Control Act* to allow the provincial breweries to form a distribution company, which the ALCB took over in 1936.[32]

In addition to licensed hotel beer parlours the *Liquor Control Act* also authorized the licensed sale of beer in clubs, and military canteens.[33] Of the two, club licenses would prove more problematic, perhaps because they allowed for a more public form of drinking than that seen in military canteens. It is not clear why the *Liquor Control Act* introduced licensed clubs; on one occasion the ALCB claimed that the *Liquor Control Act* introduced club licenses as a special benefit for Alberta's war veterans yet on another occasion the board implied that clubs would have allowed drinking among their members even without a license.[34] In respect of licensed clubs in Ontario, Dan Malleck argues that the Liquor Control Board of Ontario allowed them as a kind of convenience to patrons.[35] Alberta did not, however, consider beer to be a convenience; it was a privilege. Catherine Carstairs' work on drug regulation in British Columbia argues that the authorities feared returned veterans were using drugs instead of drinking.[36] While I did not find any explicit references to drug use among veterans in Alberta, club beer

---

[32] *An Act to Amend the Government Liquor Control Act of Alberta* SA 1928, c28, s3; "Machinery for Distribution of Beer Through Vendor Coming," *Lethbridge Herald* (23 February 1928); "Distribution of Beer Plan," *Lethbridge Herald* (24 February 1928); "Alberta Legislature Clears Way for Final Stretch to Clean Up Slate This Week," *Lethbridge Herald* (23 March 1936); "Deliveries Ltd to Take Over Most of Distributors' Men," *Lethbridge Herald* (30 March 1936). The 1936 amendments did not completely solve the problems with Alberta's beer distribution system but as these problems were economic rather than being related to the control aspects of prohibition I do not examine them further.

[33] *Liquor Control Act*, *supra* note 3, ss 29-38.

[34] Letter from the ALCB Chairman to the President of the Edson branch of the Royal Canadian Legion (10 May 1926), PAA (RG 74.412/125); Memo from WS Gray, Solicitor in the Attorney General's Department to Mr Hugill (22 October 1935), PAA (RG 69.289/954).

[35] Daniel Malleck, "The Same as a Private Home? Social Clubs, Public Drinking, and Liquor Control in Ontario, 1934-1944" (2012) 93:3 Canadian Historical Review 555 at 560.

[36] Catherine Carstairs, *Jailed for Possession: Illegal Drug use, Regulation, and Power in Canada, 1920-1961* (Toronto: University of Toronto Press, 2006) at 36.

licenses were a clear attempt to encourage veterans to consume beer rather than any other kind of alcohol or drug. Regardless of why club licenses existed, they also worked to encourage beer consumption in a controlled environment.

In addition to licensed premises, the *Liquor Control Act* allowed any Albertan, who was not otherwise excluded on grounds of age, interdiction, or Indian status, to buy liquor on a permit for consumption at home.[37] The *Liquor Control Act* created two types of permits, individual and special, which were themselves divided into sub-categories. Special permits maintained the prohibition-era exceptions for doctors, Ministers of the Gospel, and those who needed liquor for scientific, mechanical, or industrial purposes.[38] The only special permit that represented a change from the *Liquor Act* was the one enacted by s 19(e) of the *Liquor Control Act* which allowed for liquor to be bought "for the purpose named in the permit." In practice this permit allowed for the ALCB to authorize sales of liquor at banquets and similar functions. The *Liquor Control Act* divided individual permits into the standard liquor permit good for one calendar year which allowed the holder to buy "spirits, wine, beer and malt liquor," the beer-only permit, the single purchase permit, and the non-resident permit.[39] These categories of permits show that the government expected consumption patterns to vary and wanted to accommodate them. The single-purchase permit was aimed at those Albertans who would only want to buy liquor once a year. When Alberta investigated BC's liquor laws, the BC Liquor Board's

[37] *Liquor Control Act*, *supra* note 3, ss2 (l), 90-92. Those with Indian Status were forbidden from beverage liquor by the federal *Indian Act*.
[38] *Liquor Control Act*, *supra* note 3, ss19 (2) (c)-(d).
[39] *Ibid* ss19 (3)(a)-(b).

Supervisor of Law Enforcement suggested single purchase permits so that those who rarely bought liquor would not feel obliged to buy more in order to get their money's worth.[40] With a range of permits, the government hoped to discourage excessive consumption of liquor but left it open to individuals to decide which permit was right for them.

Though the *Liquor Control Act* allowed Albertans to buy liquor inside Alberta, the Act maintained prohibition's requirements over where such liquor could be stored. Much as with the *Liquor Act*, the *Liquor Control Act* also required that all liquor be stored in the permit holder's residence provided, of course, that the residence met the statutory definition.[41] As with the *Liquor Act*, the *Liquor Control Act*'s definition limited "residence" to mean only those residences which were separated from places of employment. Thus the *Liquor Control Act* maintained the ideal about the strict separation of work and leisure seen during prohibition.[42]

Through the *Liquor Control Act* the government sought to keep liquor as a privilege for those who could obey the law and drink in moderation. The two main ways that the Act did this was through interdiction and by limits on who could have permits. Interdicts were those persons forbidden under a court order from buying alcohol or entering a beer parlour on the grounds that they drank

[40] *Report on the Workings of the British Columbia* Liquor Control Act (7 December 1923), PAA (RG 83.192/397-398) at 47.
[41] *Liquor Control Act*, *supra* note 3 ss 2 (v), 24.
[42] See Chapter Three at footnotes 35 to 45 and accompanying text.

liquor to the point of endangering their wealth, health, and family.[43] Interdicts automatically had their liquor permits cancelled and were forbidden from buying another until their orders of interdiction were revoked.[44] In short, interdiction worked to restrict liquor consumption to those individuals who could drink in moderation and who put the needs of their family first. Similarly the Act prohibited any individual convicted of "keeping, frequenting or being an inmate of a disorderly house" from buying a permit for one year, [45] which suggests that only those who were morally worthy could access a permit. Through interdiction and limits on permits, the *Liquor Control Act* sought to keep legal liquor as a privilege for those who obeyed the law, took care of their family, and did not engage in immoral activities such as prostitution.

Under the *Liquor Control Act* people who held permits could buy liquor either from a government liquor store or by mail-order.[46] The Act stipulated that all such orders had to be in writing which meant that, in liquor stores, purchasers had to fill out an order form.[47] All liquor had to be paid for in cash, and the vendor had to endorse the purchaser's permit with a description of the liquor sold and date of sale.[48] All liquor legally sold in Alberta bore the government liquor seal which had to remain unbroken until the purchaser had transported the liquor

[43] *Liquor Control Act*, *supra* note 3, s 101 ("[w]here it is made to appear to the satisfaction of any justice that any person, resident or sojourning within the province, by excessive drinking of liquor, misspends, wastes, or lessens his estate, or injures his health, or endangers the peace and happiness of his family, the justice may make an order of interdiction").
[44] *Ibid* s 102.
[45] *Ibid* s19 (e).
[46] *Ibid* s 13.
[47] *Ibid* s 13 (2)(a).
[48] *Ibid* ss 13 (2)(c)-(d).

to his or her residence.[49] The Act specified that there had to be government liquor stores in "Calgary and Edmonton, and at such other places throughout the Province as are considered advisable."[50] The Act made no mention of whether a purchaser could select his own liquor off a shelf and then bring it to the checkout (open stacks), or if all purchases of liquor had to be retrieved by liquor store staff (closed stacks). In practice, though, the ALCB's stores used the latter method.

Overall the *Liquor Control Act* may have allowed for the legal sale and consumption of liquor in Alberta but a close reading of the Act suggests that such sales were to be strictly controlled. It is clear that the government drafted the Act to maintain the biases of prohibition, which saw liquor as a danger, and to shape Albertans' patterns of liquor consumption as far as possible. The government's vision of liquor consumption, as expressed in the *Liquor Control Act*, was one where liquor consumption was a leisure activity, separated from other leisure activities as far as possible – though licensed clubs had some leeway here[51] – and strictly separated from the public sphere and from places of employment or business. However, in a clear echo of how the government sought to control medicinal liquor during prohibition, the Act revoked the liquor privileges of those who fell short of the Act's standards instead of punishing them. Just as with prohibition's medicinal liquor, the shift from prosecution to regulation seen under the *Liquor Control Act* was a shift in emphasis rather than an outright move from one to the other. Once an individual's liquor privileges were suspended under the

[49] *Ibid* s 15.
[50] *Ibid* s 11.
[51] This is further explored in Chapter Six.

new Act, any attempt by them to access or consume liquor was a violation of the Act which the government and the ALCB sought to prosecute in the courts. Illicit access to liquor remained punishable by a fine or a jail term just as it had been under prohibition.

Though the *Liquor Control Act* seemed like a break with prohibition a close analysis shows the continuity between the two. As Mariana Valverde notes in the context of urban government, the identification of a more modern form of governing technique does not mean that older forms have been completely replaced.[52] In the context of liquor control, the stability of the underlying goals of Alberta's liquor laws could easily be missed with the shift from the prohibition of liquor to the regulation of access to liquor. In a technical sense, the *Liquor Control Act* remained prohibitory though less so than the *Liquor Act*.[53] Certainly the similarities between prohibition and government liquor sales were missed by Alberta's Prohibitionists. As a result, the controversial nature of the *Liquor Control Act* meant the government remained reluctant to support it or the ALCB openly.

5.2 – The ALCB and the Government

Reading the *Liquor Control Act*'s sections on the powers and duties of the ALCB it appears as though the government wanted a completely separate system of liquor control. At the time the government created the ALCB, the board model of

[52] Mariana Valverde, "Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance" (2011) 45 Law & Soc'y Rev 277 at 309.
[53] *Nadan v R* , [1926] UKPC 13, [1926] AC 482 at 9-10. See also, *R v Nadan (No 1)* (1925), 21 Alta LR 193, 1925 CarswellAlta14 at paras 6-20; *R v Nadan (No 2)* (1925), 21 Alta LR 231, 1925 CarswellAlta 15 at paras 8-12. This case ultimately led to a change in the federal law, *The Importation of Intoxicating Liquors Act*, SC 1928, c 31.

government was increasingly common across Canada. The size and scope of government had increased rapidly during the First World War and did not decrease to pre-war levels once the war ended.[54] As a result, it might seem as though the creation of the ALCB in 1924 was part of a wider phenomenon; however, the increase in administrative boards was not part of a consciously planned movement towards a new kind of government. These boards arose piecemeal, as governments experimented with new methods of governance and administration, and many of the early administrative boards and tribunals were short-lived.[55] From work that has been done on other early Canadian administrative agencies, such as the Board of Railway Commissioners, it is clear that such bodies offered governments a way to depoliticize controversial issues whether it was freight rates or, in this case, liquor sales.[56] As such, a separate liquor board offered a way to deflect attention away from the government and its role and interest in how the *Liquor Control Act* was administered.

In order to examine the ALCB's relationship with the government this section is divided into three sub-sections. The first briefly outlines what the *Liquor Control Act* had to say about the board and fleshes out this sparse board

---

[54] Doug Owram, *The Government Generation: Canadian Intellectuals and the State, 1900-1945* (Toronto: University of Toronto Press, 1986) at 88, 95, 107-129 [Owram, *Government Generation*].

[55]Owram, *Government Generation*, *supra* note 54 at 110; For some studies of early board see, Bernard J Hibbitts, "A Bridle for Leviathan: The Supreme Court and the Board of Commerce" (1989) 21 Ottawa L Rev 65 [Hibbitts, "Bridle for Leviathan"]; "A Change of Mind: The Supreme Court and the Board of Railway Commissioners, 1903-1929" (1991) 41 UTLJ 60 [Hibbitts, "A Change of Mind"]; Jamie Benidickson, "The Canadian Board of Railway Commissioners: Regulation, Policy, and Legal Process at the Turn-of-the-Century" (1990-1991) 36 McGill LJ 1222; Janice Erion "Monopolies and State Regulation: The Calgary Power Company, Utilities, and the Alberta Public Utilities Board, 1910-30" in Louis A Knafla & Jonathan Swainger, eds, *Laws and Societies in the Canadian Prairie West, 1670-1940* (Vancouver: UBC Press, 2005) 280.

[56] Bendickson, *supra* note 55 at 1223.

design with a description of the board's actual structure. The second section explores why the government created the ALCB. I argue that the main reason behind the ALCB's creation was that it allowed the government to maintain public distance from government liquor sales – and therefore allowed UFA politicians to maintain their anti-liquor stance – while simultaneously allowing the government to retain control over the system of liquor sales. The third section explores how the ALCB and government interacted in practice. I argue that the government retained control over the ALCB in ways that would not be immediately obvious based on a study of the explicit controls contained in the *Liquor Control Act*.

5.2.1 – The ALCB's Structure and Powers

The *Liquor Control Act*'s provisions on the ALCB are relatively straight forward but they by no means offer a full description of the actual operations of the ALCB. The ALCB represented a complex undertaking and, as such, it would have been impossible for the government to offer a detailed design in the *Liquor Control Act*. I begin with a discussion of what the Act actually had to say about the board before moving on to describe the additional staff members and departments of the ALCB. I also critically examine the government's first appointment to the board.

Under the *Liquor Control Act* the government gave the ALCB significant powers but that did not mean that the board would be unsupervised in the exercise of these powers. The Act stipulated that the board could have one, two, or three members, though the government retained discretion over who sat on the board,

the quorum of the board, and the members' salaries.[57] The Act made the ALCB responsible for regulating all aspects of liquor consumption in Alberta and this included the power to decide where to set up stores, and to grant, suspend, or cancel licenses and permits.[58] The Act did not require the ALCB to give reasons for any suspensions or cancellations and there was no appeal from the board's decision.[59] Under the Act the board had to furnish the legislative assembly with detailed annual reports covering the business of each vendor, the profits and loss of the board as a whole, and information about law enforcement.[60] The requirement for such detailed reports shows that the government wanted to remain informed about the operation of the *Liquor Control Act,* though it suggests that the ALCB was accountable for these areas. Though the control over appointments to the board and the requirement for an annual report point to continued government supervision of the ALCB, the vast powers of the board suggest that such supervision would have been minimal, pro forma and after the fact.

Despite the Act allowing for a board of up to three members, in 1924 the government only appointed one member, Robert J Dinning, who was the manager of the Lethbridge branch of the Bank of Montreal. Some Albertans greeted Dinning's appointment with confusion, calling him a "dark horse," while others, such the *Lethbridge Herald* greeted his appointment as the only obvious choice, a stance that was likely motivated by local pride rather than a rational assessment of

[57] *Liquor Control Act*, *supra* note 3 ss 4, 6.
[58] *Ibid* ss9-10.
[59] *Ibid* s148 (2).
[60] *Ibid* s 137.

the situation.[61] The press reports noted that the UFA caucus unanimously approved Dinning after the Premier "had related what in the cabinet's opinion made the selection in every way desirable."[62] The Premier did not tell the press what these reasons were and a few months later Alberta's press speculated that Dinning's appointment may have had something to do with a loan the government received from the Bank of Montreal, a claim the government denied.[63] Regardless of the reasons for his appointment, Dinning was a financial expert rather than an expert in the liquor business or liquor control. As far as liquor went, Dinning claimed to be a moderate who had voted for Clause D in the 1923 plebiscite.[64] Dinning would remain board chairman and sole member until his resignation in 1937.[65] His replacement John Alfred King previously worked in the provincial sales tax department.[66] King's appointment maintained the practice of appointing a financial expert rather than someone with experience in the liquor business. Such appointments are indicative of the financial importance of the ALCB to the provincial government.

Although the Act largely left it to the ALCB's discretion to decide its staffing requirements and how the Act would be enforced, the Act clearly envisaged certain kinds of staff, including liquor store vendors. Similarly the section on beer and club licenses implied that some kind of inspection would take

---

[61] "Dark Horse Lands Liquor Commissioner Job at $9,000 Per Year", *Macleod Times* (31 January 1924); "Mr Dinning Will Fit the Bill", *Lethbridge Herald* (31 January 1924).
[62] "Former Wetaskiwin Man to be Liquor Commissioner", *Wetaskiwin Times* (31 January 1924).
[63] "No Strings Tied to Appointment of Liquor Chief", *Calgary Herald* (23 May 1924).
[64] "Dinning Appointment Warmly Commended, Lethbridge Citizens Endorse Selections; Is Business Man of Extended Experience", *Lethbridge Herald* (30 January 1924).
[65] "Mr Dinning Retires", *Lethbridge Herald* (13 February 1937).
[66] Untitled, *Blairmore Enterprise* (3 September 1937).

place. The ALCB established a staff of license inspectors who were responsible for monitoring the province's licensed hotels and clubs. In 1924 the ALCB had seven club and hotel inspectors[67]and, until 1931, the ALCB also had its own enforcement branch separate from the inspectorate, which aided the enforcement of the liquor laws. In 1924 this branch consisted of a supervisor, AH Schurer – a former officer in both the RNWMP and APP[68] – and six permanent officers, with additional men being hired as needed.[69] The Act did not mention this quasi-police force but its existence was likely a response to the unpopularity of liquor law enforcement among the province's regular police forces.[70] The creation of the ALCB enforcement branch could be seen as an attempt to bring *all* aspects of liquor control under the board, however, in practice the enforcement branch often worked with local police forces.

Ironically the cooperation between the ALCB's Enforcement Branch and local police forces was hindered by the government's stance on the sharing of fines for liquor-law violations. Initially the *Liquor Control Act* did not allow for liquor fines to be remitted to municipalities a move which differed from the situation under prohibition and which Mayor Hardie of Lethbridge called "rotten."[71] The government eventually relented and amended the Act

[67] Alberta, Legislative Assembly, "First Annual Report of the Alberta Liquor Control Board, 1924" in *Sessional Papers* (1925) at 57.
[68] "New Liquor Act in Effect", *Blairmore Enterprise* (15 May 1924).
[69] Alberta, Legislative Assembly, "First Annual Report of the Alberta Liquor Control Board, 1924" in *Sessional Papers* (1925) at 12.
[70] For the unpopularity of liquor law enforcement see Zhiqiu Lin, *Policing the Wild North-West: A Sociological Study of the Provincial Police in Alberta and Saskatchewan, 1905-32* (Calgary: University of Calgary Press, 2007) at 128-129.
[71] "Mayor Hardie Says Decision on Liquor Profits is "Rotten"", *Lethbridge Herald* (18 March 1925).

accordingly,[72] though in a letter to his counterpart in Manitoba, Alberta's Deputy Attorney General observed that frequently "the ground work of a prosecution is laid by the Enforcement Branch and that the part taken by the municipality is more formal than anything else" and so the municipality would not be entitled to the fine.[73] The ALCB's own Chief Enforcement officer, Schurer observed that the board's stance on fines "might not be conducing to the best co-operation, but at least it will afford a set basis upon which to arrive at a settlement with [municipalities]."[74] Such nitpicking over who was entitled to share in the liquor fines did little to endear the Enforcement Branch to municipalities and led Edson's Secretary-Treasurer to write to the Attorney General's department to say that his village needed the liquor fines to help pay their policeman.[75] What the argument over liquor fines illustrates is the financial importance of Alberta's liquor laws and how liquor indirectly paid for key services across the province.

In addition to the enforcement staff and the liquor store vendors, the board had a number of other staff members. The ALCB's first annual report offers a detailed list of the board's various departments, the number of staff and their salaries. The board had its own accounting department with a chief accountant, assistant accountant, two travelling auditors, twelve clerks, and two stenographers. The other departments consisted of the stock department, the license department, the traffic department, and the warehouses. Each department

[72] *An Act to amend the Government Liquor Control Act of Alberta,* SA 1925, c 3, s 24.
[73] Letter from Deputy Attorney General Smith to Deputy Attorney General of Manitoba John Allen (3 November 1924), PAA (RG 75.126/3743a).
[74] Letter from AH Schurer to RJ Dinning (18 June 1924), PAA (RG 75.126/3743a).
[75] Letter from EH Tucker, Secretary-Treasurer of Edson to the Deputy Attorney General (22 December 1924), PAA (RG 75.125/3739b).

had a supervisor and at least one stenographer.[76] Dinning's salary was more than double anyone else's at $9000 per annum; the next highest paid staff member was the manager of the Edmonton liquor warehouse at $4000 per annum.[77] Based on the surviving archival record it is not immediately clear what each of these departments did or how they related to each other. What is clear is that, including the liquor store staff, the ALCB had over one hundred employees in 1924, making the ALCB of comparable size to the LCBO.[78]

5.2.2 – Why a Board?

The UFA, in common with other Prohibitionists, had called for a separate liquor board during prohibition but they did not deliver one after their 1921 election victory.[79] The UFA's prohibition-era calls for a separate liquor commission stemmed from their belief, common among Prohibitionists, that the government was biased against proper prohibition enforcement. In 1917, for example, the opposition leader Edward Michener attempted to curry favour with the Prohibitionists by promising "an independent [liquor] commission absolutely free from political influence," while in 1921 Nellie McClung blamed cabinet ministers for the lax enforcement of the *Liquor Act*, a claim which they furiously denied.[80] The UFA's failure to create an independent commission upon their election in 1921 may have stemmed from their belief that as they were good Prohibitionists

[76] Alberta, Legislative Assembly, "First Annual Report of the Alberta Liquor Control Board, 1924" in *Sessional Papers* (1925) at 57.
[77] *Ibid.*
[78] The LCBO's head office had over 290 staff members but Ontario had well over three times the population of Alberta. Thompson & Genosko, *supra* note 9 at 31.
[79] "Ask Commission to Administer New Liquor Act", *Edmonton Bulletin* (21 January 1916); AW Coone, "Responsible Government", Letter to the Editor, *Claresholm Advertiser* (2 March 1916); "To Handle Sale of Liquor", *Bow Island Review* (17 December 1920).
[80] Edward Michener, "A Brief Review of Provincial Affairs", *Red Deer News* (23 May 1917); "Blames Ministers for Liquor Act Failure", *Redcliff Review* (17 March 1921).

they would be able to better enforce the *Liquor Act*. However, they soon found that they, as members of government, stood accused of failing to enforce the law. This section argues that the government's main motivation for creating the ALCB was to disassociate itself from the administration and enforcement of the liquor legislation.

Though it is tempting to paint the ALCB as part of a move towards a new kind of government, the board emerged in response to a specific problem: the need for adequate liquor control. The idea that administrative government emerged in response to discreet issues has some similarity to John Willis's 'expert thesis.'[81] Early twentieth-century Canadian apologists for the increase in administrative government defended such government on the grounds that it was government by experts. At the time opponents to increased administrative action criticised such bodies as undemocratic and tyrannical, and many of the early Canadian boards faced stiff judicial opposition.[82] Willis pushed his idea of specialized expertise as a way of legitimating the existence and actions of administrative bodies like the ALCB.[83] However, as Hudson Janisch noted in

[81] Willis, "Foreword" in John Willis, ed, *Canadian Boards at Work* (Toronto: Macmillan Company, 1941) v at v-viii; Willis, "Introduction", in *ibid*, 65 at 68. One problem with Willis's expert thesis which is beyond the scope of my project is that it seems (or is) almost naively trusting. For a discussion of what role trust and cynicism ought to play in modern analyses on administrative action see, Jonathan R Macey, "Cyncism and Trust in Politics and Constitutional Theory" (2001-2002) 87:2 Cornell L Rev 280. Recent government design scholarship has also highlighted the extent to which experts can be overconfident about their decisions, see Jeffrey J Rachlinski & Cynthia Farina, "Cognitive Psychology and Optimal Government Design" (2001-2002) 87:2 Cornell L Rev 549 at 558-562.

[82] R Blake Brown, "The Canadian Legal Realists and Administrative Law Scholarship, 1930-1941" (2000) 9 Dal J Legal Stud 36 at 36. For an in depth examination of the fate of particular boards at the hands of a hostile judiciary see, Hibbitts, "A Bridle for Leviathan", *supra* note 55; "A Change of Mind", *supra* note 55; Benidickson, *supra* note 55.

[83] For a discussion of the Canadian legal academics' defence of administrative government see, Brown, *supra* note 82.

1987, "regulation is now seen, not as an arcane technical exercise best left to experts, but as an inherently political activity."[84] In short expertise itself can be contested. In the context of the liquor laws, for example, 'experts' could be Prohibitionists, brewers, hotel operators, or policemen depending on how an individual viewed the 'liquor problem.' As such, Willis' expert thesis was flawed and failed to take into account the fact that expertise is not as neutral as he claimed and, consequently, does not answer the concerns of those opposed to administrative government.

Dinning's appointment as a one-man ALCB is supports the expertise thesis only to the extent that he was an expert in business and finance. Leaving aside claims that the Bank of Montreal pushed for Dinning's appointment as a way to protect their loan to the government, Dinning's expertise was both useful and neutral. It was useful to the extent that the ALCB would be running a business as much as regulating liquor consumption, and it was neutral because Dinning had no prior association with the liquor business or the temperance movement. That Dinning was something of a "dark horse" worked to the government's advantage as it gave the ALCB a clean slate with which to start operations. Dinning's appointment did not appear to be a victory for either the Prohibitionists or the 'liquor interests' thus both sides could potentially work with him and the ALCB to make the new system effective.

[84] HA Janisch, "Independence of Administrative Tribunals: In Praise of "Structural Heretics"" (1987-1988) 1 Can J Admin L & Prac 1 at 9.

A separate body like the ALCB even offered the government certain financial advantages as board employees would not automatically be eligible for civil servants' benefits. In 1926 Premier Brownlee refused Dinning's request to allow ALCB staff to be included in the civil servants' superannuation scheme because "the *Government Liquor Control Act* may be of a temporary nature only."[85] Had the government left the administration of the Act to the Attorney General's department, the extra staff necessary would have incurred additional costs for the government, which it could not afford. The government could not simply hire more people and pay for them out of the liquor profits, as it could not afford or perhaps did not want to pay both the salary and superannuation of additional government employees.

The UFA's main goal in creating the ALCB was to deflect criticism of the liquor laws away from the government. During prohibition members of the public would write to the government to complain about enforcement, and while some continued to do so after prohibition ended, the number of such letters declined. In its second annual report, however, the ALCB mentioned that it received a large number of complaints.[86] The records of these complaints have not survived, except for complaints about a specific licensed premise in which case the letters were filed with that premises' record. Nevertheless, the mention of these complaints by the ALCB shows that criticism of the liquor laws and their enforcement had largely shifted from the government to the ALCB. Granted at

[85] Letter from Premier to HT Sullivan, General Secretary of the Civil Service Association (20 April 1926), PAA (RG 69.289/130a).
[86] Alberta, Legislative Assembly, "Second Annual Report of the Alberta Liquor Control Board, 1925" in *Sessional Papers* No 13 (1926) at 9.

least some of the complaints would have been about the behaviour of private citizens rather than the ALCB but such complaints expected the board to act and tacitly indicted the board for its failure to prevent liquor violations.

The existence of the ALCB was not always as effective at distancing the government from the new system of liquor sales as the government hoped. The Prohibitionists, in particular, suspected that the government wanted liquor sales because of the profits liquor generated. As late as 1930 Brownlee denied such claims in a letter to HH Hull of the Alberta Prohibition Association. Brownlee assured Hull that the government's liquor policy "will be determined solely by the extent to which we believe public opinion to have crystallized sufficiently to enable proper support to be given to any other forms of liquor legislation and not from the standpoint of our provincial revenue."[87] Here we can see that the existence of the ALCB did not always immunize the government from criticism or allegations that it supported liquor sales. At the very least, the ALCB allowed the government to appear only indirectly interested in liquor profits. The Prohibitionists' suspicions were at least partially correct; in fact, a close examination of how the ALCB used its powers and exercised its mandate suggests that the government exercised much more control than it appeared to and that it was deeply concerned with the revenues generated by liquor sales.

5.2.3 – The Government's Extra-Legislative Control of the ALCB

The government controlled, or at least monitored, the ALCB's actions in a variety of ways which were not always explicitly provided for by the *Liquor Control Act.*

[87] Letter from Brownlee to HH Hull (26 March 1930), PAA (RG 69.289/99a).

The ALCB was, after all, a statutory delegate rather than a completely independent body. In this section I outline the various forms of control that the government exercised over the ALCB. What is also notable is that the ALCB sometimes sought government approval where it was not necessarily needed and such actions suggest the board itself was cautious and keen to please the government.

The government's power over the board's composition and board members' salaries represented the most obvious form of control that it exercised over the ALCB. This method of supervision was explicitly mentioned in the legislation as under the *Liquor Control Act* all board members held at pleasure appointments.[88] Such appointments allowed the government to immediately remove ineffective or troublesome board members. Fortunately for the government, they never needed to exercise this power of immediate removal. The provisions regarding salary meant that the government could reduce a board member's pay, which offered a less public form of censure than termination. Dinning suffered this fate when the Social Credit party (SoCred) replaced the UFA in government. Rather than replace Dinning, who had worked closely with the UFA government, the SoCreds reduced Dinning's salary and he resigned.[89] Admittedly, at the time the SoCreds had trouble paying public service salaries and the cut to Dinning's pay represented part of a broader cut to the salaries of the

[88] *Liquor Control Act*, *supra* note 3, ss 6 (a), 6 (c), 8.
[89] In 1933 Dinning was paid $9000 but the government cut this by $1,560 in 1936, "Beer Permit Cancellation is Protested", *Lethbridge Herald* (22 March 1933); "Salaries of Higher-Ups are Slashed", *Lethbridge Herald* (2 March 1936); "Dinning Resigns", *Lethbridge Herald* (12 February 1937).

"higher-ups" in the civil service.[90] Such pay cuts were a response to the economic difficulties of the Depression, nevertheless, sections of Alberta's press viewed Dinning's resignation as further evidence of the decline of government under the SoCreds.[91] Regardless of whether the SoCreds intended Dinning and other leading civil servants, such as the Deputy Provincial Treasurer, to resign, this incident demonstrates how the government could indirectly force an ALCB board member out if it chose to do so.

What Alberta's press failed to pick up on is that a few months after resigning his post as Deputy Provincial Treasurer, the government appointed John F Percival as an ALCB board member.[92] Shortly after this, the government transferred the ALCB from the Attorney General's department to the Provincial Treasury. In 1945 Alberta's press repeated the announcement of Percival's appointment to the board and described him as the Deputy Provincial Treasurer – suggesting the ALCB retained close ties with the treasury department which in turn points to the financial importance of the board, and also suggesting that Percival was at some stage re-instated as Deputy Provincial Treasurer.[93] The ALCB's own history of its operations sheds no light on how Percival came to be appointed to the board twice, though the ALCB's Annual reports continued to list him as a member from 1937 to 1945. Regardless of whether Percival remained Deputy Provincial Treasurer *and* an ALCB board member from 1937 to 1945, his

[90] "A Salary Grab", *Bassano Recorder* (1 July 1937).
[91] "Mr Dinning Retires", *Lethbridge Herald* (13 February 1937); "The Coming Session", *Bassano Recorder* (18 February 1937).
[92] "New Liquor Board", *Lethbridge Herald* (30 August 1937); *Members of the Alberta Liquor Control Board Appointed*, OC 965-37, (1937) A Gaz I, 890 (*Liquor Control Act*).
[93] "Local and General Items", *Blairmore Enterprise* (21 September 1945). I could find no evidence of this 'second' appointment in the Alberta gazette.

appointment to the board shows that the SoCred government wanted to undertake some restructuring and perhaps bring the ALCB under closer government control. Dinning, as a former bank manager, was not sympathetic to the Social Credit ideology,[94] so his departure may have been exactly what the new government wanted.

The government also had less obvious ways of monitoring the ALCB's actions. During the early years of the ALCB, for example, the Attorney Generals' department supplied the board with legal advice. The department dedicated two solicitors to answering any questions that the board might have about its powers or the appropriate course of action.[95] In practice, the board's correspondence with these two solicitors meant that most board regulations were drafted by these solicitors rather than by the board itself. In 1924, for instance, one of the department's solicitors drafted the letter about the legality of home-made wine which the board sent out to those who inquired about whether they could make wine at home.[96] By providing the board with legal advice, the Attorney General's department could shape how the ALCB understood the *Liquor Control Act* and the powers it enjoyed.

[94] In the RJ Dinning fonds in the Provincial Archives of Alberta one file is named "Social Credit Pantomime."
[95] The two solicitors were WS Gray and Mr Frawley. Almost all of the correspondence I came across was from WS Gray or a 'solicitor in the attorney general's department,' Memo from the Attorney General to Mr Gray (17 June 1924), PAA (RG 75.126/3745).
[96] Letter from Solicitor in the Attorney General's department to AJ Mason (24 June 1924), PAA (RG 75.125/2566c).

Despite the *Liquor Control Act* giving the ALCB the power to sign leases,[97] in practice the board sought government approval. In 1924 ALCB Chairman Dinning wrote to Deputy Attorney General Smith to inform him that "it is the intention of the Board to have all leases covering properties required by us executed by the Minister of Public Works." Dinning went on to outline the board's wishes for the properties which included the power to make changes to the property, to use the property "for any purpose we may deem necessary" and to refuse the lessor's right to enter and view the property unless it was at a time convenient for the board.[98] When the board's first leases came up for renewal in 1927, the board once again sent its requests to the Minister of Public Works via the Attorney General's department.[99] As a result, the Attorney General's department could see where the ALCB's stores were and had the power to intervene if it did not approve of the store location. I did not find any evidence that the government refused to approve any lease for the ALCB, but nor did the government refuse to get involved with leases. It is possible that given his lack of legal background, Dinning was unsure of how to word the lease agreements that he wanted, or that he wanted to ensure that he could actually get the lease terms he wanted. Whatever the reason for his decision to seek government approval over store leases, it had the effect of allowing the government to approve the locations of liquor stores.

[97] *Liquor Control Act*, *supra* note 3 s 9(e).
[98] Letter from Dinning to Smith (13 March 1924), PAA (RG 75.126/3326).
[99] Memo from the Attorney General's Department to the Department of Public Works (19 March 1927), PAA (RG 75.126/3323).

In contrast to the situation with liquor stores, the government explicitly refused to get involved with hotel licenses. In 1927 ALCB Chairman Dinning wrote to the Attorney General's department over the board's decision not to renew the license of the American Hotel in Medicine Hat. Dinning said that the hotel's solicitor wanted the matter to "be taken up by the Executive Council, and we [the ALCB] are leaving it to you to take any steps you may deem advisable."[100] When Acting Deputy Attorney General WS Gray forwarded Dinning's letter to Attorney General Lymburn he noted "I must say that it seems to me that Mr Dinning is taking the proper attitude, namely: that the Lieutenant Governor cannot interfere in view of the provisions of the *Alberta Liquor Control Act*."[101] As it happened, the government did nothing. Seven years later a similar incident in Lethbridge, Alberta over the ALCB's decision not to renew the Coaldale Hotel's license in face of competition from a more modern hotel, led to the legislature discussing an amendment to the *Liquor Control Act*.[102] Brownlee spoke out against the amendment lest it encourage everyone who had lost their license to petition for an amendment and thus lead to the legislature's time being wasted on licensing issues.[103] The proposed amendment failed to pass and the government refused to change or censure the ALCB's policy of only licensing the best hotels which it defined as being the most modern and up-to-date hotels.[104]

---

[100] Letter from Dinning to WS Gray (20 January 1927), PAA (RG 75.126/2568a).
[101] Memo from WS Gray, Acting Deputy Attorney General to Attorney General Lymburn (22 January 1927), PAA (RG 75.126/2568a).
[102] "Liquor Act Revision is Considered", *Lethbridge Herald* (21 March 1933).
[103] "Defeat Bill to Amend Alta Liquor Act", *Lethbridge Herald* (5 April 1933).
[104] Dinning outlined this policy in a letter to the secretary of Lethbridge's Trades and Labour Council, Letter from Dinning to WE Alford (8 February 1933), PAA (RG 69.289/99a) ("[t]he Board's attitude in the Lethbridge situation is identical with the policy adopted at Calgary,

While the latter incident might seem to represent some interference with the ALCB's licensing policies, it was nothing more than a review of the ALCB's policies and one which left these policies unchanged.

Hotel licenses and the public drinking they allowed were the most controversial aspect of the new system, which may explain the government's hands-off approach.[105] It is reasonable to conclude that the government, particularly one that claimed to be pro-prohibition, would want to separate itself as far as possible from public drinking. In addition to their controversial nature, hotel beer licenses required such close monitoring that any government intervention over who received a license threatened to upset the ALCB's regulatory balancing act.[106] The Coaldale Hotel incident showed that Brownlee feared that if that one amendment passed, the legislature's time would be dominated by disgruntled former hotel licensees. No government minister would have been able to weigh the competing factors in the way that the ALCB did when it decided which hotels to license. The government's decision not to interfere with the ALCB's judgement over licenses should be understood as a desire to avoid an issue that was both controversial and time consuming.

In contrast to hotel licenses, the ALCB's leasing issues centred on the board's system of liquor stores and these represented a significant outlay both in

---

Edmonton and other smaller points in the Province, that is, to give beer selling privileges to the hotels offering the greatest service to the public, all other things being equal").

[105] For the controversy over public drinking see Chapter Six at footnotes 20 to 24 and accompanying text.

[106] This balancing act is further explored in Chapter Six.

terms of stock and store fittings.[107] Given the level of investment as well as the increasing importance of ALCB profits to the provincial budget, the government kept a close eye on the financial side of the ALCB. In addition to the board's annual reports, the government received monthly updates on the board's accounts from 1926 to 1929. These reports supply little information except how much profit the ALCB made and if it represented a decrease from the previous year.[108] The government clearly had an interest in making the ALCB as profitable as possible and, as the bulk of the board's profits came from liquor stores not hotel licenses, the government wanted to closely monitor the operation of liquor stores. Furthermore Alberta's liquor stores were called "government liquor stores" which meant that they were more obviously associated with the government than beer licenses were, as the latter only had to display their ALCB license rather than any association with the government.[109] Though both stores and licensed premises were in the paradoxical situation of regulating and selling alcohol, given the stores' closer situation with the government the paradox was more evident there.

In addition to these more obvious forms of control, the government also offered the ALCB implicit guidelines. As noted, the *Liquor Control Act* stipulated that liquor consumption was only for those who behaved themselves, and the government supplemented this requirement with the idea that government

[107] According to the ALCB's first annual report, the board had over $1 million worth of stock and almost $40,000 worth of equipment, Alberta, Legislative Assembly, "First Annual Report of the Alberta Liquor Control Board, 1924" in *Sessional Papers* (1925) at 13-18.
[108] These reports are found in PAA (RG 69.289.122b) and (RG 69.289/121).
[109] *Brief of the ALCB to the Special Committee of the Alberta Legislature Appointed to Review the* Liquor Control Act (27 August 1956), PAA (RG 69.289/2132a) at 6 (suggests renaming "Government Liquor Stores" to "Alberta Liquor Stores"); *Liquor Control Act, supra* note 3, s 34 (3) ("[e]very license shall be constantly and conspicuously exposed in that part of the hotel specified in the license where beer may be kept, sold and consumed, under such license").

control of liquor would only exist so long as the public wanted it to. The government's reference to the public will excused its own actions in ending prohibition and gave hope to the Prohibitionists in the UFA ranks that one day prohibition might return. Yet the government's comments about public opinion also told the ALCB that they needed to please the public and answer any criticism of Alberta's liquor system. As the most organized and vocal section of Alberta's public remained the Prohibitionists, the ALCB was far more likely to hear and act on their views of the liquor laws. The government also seemed receptive to Prohibitionist agitation which placed further pressure on the ALCB to answer Prohibitionist concerns. In 1929, for example, Premier Brownlee predicted that Alberta would swing back to temperance and warned beer licensees that there was strong feeling against them.[110] The government's repeated mention of the 'public will' served to push the ALCB towards stricter implementation and remind the ALCB that it had to please the public or face abolition.

In light of the government's comments over the importance of public opinion the ALCB sought to protect and defend its own reputation and the reputation of those businesses associated with it. In 1931 the ALCB dispatched an undercover detective to investigate claims that Otto Morin of Jasper's Pyramid Hotel was "scandalizing the board."[111] According to anonymous reports made to the ALCB, Morin had complained that the board was unfair because his hotel had only received a six-month license rather than one for a full year. This situation

[110] "New Liquor Control Act Due Within Two Years Premier Says", *Calgary Herald* (27 February 1929).
[111] Report from ALCB Operative No 10 (7 May 1931), PAA (RG 69.289/99a).

arose because Jasper was and still is a resort town whose population fluctuates and a six-month license allowed Jasper's licensed hotels to reflect this change in population and the fact that many of Jasper's amenities closed in the winter. The ALCB detective posed as a man thinking of buying a hotel and reported that Morin made no comments about the board being unfair, though the hotel's secretary thought that the Pyramid only got a half-year license because the other hotel had more political influence.[112] Dinning denied this claim and asserted that the hotel with the full-year license was more up to date.[113] The Morin incident illustrates the lengths to which the ALCB would go to see if a person made allegations against them and reflects the board's desire to appear respectable to, and to be respected by, the public. It is hard to see how one hotel licensee's accusation of the board being unfair could hurt the ALCB's operations but the board took its reputation seriously enough to investigate. The board's actions here could also be understood as a concern with comments made by licensees and the board's desire for licensees to consider it to be fair and impartial.

Though the *Liquor Control Act* granted the ALCB vast powers, the board was not as free from government control as it might initially appear. What the government needed and wanted was a way to disassociate itself from legal liquor sales while retaining overall control over the broader shape of Alberta's liquor laws. The 1923 liquor plebiscite and the creation of the ALCB cost a significant amount of money, one which the province could ill-afford. The government gambled on the success and profitability of the ALCB but at least part of its

[112] *Ibid.*
[113] Letter from Dinning to Premier Brownlee (16 May 1931), PAA (RG 69.289/99a).

success would come from the board's ability to control or at least appear to control liquor. The government did not leave the shape of liquor consumption to the ALCB, however, and it provided the board with many implicit and explicit guidelines about what it wanted Albertans' liquor consumption to look like. The government claimed that it had no interest in maintaining the *Liquor Control Act* but, as I now move on to show, the government was not as neutral as it claimed and actually defended the ALCB and its system of liquor sales.

5.3 – The Government's Tacit Defence of the ALCB

One might expect that one of the main lessons of prohibition was that it was too simplistic a solution for the complex problems facing Alberta. Nonetheless Alberta's most dedicated Prohibitionists continued to believe that banning liquor would substantially improve society for the better and, during the early years of the ALCB, it seemed as though the UFA government agreed with this view. In this section I argue that the government only appeared to agree with the Prohibitionists and had tacitly accepted that liquor was not the root of all social problems. The *Liquor Control Act* allowed the government to focus on fixing Alberta's other issues such as its farming crisis and its lack of control over its own natural resources.[114] There is even evidence to suggest that the ALCB assisted the government, albeit in minor ways, with monitoring the state of the province's agriculture. ALCB inspectors, for example, provided crop reports.[115] It was not

[114] For the farming crisis see David C Jones, *Empire of Dust: Settling and Abandoning the Prairie Dry Belt* (Calgary: University of Calgary Press, 2002). For the battle over natural resources see, Thomas Flanagan & Mark Milke, "Alberta's Real Constitution: The Natural Resources Transfer Agreement" in Richard Connors & John M Law, eds, *Forging Alberta's Constitutional Framework* (Edmonton: University of Alberta Press, 2005) 165.
[115] For more on this see *infra* at footnotes 132 to 134 and accompanying text.

until 1931, however, that the government itself made an explicit choice in favour of government liquor sales and thus admitted that the liquor problem had been solved, or at least that the current system was the best solution then available. That choice took the form of a refusal to act on demands for a further liquor plebiscite under the *Direct Legislation Act*. It is not surprising that the government should support the board it created, yet prior to 1931, the government refused to admit publicly that it supported the ALCB.

When Alberta voted to end prohibition in 1923, the province's Prohibitionists were bitterly disappointed. Such was their shock at the outcome that they refused to give the government any advice over the shape and content of the new Act,[116] but this refusal to engage with the liquor laws would only be temporary. As a result of the unusual nature of Alberta's 1923 liquor ballot, some Prohibitionists began to feel that they had been cheated rather than defeated. When the Prohibitionists decided to renew their campaign, instead of targeting *all* aspects of government liquor control, the Prohibitionists opted to focus on the beer parlours. As early as 1925, HH Hull of the Alberta Prohibition Association wrote to Premier Greenfield to demand a "straight vote" on the liquor issue and claimed that "[t]he saloon is an obsolete system and must eventually go."[117] In 1926 Nellie McClung, a Liberal MLA, attempted to secure a plebiscite on the future of the beer parlours during that year's provincial general election. McClung's motion was roundly defeated. Premier Brownlee said that such a

[116] "No Prohibition Organization Advice Will Be Given Cabinet", *Lethbridge Herald* (24 November 1923).
[117] Letter from HH Hull to Greenfield (28 September 1925), PAA (RG 69.289/98a).

vote would be "premature" and that the public's opinion of the beer parlours had not yet crystallized. Importantly, when the *Lethbridge Herald* reported McClung's action, it noted that there was "[l]oud feminine hand clapping from the galleries" whenever she spoke.[118] Such a report hints that prohibition sentiment was not as popular as it once had been and was increasingly contested and mocked as a women's issue.

Brownlee's comments about the prematurity of another liquor vote could be read as playing for time. He did not want to openly support the new system, particularly the beer parlours, given the Prohibitionists' opposition to them but nor did he want to jeopardise the new system. Brownlee's decision was to defer to public opinion and to hint that he would support a further liquor vote if the public opposed the beer parlours. A close reading of Brownlee's response to McClung, however, shows that he had already interpreted the public's opinion of the beer parlours as undecided. For Brownlee, while the public might well be the final arbiter of the liquor laws, he was the one who would interpret what the public thought.

It is possible that Premier Brownlee genuinely believed that the *Liquor Control Act* was an experiment but it quickly became a key source of provincial revenue. Yet, at the same time as Brownlee was refusing to hold another liquor vote, he was attempting to secure Alberta's control over its own natural resources. During the second half of the 1920s, Alberta's natural resource industries underwent something of a boom period but, without ownership of these resources,

[118] "Legislators are 43-3 Against Mrs McClung's Motion", *Lethbridge Herald* (27 March 1926).

the provincial government lost out on royalties.[119] Alberta and the federal government came close to a deal in 1926, though this deal foundered over the issue of separate Roman Catholic schools.[120] Three years later in December 1929, the federal government finally reached a deal with the three Prairie Provinces and transferred to them control over their natural resources.[121] By the time Alberta gained control of its natural resources, the Great Depression had begun and it would be 1949 before the revenue from mines and minerals overtook that of the ALCB.[122] There is no evidence that Brownlee hoped resource royalties would render liquor revenues unnecessary but even if he, or anyone else, had hoped for such an outcome they were to be disappointed.

More important than his actions in 1929 concerning natural resources, was what Brownlee had to say about the liquor laws that same year. As already noted, in February 1929, Brownlee declared that he expected a change to Alberta's liquor laws within two years and that he felt Alberta was swinging back towards temperance.[123] It is not clear what evidence Brownlee based his claims on. If anything, the evidence suggested that prohibition sentiment had declined. The annual reports of Alberta's WCTU, for example, suggest that fewer and fewer local chapters were reporting and that interest in the movement had fallen.[124]

---

[119] Nicole Colleen O'Byrne. *The Answer to the 'Natural Resources Question': A Historical Analysis of the* Natural Resources Transfer Agreements (LLM Thesis, McGill University, Faculty of Law, 2005) at 105. See also, David H Breen, *Alberta's Petroleum Industry and the Conservation Board* (Edmonton: University of Alberta Press, 1993) at 35-73.
[120] Flanagan & Milke, *supra* note 114 at 180-181.
[121] O'Byrne, *supra* note 119 at 131
[122] Alberta Legislative Assembly, "Public Accounts" in *Sessional Papers* No 1 (1949) at 231, 253.
[123] "New Liquor Control Act Due Within Two Years Premier Says", *Calgary Herald* (27 February 1929).
[124]Compare Report of Alberta's WCTU Twelfth Annual Convention (1 - 3 October 1924) with Report of Alberta's WCTU Eleventh Annual Convention (3 - 5 October 1923) GAIA (RG M-

Similarly, Emily Murphy who had earlier campaigned for prohibition had praised Alberta's government liquor control system. In an interview with the *Ottawa Journal* she said that the new Act was rigorously enforced and that interdiction and the Act's "ruthless penalties" really worked and as she was a police magistrate in Edmonton she was able to speak with some authority.[125] Despite the lack of evidence for his position, Brownlee had a good reason to make the claim that he did: he wanted to placate the Prohibitionists. His 1929 temperance prediction emerged out of a meeting with Alberta's Prohibition Association which saw him reaffirm his support for prohibition. Nonetheless, Brownlee also told the Prohibitionists "[d]on't make the mistake of trying to rush this thing."[126] Following his own advice not to rush, Brownlee both refused to hold any liquor plebiscite and to amend the liquor laws that year.

Had the Prohibitionists read between the lines, they would have noticed that Brownlee promised nothing. Brownlee's words were little more than hedging and they represented yet another attempt by Brownlee to placate the Prohibitionists while doing nothing to see prohibition return. Brownlee's words, however, buoyed the Prohibitionists and by the end of 1930 they were circulating another liquor petition with the hope of securing a vote on the beer parlours.[127]

1708-29). In 1935 Calgary's WCTU complained that they had needed four events to raise $75 to cover expenses for their annual temperance essay contest, Circular Letter from Chair of Calgary Local WCTU to Churches (19 February 1935), GAIA (RG M-1708-147).This conclusion is shared by Nancy M Sheehan, *Temperance, the WCTU, and Education in Alberta, 1905-1930* (PhD Dissertation, University of Alberta, Department of Educational Foundations, 1980) at1, 273-274.

[125] Sir John Willison, "Alberta Liquor Act: One Woman's View", *Ottawa Journal* (undated), PAA (RG 69.289/98a).

[126]" New Liquor Control Act Due Within Two Years Premier Says", *Calgary Herald* (27 February 1929).

[127] "Dry Forces are Circulating Petition on Sale of Beer", *Edmonton Journal* (20 October 1930).

The Prohibitionists had never trusted the beer parlours; in a 1923 address to the Women's Institute, for example, Nellie McClung had mocked the Moderationists' claims that the beer parlours would be very different from the old saloons: "[b]ut they claim chairs will be provided for the people to sit on, and that will remove all traces of the old bar, and make the place sweet and clean and innocent as a daisy dotted meadow in the rarest day in June."[128] Not surprisingly, the actual operation of the beer parlours did nothing to win Alberta's most ardent Prohibitionists over and by February 1931 the Prohibitionists had enough signatures on their petition to present it to the legislature.[129]

Though it is clear that Brownlee's comments in 1929 sparked the 1931 petition, it is equally clear that Brownlee did not want to encourage such a petition. He had warned the Prohibitionists in 1929 that provincial plebiscites were expensive and such an expense only became more crippling as the Great Depression further depleted provincial revenues. Even the liquor revenues suffered as a result of the Depression. In February 1931 the *Lethbridge Herald* noted that the ALCB's profits had decreased even though the number of liquor permits had increased.[130] Later that year Brownlee admitted that the decline in liquor profits was one of the main reasons provincial revenues had decreased.[131] Not even the revenue from mines and minerals could make up the shortfall.

---

[128] Address given by Nellie McClung, Women's Institute Convention (31 May 1923), GAIA, (RG M-1708-176).
[129] "Gov't Plan on Beer Petition Causes Protest", *Calgary Herald* (25 February 1931). The operation of the beer parlours is further explored in the next chapter.
[130] "Alberta Liquor Profits Less, Though Permits Were Greater", *Lethbridge Herald* (6 February 1931).
[131] "Alberta Liquor Profits for Past Year Total $1,738,954; Analysis of Liquor Business", *Lethbridge Herald* (10 November 1931).

Consequently, Brownlee and his government could not afford to do anything which might jeopardise liquor profits further.

The ALCB and government liquor control also appeared to be indispensible in other ways. In June 1930, the ALCB sent a circular to its vendors asking them to report on crop conditions in their area.[132] That same year the ALCB's Hotel Inspectors also started to provide the board with crop reports. Almost three weeks after the board sent out its circular to the vendors, one ALCB Hotel Inspector reported on the crop conditions in the Spirit River region.[133] It is not clear what the ALCB did with these crop reports, or if they were passed to the government. There is some evidence that false crop reports were enough of a problem for the federal UFA party to ask that newspapers only print government crop reports so that overly optimistic reports were avoided.[134] Seeing as how the ALCB's inspectors travelled across the entire province, checking hotels, it would make sense for the government to ask the board to do some form of crop checks and thus avoid sending out their own men. Perhaps the ALCB hoped to use crop reports as a way to bolster their usefulness to the government, or perhaps the government asked them to do this. Either way such reports – which persisted throughout the 1930s – show that the ALCB offered a way to monitor the state of provincial life more broadly.

The Prohibitionists, however, justified their calls for the abolition of the beer parlours on the grounds that the parlours did not provide much provincial

[132] Letter from Dinning to Vendors, Circular GEN No 74 (18 June 1930), PAA (RG 74.422/2).
[133] Report of Inspector (28 June 1930), PAA (RG 74.412/2388).
[134] "Secretary of the UFA Federal Group Presents Ninth Annual Report to the Association", *The UFA* (2 July 1930).

revenue. HH Hull of Alberta's Prohibition Association went so far as to suggest to Brownlee that "the closing of the Beer Rooms would *increase* rather than decrease the Provincial Revenue from the sale of liquor."[135] Premier Brownlee did not appreciate this line of argument and denied that money had anything to do with the liquor laws.[136]

The Prohibitionists' claims about the revenue produced by the beer parlours overlooked the wider economic role of hotels. In 1930, as the Prohibitionists circulated their anti-beer hall petition, the AHA reminded Albertans that hotels represented millions of dollars in investment.[137] The ALCB's Sixth Annual report, issued in 1930 made a point of referencing the controversy surrounding beer parlours. Importantly the report also noted that rural hotels had suffered a decline in business which had also lead to a decline in criticism. The ALCB also went out of its way to reference the quality of Alberta's hotels and claimed that "the hotel accommodation available here is equal, if not superior, to the accommodation available elsewhere in Canada." Furthermore, the report also praised the AHA for cooperating "in every way...to

[135] Letter from Hull to Brownlee (25 March 1930),PAA (RG 69.289/99a) [emphasis added].
[136] Letter from Brownlee to Hull (26 March 1930), PAA (RG 69.289/99a). The licensing fee varied depending on the size of the settlement where the hotel was located but the minimum fee was at least $210 with the maximum being $410, *Liquor Control Act, supra* note 3 s 38. The ALCB did not list the profits it made from licenses alone but using the 1929 figure of 378 hotel licenses issued hotel beer licenses would have yielded between $79,380 and $154,980. In 1929 the sale of permits *alone* raised $197,203.50. The ALCB's net profit for 1929 was $2,410,886.38. Thus the revenue from hotel beer licenses accounted for less than 10% of the board's profits, Alberta, Legislative Assembly, "Sixth Annual Report of the Alberta Liquor Control Board, 1929" in *Sessional Papers* No 3 (1929-1930) at 6-7, 11.
[137] Over $10,700,000 Is Invested in Hotel Buildings, Alberta", *Lethbridge Herald* (18 March 1930).

keep the hotel business on as high a plane as possible."[138] Though the ALCB did not explicitly say that beer licenses were needed to maintain these standards, the message was clear.

The ALCB's Sixth Annual report betrayed a hint of anxiety on the part of the board over the liquor petition but it need not have worried. The government had no intention of holding another plebiscite. In fact, the government's response to the 1931 petition doomed both it and the *Direct Legislation Act*. As with all petitions under the *Direct Legislation Act*, a committee of the legislature scrutinized the petition's validity. The committee assigned to the 1931 petition declared some doubts over certain signatures on the petition which rendered it invalid. The committee also ruled that the vagueness of the *Direct Legislation Act* left it open to attack in the courts. Due to this weakness in the Act, the committee took the view that the government should see the petition as an expression of opinion and did not need to hold a plebiscite.[139] Thus not only did the committee invalidate the 1931 petition, and sidestep the requirement for a plebiscite, they effectively rendered the *Direct Legislation Act* null and void.[140] From then on, the

---

[138] Alberta, Legislative Assembly, "Sixth Annual Report of the Alberta Liquor Control Board, 1929" in *Sessional Papers* No 3 (1929-1930) at 7.

[139] "Gov't Plan on Beer Petition Causes Protest", *Calgary Herald* (25 February 1931); "House to Consider Beer Petition is Committee Ruling", *Lethbridge Herald* (28 March 1932); "Committee Report on Liquor Act is Now Before House", *Lethbridge Herald* (16 February 1932); Report on the Petition (10 March 1932), PAA (RG 69.289/964). The Judicial Committee of the Privy Council had held that the *Direct Legislation Act* was a valid way to pass legislation, so the government's argument here seems legally unsupportable, *R v Nat Bell Liquors Limited*, [1922] UKPC 35.

[140] The *Direct Legislation Act* was repealed in 1958, *An Act to Repeal Certain Acts of the Legislature*, SA 1958, c 72, s1(e). According to J Patrick Boyer, the *Direct Legislation Act* remained on the statute books until 1958 when the Attorney General claimed that that was *ultra vires* based on the Judicial Committee of the Privy Council's decision on Manitoba's act, J Patrick Boyer, *Lawmaking by the People: Referendums and Plebiscites in Canada* (Toronto: Butterworths, 1982) at 34, 34n21.

Albertan public would be unable to force a provincial plebiscite unless the government wanted one.[141]

Just as the government had used the *Direct Legislation Act* to end prohibition, they used the same Act, though in a different way, to avoid changing the *Liquor Control Act*. Even the decision to submit the petition to a committee of the legislature was seen as suspect with the *Bassano Mail* noting that "some quarters" saw this move as the government "endeavoring to escape from under some of the responsibility of dealing with the petition of the anti-beer element in the province."[142] Yet Brownlee continued to publicly deny that he or his government were defending the liquor laws. Understandably, Alberta's Prohibitionists were outraged by the government's refusal to hold a plebiscite and some wrote to the government to complain. In 1932 Brownlee personally responded to the complaint of Mrs Gaines of Barrhead. Once again Brownlee denied that he was interested in revenue noting that the beer parlours provided "very little" money to the government. Brownlee told her that as it was the province could barely afford to keep schools open, so spending almost $200,000 on a plebiscite was impossible. Brownlee asserted that, due to the Depression, people's minds were "so disturbed that it is difficult to get a fair expression of opinion on any question" and as such any plebiscite would be pointless. Finally he suggested that as liquor sales had decreased the abuse of liquor must also have

[141] For more on the history of direct legislation in Alberta see, WL Morton, "Direct Legislation and the Origins of the Progressive Movement" (1944) 23 Canadian Historical Review 279.
[142] TB Windross, "Sparks and Flashes from the Anvil of Parliament", *Bassano Mail* (5 March 1931).

decreased.[143] As compelling as all of these reasons may have been, given Alberta's dire financial situation, the government needed to find a justification, ideally legal, for their refusal to act on the 1931 petition. The apparent "vagueness" of the *Direct Legislation Act* offered them a legal basis for failing to act on the petition but it also removed the potential for any other plebiscites and left the government solely in charge of major changes to the liquor laws.

Alberta's government did, however, implement one change to the ALCB in 1931 which pointed to the increasingly desperate financial situation of the province. In September of that year, the government abolished the ALCB's Enforcement Branch.[144] Neither the legislation nor the ALCB's regulations contained any reference to the Enforcement Branch and, as such, its abolition came via government fiat rather than through explicit legal change. Previous work on the ALCB has argued that the Enforcement Branch was deeply unpopular and while I did find some scattered criticism in the press – typically accusations that the ALCB Officers had been dishonourably discharged from the APP[145] – Premier Brownlee told the former ALCB Chief Enforcement Officer that the government abolished the branch for financial reasons.[146] A year later Alberta disbanded its provincial police force and the Royal Canadian Mounted Police resumed responsibility for ordinary policing in the province. The end of the APP was also

[143] Letter from Premier Brownlee to Mrs Gaines (2 June 1932), PAA (RG 69.289/99a).
[144] "APP Given Liquor Work", *Lethbridge Herald* (2 September 1931).
[145] "Liquor Squad is to be Maintained", *Lethbridge Herald* (28 March 1927). For earlier work on the ALCB see, Steven Paul Boddington, *The Alberta Liquor Control Board, 1924-1935* (MA Thesis, University of Alberta, Department of History, 1990) [unpublished] at 61-62.
[146] Letter from Brownlee to AH Schurer (28 October 1931), PAA (RG 69.289/99c).

motivated by a need to save money,[147] and the province's policing overhaul highlighted the financial difficulties faced by Alberta even with liquor revenues. Due the financial difficulties of the province, there was no way that the government would have jeopardized a guaranteed source of revenue, even if it was only the profits from the beer parlours, with a liquor plebiscite. For the fiscal year ending March 1932 the ALCB's net profits were $1,305,540.50, while the provincial revenue as a whole was $13,492,430.[148] In other words, the liquor profits amounted to almost ten per cent of the province's entire revenue and without them Alberta's $5,000,000 budget deficit for 1931-1932 would have been twenty per cent larger than it was.

The abolition of the ALCB's Enforcement Branch marked a change in how the *Liquor Control Act* would be enforced. Instead of separating out liquor law enforcement, the government re-integrated it with ordinary police work. Such a move, though mainly motivated by financial concerns, saw the government implicitly admit that the liquor laws were just like other laws and that the consumption of liquor was, for better or worse, a part of everyday life. Theoretically the *Liquor Control Act* never had any need for a separate police

[147] Lin, *supra* note 70 at 2; Zhiqiu Lin & Augustine Brannigan, "The Implications of a Provincial Police Force in Alberta and Saskatchewan" in Knafla & Swainger, *supra* note 55, 232 at 232; Steve Hewitt, "The Masculine Mountie: The Royal Canadian Mounted Police as a Male Institution, 1914-1939" (1996) 7 Journal of the Canadian Historical Association 153 at 157.
[148] Alberta, Legislative Assembly, "Eighth Annual Report of the ALCB, 1931" in *Sessional Papers* (1932) No 7 at 9; "Province of Alberta Faced with 5 Million Dollar Deficit", *Carbon Chronicle* (1 December 1932).

force; such a force only existed because of the unpopularity of prohibition enforcement among the APP.[149]

Alberta's Prohibitionists may have been able to secure thousands of signatures but that did not mean that they enjoyed widespread support. In fact when the names of those who signed the liquor petition became public, they complained that they were mocked and that some people had even boycotted their businesses.[150] The fate of the 1931 petition is best understood, despite Brownlee's claims to the contrary, as a tacit admission on the part of the government that prohibition was no longer a viable option in Alberta. There is no doubt that Brownlee was personally opposed to liquor consumption,[151] but he knew that this view was increasingly in the minority, a fact which only became clearer when three years later the United States also ended prohibition.[152]

Ironically, the United States' decision to end prohibition in 1934 was just as, if not more, threatening to Alberta's liquor system than the 1931 petition. The end of American prohibition posed two problems for the ALCB. First, the end of prohibition was sure to reduce the number of Americans who came north to buy liquor. Officially, the ALCB had always denied that Alberta was the source of any bootleg liquor in the U.S.; in fact, Dinning blamed BC for such illicit

---

[149] For the unpopularity of prohibition enforcement see, Lin, *supra* note 70 at 128-129, 144. Its unpopularity was nothing new see, Stan Horrall, "A Policeman's Lot is not a Happy One: The Mounted Police and Prohibition in the North-West Territories, 1874-91" in Linda McDowell, ed, *Transactions*, Series III, Number 30 (Np: Hignell Printing Ltd, 1973-94) 5.
[150] Letter from HH Hull to Brownlee (17 February 1933), PAA (RG 69.289/99b).
[151] See for example his letter to WH Erant where Brownlee stated that he "personally" hoped prohibition would be upheld in the 1923 plebiscite, Letter from Brownlee to WH Erant (1 November 1923), PAA (RG 75.126/3728).
[152] US Const amend XXI.

liquor.[153] Yet, as early as May 1924, an *Edmonton Bulletin* headline declared: "Thirsty Montana Residents Flock Over to Lethbridge."[154] Dinning's denial was more about diplomacy than an accurate statement of the facts. Secondly, with the end of American prohibition, the ALCB and the government feared that the situation would be reversed and that Albertans would drive south to buy liquor to smuggle back to Canada. Although liquor prices were relatively similar across Canada,[155] they were sure to be lower in the U.S. The *Liquor Control Act* may have made it illegal to possess any liquor that had not been legally bought in Alberta, but it would have been impossible for the ALCB to catch all violators. Not only would such illicit liquor undermine the control of the ALCB it also threatened to cut into the province's much needed revenues from liquor sales.

In order to respond to the potential threat of American liquor, the government slightly liberalized the *Liquor Control Act* and made liquor cheaper and more readily available.[156] The 1934 amendments abolished all permits except the yearly liquor permit for individuals and reduced the price of this permit to

---

[153] Letter from Dinning to Premier Brownlee (15 October 1929), PAA (RG 69.289/98b); Richard N Kottman, "Volstead Violated: Prohibition as a Factor in Canadian-American Relations" (1962) 43 Canadian Historical Review 106 at 117.
Liquor smuggling was of course relatively common and well-known, SES, "Case and Comment" (1929) 7 Can Bar Rev 326; "Liquor Ships" (1927) 5 Can Bar Rev 310; Marjorie Owen, "The Courts and the Rum-Running Business" (1930) 8 Can Bar Rev 413; Pitman B Potter, "The Positions of Canada and the United States in the Matter of Trade in Alcoholic Beverages" (1930) 24 Am J Int'l L 131.
[154] "Thirsty Montana Residents Flock Over to Lethbridge", *Edmonton Bulletin* (16 May 1924).
[155] "Hard Liquor Price Slightly Higher than in BC Stores", *Calgary Herald* (28 April 1924); "Ontario Liquor Prices Lowest in the Dominion", *Calgary Herald* (30 May 1927). Alberta's prices were only slightly higher due to freight costs.
[156] *Liquor Control Act,* SA 1924, c 14 as am by SA 1934, c 9 [1934 amendments].

$0.50, the same price as the old single-purchase permit.[157] The amendments also introduced hotel beer off-sales which allowed Albertans to buy bottled beer from licensed hotel beer parlours to consume at home. Provided that a person was not disqualified from buying beverage liquor under the Act, he or she could buy bottled beer or any other form of beer from licensed hotels with no need for a liquor permit.[158] The 1934 amendments effectively turned every licensed hotel in Alberta into a beer store which made it even easier for Albertans to access the privilege of private drinking.[159] Likewise the changes to liquor permits made liquor purchased in stores less expensive. Alberta was not the only province to liberalize its liquor laws in 1934. Other provinces such as Ontario and Saskatchewan introduced beer parlours in 1934.[160] Alberta's response to the end of American prohibition was less dramatic but Alberta seemed to have a more liberal system of post-prohibition liquor sales to begin with.

The end of U.S. prohibition and the 1934 amendments came only three years after the failed temperance petition and this affected how the government justified the legislative changes. Despite the seeming obviousness of the U.S.'s influence on the 1934 amendments, the government denied it. Premier Brownlee

---

[157] Alberta, Legislative Assembly, "First Annual Report of the ALCB, 1925" in *Sessional Papers* (1925) at 28; "Liquor Permit Holders Will Get Welcome May Day Gift", *Lethbridge Herald* (30 April 1934).

[158] 1934 amendments, *supra* note 156 ss 9, 13. The 'any form of beer' refers to beer by the glass or bottled beer and means 'beer' as defined in the *Liquor Control Act, supra* note 3 s 2(b). This definition of beer did not include anything stronger than 4.5% proof.

[159] A further motivation behind beer off-sales could have been the desire to boost the revenues of Alberta's struggling hotels; however, the ALCB had suggested such off-sales in the mid-1920s, long before the financial problems of hotels became acute. Therefore, it is likely the 1934 introduction of off-sales was motivated by a desire to push Albertans towards legal sources of liquor.

[160] *Liquor Control Act, 1934,* SO 1934, c 61; *An Act to Amend the Liquor Act,* SS 1934-35, c71, ss 234-277.

claimed that the 1934 amendments only dealt with changes to liquor store operations,[161] while ALCB Chairman Dinning contradicted him with the claim that off-sales from licensed hotels would prevent farmers from visiting the local moonshiner.[162] In a strict sense Brownlee was correct because off-sales turned every hotel into a kind of liquor store, but his choice of phrasing allowed him to maintain that the liquor laws had not been liberalised. Likewise Dinning's claim about farmers and illicit liquor allowed him to continue the ALCB's appearance of controlled consumption. The government had to deny that the 1934 amendments were a response to the end of American prohibition lest the Prohibitionists accuse the UFA of being undemocratic for responding to American action but not the 1931 petition from their own people. As it was the government received numerous complaints over the 1934 amendments. Several congregations of the United Church, for example, signed a letter to Premier Brownlee stating that they thought the government was "audacious" to increase the hours of sale and make beer easier to buy in light of the petition. The letter went on to accuse the government of being out of step with its electorate.[163] The government received many similar letters and telegrams from other church groups and various WCTU locals.[164] Such criticism forced the government to justify the amendments as stricter controls needed to better support law and order. In reality,

[161] Letter from Premier Brownlee to M Watson (17 April 1934), PAA (RG 69.289/99b).
[162] "House Committee Hear Dinning on Beer Parlour Hours", *Lethbridge Herald* (13 April 1934); "No Vote on Beer Parlours This Year", *Lethbridge Herald* (13 April 1934).
[163] Letter from the Prairieville, Burwash and Carmangay United Church Congregations to Premier Brownlee (12 April 1934), PAA (RG 69.289/99b).
[164] These letters can be found in PAA (RG 69.289/99b) and were numerous enough to result in a stock response such as that given to M Watson, *supra* note 161.

the 1934 amendments aimed to defend the provincial liquor monopoly by making beer more widely and readily available.

Some Albertans, including members of the Premier's own party, the UFA, did not believe the official justification for the 1934 amendments and demanded that they be repealed immediately. The *Lethbridge Herald* noted that the off-sales provision of the 1934 amendments passed by only two votes. The *Herald* also reported that some MLAs thought that there should be no changes to the *Liquor Control Act* until the government acted on the 1931 petition, while other MLAs said that the Act had to be widened to combat the bootlegger threat.[165] The former view was echoed by at least one UFA local in Milk River. At the Milk River UFA meeting in July 1934 the members denounced the 1934 amendments as "detrimental to the best interests of the people of this province" and accused the government of putting the liquor interests ahead of the interests of the provincial youth.[166]

There are two reasons why the UFA's division over the 1934 amendments failed to have more lasting political repercussions. The first, and most compelling in my view, is that temperance sentiment was no longer widespread enough for any government to take action in the direction of stricter liquor laws. The decline in temperance support could be seen in the ever decreasing attendance at Alberta's WCTU meetings and by public harassment of those who signed the 1931

[165] Fight Over Liquor Act Changes Brings Split in Party Ranks", *Lethbridge Herald (*16 April 1934).
[166] "Liquor Act Amendments Condemned; Gas Tax Cut Urged, Alberta Govt Commended, Milk River UFA Meet", *Lethbridge Herald* (7 July 1934).

petition.[167] The second reason why the political split over the liquor amendments never fully developed was that Premier Brownlee's sex scandal overtook it and a little over a year later the UFA were swept from office by the SoCreds.[168]

The appointment of William Aberhart, a former Baptist minister, as the first SoCred Premier gave Alberta's Prohibitionists some hope that prohibition might return. Aberhart may have declared himself a temperance man but, according to an article in the *Lethbridge Herald,* he was opposed to coercion of any kind and for that reason did not approve of prohibition.[169] Aberhart's party did introduce a ban of liquor advertising because "those who want liquor will get it in any case and there is no need to advertise the various brands and prices so as to induce people to buy them" and because he disapproved of flaunting liquor in front of children.[170] In reality, however, the end of prohibition in America had marked the end of prohibition as a viable legislative measure in Alberta, or anywhere else.

Although the 1934 amendments were mainly a response to the end of U.S. prohibition, they also allowed the government to address certain developments in the system of liquor sales. As a result of the worldwide economic depression, the

---

[167] Letter from HH Hull to Premier Brownlee (17 February 1933), PAA (RG 69.289/ 99b).
[168] For information on Brownlee's sex scandal see, Howard Palmer and Tamara Palmer, *Alberta : A New History* (Edmonton: Hurtig Publishers, 1990) at 255-257; Franklin L Foster, "John E Brownlee, 1925-1934" in Bradford J Rennie, ed, *Alberta Premiers of the Twentieth Century* (Regina: University of Regina, 2004) 77 at 100-102. For the rise of Social Credit see, Alvin Finkel, *The Social Credit Phenomenon in Alberta* (Toronto: University of Toronto Press, 1989); "1935: The Social Credit Revolution" in Michael Payne, Donald Wetherall & Catherine Cavanaugh, eds, *Alberta Formed Alberta Transformed* vol II (Edmonton: University of Alberta Press, 2006) 490 at 495 (noting a schism in the UFA rank and file). Brownlee's sex scandal also drew attention away from the province's resources issues at the time, Breen, *supra* note 118 at 96.
[169] "Political Periscope", *Lethbridge Herald* (28 October 1935).
[170] *Ibid*; "All Advertising of Liquor Banned in Alberta After Feb 1", *Lethbridge Herald* (28 November 1935).

ALCB's liquor profits had declined.[171] By making liquor slightly cheaper, namely through cheaper permits, the 1934 amendments aimed to reverse declining profits. The *Lethbridge Herald* took the decrease in permit price as an early May Day gift to permit holders.[172] The Prohibitionists may have been incensed over the 1934 amendments but the drinking public seemed receptive. Similarly, the 1934 changes to the individual liquor permits made it easier for the board to track an individual's liquor purchases because the single purchase permit facilitated abuse by allowing people to buy large amounts of liquor without the board realizing.[173] As such the 1934 amendments allowed the government to address a problematic aspect of liquor control and to respond to the threat of American liquor.

Although the 1931 petition and the end of American prohibition required the government to mount a more explicit defence of the ALCB, the government still tried to disguise its reasons. On both occasions, the government asserted that its decision was motivated by legal concerns rather than the need to defend the provincial system of liquor sales. In the case of the 1931 petition, the vagueness of the *Direct Legislation Act* offered the government a way to avoid acting on the petition and allowed it to avoid taking a stand for or against beer parlours. Similarly Premier Brownlee claimed the 1934 amendments were just like other

---

[171] "Alberta Liquor Profits Less, Though Permits Were Greater", *Lethbridge Herald* (6 February 1931); "Alberta Liquor Profits for Past Year Total $1,738,954; Analysis of Liquor Business", *Lethbridge Herald* (10 November 1931).
[172] "Liquor Permit Holders Will Get Welcome May Day Gift", *Lethbridge Herald* (30 April 1934).
[173] Letter from RJ Dinning to Attorney General Lymburn (10 January 1927), PAA (RG 69.289/533). See also Chapter Six at footnotes 120 to 134 and accompanying text
Ontario did not introduce single-purchase permits until 1934 and soon discovered that they were open to much more abuse than an annual liquor permit, Thompson & Genosko, *supra* note 2 at 55. The abuse is further explored in Chapter Six.

Liquor Control Act amendments and were not a calculated response to the end of American prohibition. Even when the government defended the system of liquor sales, it sought to dissociate itself from it or at the very least deny that it was defending government liquor sales.

5.4 – Conclusion

By examining the relationship between the ALCB and the government, this chapter has addressed a gap in the existing literature both on post-prohibition Canadian liquor regulation and the history of Canadian administrative boards. The government, despite claims to the contrary, had clear goals and explicit guidelines for the ALCB as it set about administering the *Liquor Control Act*. The most obvious guidelines were those contained within the Act itself, and as I have argued, the *Liquor Control Act* did not actually represent a marked departure from the beliefs that motivated prohibition.[174] As a result, the end of prohibition in Alberta did not necessarily mark the arrival of a more liberal view of liquor consumption on the part of the government. The end of prohibition did, perhaps, mark the arrival of a more liberal system of liquor sales, in that it was easier to buy liquor under the new system than during prohibition. Yet in its seemingly more liberal nature, the new system of liquor sales actually allowed for more control. Similarly, the ALCB was not as independent as the government claimed, or as contemporary commentators such as Reginald Hose believed.[175] By examining what the *Liquor Control Act* said about the ALCB and by how the board and government actually interacted, it is clear that the government

[174] See, *supra* at footnotes 8 to 53 and accompanying text. See also Chapter Six, section one.
[175] Hose, *supra* note 1 at 6-7.

continued to supervise the sale of liquor in Alberta and retain control over the shape of the provincial liquor laws.

Though the government ultimately came to defend the ALCB and the *Liquor Control Act* during the early 1930s, this defence was not in fact a rejection of the UFA's support for prohibition. The government's actions in respect of the liquor laws were driven by practical concerns, though Alberta's Prohibitionists suspected that the government's refusal to push for a return to prohibition stemmed from the government's reliance on the liquor profits. While it is true that liquor provided a sizeable proportion of Alberta's revenue, the liquor profits were not as reliable as the government would have liked. In fact in 1932 the liquor profits fell below what the provincial treasury had estimated bringing in $1,888,388.53 instead of the predicted $2,600,000.00.[176] The government's tacit defence of the *Liquor Control Act* and the ALCB was never just about money. The Prohibitionist ideals implicit in the *Liquor Control Act* were not an accident and as I now turn to show, the new Act and the ALCB's implementation of it actually worked to control the public sale and consumption liquor, or at the very least worked better than prohibition had.

[176]Alberta, Legislative Assembly, Budget Speech (3 March 1932) at 11. See also, "Estimated Capital Expenditures – Two Years Compared", *The UFA* (1 March 1932); "Liquor Profits Show Decrease in Profits", *Wainwright Star* (30 November 1932).

6 – Success Where Prohibition Failed: the *Liquor Control Act* in Action

In July 1924, Mayor GH Webster of Calgary commented that Saskatchewan had made a mistake by turning down licensed premises in their recent liquor plebiscite.[1] At the time, both Alberta and Saskatchewan were looking for new ways to control liquor following the failure of prohibition. Webster's comment suggests a certain Albertan pride in their innovative liquor system, a pride which would be born out as province after province eventually returned to licensed premises.[2] In fact later that year British Columbia passed the necessary amendments to its liquor laws to introduce beer parlours.[3] Yet Webster's remark is surprising given both the controversy that surrounded Alberta's return to public drinking and the fact that at the time Alberta's post-prohibition law had only been in effect for a few weeks. Nonetheless, Webster presciently forecast success where prohibition had failed.

Alberta's post-prohibition system of liquor sales with its licensed premises and liquor stores appeared much more liberal than that of other provinces, particularly English-Canadian provinces. Yet the overarching goal of the *Liquor Control Act* was,[4] like the *Liquor Act* before it,[5] to control liquor and through this control, shape society. It is the purpose of this chapter to argue that, in practice,

---

[1] "Mistake to Turn Down Beer Sales in Saskatchewan", *Calgary Herald* (17 July 1924); James H Gray, *Bacchanalia Revisited: Western Canada's Boozy Skid to Social Disaster* (Saskatoon: Western Producer Prairie Books, 1982) at 35 [Gray, *Bacchanalia, Revisited*].
[2] Craig Heron, *Booze: A Distilled History* (Toronto: Between the Lines, 2003) at 271-277 [Heron, *Booze*,]. The only province with licensed premises before Alberta was Quebec, *The Alcoholic Liquor Act*, SQ 1921, c 31.
[3] *Government Liquor Act*, SBC 1921, c30 as am by SBC 1924, c30, s 9.
[4] SA 1924, c14 [*Liquor Control Act*]
[5] SA 1916, c 4 [*Liquor Act*].

despite being more liberal than liquor sales elsewhere in English-Canada, Alberta's liquor sales system and the *Liquor Control Act* did a better job of controlling liquor than either prohibition or a liquor-store-only system. The *Liquor Control Act* may have made certain kinds of alcohol, namely beer, more readily available, and may have allowed for more places where Albertans could buy liquor, but this Act sought to control liquor by regulating access. The freer sale of liquor, at least compared to prohibition, provided the government and the ALCB with ways to monitor liquor sales that had not existed during prohibition. Alberta's new Act revealed that the government recognised that people might want to drink together and that it understood –though did not necessarily approve of – the social aspects of liquor. As much as the *Liquor Control Act* created a more liberal system, Albertan drinkers had to abide by the liquor laws and regulations if they wanted to drink legally. The ALCB and the government justified these controls on the grounds that liquor was a privilege only for the worthy. The definition of 'worthy', however, was inherently biased towards the norms of white, middle-class, Protestant, British-Canadians.

This chapter focuses on the operation of the *Liquor Control Act* and does not assume that just because the Act stipulated certain requirements that they were always met. While I argue that Alberta's system offered a more effective way to actually control liquor consumption, I also argue that the ALCB was not necessarily as strict as it claimed to be when it came to monitoring Alberta's licensed premises and the sale of liquor through liquor stores. In this way I am able to explore the difference, and sometimes the tension between what Alberta's

liquor laws said and how they were actually administered. The gap between the law-as-written and the law-in-action highlights that the "field-level uses" of law may depart from what the law actually says but in doing so can retain fidelity to the overarching goals of the law.[6] That is to say, on occasion the ALCB had to use its discretion to allow or ignore certain practices – such as a sub-standard hotel – in order to control drinking via the hotel's beer parlour.[7] The main goal of the *Liquor Control Act* was, after all, controlled consumption rather than the promotion of high-class hotels.

In the first section I explain why Alberta's system of public drinking and liquor stores proved more effective at controlling liquor than a liquor-store-only system or prohibition. The latter system was most often used by other provinces when they first ended prohibition. Even Quebec briefly adopted a liquor store only system in 1919 with licensed premises returning in 1921.[8] I argue that each form of liquor sales, whether it was licensed premises or liquor stores, relied on the board, its staff and licensees regulating who could access liquor rather than simply prosecuting those who failed to abide by the standards set by the ALCB. The second section explores how the ALCB sought to enforce the *Liquor Control Act* among Alberta's Ukrainian and Chinese populations. Although the biases seen during prohibition remained, the *Liquor Control Act* offered incentives for compliance that prohibition did not. I conclude with the observation that the ALCB may not have enforced the *Liquor Control Act* as strictly as it claimed but

[6] The term "field-level" is taken from Christopher Tomlins, "After Critical Legal History: Scope, Scale, Structure" (2012) 8 Annual Review of Law and Social Science 31 at 34.
[7] See the example of the Smith Hotel, *infra* at footnotes 24 to 33 and accompanying text.
[8] *Quebec Prohibition Law*, SQ 1919, c 18; *Alcoholic Liquor Act,* SQ 1921, c 31.

that this discretionary flexibility was crucial to the board's ability to monitor and control liquor consumption.

6.1 – Sites of Liquor Sale and Methods of Control

In this section I argue that Alberta's apparently liberal system of liquor sales actually allowed for more control over liquor consumption and did a better job achieving the goals of prohibition than either prohibition or a liquor-store-only model of sales. As such I split my analysis into sub-sections examining the solutions that hotel beer parlours provided, followed by an analysis of how club licenses and liquor permits sought to answer the problems of prohibition. I argue that in each site of liquor control the ALCB sought to regulate access to liquor rather than prosecute violations. Crucially the ALCB's regulation of access allowed the board to stipulate how Albertans had to behave if they wanted to maintain their liquor privileges. I also argue that the ALCB became slightly less strict with hotels and clubs in response to the realities of such premises' operations and a decline in prohibition sentiment. That the ALCB could be flexible in its application of the law points to the ALCB's discretion and suggests that there was more to effective liquor control than simply strict enforcement of the letter of the law. In short discretion had an important role to play in the effectiveness of the *Liquor Control Act*.

6.1.1 – Hotel Beer Parlours: the Lynchpin of the *Liquor Control Act*

The ALCB began life with a promise to strictly enforce the *Liquor Control Act* in hotel beer parlours. The introduction of licensed hotel beer parlours was by far the most controversial aspect of the *Liquor Control Act* because it seemed to signal the revival of the saloon bar. In reality, beer parlours were about as far removed

from saloon bars as it was possible to get and still serve alcohol.[9] Hotel beer licenses may have been politically divisive but they were crucial to the success of Alberta's post-prohibition system of liquor sales. By success I mean that the *Liquor Control Act* controlled or appeared to control liquor consumption and its attendant social ills. In its first annual report the board noted that "the great majority of hotelmen have made a conscientious effort to live up to the requirements of the Act" and for the few who did not, "drastic action has been taken...and this policy will be continued in the future."[10] The board repeated these claims the following year and boasted that "[t]he policy of insisting that the sale of beer must be subservient to the comfort of the travelling public has had a salutary effect and, on the whole, the standard of hotels has improved."[11] In this section I argue that these two claims, that the ALCB would strictly enforce the Act, and that hotel accommodation was always improving, do not stand up to close scrutiny. Nonetheless Alberta's beer parlours did provide at least the appearance of more control than prohibition, and did work to push Albertans towards the consumption of beer rather than hard liquor.

The *Liquor Control Act* and the ALCB's first set of regulations required hotel beer parlours to be as different from the raucous pre-prohibition saloon as possible. In addition to the orderliness and absence of gambling required by the Act, the board's regulations stipulated that no food could be sold in the beer room

[9] This was also the case when Ontario returned to public drinking, see Dan Malleck, "Leisure, Liquor and Control: Negotiating Recreation in the Beverage Rooms of Post-Prohibition Ontario, 1927-1939" (2008) 11:3-4 Annals of Leisure Research 368 at 369.
[10] Alberta, Legislative Assembly, "First Annual Report of the Alberta Liquor Control Board, 1924" in *Sessional Papers* (1925) at 9.
[11] Alberta, Legislative Assembly, "Second Annual Report of the Alberta Liquor Control Board, 1925" in *Sessional Papers* No 13 (1926) at 7.

and that the only woman who could work in the beer room was the licensee or his wife.[12] Later in 1924, Dinning declared that the board would not allow radios inside hotel beer parlours, which further limited the entertainment options of beer parlour patrons.[13] Taken together the legislation and regulations paint a picture of beer parlours as dour places where Albertans could do little else except sit, drink beer, and engage in quiet conversation.[14] That being said, the *Liquor Control Act* did allow the beer parlours to stay open from seven in the morning until ten at night from Monday to Friday and from seven in the morning until nine at night on Saturdays.[15] Such hours could hardly be understood as 'restricted access' and while it is not clear that every beer parlour was actually open for this long, the fact that it was an option suggests beer was almost constantly available for sale once prohibition ended.

Newspaper reports about hotel beer parlours demonstrate that the parlours were not always as dull as they were supposed to be. In 1926 the *Ponoka Herald* reported on the scene just before closing in an unnamed Edmonton beer parlour: "[a]bout 160 men and boys were seated, mostly four at a table, smoking, drinking beer, shouting profanity, telling uproarious stories. The air reeked with smoke and the smell of beer. Four women and girls lent variety to the scene." The observer went on to note that the patrons spoke all the languages of Europe.[16] The following year the *Lethbridge Herald* reported that Lethbridge's Arlington

[12] *ALCB Regulations* Reg 13, found in OC 604-24, (1924) A Gaz I, 320.
[13] "Radio Sets in City Beer Halls are "Verboten"", *Calgary Herald* (24 October 1924).
[14]As noted in Chapter Five the shape the beer parlours took was heavily influenced by prohibitionist ideals, see Chapter Five at footnotes 8 to 53 and accompanying text.
[15] *Liquor Control Act*, *supra* note 4, s37(a).
[16] "26 Women Seen in Beer Parlours of Edmonton", *Ponoka Herald* (22 February 1926).

Hotel lost its license due to the liquor squad finding "on one occasion a regular orchestra playing there and men dancing around the tables."[17] The *Herald* also observed that someone else said that the "orchestra" was nothing more than a mouth organ. These two reports show that despite the board's best efforts, hotel beer parlours could be fun. Though the kind of fun seen in the Arlington was prohibited by the board, it is clear that the beer parlours allowed for at least some form of convivial social space. Consequently, the beer parlours better reflected the social aspects of alcohol consumption that prohibition and liquor-store-only systems missed with their emphasis on private consumption.[18]

The ALCB's stance on music in the beer parlours tended towards disapproval, though at least one licensee seemed more tolerant. A few months after the *Liquor Control Act* came into force in 1924, the ALCB's Supervisor of Licenses wrote to one of the board's license inspectors to discuss whether singing should be allowed in beer parlours. The inspector's question about the legality of singing arose when a hotel licensee failed to remove a singing customer. The licensee in question thought that he only had to remove patrons who were drunk or causing a disturbance.[19] The ALCB's Supervisor of Licenses explained that while

> there is nothing in the Alberta Liquor Control Act which prohibits singing in licensed premises, but the provisions in the Act which prohibit rowdyism or disorderly conduct in licensed premises might apply to singing under some circumstances ... I do not consider that it would be

[17] "Beer License of the Arlington Hotel Here Lost Owing to Music", *Lethbridge Herald* (22 March 1927).
[18] For the social aspects of liquor consumption see Chapter Two at footnotes 71 to 74 and 86 to 87 and accompanying text.
[19] Letter from WE Davies to Supervisor of Licenses (8 September 1924), PAA (RG 74.412/2387).

> good practice to allow singing or to encourage singing in Beer Sales Rooms.[20]

The board's concern here was to prevent even the potential for beer parlours to appear disruptive, hence its reaction against something as apparently innocuous as singing. The singing customer incident illustrates the ALCB's objective to make beer parlours as quiet and boring as possible but suggests that this concern competed with the licensees' desires to make their parlours at least somewhat enticing.

The ALCB wanted to make beer parlours as unobtrusive and as unattractive as possible in order to minimize public criticism and the threat of abolition. In 1929, ALCB Chairman Dinning thought that neon signs "would further accentuate public criticism" of the beer rooms and refused to allow such signs out of interest in "the welfare of the *Liquor [Control] Act*".[21] Here the criticism Dinning referred to was the Prohibitionists' ongoing campaign against the beer rooms.[22] Due to their use by working men, Prohibitionists could, as HH Hull of Alberta's Prohibition Association did in 1925, accuse beer parlours of soaking up the money that should rightfully go to wives and children.[23] According to Hull, in the beer parlours "[m]en loaf and drink beer until in many cases they are very drunk." Hull's criticism pointed to the problem with how the *Liquor Control Act* and the ALCB's regulations envisaged the beer room: they left patrons with nothing to do but sit and drink. People like Hull, however, were

[20] Letter from Supervisor of Licenses to WE Davies, Hotel License Inspector (10 September 1924), PAA (RG 74.412/2387).
[21] Letter from Dinning to Brownlee (7 September 1929), PAA (RG 69.289/98b).
[22] This campaign is discussed in Chapter Five at footnotes 127 to 141 and accompanying text.
[23] Letter from HH Hull to Premier Greenfield (28 September 1925) PAA (RG 69.289/98a).

the reason that the hotel beer parlours were designed to be as dull as possible, so that the Prohibitionists would not accuse the government of encouraging liquor consumption.

Yet men like Hull were precisely the kind of people who toured around beer parlours, horrified by what they saw. In December 1925, Hull personally inspected Edmonton's beer parlours, counted how many women he saw there, and then told the *Calgary Albertan* all about the "frightful immorality" he had seen.[24] Hull, along with Alberta's other Prohibitionists, wanted the abolition of the beer parlours, and there was little that the ALCB could do to convince them otherwise. As much as the ALCB tried to please those with prohibition sentiments, its main goal was to prevent such sentiment from spreading. The ALCB, rather than relying on prohibitionist sensationalism about hotel beer parlours, sought out the opinions of local communities and used these to monitor public opinion about licensed hotels. The ALCB's twice yearly hotel license report required inspectors to ask three leading citizens and the local police about the hotel under inspection. For the hotels that I examined, the inspection report's section on local opinion was, more often than not, left blank as complaints about particular hotels tended to make their way to the board immediately, rather than waiting for the inspector to arrive.

The fate of the Smith Hotel at Smith, Alberta demonstrates that public opinion was not always as important as the board claimed. Smith was and is a small hamlet in northern Alberta at the confluence of the Athabasca and Lesser

[24] "Fifty-Five Women Going into Beer Halls, Edmonton", *Calgary Albertan* (9 December 1925).

Slave Rivers. Despite its size the hamlet had a hotel which the board licensed in 1924. The hotel posed serious problems and changed hands twice before ending up in the ownership of Alice Vallie, her husband Arthur, and son Joe. In 1926 the Vallies received a license in Mrs Vallie's name as her husband's imprisonment for stealing from his former employer made him ineligible for a license.[25] Within a year the Vallies stood accused of allowing beer to be carried off premises and from then on the complaints mounted: the food was bad; the Vallies only served food if you showed up at meal times; the Vallies locked guests out in the cold; the hotel allowed too much drunkenness; there was fighting in the beer room; the Vallies allowed Métis patrons to get drunk, and so on.[26] The ALCB suspended the Vallies' license when they were convicted of serving alcohol to Status Indians in 1929 but despite some reservations, the board allowed the license to resume.[27] However, when the Vallies' hotel started to serve the road construction workers and, as a result of the workers' drunkenness, held up the province's road building work, the ALCB refused to issue the Vallies a license for 1930. The board wrote that their refusal was "chiefly on the grounds that her beer room...has been a menace" to the government road work.[28] The ALCB may have constantly reminded the Vallies to improve their hotel based on the public's many

[25] Letter from Inspector Dorman to FG Forster, Supervisor of Licenses (8 January 1926), PAA (RG 74.412/2368); "Arthur Vallie Gets 2 Year Prison Term", *Irma Times* (15 February 1924).
[26] Letter from ALCB Chairman to Alice Vallie (14 December 1926); Report of Inspector on Hotel Application (17 November 1927); Letter from ALCB Inspector AWA Stewart-Irvine to Dinning (25 November 1927); Letter from Dinning to Alice Vallie (9 December 1927); APP Beer Parlour Inspection Report, High Prairie Detachment (26 March 1928); Letter from Dinning to Alice Vallie (17 October 1928), PAA (RG 74.412/2368).
[27] Letter from Dinning to AWA Stewart-Irvine (11 December 1928) (stating the Vallies' license is suspended indefinitely while the board decides whether it should be completely revoked); Letter from Dinning to G Hagerud (22 January 1929), PAA (RG 74.412/2368) (noting the return of the license).
[28] Letter from Dinning to Ray Schurman of the United Commercial Travellers (16 December 1929), PAA (RG 74.412/2368).

complaints but it was the interruption of road construction that caused the hotel to lose its license.

The Smith Hotel posed something of a dilemma for the ALCB. One of the purposes of hotel licenses was to encourage a certain standard of accommodation in the province's developing areas; yet attracting the right class of licensee to such areas was not always easy. Such difficulties may explain why the ALCB allowed the Vallies to continue to hold a license even though they flouted the laws and their hotel was, according to ALCB Chairman Dinning, "a cheap, third-rate, roadside saloon" and "a ramshackle affair built on muskeg."[29] That the ALCB only refused the Vallies a license when the engineer in charge of the government road work in the region personally complained to Chairman Dinning,[30] further suggests that the board was more concerned about hotels' role in economic development rather than their ability to provide excellent service. The Vallies' hotel clearly caused the ALCB concern, but it was a small hotel in a small, out of the way place which limited the amount of public attention it could attract. Furthermore, as much as public opinion mattered to the ALCB it was only one factor in the Board's decision to license the Smith Hotel.

Given the ALCB's repeated claim to only license the best hotels, its decision to license and to continue licensing the Smith Hotel seems counter-intuitive. In 1925 one of the ALCB's own Enforcement Officers, Alexander Stewart-Irvine, recommended that the Smith Hotel should not be licensed because

[29]Letter from Dinning to Alice Vallie (29 November 1929), PAA (RG 69.289/99a); Letter from Dinning to the AHA (29 November 1929), PAA (RG 74.412/2368).
[30] Letter from Dinning to Brownlee (31 March 1930), PAA (RG 69.289/99a).

"the place is so out of the way that supervision by either the Police or the Board is difficult [and] patronage would be of an undesirable type."[31] Yet these were precisely the reasons why a place like Smith *should* have a licensed hotel.[32] Smith's population would likely drink whether or not there were any legal outlets in the town. The existence of a licensed hotel would at least push its population towards legal forms of drinking rather than bootlegging. A licensed hotel maintained the illusion of control, even if in practice the Smith Hotel fell far short of the ALCB's ideals. The ALCB's willingness to license the Smith Hotel also suggests that the board accepted at least some diversity in the quality of its licensed hotels.

Alice Vallie was one of the few female hotel licensees in Alberta, though the ALCB did not seem to treat her differently because she was a woman. Vallie's letters to the ALCB and complaints about her paint a picture of an assertive woman, who expected guests to pay more for certain items – some guests alleged she charged extra for butter – and who was more than capable of holding her own in her hotel's rough, rowdy beer room.[33] Vallie was, in short, precisely the kind of tough woman who might be expected to be found drinking in a beer parlour, for Alberta, unlike other provinces, never explicitly banned women from all of its beer parlours.[34]

---

[31] Letter from Stewart-Irvine to Dinning (3 December 1925), PAA (RG 74.412/2368).
[32] Compare Malleck, "Leisure, Liquor and Control", *supra* note 9 at 382 (noting that in Ontario, the LCBO had a similar balancing act between viable hotels and social order).
[33] APP Report (19 November 1929); Letter from Dinning to Alice Vallie (29 November 1929) PAA (RG 74.412/2368).
[34] Dale Barbour, "Drinking Together: The Role of Gender in Changing Manitoba's Liquor Laws in the 1950s" in Esyllt W Jones & Gerald Friesen, eds, *Prairie Metropolis: New Essays on Winnipeg*

Though the ALCB never explicitly banned women from hotel beer rooms it clearly thought they would be a mostly male space. The ALCB regulation concerning which women could work in the beer room pointed to a belief that beer room jobs were inappropriate for single-women and a desire to keep single women away from beer drinking men.[35] This regulation also tacitly suggests that the ALCB believed only men would drink in the beer rooms. In fact, the ALCB's Chief Enforcement Officer, AH Schurer was shocked when it turned out that women also used the beer rooms. In 1924, the number of women, particularly the number of 'respectable' women, who drank in hotel beer parlours, surprised Schurer and led him to suggest that separate beer parlours for men and women would be more appropriate.[36] It would be 1926, however, before anyone attempted to implement his suggestion. That year, the hotel licensees in Edmonton and Calgary tried to ban women from their beer parlours with little success. Edmonton and Calgary hoteliers hoped that the ban would stop prostitutes using the beer parlours to pick up men. Women demanded to be served, however, and the informal agreement between urban hotel licensees did not provide sufficient basis for each licensee to refuse to serve women.[37]

Social History (Winnipeg: University of Manitoba Press, 2009) 187; Heron, *Booze*, *supra* note 2 at 289-293.

[35] *ALCB Regulations*, Reg 13 found in OC 604-24, (1924) A Gaz I, 320 (*Liquor Control Act*)

[36] Letter from AH Schurer to RJ Dinning (17 September 1924), PAA (RG 75.126/2566a). See also, "Chief Ritchie Complains of Beer Drinking by Women in Calgary Beer Parlours", *Calgary Albertan* (4 October 1924). For more on the dichotomy between the 'respectable' woman and the drinking woman see, Dan Malleck, *Try to Control Yourself: The Regulation of Public Drinking in Post-Prohibition Ontario, 1927 -1944* (Vancouver: UBC Press, 2012) at 162-176 [Malleck, *Try to Control Yourself*].

[37] "Women Barred in Halls," *Edmonton Bulletin* (9 March 1926); "Not Many Women Patronized Beer Halls in Calgary", *Calgary Albertan* (16 March 1926); "Beer Halls Open to All", *Calgary Herald* (30 April 1926). In theory a hotel licensee could refuse to serve anyone on any grounds whatsoever, Letter from Assistant Deputy Attorney General to AJ Mason (27 May 1926), PAA (RG 75.126/2568b); *The Queen v Rymer* (1887) 2 QBD 136.

Consequently, at the end of 1927, ALCB Chairman, RJ Dinning, announced that no hotel in either Edmonton or Calgary would receive a hotel beer license for 1928 if they allowed mixed drinking.[38] The ban on mixed drinking in Edmonton and Calgary was only policy based, yet it took thirty years, an overhaul of the *Liquor Control Act* and two municipal plebiscites to overturn it.[39]

The ALCB's ban on mixed drinking was never extended beyond the cities of Edmonton and Calgary, despite calls for it to be implemented province-wide.[40] The motivation behind the ban in these two cities seems to have been that the hotel licensees wanted it. Hotel licensees in other areas were free to have separate drinking rooms for male and female patrons if they wanted and could afford to do so.[41] The refusal to extend the ban province-wide may have been motivated by an idea, articulated by Premier William Aberhart in 1943, that outside of Edmonton and Calgary, mixed drinking forced certain activities, such as married men buying beer for other men's wives, to take place in the open where other people could see. Aberhart also noted that "the problem of separate beer rooms for men and women is one that has given the Liquor Board a good deal of worry during the past few years."[42] The problem of separate beer rooms was merely whether it was appropriate or even possible to have a separate women's beer room. It is clear that mixed drinking was a long-standing concern

[38] "Hotel Men Silent on Women's Beer", *Calgary Herald* (9 December 1927).
[39] Alberta Liquor Control Board, *Fifty Years* (undated), PAA (RG 76.2) at 27.
[40] These calls continued into the 1950s, Letter from Dr HJD Robinson to Premier Manning (30 January 1950), PAA (RG 69.289/1793a).
[41] Inspector's Report [on Dominion Hotel, Spirit River, Alberta] (23 November 1939), PAA (RG 74.412/2388).
[42] Letter from Premier Aberhart to Mrs Bernice Commes (5 April 1943), PAA (RG 69.289/963).

of both the ALCB and the government but the policy from 1926 was never made more official, nor extended more broadly.

The concern over mixed drinking stemmed from fears that hotels would be used by prostitutes. Certainly there is evidence that some prostitutes used licensed hotels to pick up clients and as a base to work from. The ALCB would write to remind licensees of the names of prostitutes and to reiterate that such women should not be allowed on the premises. In 1937, for example, the ALCB wrote to a number of Edmonton hotels to say that it still received complaints that "certain women, classified by the Police as notoriously bad characters, are permitted by some licensees to enter their beer-rooms and purchase and consume beer therein."[43] Here we can see that the ALCB relied on the police to decide who was and who was not a prostitute and that being accused by the police was enough for a woman to be barred from all beer rooms. Prostitution was, after all, a status crime,[44] and being considered a prostitute meant that a woman was not worthy of public liquor consumption. The ALCB's coercive power over hotel licensees meant that it could prevent, or at least attempt to prevent prostitution in hotels in ways that the government could not do during prohibition.

Admittedly a more stringent policy on women in beer parlours could have addressed concerns over the relationship between hotels, alcohol, and prostitution but such a policy had its own drawbacks. It was women who protested the attempt by Edmonton and Calgary hotels to ban them in 1926, and as Craig Heron

[43] Letter from Acting ALCB Chairman to Gus Hudyma (2 June 1937), PAA (RG 74.412/1116).
[44] Mariana Valverde, *The Age of Light, Soap and Water: Moral Reform in English Canada, 1885-1925* (Toronto: University of Toronto Press, 2008) at 78 [Valverde, *Age of Light*].

notes, women's demands to enter 'male' drinking spaces were the result of a Canada-wide shift in what counted as acceptable female behaviour.[45] Women were beginning to demand equality with men and this included the right to enter beer rooms and drink. The ALCB's decision to ban women and men from drinking together in only the major urban centres should be understood as a compromise which sought to balance concerns over prostitution – a concern which was greater in the cities to begin with – and the desire of women to drink beer.[46] Aberhart's comments in 1943 highlight that in small towns where everyone knew everyone else it was much harder for illicit activity like prostitution to take place in the beer parlours; however, urban centres offered more anonymity and hence more opportunities for prostitution to take place in the open, particularly in the beer parlours. The ALCB's choice came down to allowing women to drink in public and having the chance to control such drinking, or not allowing women to drink in public which might result in women finding other places to drink where what went on could not be controlled, or even supervised. Ultimately the ALCB's policy on men and women drinking together represented a solution which addressed the anonymity concerns of urban beer parlours while seeking to control how men and women interacted together in the beer parlours as far as possible.

[45] Heron, *Booze*, *supra* note 2 at 289-293.
[46] For the threat posed by the city see Marylin Barber, "Introduction" in JS Woodsworth, *Strangers Within Our Gates: The Problem of the Immigrant 1909* (Toronto: University of Toronto Press, 1972) vii at xxi; Woodsworth, *ibid* at 214 ("[i]n Canada, the city and its problems are only beginning to require serious consideration"); Valverde, *The Age of Light*, *supra* note 44 at 84, 131-132.

The board's repeated letters to city hotels over prostitutes show that these licensees did not follow the board's policies as strictly as the board wished, but then again, the ALCB was itself not as strict as it claimed. In the ALCB's first year of operation, the board did strictly enforce the laws among hotel licensees, however within a few years the board's enforcement was noticeably laxer, at least based on the suspensions and cancellations detailed in the board's annual reports.

Simply looking at the number of hotel license suspensions and cancellations alone is not enough to show that the board seemed to relax its standards; an examination of the suspension period is needed. During the ALCB's first five years, the number of hotel license suspensions fluctuated from a low of eleven in 1924 to a high of thirty-three in 1925. From 1929 onwards the number of suspensions decreased dramatically and only once climbed back into double figures in 1931, as illustrated in Appendix C. Similarly, in the case of license suspensions, there is some evidence of a decline in the length of the suspension period from 1924 onwards. In 1926, for example, an infraction of s 90 (giving liquor to a minor) of the *Liquor Control Act* resulted in the ALCB suspending the license of St Albert Hotel in St Albert, Alberta for one month,[47] whereas in 1935 when the Frank Hotel in Frank, Alberta also violated s 90 of the *Liquor Control Act*, the ALCB only imposed a ten day suspension.[48] Similarly when Edmonton's Thornton Hotel violated ALCB Regulation No 13 (this regulation contained a number of requirements about the sale of beer on licensed

[47] Alberta, Legislative Assembly, "Third Annual Report of the Alberta Liquor Control Board, 1926" in *Sessional Papers* No 3 (1927) at 28 [Third Annual Report].
[48] Alberta, Legislative Assembly, "Eleventh Annual Report of the Alberta Liquor Control Board, 1934" in *Sessional Papers* (1935) at 12.

premises, and the ALCB did not specify a section in its annual reports) in 1924 the ALCB suspended the license indefinitely and then officially cancelled it, yet just two years later, the Compeer Hotel at Compeer, Alberta only suffered a one month suspension for violating the same regulation.[49] Doubtless there were extenuating circumstances in all of these cases which would explain the ALCB's different treatment; however, for a person simply reading the ALCB's annual reports, it would appear as though the board was less strict than it once had been because the annual reports did not give the full story behind each suspension, nor did the reports even cover the full range of punishments available to the board. The Annual Reports did not have to include, for example, licenses the ALCB declined to renew.

It is not surprising that the ALCB would relax its standards as time progressed and the beer parlours became normalized. In the early years of the board, there were more hotels than available licenses –the Act limited licenses by population size[50] – which meant that the licensed hotels faced competition from other hotels both to receive and keep hotel beer licenses. Strict punishments served to remind licensees that licenses were a privilege not a right. In addition, due to the controversy surrounding the return of public drinking, it is reasonable to conclude that the ALCB wanted to be as strict as possible to show that it could control the hotel beer parlours. By the 1930s, however, beer parlours had been

[49] Alberta, Legislative Assembly, "First Annual Report of the Alberta Liquor Control Board, 1924" in *Sessional Papers* (1925) at 50; Third Annual Report, *supra* note 47 at28.
[50] *Liquor Control Act*, *supra* note 4, s 33(2). The Act allowed one license for places of up to five hundred people, two for places with up to a thousand people, three for places of at least two thousand, four for places with at least three thousand people with one additional license per next four thousand people.

around long enough to become a relatively well-accepted feature of Albertan life and most unlicensed hotels had gone out of business. Furthermore, lengthy suspensions had the potential to push beer parlour patrons to other sources of alcohol which, particularly in the rural areas, likely meant illicit sources of liquor. The ALCB had to balance its coercive power over hotel licensees with its mandate to ensure that if Albertans drank, they drank legally and under the board's supervision.

In addition to cancelling or suspending licenses, the ALCB could also simply not renew a hotel license. The ALCB exercised this power in the case of the Smith Hotel and it offered the board some benefits that simple cancellation did not. For one, the board did not have to report non-renewed licenses in its annual report, thus a refusal to renew allowed the board to paint a picture of hotels being more law-abiding than they may actually have been. In fact between 1929 and 1939 the ALCB did not cancel any hotel licenses,[51] though the ALCB's treatment of the Smith Hotel should be understood as a *de facto* cancellation. A refusal to renew also gave the hotel licensee a chance to sell his hotel to another who would be more acceptable to the ALCB, though this was no guarantee of the continuation of the license. For example, the Smith Hotel initially received a license in 1924 but quickly lost it due to the hotel being so badly run, it was only re-licensed when the Vallies took it over a few years later.[52] Similarly, Edmonton's Empire Hotel also initially received a license in 1924 which was not

[51] See Appendix C.
[52] Letter from Dinning to AT Elliot (18 June 1925), PAA (RG 74.12/2368) (noting that the ALCB would not be relicensing the original licensee, DA Lee).

renewed for 1925 because its employees tolerated drunkenness and were alleged to be bootleggers.[53] The hotel changed ownership and was eventually relicensed in 1928.[54] Such transfers theoretically allowed the ALCB to maintain the license in the area and therefore its control over how that community consumed liquor.

The ALCB's boasts of improved or excellent hotel standards are also not borne out by an examination of some of the hotel license reports. The Vallies' Smith Hotel at Smith in northern Alberta fell far short of the standards that the ALCB boasted of and the hotel's license file notes that the building had been condemned on "various occasions."[55] Similarly the Fairview Hotel at Fairview, Alberta appeared to have been built "solely for the purpose of obtaining a license,"[56] though the ALCB eventually agreed to license this hotel in 1932. The board's decision to license this hotel was in part motivated by Fairview's recent local option vote which saw the village finally vote in favour of beer licenses, after two previous votes in favour of remaining dry. Two years after Fairview received a license, the region's hotel inspector noted that Fairview had always been known for its moonshining activities, although the hotel licensee claimed that such illicit behaviour had declined since he got his license.[57] The reputation of Fairview as a moonshining region likely played a key role in convincing the board to license a less than satisfactory hotel with a licensee who "has not the

[53] Letter from AH Schurer to Dinning (31 December 1924); Letter from Edmonton Police Chief AG Shute to Dinning (28 May 1924), PAA (RG 74.412/1114).
[54] Letter from Dinning to Forester (7 January 1928), PAA (RG 74.412/1115).
[55] Letter from Dinning to Alice Vallie (29 November 1929), PAA (RG 74.12/2368).
[56] Review by Dinning during trip to Peace River (8 to 11 June 1929), PAA (RG 74.412/1308).
[57] Report of Inspector on Hotel Application 1935 (13 September 1934), PAA (RG 74.412/1308).

personality to make himself popular,"[58] in order to attempt to bring drinking under control.

The ALCB also tolerated another rural hotel's inability to fix some of the problems observed by the board's hotel inspectors. In February 1930 the ALCB inspector complained that toilets in the Dominion Hotel at Spirit River smelled.[59] A few weeks later the board dispatched an officer of its Enforcement Branch to investigate the toilet situation. The officer explained that despite the licensee's best efforts, which included digging a six hundred foot well in an attempt to secure a supply of water, the hotel had no running water. The only thing that the licensee was able to do was to increase ventilation and that seemed to work, at least for a while.[60] Eight years later the Dominion Hotel's toilets became a problem again and the ALCB Chairman wrote to the license to ask what he was going to do about it.[61] That same year the board also noted that a new heating plant was needed, an observation that would be repeated every year until the licensee retired.[62] Despite the repeated letters, the board seemed broadly tolerant of the troubles that the Dominion's licensee faced. Spirit River was, after all, in the northern pioneer region of the province where supplies and labour were not always as readily available as they were in urban areas. The board noted that the hotel was a very good hotel and as with all aspects of licensed hotels the ALCB

[58] Letter from ALCB Inspector Rouse to Chairman Dinning (14 November 1932), PAA (RG 74.412/1308).
[59] Liquor Report (24 February 1930), PAA (RG 74.412/2388).
[60] Letter from Preventive Officer to ALCB Chairman (10 March 1930), PAA (RG 74.412/2388).
[61] Letter from ALCB Chairman to Charlie Wing (6 October 1938), PAA (RG 74.412/2388).
[62] Report of Inspector (19 May 1938); Report of Inspector (23 November 1939); Report of Inspector (5-6 September 1940); Report of Inspector (3 December 1941); Report of Inspector (25 May 1942), PAA (RG 74.412/2388).

had to balance the need for certain standards with the need for beer parlours in out of the way places. In short, the board tolerated some regional variation in hotel quality.

As crucial as adequate heating may have been to a hotel like the Dominion, new heating plants were expensive and many hotels across the province faced financial difficulties as the 1920s and 30s progressed. In its annual reports the ALCB noted that the province's hotels had suffered a decline in the room business and that many operated at a financial loss.[63] Based on the license files I examined, the ALCB's awareness of the financial difficulties faced by hotels translated into a degree of laxity in enforcement of board standards. In 1938, for example, the ALCB inspector noted that Leduc's Waldorf Hotel had suffered a loss of business "but in this particular instance it seems to be having more than the usual depressive effect upon the Licensee so I refrained, for the time being, from taking up matters of minor improvements with him."[64] Here we can see that hotel inspectors had the discretion to decline to raise the question of improvements. Though the Alberta Hotelmen's Association (AHA) may have complained, as they did in 1930, that "they [licensees] are the most persecuted people in the entire Province,"[65] the ALCB had to balance between maintaining at least the appearance of standards and the need to have beer parlours because of the control they offered.

[63] Alberta, Legislative Assembly, "Seventh Annual Report of the Alberta Liquor Control Board, 1930" in *Sessional Papers* No 6 (1931) at 6.
[64] Report of Inspector, Waldorf Hotel (15 February 1938), PAA (RG 74.412/1724).
[65] Letter from Charles Traunweiser, President of the AHA to Dinning (5 May 1930), PAA, (RG 69.289/99a).

The control that the beer parlours offered extended beyond mere liquor consumption and into the private lives of their patrons. The ALCB expected that hotel licensees would monitor the sexual morals of hotel guests as well as beer parlour customers. In the case of hotel guests, the board wanted hotel licensees to monitor who was brought to what room. On one occasion in 1938, while inspecting the Dominion Hotel at Spirit River in north-west Alberta, the ALCB inspector noted a neighbouring guest had brought a female companion to his room. "Some five minutes later [the] locked door and doused room lights indicated the need of inquiry," at which point the inspector summoned a staff member and saw that the girl was escorted from the premises.[66] Curious as to how such a course of events could have occurred, the inspector examined the hotel's entrance and saw that "the structural arrangement of the hotel interior at the point where the main stairway is located is such as to encourage guests to take whom they will to their rooms in as much that those using said stairway cannot be viewed by those in the rotunda or at the register desk."[67] As a result the inspector suggested certain structural changes which would address this problem. It is not clear that the Dominion Hotel ever made these changes and unlike other suggestions made by the hotel inspector, the board did not follow up on it. Nonetheless, what this incident demonstrates is that the supervision of Albertans' sexual morals was not limited to the beer parlour.

The supervision of beer parlour patrons even extended beyond the confines of the hotel itself. A person could not drink in the beer parlour or buy

[66] ALCB Inspector's Report (6 October 1938), PAA (RG 74.412/2388).
[67] *Ibid.*

liquor from a government store if he or she was on relief or interdicted. The latter restriction had existed prior to prohibition and meant that those who drank to excess or to the detriment of their family could be legally prevented from purchasing alcohol upon an application to a magistrate.[68] The de facto interdiction of relief recipients emerged in response to allegations by temperance activists that those on relief wasted their money on beer instead of feeding their families.[69] In order to keep its licensees informed of who was interdicted or on relief, the board would send a list of interdicts and the relief lists to its licensees at regular intervals.[70] While hotel licensees had to supervise behaviour inside their premises to maintain their license, the ALCB expected beer parlour patrons to supervise their own behaviour outside the parlour in order to continue to drink there. If they failed to meet the appropriate standards the ALCB barred them from beer parlours: interdicts and relief recipients were not even allowed on the premises.[71] Through interdiction and the de facto interdiction of relief recipients, the ALCB tried to answer claims that government sale of liquor led to the downfall and destitution of families. The ALCB sought to keep liquor

---

[68] *Liquor Control Act, supra* note 4 s 101;*The Liquor License Ordinance* , RSNWT 1905, c89 ss120-123.

[69] "Vendors and Beer Halls Closed to Unemployed Here", *Calgary Herald* (15 November 1930). The ALCB took to including the relief lists when they sent the beer license to licensees, Letter from ALCB Chairman to Messrs Fairview Hotel Company Limited (22 December 1932) PAA (RG 74.412/1308).

[70] Letter from Dinning to Messrs Fairview Hotel Company Limited (22 December 1932), PAA (RG 74.412/1308) (this letter was something of a 'welcome package' which included the interdict list, relief lists, and recent circulars); Letter from ALCB Chairman to Roy Stoyko (11 June 1932) PAA (RG 74.412/1115) (naming a new interdict).

[71] Letter from the Acting Deputy Attorney General to WJ Howard (24 February 1927), PAA (RG 75.126/3249). See also James Struthers' work for a discussion of attitudes towards unemployed individuals in Ontario at this time, James Struthers, *The Limits of Affluence: Welfare in Ontario, 1920-1970* (Toronto: University of Toronto Press, 1994).

consumption as a privilege only for those who were employed and capable of drinking in moderation.[72]

In many ways the ALCB's regulation of hotel beer parlours reflected the concerns of temperance activists rather than those of beer parlour patrons or licensees themselves. The limiting of beer parlours to drinking was a clear attempt to prevent beer consumption from leading to the other social ills, such as gambling and prostitution, which temperance activists attributed to alcohol. Yet the linking of beer parlours to hotels also attempted to justify the controversial return of public drinking. The beer parlours allowed the ALCB to claim to have liquor consumption under control while also providing additional benefits to the broader public such as quality hotels. The ALCB were never going to be able to convince temperance activists that beer parlours were a good thing, rather the ALCB's goal was to prevent temperance sentiment from spreading beyond the remaining Prohibitionists.

In 1929 the ALCB prepared a report on the province's beer-room situation which investigated the public's opinion of the beer rooms. The report claimed that most people were apathetic over the beer rooms and attributed this apathy to increased enforcement and tighter regulations.[73] The number of license suspensions had increased from eleven in 1927 to thirty in 1928 and this may have been due the increased enforcement that the report referred to, but the report also noted that poorer crop conditions meant fewer drinkers. Though the ALCB's

[72] The effectiveness of interdiction are further explored below.
[73] Report on the Beer-room and Dining Room Situation, forwarded to Premier Brownlee from Dinning (6 July 1929), PAA (RG 69.289/98b).

report may have attributed apathy over the beer rooms to increased enforcement, such feeling could have just as easily stemmed from Alberta's economic difficulties.[74] The indifference to the beer rooms alleged by the ALCB's own report was not shared by sections of Alberta's press. In an editorial that same year the *Strathmore Standard* and the *Western Globe* praised Alberta's hotels, their beer rooms and "the wise administration of the Liquor Law."[75] These editorials went on to note that beer parlours had been introduced in Manitoba and that people in Saskatchewan demanded the same. The beer parlours may have horrified Prohibitionists but licensed hotels played a key role in controlling liquor consumption under Alberta's post-prohibition system. In fact, as I now move on to show, hotels offered more control than either licensed clubs or liquor stores.

6.1.2 – Club Licenses: A Problematic Privilege

During prohibition Alberta's clubs as well as its hotels were often suspected of illicit liquor sales. In 1920, for example, the *Edmonton Bulletin* reported that a man called Bob Patterson had been convicted of selling liquor in the club room of Crow's Nest Pass's Great War Veterans' Association (later called the Royal Canadian Legion).[76] Although ALCB Chairman Dinning would later imply that the government created club licenses as a reward for the veterans of the First

[74] For the economic difficulties of Alberta during this period see, Donald B Smith, "Things are Seldom What They Seem" in Michael Payne, Donald Wetherall & Catherine Cavanaugh, eds, *Alberta Formed, Alberta Transformed* vol II (Edmonton: University of Alberta, 2006) 462; Alvin Finkel, "1935: The Social Credit Revolution" in *ibid* 490. See also, EJ Hanson, "Public Finance in Alberta Since 1935" (1952) 18:3 Canadian Journal of Economics and Political Science 322 at322 (brief reference to Alberta's history of financial troubles prior to 1935).
[75] "Our Hotels", Editorial, *Strathmore Standard* (12 June 1929); "The High Standard of Alberta Hotels", Editorial *Western Globe* (7 November 1929). These two articles are identical.
[76] "Liquor Dens in Pass District Raided by APP", *Edmonton Bulletin* (29 November 1920).

World War,[77] the real reason for such licenses likely stemmed from the belief that members of these clubs would drink anyway, just as they had during prohibition. Discovering prohibition violations in clubs tended to be harder as such clubs were only open to their members. Dinning's justification for club licenses, however, does not explain why such licenses would be extended to other clubs such as golf clubs or fraternal associations, with the former type of club being almost as common as veterans' associations.[78] Regardless of why the government allowed club licenses, such licenses also sought to push Albertans towards beer consumption and sought to control the environment in which it was consumed. Though the ALCB's regulation of licensed clubs has some similarities with Dan Malleck's argument that Ontario's liquor board wanted clubs to be "respectable semi-private spaces for the assembly of private citizens within a broader public community,"[79] the ALCB did not have an ideal club in the way that Malleck claims Ontario did.[80] In fact, from the start, Alberta's licensed clubs, being mostly veteran's associations, were likely for less elite groups in society.

Although the ALCB sought to regulate licensed clubs in the same way as licensed hotels, the board often had to be much stricter with clubs. Clubs tended to be unable to sell enough beer to their members to recover the costs of running a beverage room and, as a result, some clubs sold beer to non-members and failed

[77] Letter from Dinning to the President of Edson's Canadian Legion (10 May 1926), PAA (RG 74.412/125).
[78] Oddly, given Alberta's northerly climate, I found no evidence of any curling clubs receiving a club license.
[79] Dan Malleck, "The Same as a Private Home? Social Clubs, Public Drinking, and Liquor Control in Ontario, 1934-1944" (2012) 93:3 Canadian Historical Review 555 at 582 [Malleck, "Same as a Private Home"].
[80] *Ibid* at 565.

to properly record the names of these guests in the register.[81] Some clubs even padded their membership lists with 'associate members'; for example, the ALCB complained that some Canadian Legions used associate membership to allow men who were not ex-servicemen into their club rooms.[82] The ALCB frowned upon such practices and, after a number of licensed Canadian Legions proved especially disruptive in their first year of licensing, the board cancelled at least one license and wrote a letter to all Canadian Legion clubs chastising them for poor behaviour.[83]

In response to the Legions' misbehaviour, the ALCB sought to exert more stringent control over licensed clubs. In 1925 the *Liquor Control Act* was amended to extend the length of time a club had to exist before it was eligible for a license from two years to three. The 1925 amendments also introduced a requirement that clubs notify the ALCB one year "prior to the date of application" of their intention to apply for such a license.[84] Then in 1926, the ALCB amended their regulations so that clubs in rural areas could only open until ten at night which was as late as hotels could be open, while clubs in the cities could remain open until eleven. The amended regulation also stated that individuals who lived within a fifteen mile radius of the club could only drink in the club if they were members in good standing.[85] This provision aimed to prevent the practice of

[81] Alberta, Legislative Assembly, "First Annual Report of the ALCB, 1924" in *Sessional Papers* (1925) at 9.
[82] *Ibid*.
[83] Letter from the ALCB Chairman to the President of the Edson branch of the Royal Canadian Legion (10 May 1926), PAA (RG 74.412/125). See also Appendix C.
[84] *Liquor Control Act*, SA 1924, c 14 as amended by SA 1925, c 3, s 8(b).
[85] *ALCB Regulations*, Reg 30 found in OC 344-26, (1926) A Gaz I, 201 (*Liquor Control Act*). For hotels see *Liquor Control Act*, *supra* note 4 s 37 (a). The original hours of sale for all clubs were

'associate members' that caused so much trouble in 1924.[86] These amended regulations suggest that the ALCB's control of licensed clubs developed on an ad-hoc basis. Nonetheless, the ALCB's overarching goal was that licensed clubs would actually be clubs and would have a purpose other than drinking beer. Where the board's original controls showed themselves to be ineffective, the board replaced them but it did not know what rules would be effective until it tried them.

Due to the ALCB's monitoring of licensed clubs' membership rules, these clubs often required less moral regulation than the hotel beer parlours. Licensed clubs, particularly Canadian Legions, were overwhelmingly male – though women could become 'associate members' or 'honorary members' of these associations – and those who drank in the club rooms tended to be mostly male as well.[87] In 1926, ALCB Chairman Dinning wrote to WS Gray, the government appointed legal advisor of the ALCB, to note that "one of the Clubs in the southern part of the Province is now including ladies in the membership of the Club." Gray replied that "there is nothing in the *Government Liquor Control Act*, nor in the Regulations made by the Liquor Control Board, to prevent ladies becoming members of licensed clubs and having the same privileges as the men

---

from nine in the morning until eleven at night, *ALCB Regulations*, Reg 16 found in OC 604-24, (1924) A Gaz I, 321 (*Liquor Control Act*).

[86] Letter from Supervisor of Licenses to Secretary of the Great War Veterans Association (7 July 1924), PAA (RG 74.412/3) (noting the rules about associate members and limiting them to 10% of active members). See also, Letter from ALCB Chairman to Secretary of the Canadian Legion (9 December 1926), PAA, (RG 74.412/3).

[87] ALCB Chairman RJ Dinning seemed concerned when one licensed club began admitting "ladies" as members but no action was taken, Letter from RJ Dinning to WS Gray (1 June 1926), PAA (RG 75.126/2568b).

on the club premises."[88] The matter was not raised again, perhaps because clubs were legally obliged to record their members and guests and as such allowed for less anonymous drinking than that seen in hotels.

The ALCB did not impose the same limits on men and women interacting in licensed clubs as they did in licensed hotels. I found no regulation banning women from working in licensed clubs but I also found no record of any women working in the licensed part of the club rooms. Nor did the ALCB seek to prevent men and women drinking together in licensed clubs, so long as the men and women who drank in the clubs were either members in good standing or guests of members in good standing, the board did not object. The ALCB also had no objections to clubs serving food to their members, though no club I examined at actually did so during the period under study. Clubs by their very nature were already less public than hotels, thus the ALCB did not have to worry as much about such clubs appearing to encourage liquor consumption.

The behaviour of several Canadian Legion Clubs in 1924 was not the last time that licensed clubs abused the privileges the board granted them. Golf clubs also managed to take advantage of their liquor licenses by selling beer to unauthorized people. Due to Alberta's northern climate, most golf and country clubs in the province only operated from April to October or November if the weather was good enough. As such, these clubs only had six months of the year to recoup the cost of the beer license. In response to the golf and country clubs'

[88] Letter from RJ Dinning to WS Gray, Solicitor in the Attorney General's Department (1 June 1926); Letter from WS Gray to RJ Dinning (2 June 1926), PAA (RG 75.126/2568b).

limited 'year,' the ALCB decided against making their club licenses less expensive. The ALCB seemed generally opposed to any refund of the license fee and this included cases where the board cancelled the license. In fact ALCB Chairman Dinning refused to admit that the board had the power to pass a regulation to allow "a return of the portion of the fees paid by" licensees who had their licenses revoked. Dinning justified this stance on the fact that in 1924 licensees had paid the full fee for less than a full year of sales.[89] The ALCB was always well-capitalized by the government,[90] so they likely could have refunded the license fees had they chosen to do so. Instead of refunding a portion of the golf clubs' annual fee, the ALCB granted special permission for golf and country clubs to serve beer on Sundays. Each club needed to apply annually for this special permission, but the application seems to have been little more than a formality.[91] Licensed golf and country clubs became the only place where Albertans could buy any form of liquor on a Sunday as all other legal outlets, including liquor stores, were closed.[92] Not surprisingly, Albertans who were not members of these clubs sometimes wanted a cold beer on a hot Sunday afternoon and made their way to the nearest golf course to take advantage of Sunday sales.

---

[89] Letter from RJ Dinning to WS Gray, Solicitor in the Attorney General's Department (8 April 1926), PAA (RG 75.126/3257).
[90] Malcolm G Bird, "Privatizing the Crown: The Exceptional Fate of Alberta's Liquor Control Board" (2012) 42:3 American Review of Canadian Studies 329 at 332.
[91] *ALCB Regulations* Reg 16 found in OC 604-24 (1924) A Gaz I, 322 (*Liquor Control Act*); "Will you be good enough to write the Board a formal letter applying for Sunday selling privileges so that we may have our records complete in this connection," Letter from ALCB Chairman to TH McCready, President of Lethbridge Golf Club (18 April 1932), PAA (RG 74.412/174). In 1949, Premier Ernest Manning explained that golf clubs were allowed to sell beer on Sundays because these clubs only operated for six months a year and most of their members were only able to use the clubs on the weekends, Letter from Premier Manning to Mrs FR Haythorne, Corresponding Secretary of the Women's Missionary Society (7 March 1949), PAA (RG 69.289/1786).
[92] *ALCB Regulations*, Reg 7(b) found in OC 604-24 (1924) A Gaz I, 321; *Liquor Control Act*, *supra* note 4, s 37(a).

The ALCB had not intended the Sunday serving privileges to be used to facilitate Sunday drinking by non-members. Typically golf clubs allowed non-members to access the club's premises and privileges upon payment of a green fee but this did little to stop people from just going to golf clubs to drink. In order to prevent the abuse of Sunday selling privileges, the ALCB stipulated that to be a *bona fide* guest, a person had to live at least fifteen miles away from the club.[93] This fifteen mile limit was not always workable and the ALCB struggled to find other ways to ensure that people who paid the green fee did not spend all Sunday drinking in the club house rather than playing golf. Some clubs assisted the ALCB in the effort to prevent abuse of the Sunday selling privilege. Calgary's Inglewood Golf Club, for example, stipulated that on Sunday guests had to play at least nine holes before they could order a beer.[94] The ALCB wanted people to go to the golf course primarily to play golf, not to drink beer, and as with the Canadian Legion clubs, the main purpose of the golf clubs had to be something other than drinking.[95]

The existence of Sunday selling privileges was controversial among certain sections of Alberta's population. In 1935, in response to WCTU complaints over Sunday beer sales, the government lawyer WS Gray, explained to the new Attorney General, John Hugill, that "I understand that Mr Dinning has always been in favour of permitting the sale of beer at golf clubs on Sunday as

[93] Letter from ALCB Chairman to JS Kirkham (12 March 1931), PAA (RG 74.412/174).
[94] The ALCB as usual threatened heavy penalties to those who violated their regulations, Letter from ALCB Chairman to JS Kirkham (27 June 1930), PAA (RG 74.412/174); Report of Inspector [on Inglewood Golf Club, Calgary] (12 April 1938) PAA (RG 74.412/45).
[95] Compare, Malleck, "Same as a Private Home", *supra* note 79 at 560 (the LCBO also expected clubs to exist for more than just a license).

really preventing a greater evil which would be difficult to stop, namely, the consumption of hard liquor at these clubs by members."[96] In later years the ALCB and the government would add to this justification. For example in 1949 Premier Ernest Manning claimed that Sunday sales allowed golf clubs to recoup the cost of their license and that weekends were the only time that many club members could visit the club.[97] Two years later the then ALCB Chairman Alec J Mason, admitted that the limited year of golf clubs served as a "good excuse" for Sunday selling.[98] Gray's explanation in 1935 likely comes closest to the original justification for Sunday sales, though it is also clear that golf clubs faced pressures that Canadian Legions did not, and Sunday sales offered a way to mitigate these pressures while pushing golf club members towards the consumption of beer.

The Sunday selling privilege might appear to be an example of the ALCB's classism but that is not necessarily the case. Golf clubs tended to be used by middle-class Albertans, though the ALCB did license Calgary's Inglewood Golf Club which was located in an inner-city, industrial neighbourhood. Despite having a lower class of clientele the ALCB granted the Inglewood Golf Club Sunday selling privileges.[99] It was probably easier for the ALCB to have a blanket policy on Sunday sales at golf clubs but the board refused to extend it to other clubs such as Canadian Legions. In 1924 the ALCB's

[96] Memo from Gray to Hugill (22 October 1935), PAA (RG 69.289/954).
[97] Letter from Premier Manning to Mrs FR Haythorne, Corresponding Secretary of the Women's Missionary Society (7 March 1949), PAA (RG 69.289/1786).
[98] Letter from AJ Mason to GH Allen, President of Calgary Golf and Country Club (11 January 1951) PAA (RG 69.289/1790).
[99] Letter from Acting ALCB Chairman to the Secretary of the Inglewood Golf Club (19 July 1937) PAA (RG 74.412/45).

Supervisor of Licenses wrote to the Secretary of Banff's Canadian Legion to say that if his club wanted Sunday Sales, they should take it up with the provincial government.[100] However, the ALCB did later allow the Canadian Legions at Banff and Jasper to open until eleven at night instead of ten, in order to accommodate the increased patronage that such places received during the summer months.[101] Though the Sunday selling privilege was arguably classist, when examined with the extra hour of business granted to the Canadian Legions at Banff and Jasper, it is clear that both functioned as a way for the board to take into account the variations in business experienced by these clubs.

The ALCB still concerned itself with the decor of licensed clubs and the cleanliness of beer glasses, but clubs did not have to worry about a more modern club coming along to challenge its license in the way that hotels did. As the *Liquor Control Act* stipulated that no licensed club could be run for profit,[102] the ALCB had less coercive power over club licensees than hotel licensees. It might be thought that because licensed clubs could not be run for a profit that any profits would be reinvested but the clubs I looked at tended to struggle financially. The ALCB reported that the Edson branch of the Canadian Legion, for example, was operated at a loss and that very little business was done in the beer room.[103] Similarly Lethbridge's Golf Club suffered financial difficulties in the mid-1930s which resulted in two members writing to the ALCB to ask if the board could do

[100] Letter from Supervisor of Licenses to Secretary of the Canadian Legion (then called GWVA) at Banff (3 October 1924) PAA (RG 74.412/3).
[101] Letter from Dinning to JB Harkin (19 July 1934), PAA (RG 74.412/3).
[102] *Liquor Control Act, supra* note 4, s 29(2)(a).
[103] Report of Inspector on Club Application (26 September 1934); Report of Inspector on Club Application (17 October 1936), PAA (RG 74.412/126).

anything about reducing the license fee. ALCB Chairman Dinning replied that the fee could not be altered.[104] Though most clubs had a steward to manage the beer room and keep the club rooms in order, many clubs struggled to keep their membership dues at such a level which could cover a steward's salary, beer license, and the repairs and upgrades the ALCB wanted. As with licensed hotels, the ALCB seemed to tolerate "plain and cheap" furniture in the clubs so long as they stayed within the law and did not allow for too much rowdiness or drunkenness.[105]

Though the rationale behind licensed clubs had some similarities with that of licensed hotels, clubs never caused the same level of controversy as licensed hotels did, and, as shown in Appendix C, clubs were much fewer in number. The lack of controversy caused by licensed clubs likely stemmed from the fact that they could only serve beer to their members or to guests, whose names had to be recorded in the guests' register. Club beer licenses functioned to ensure that the ALCB could monitor how club members consumed liquor and to push club members towards drinking beer. While the ALCB, through their club inspections, encouraged clubs to provide recreational spaces for their members and, if possible, for the wider community, far more important was that these clubs provide a place of controlled consumption. As the economic benefits of club licenses were not enough to ensure that licensed clubs would enforce the liquor

[104] Letter from HM Goldby and T Oxland to Lethbridge Golf Club to Dinning (11 April 1935); Letter from Dinning to Goldby and Oxland (13 April 1935), PAA (RG 74.412/175).
[105] The phrase "plain and cheap" is taken from, Report of Inspector on Club Application [Edson Canadian Legion], (26 November 1926), PAA, (RG 74.412/125).

laws in the way that the ALCB wanted, the board had to introduce stricter controls such as a statutory definition of guest to coerce clubs into compliance.[106]

6.1.3 – Liquor Stores and Liquor Permits: Not Enough on their Own

Of all the forms of liquor sales permitted under the *Liquor Control Act*, liquor permits and liquor stores were the kinds most often seen in other post-prohibition, provincial liquor systems. As with licensed hotels and clubs the government and the ALCB sought to use liquor stores and permits to monitor Albertans' drinking habits and to keep liquor consumption as a privilege for those who were capable of drinking in moderation. In this section I focus on the three main ways that stores and permits worked to control liquor consumption: the locations of the stores, the amount of liquor a person could buy on a permit, and interdiction. I show that each of these methods had their limits and that Albertans could and did easily subvert them.

Liquor stores allowed for a different, more private kind of drinking than either clubs or hotels which meant that stores had a cachet that licensed premises did not. Liquor stores also offered a much broader selection of alcohol than the beer parlour and this selection included a wide range of wine, spirits, liqueurs, and beers. In fact certain kinds of beer, due to their alcohol content, had to be bought from a government liquor store and could not be accessed in a beer parlour. Taken together the wider range of liquors and the less supervised form of consumption gave liquor stores a respectability that licensed premises could never hope to achieve. Furthermore, the board's inability to establish a liquor store in

[106] See Appendix C for the number of suspended and cancelled club licenses from 1924 to 1939.

every town and city across the province meant that liquor stores were much fewer and therefore more desirable. In the late 1920s, for example, as the village of Fairview in northern Alberta voted in their local option plebiscite, inhabitants of the village told ALCB Chairman Dinning that they would much rather have a liquor store than a licensed hotel.[107] Admittedly, at the time, the citizens of Fairview did not think that either of their two hotelmen would make good licensees.[108] At any rate, Fairview voted dry and so no liquor store or hotel license could be established.

When the ALCB picked locations for its liquor stores, it had to take a number of factors into account and chief among them were the need for revenue and controlled consumption. As shown by Appendix B, from 1924 to 1939 the ALCB opened a number of new stores in addition to the initial twenty-five stores. During these fifteen years the board only closed one store, the store at Hythe, because that store was unprofitable.[109] The board received many more applications for new stores than it could reasonably establish but some areas of the province were better served than others. The area of east-central Alberta was, for example, poorly served by liquor stores. In August 1932, Premier Brownlee forwarded to ALCB Chairman Dinning a petition from the village of Andrew in east-central Alberta which asked for a liquor store to be established there. Brownlee wrote that he would let Dinning decide whether to pay any attention to

[107] Review by Commissioner during trip to Peace River (8 to 11 June 1929), PAA (RG 74.412/1308).
[108] Letter from Dinning to AWA Stewart-Irvine (25 April 1929) PAA (RG 74.412/1308) (noting the "good deal of feeling" over who would get the license).
[109] Letter from Dinning to JF Swanston, Secretary-Treasurer of Hythe (11 October 1932), PAA (RG 69.289/99a).

this petition or not.[110] Dinning replied that Andrew was mostly an agricultural area and that no store could be operated there except at a loss.[111] What Dinning failed to mention was that Andrew and its surrounding area had a large population of Ukrainian Albertans who had a long-standing reputation for troublemaking.[112] As true as it might have been that a liquor store at Andrew would have been unprofitable, it was also true that the ALCB wanted to encourage Ukrainians to drink beer rather than hard liquor. The lack of a liquor store meant that, for the people of Andrew, the only way they could immediately access legal liquor was to visit the local beer parlour.[113]

In theory the people of Andrew could have just visited the local bootlegger, though the ALCB did their best to compete with bootleggers. The main reasons to buy liquor from the ALCB were that it was legal and of good quality, and for many Albertans these were enough to persuade them to buy from the board. However, bootleg liquor was cheaper, which posed more of a challenge to the ALCB. For those Albertans who did not live close to a liquor store, the ALCB would mail liquor to them. The board absorbed the cost of postage so that those in rural areas paid the same price as those in urban areas. In this way the board did their best to answer the challenge of cheap bootleg liquor

[110] Letter from Brownlee to Dinning (3 August 1932), PAA (RG 69.289/99a).
[111] Letter from Dinning to Brownlee (5 August 1932) PAA (RG 69.289/99a).
[112] This reputation was not always deserved, Gregory Robinson, "Rougher than any other Nationality? Ukrainian Canadians and Crime in Alberta, 1915-1929" (1991) 16 Journal of Ukrainian Studies 147 at 148-151 [Robinson, "Rougher than any other Nationality"]; Frances Swyripa, "Negotiating Sex and Gender in the Ukrainian Bloc Settlement: East-Central Alberta Between the Wars" (1995) 20:2 Prairie Forum 149. For more on how the ALCB interacted with Ukrainians see below section 6.2.
[113] In 1924 the ALCB licensed the Andrew Hotel, Andrew. The name of the licensee was Peter Borwick, Alberta, Legislative Assembly, "First Annual Report of the Alberta Liquor Control Board, 1924" in *Sessional Papers* (1925) at 48.

or moonshine; of course, the board could do little about the various forms of tax which made liquor store spirits so expensive.[114] In the case of liquor stores, the ALCB altered the opening hours of stores in Alberta's urban centres so as to be better able to counter the threat of illicit liquor. Originally, the ALCB's regulations stipulated that in larger towns and cities liquor stores could open from ten in the morning until eight at night while stores elsewhere had to shut at six in the evening. In 1927, the ALCB passed a new regulation which gave it increased discretion over when to close its stores by allowing stores to close later than the named times.[115] When the government made further changes to the opening hours of the stores in 1934, Dinning explicitly justified such changes on the grounds that the ALCB had to compete with illicit sources of liquor.[116]

However, the ALCB could not and did not open its liquor stores twenty-four hours a day, seven days a week.[117] It is likely that increased store hours went some way towards addressing the threat of bootleg liquor but in some ways the *Liquor Control Act* and the ALCB created the market for illicit liquor. The price of ALCB liquor, for example, precluded some Albertans from accessing it, as did the requirement of a valid liquor permit.

In order to buy a liquor permit, a person had to give an Albertan address, and could not be interdicted, under the age of twenty-one, or a Status Indian. Permits could be bought from liquor stores, the ALCB's main office, or local

[114] Alberta, Legislative Assembly, "Second Annual Report of the Alberta Liquor Control Board, 1925" in *Sessional Papers* No 13 (1926) at 10.
[115] *ALCB Regulations*, Reg No 7 as am by Reg No 33 found in OC 1456-27, (1927) A Gaz I, 604.
[116] "No Vote on Beer Parlours This Year", *Lethbridge Herald* (13 April 1934).
[117] Sundays were, of course, a legislatively mandated day of rest, *The Lord's Day Act of Alberta,* RSA 1922, c 154.

detachments of the APP in places where there was no liquor store.[118] In theory permits were supposed to work in the following way: every time the permit holder bought liquor, the liquor store clerk would 'endorse' the permit with the amount and kind of liquor bought, and the clerk would also record this sale and the permit number in the store's own records. The store's record would then be forwarded to the ALCB headquarters where the board would monitor how much liquor each person bought and shut off supply to those who bought too much. Of course if the police caught a person with liquor that was not recorded on their permit, the person was guilty of a *Liquor Control Act* violation. Liquor permits echoed the government's efforts to control medicinal liquor during prohibition, and much like prohibition's medicinal exception, the ALCB's permit system proved susceptible to certain forms of subversion.

In fact the ALCB's own staff would frequently undermine the permit system through their failure to properly endorse an individual's liquor permit. In 1927 Alec J Mason, secretary of the ALCB, sent a circular letter to inform vendors that "slackness" in the "endorsation [sic] of purchases on permits" would not be tolerated.[119] Mason had to repeat this order in 1929 and warned vendors that as result of their laziness "the Enforcement Branch is being hampered in its investigations."[120] The main enforcement problem caused by slack permit endorsement was that an improperly endorsed permit could lead to an individual

[118] Alberta, Legislative Assembly, "First Annual Report of the Alberta Liquor Control Board, 1924" in *Sessional Papers* (1925) at 13.
[119] Letter from Mason to All Vendors and Warehouse Managers, Circular GEN No 24 (26 September 1927), PAA (RG 74.422/1).
[120] Letter from Mason to All Vendors and Warehouse Managers, Circular GEN No 52 (5 March 1929), PAA (RG 74.422/2).

being arrested for the possession of liquor not bought on their permit. These incidents show that the ALCB's own staff undermined the board's attempt to strictly control and monitor Albertans' liquor consumption. It is doubtful that liquor store employees were deliberately trying to undermine the board's record keeping. The endorsement process was time-consuming and onerous, and one can easily imagine that during busy periods the temptation for lax recording was especially great.

The easiest way for Albertans to subvert the permit system was to buy liquor on single-purchase permits. The government and the ALCB aimed single-purchase permits at those Albertans who would only make one or two purchases of liquor a year; however, it soon became clear that single-purchase permits made it easier for Albertans to buy huge quantities of liquor without the board realizing what they were doing. Quite simply, it took longer for the ALCB to piece together the various purchases and figure out the exact amount that an individual bought. In 1927 ALCB Chairman Dinning wrote to Attorney General Lymburn to explain that Edmonton's notorious bootleggers, Adzick's (or Adzich's) Chemists had bought their liquor via single purchase permits. Dinning noted that the liquor had been bought by Margaret Adzick because, at the request of the Edmonton police, the ALCB had cancelled her husband's permit.[121] By this time the Adzicks had four convictions under the *Liquor Control Act* and had at least one

[121] Letter from Dinning to Lymburn (10 January 1927) PAA (RG 69.289/533).

conviction during prohibition.[122] That the Adzicks could still buy liquor despite these convictions demonstrates the weaknesses of single-purchase permits.

A further weakness of single-purchase permits was that the ALCB struggled to cancel them. In 1925 Mason complained to the Attorney General's department that "undesirable type[s]" bought liquor "under a single purchase permit which prevents us from cancelling the permit privileges." The Attorney General's department's initial opinion was that the ALCB could not refuse to issue such permits.[123] By the end of 1925, however, the department advised Mason that the board could cancel single-purchase permits and, further, that a person should surrender their existing single-purchase permit before they could buy another one as the Act did not allow a person to hold two unexpired permits.[124] As ingenious a solution as this might have been, liquor vendors had no way to check whether each applicant for a single-purchase permit already had such a permit in their name. Those kinds of checks had to be done by the ALCB's central office.

Albertans would also try to use single-purchase permits take advantage of the *Liquor Control Act's* provision on lost permits. The ALCB allowed for a replacement individual permit to be issued at a cost of $0.50 rather than the $2 for

[122] Letter from Dinning to Premier Brownlee (3 March 1927) PAA (RG 69.289/533); Record of Conviction (21 July 1920), PAA (RG 75.126/2750).
[123] Letter from Mason to WS Gray (10 January 1925); Gray to mason (26 January 1925), PAA (RG 75.126/2567b).
[124] Letter from Solicitor in the Attorney General's Department to Mason (5 December 1925) , PAA (RG 75.126/2567a).

a new individual permit.[125] In 1929 Mason sent a circular letter to all ALCB vendors and staff to warn them that "[w]e are receiving numerous declarations regarding lost permits where, on investigation, we are unable to trace that the applicants have previously held $2 permits." Mason noted that many of the lost permits were actually single-purchase permits and further advised staff that "[i]t would also be as well to obtain a permanent address at which the applicant can always be reached, and to make a notation of this on the form of declaration."[126] The lost permit scam allowed Albertans to access an annual individual permit for half price.[127] Mason's comment about the need for a "permanent address" suggests that many applicants gave false or temporary addresses, all of which worked to undermine the ALCB's supervision of liquor consumption.

In spite of these problems with single-purchase permits, they remained in use until 1934. When the government finally abolished single-purchase permits, they reduced the price of individual permits to $0.50.[128] Not only did this make individual permits more affordable, it also ended the subversion that single-purchase permits allowed. Perhaps ironically, Ontario introduced single-purchase permits at the same time as Alberta abolished them. Not surprisingly, Ontario soon ran into the same problems as Alberta had, and abolished them in 1943.[129]

---

[125] Alberta, Legislative Assembly, "Second Annual Report of the Alberta Liquor Control Board, 1925" in *Sessional Papers* No 13 (1925) at 22.
[126] Letter from Mason to All Vendors and Warehouses, Circular GEN no 57 (25 July 1929) PAA (RG 74.422/2).
[127] The lost permit scam typically involved a $0.50 single purchase permit and $0.50 replacement permit which worked out to an annual permit for $1.
[128] *Liquor Control Act* SA 1924, c 14, s19 as am by SA 1934, c 9 s 5; *ALCB Regulations,* Reg 1 found in OC 399-34, (1934) A Gaz I, 248.
[129] Scott Thompson & Gary Genosko, *Punched Drunk: Alcohol, Surveillance and the LCBO, 1927-1975* (Halifax & Winnipeg: Fernwood Publishing, 2009) at 55.

A further problem with permits was that people with cancelled or revoked permits,[130] would sometimes try to buy new permits before they were legally allowed to. The ALCB attempted to address this problem by sending around the names of interdicts to liquor stores and the board encouraged its liquor store staff to index the names of interdicts so that the names of new permit applicants could be checked against the interdict list. However, the board recognised that "permits often have to be issued under abnormal conditions" and introduced a statutory declaration which the vendors could ask permit applicants to use if the vendors had any doubts over the applicant's entitlement to a liquor permit.[131] The statutory declaration allowed the ALCB's vendors to protect themselves if the permittee should turn out to be an interdict or other person similarly prohibited from legally purchasing liquor. Such measures show that interdicts attempted to buy liquor permits while interdicted and that at least some were successful. In 1929, for example, an interdict called Melvin Hough managed to buy 181 quarts of whisky from the ALCB store in Calgary. The authorities only uncovered Hough's purchases when he attempted to enter Montana.[132] Hough's activities forced ALCB Chairman Dinning to defend the liquor store vendors to Brownlee and saw Dinning assure the Premier that the board investigated all abnormal purchases of liquor and that "not one sale in three thousand is open to suspicion."[133] Nonetheless Hough's activities embarrassed the ALCB and while

[130]For the provisions on revoked permits, see Chapter Five at footnotes 42 to 45.
[131] Letter from Mason to All Vendors and Warehouse Managers, Circular GEN No 27 (5 January 1928), PAA (RG 74.422/1).
[132] Letter from Melvin Hough to Premier Brownlee (24 December 1929), PAA (RG 69.289/99a); Letter from Dinning to Premier Brownlee (15 October 1929), PAA (RG 69.289/98b).
[133] Letter from Dinning to Premier Brownlee (15 October 1929), PAA (RG 69.289/98b).

not all interdicts bought as much liquor as Hough did, the fact that Hough managed to do so illustrates that the ALCB's control could be seriously undermined by lax store employees and a determined interdict.

Interdicts could also challenge their interdiction in other ways. In 1927, GE Hunter, the Police Magistrate in Banff, Alberta interdicted the local laundry owner, Walter J Howard. Hunter interdicted Howard because he felt that Howard spent too much time in the Canadian Legion Club rooms to the detriment of Howard's laundry business and family life.[134] Hunter's goal was to see Howard banned from the club rooms and thought that interdiction could achieve this. Howard, however, wrote to the Attorney General to complain about his interdiction and claimed that he had never been in any trouble over his drinking and that he only wanted to go to the club to socialise rather than drink.[135] Acting Deputy Attorney General WS Gray replied that the department could do nothing over his interdiction as only "the Magistrate who made it, or...a District Court Judge" could overturn it but also that "the order of interdiction does not prevent you from entering the Club, but does prevent you from entering a Government Liquor Store or Hotel Beer Room."[136] When Gray informed Hunter of this fact, Hunter decided to revoke the interdiction order.[137]

[134] Letter from GE Hunter to the Acting Deputy Attorney General (21 February 1927) PAA (RG 75.126/3249).
[135] Letter from WJ Howard to the Attorney General (9 February 1929), PAA (RG 75.126/3249).
[136]Letter from Gray to WJ Howard (16 February 1927); Letter from Gray to WJ Howard (24 February 1927), PAA (RG 75.126/3249).
[137] Letter from GE Hunter to WS Gray (2 March 1927); Letter from Hunter to Gray (10 March 1927), PAA (RG 75.126/3249).

Howard's actions demonstrate that some interdicts strenuously objected to their order of interdiction. In response to Howard's initial objection Hunter commented that "I do find that often men who really benefit by the Order are those who oppose it most strenuously"[138] which suggests that Howard was far from the only interdict to object to his status. Certainly there was some stigma attached to being an interdict because it marked a person out as a drunk.[139] Howard's success in challenging his interdiction reveals that it was possible for interdicts to appeal their interdiction. Importantly, Hunter used his local knowledge to justify interdicting Howard which points to cooperation with the overall goals of the *Liquor Control Act* in a way that was not often seen under prohibition.

Such cooperation was not always forthcoming, however, and the public nature of interdiction worked to undermine it. In 1929, HH Hull, the general secretary of the Alberta Prohibition Association, wrote to the *Wetaskiwin Times* to complain that bootleggers specifically targeted those Albertans who were interdicted or who had had their permit cancelled. Hull claimed that "[o]ne woman whose husband is in the interdicted list, tells me that bootleggers are looking for him night and day."[140] Whether or not bootleggers did target

---

[138] Letter from GE Hunter to the Acting Deputy Attorney General (21 February 1927) PAA (RG 75.126/3249).

[139] It should be noted that Howard's case is unusual given that he challenged his interdiction by writing to the government. The ALCB's other interdiction files are protected under FOIP thus the level of detail in Howard's case makes it relatively unique during this time period. Interdiction was also seen in Ontario's post-prohibition system and the existing evidence from Alberta suggests that Alberta's system worked in much the same way as Ontario's. For in depth studies of interdiction in Ontario see, Mariana Valverde, "A Postcolonial Women's Law? Domestic Violence and the Ontario Liquor Board's "Indian List," 1950-1990" (2004) 30:3 Feminist Studies 566; Thompson & Genosko, *supra* note 129 at 13-16, 91-115

[140] HH Hull, Letter to the Editor, *Wetsaskiwin Times* (5 September 1929).

interdicts, their continued existence allowed those Albertans disqualified from legal liquor sales to access liquor elsewhere.

Although liquor stores attempted to control liquor consumption in a variety of ways, I have shown that each of these methods of control could easily be evaded. The ALCB may have warned its liquor store staff to be careful when it came to issuing permits or making liquor sales yet I found no evidence that these staff members faced the same stiff penalties that licensees faced if they sold liquor to an interdict or other prohibited person. Similarly there is evidence to suggest that Albertans attempted to undermine the ALCB's attempts to monitor and control what they bought from liquor stores. Admittedly the ALCB's methods of control, particularly their permit system, were relatively slow as, in a pre-computer age, checking and cross-checking had to be done manually. It is hard to know if the ALCB's permit system would have been more effective if the board had had the benefit of modern technology but it is reasonable to conclude that the ALCB's system was sometimes undermined by laxity on the part of its own liquor store employees. Though the ALCB sought to maintain standards in its stores as best it could, the board appeared much less heavy-handed towards its own staff than towards its licensees. The board's apparent failure to punish lax employees suggests that it did not consider such carelessness as undermining control in the way that misbehaving licensees did.

6.2 – The Ongoing Ethnic Bias of Alberta's Liquor Laws, 1924 to 1939.

Like the *Liquor Act* before it, the *Liquor Control Act* did not explicitly reference ethnicity or race. In theory, aside from Status Indians who remained under federal prohibition, any Albertan who was not otherwise disqualified and was over the age of twenty-one could legally buy and consume liquor or run a hotel beer room. Nevertheless, the end of prohibition did not mark the end of the biases of Alberta's British Canadian majority or the biases of those tasked with enforcing the provincial liquor laws. Studies of policing during this time agree that public opinion thought certain immigrant groups caused more crime than others.[141] Consequently, Alberta's Ukrainian and Chinese populations continued to come under greater suspicion of liquor law violations. What the *Liquor Control Act* did do, however, was to offer reasons for these two groups to comply with the law in ways that were not available during prohibition. In this section I explore how the ALCB treated Ukrainian Albertan and Chinese Albertan hotel licensees through two examples: the Empire Hotel in Edmonton and the Dominion Hotel at Spirit River. I also examine the ongoing biases of liquor law enforcement and how the ALCB's biases operated in the liquor stores. I argue that the *Liquor Control Act* gave Ukrainians and Chinese Albertans reasons to comply but that these two groups continued to face sporadic and unpredictable prejudice.

The lack of explicit references to ethnicity in the legislation did not trickle down to the ALCB's practices and unwritten policies about hotel licensees. The

[141] Robinson, "Rougher Than Any Other Nationality", *supra* note 112 at 147-151; Augustine Brannigan & Zhiqiu Lin, ""Where East Meets West": Police, Immigration and Public Order in the Settlement of Canada from 1896 to 1940" (1999) 24:1 Canadian Journal of Sociology 87 at 88-89.

board's hotel inspection reports even included a section on the licensee's nationality, which in practice was treated as a question of ethnicity rather than citizenship which meant that applicants were described as "Irish-Canadian" or "Scot" or "Ruthenian."[142] In 1924 ALCB Chairman RJ Dinning stated that his board had a policy against licensing hotels run by Chinese Albertans. Dinning wrote that "[i]t has not been our practice to favourably consider applications from Chinamen as we find in making a survey of the Province this type of man does not run a hotel that comes up to the requirements of the *Liquor [Control] Act*."[143] Such comments echo the belief, common among British Canadians at the time, that people of Chinese descent could not meet the same standards as white people.[144]

As the ALCB's position on Chinese Albertans licenses was only policy, there was room for the board to deny its existence or to carve out an exemption. I found one instance where the ALCB denied the existence of its anti-Chinese policy but in that case the license applicant's lawyer was J McKinley Cameron. Cameron had long been a thorn in the side in the administration of Alberta's liquor laws. He had successfully defended many individuals accused of violating prohibition, though he lost his most high-profile case: the defence of the notorious

[142] Report of Inspector on Hotel Application (21 May 1924), PAA (RG 74.412/2387); Report of Inspector on Hotel Application (13 September 1934), PAA (RG 74.412/1308); Report of Inspector on Hotel Application (1934), PAA (RG 74.412/1115). Ruthenian was another word for Ukrainian.
[143] Letter from Dinning to George F Peek, Secretary of Spirit River (5 June 1924), PAA (RG 74.412/2387).
[144] Woodsworth, *supra* note 46 at 154-155. See also Chapter Three at footnotes 162 to 166 and accompanying text.

bootlegger Emilio Picariello and his alleged mistress Florence Lassandro.[145] In 1918 Cameron's activities led Deputy Attorney General to tell him that "I am very pleased to know that your study of the *Liquor Act* has been always with a view of assisting this Department, but am not quite sure that I would have known this if you had not been good enough to tell me."[146] As a result of Cameron's long-standing opposition to Alberta's liquor laws it is not surprising that the ALCB should deny the existence of its anti-Chinese policy to him. In 1924 Cameron wrote to the board to tell it that if such a policy existed it should tell his client so that he could sell his hotel rather than operate it under unfair conditions.[147] It was this letter which prompted the ALCB to reply that its failure to license Cameron's client was not because he was a Chinese Albertan but because there was already a hotel license in the area.[148] Given that it was 1924, the ALCB's justification of an existing licensed hotel in the area comes across as disingenuous. Cameron's client failed to get a license because he was of Chinese descent; the board lied to prevent any potential legal challenge by Cameron. It is not clear on what grounds Cameron could have challenged the ALCB's decision but it seems clear the board was wary of Cameron regardless.[149] More important, however, is Cameron's observation that without a license, his client's business was disadvantaged. As

[145] "Piccarillo [sic] and Lassandro Appear on Murder Charge", *Macleod Times* (30 November 1922); James H Gray, *Talk to My Lawyer! Great Stories of Southern Alberta's Bar and Bench* (Edmonton: Hurtig Publishers, 1987) at 62-69.
[146] Letter from Browning to J McKinley Cameron (2 May 1918) PAA (RG 75.126/738).
[147] Letter from J McKinley Cameron to ALCB (11 July 1924), GAIA (RG M-6840-390).
[148] Cameron conveyed this letter to his client with a covering note, Letter from J McKinley Cameron to Lai Moon (17 July 1924) GAIA (RG M-6840-390).
[149] In 1924 an ALCB officer attended a hearing for a liquor law violation in which Cameron was the lawyer for the defence. The report notes that "I must say that Mr Cameron restrained himself upon cross examinations of the Crown's witnesses to a very great extent, where he might have made them appear to be deliberately perjuring themselves had he used other tactics," ALCB Liquor Report, (25 November 1924), PAA (RG 75.126/3247).

already noted, unlicensed hotels tended to go out of business, so the ALCB's anti-Chinese policy served to force Chinese Albertans out of the hotel business.

From 1924 to 1939 the ALCB only licensed one hotel run by a Chinese Albertan. When Charlie Wing of Spirit River applied for a hotel license in the spring of 1924, his village had another hotel run by an Irish-Canadian woman called Bertha Lee. Lee had been convicted under the *Liquor Act* of selling alcohol and was, by the board's own assessment, unsuitable for a license.[150] Yet Wing was Chinese which meant the board faced two equally undesirable licensees. As fate would have it, Lee's hotel burned down, leaving Wing's Dominion Hotel as the only hotel in Spirit River. In addition, Wing had the support of the local community and ran an exemplary hotel with levels of service that would have been impressive in an urban hotel, let alone a hotel in a small pioneer region of north-western Alberta.[151] Despite the almost unanimous support of the local population and Wing's exemplary hotel, Dinning commented that "[i]t is apparent that we have no alternative but to issue a license to the Chinaman at this place," a remark which speaks to his reluctance to license Wing.[152] A hotel license, even one given to a Chinese Albertan, was clearly preferable to the ALCB than not issuing a license – a liquor store was out of the question given the size of Spirit River. The ALCB's decision to license Wing suggests that such licenses were

[150] Report of Inspector on Hotel Application (21 May 1924); APP Report, Spirit River Detachment (7 June 1924), PAA (RG 74.412/2387).
[151] Report of Inspector on Hotel Application (12 November 1925), PAA (RG 74.12/2387). As early as 1922 Wing and his hotel received praise in the *Edmonton Bulletin* with the *Bulletin* describing Wing as "far-sighted" and "public spirited" with his hotel being the "wonder of all visitors. The finest hotel in the north country is the general verdict.", "Spirit River is Better Village Being Rebuilt", *Edmonton Bulletin* (2 March 1922).
[152] Memo from Dinning to J Forster of the License Department (23 August 1924), PAA (RG 74.412/2387).

not, as the board claimed, rewards for the best hotels, but that they were a way for the board to ensure controlled drinking and adequate hotel standards across Alberta.

The support of the population of Spirit River proved crucial to Wing's success. A few years later Wing failed to get a second license in the nearby village of Fairview because the local population opposed the license going to a Chinese Albertan.[153] The ALCB failed to defend Wing, despite the fact that Wing's record was second to none, and decided to let the population of Fairview vote over who they wanted the license to go to, simultaneously with the area's local option vote. Fairview's 1930 local option vote was controversial in part because the area had had such a vote the previous year and thus did not meet the *Liquor Control Act*'s requirement of a two year gap between votes.[154] The provincial government referred the question to the Appellate Division of the Alberta Supreme Court which held that another local option vote could be held on the grounds that the 1929 vote was held in the Hamlet of Fairview while the 1930 vote would be in the Village of Fairview.[155] The other source of controversy surrounding this vote was the ALCB's decision to hold an "unofficial vote" over which hotel the license would go to should the village vote wet. JD Hunt, Clerk of the Executive Council advised Dinning that "it would not be legal to have the unofficial ballot or the persons in charge of same to be in any way associated with

[153] Letter from Dinning to Messrs Lawlor & Sisson, Barristers (26 August 1930), PAA (RG 74.412/1307).
[154] *Liquor Control Act*, *supra* note 4 ss 53, 71
[155] *Re Fairview* (1930), 24 Alta LR 603, 5[1930] 2 WWR 542 (SC (AD)). This decision was reported to the ALCB via a letter, Letter from WS Gray to AJ Mason (23 June 1930), PAA, (RG 74.412/1307.

the official plebiscite."[156] Despite this the ALCB did take such a vote which was rendered pointless when Fairview voted dry.[157] After 1930 Wing made no further attempts to license his hotel there.[158]

Despite the ALCB's failure to support Wing in Fairview, one of the ALCB's hotel inspectors came to Wing's defence in 1938. While on a routine visit to Wing's hotel, the ALCB inspector asked local citizens for their opinion of the hotel. The inspection report noted that one prominent citizen had some concerns over "Orientals" hiring white girls but when challenged "could site [sic] no definite reason to support this opinion."[159] That the inspector should challenge this view speaks to the high regard in which Wing was held. What the inspector failed to mention, or was perhaps unaware of, was that the ALCB actually encouraged Wing to hire white staff. Most other licensees would run the beer parlour themselves, but the ALCB urged Wing to hire white men to work in his parlour as they doubted that a Chinese Albertan man could control drunken white men.[160] The 1927 inspection report for Wing's hotel also approvingly notes that he hired a white woman to do the housekeeping.[161] Though Wing's nephew

[156] Letter from JD Hunt to Dinning (12 April 1929), PAA (RG 74.412/1307).
[157] The results were 145 in favour of Wing, 158 in favour of the other hotel, Memo from Supervisor of Licenses to Dinning (3 September 1930), PAA (RG 74.412/1307).
[158] Wing's Fairview hotel burned down in 1930, Letter from Messrs Lawlor & Sissons, Barristers to ALCB Chairman (14 November 1930), PAA (RG 74.412/1307).
[159] Report of Inspector on Hotel Application (26 September 1938), PAA (RG 74.412/2388).
[160] Letter from RJ Dinning to Alex Bennett, (2 September 1924), PAA (RG 74.412/1307).
[161] Report of Inspector on Hotel Application (12 November 1927), PAA (RG 74.412/2387). The ALCB's response should be contrasted with the legislative bans on Chinese men hiring white women that existed elsewhere in Canada, Constance Backhouse, "The White Women's Labor Laws: Anti-Chinese Racism in Early Twentieth-Century Canada " (1996) 14:2 LHR 315.

eventually took over housekeeping duties, Wing maintained white beer-room staff for many years which made his hotel appear to be 'whiter' than it was.[162]

Encouraging Wing to hire white staff and refusing to issue another license to him were, however, the only real differences in how the ALCB treated Wing. In fact the ALCB frequently praised Wing for how he ran his hotel and marvelled at the standard of accommodation he provided. As far as I am aware he was the only Chinese Albertan licensee during this period and so his experiences with the ALCB were unique and shed little light on how the ALCB treated Chinese Albertans. Dinning clearly held racist attitudes about Chinese Albertans yet he personally praised Wing. Wing's hotel was well-run and his beer room staff did a good job of controlling the liquor consumption of the area's rough population which left the ALCB with little to complain about.[163] Wing's competence, however, did not lead the ALCB to reconsider its anti-Chinese policy and even Wing failed to secure a second license.

The ALCB had no explicit policies against hotels run by Ukrainian Albertans but the experiences of Edmonton's Empire Hotel suggest that the board did have some reservations about Ukrainian Albertans in general. The ALCB first licensed the Empire in 1924 when it was owned by Thomas Frick.[164] When Frick lost his license, Roy Stoyko bought the Empire and planned to run it with his business partner Gus (Kost) Hudyma. Stoyko and Hudyma finally secured a

[162] Report of Inspector on Hotel Application (26 September 1938), PAA (RG 74.412/2388) (about Wing's nephew being in charge of housekeeping); Hotel Inspector to Dinning (11 July 1928), PAA (RG 74.412/2387) (mentions white man in charge of the beer room).
[163] Letter from AWA Stewart-Irvine to ALCB Chairman (2 March 1926), PAA (RG 74.412/2387)
[164] Letter from AH Schurer to RJ Dinning (31 December 1924), PAA (RG 74.412/1114).

license in 1928, having unsuccessfully applied for a license in 1925, 1926 and 1927. In 1926, Stoyko and Hudyma's lawyer informed the ALCB that "both men...have excellent reputations amongst the Anglo-Saxon population with whom they may have come in contact."[165] Based on the hotel files I looked at, the use of a lawyer was uncommon during the early years of the board but as Stoyko and Hudyma were making their second attempt to secure a license, having failed in 1925, they may have felt a lawyer enhanced their application. More important, is their lawyer's assertion of their character. That their lawyer felt the need to reference their acceptance by "Anglo-Saxon[s]" suggests that Stoyko and Hudyma's Ukrainian origins were a mark against them. The lawyer's comment is suggestive of a phenomenon also seen in Ontario's post-prohibition licensing system where, according to Malleck, "[e]thnicity was not a category of exclusion, but it did need qualification."[166] In the case of Alberta, however, this need for qualification applied to Ukrainian Albertan license applicants but not to Chinese Albertan applicants, as Chinese applicants were excluded in Alberta in a way that they were not in Ontario.[167]

The Empire Hotel was located on 96th street, a location that had a handful of other hotels and a reputation for trouble. Once Stoyko and Hudyma secured a license, the ALCB's inspection reports repeatedly reference the fact that the hotel

[165] Letter from Friedmand & Lieberman, Barristers to RJ Dinning (28 December 1926), PAA (RG 74.412/1114).
[166] Malleck, *Try to Control Yourself*, *supra* note 36 at 202.
[167] *Ibid*.

was well-run despite its rough, mostly Eastern-European clientele.[168] By time the ALCB granted a license to the Empire, it had had some experience with similar hotels and Dinning instructed the ALCB's supervisor of licenses that "[i]n hotel of this kind it is essential that constant supervision be given to temporary guests to avoid undesirables using the place as a house of assignation."[169] The ALCB may have been resigned to the "rough clientele" of the beer parlours but they were not prepared to tolerate criminality in licensed hotels. In 1934 the ALCB wrote to Hudyma, by then the sole proprietor of the Empire, to tell him that "[y]our hotel is one specially mentioned as a rendezvous for disreputable females and we are issuing this letter as a final warning. From now on your women's beer-room will be given special supervision."[170]

The Empire Hotel's inspection reports suggest that Stoyko and Hudyma wanted to comply with the liquor laws and strove to please the board as best they were able. For example, they always sought permission to have workmen in the beer-room after hours so that repairs could be made, a move that I rarely saw among British Albertan licensees.[171] Stoyko and Hudyma's care to receive permission for after-hours repairs may have been due to the general suspicion that attached to *all* hotels on Edmonton's 96th Street region or it may have been due to the suspicion that attached to Ukrainian Albertan hotels, or both. Based on a

[168] Letter from AH Schurer to ALCB Commissioner (14 April 1931); Report of Inspection on Hotel Application (1934), PAA (RG 74.412/1115); Report of Hotel Inspector ((23 April 1935); Report of Inspector on Hotel Application (29 November 1935), PAA (RG 74.412/1116).
[169] Letter from Dinning to Mr FG Forester, Supervisor of Licenses (7 January 1928), PAA (RG 74.412/1115).
[170] Letter from Dinning to Hudyma (28 September 1934), PAA (RG 74.412/1116).
[171] Letter from Acting ALCB Chairman to Messers the Empire Hotel Company, Ltd (22 October 1937), PAA (RG 74.412/1116). (This letter notes that the Empire had requested this but there was no other record of this request, there are numerous similar letters in the Empire's file).

series of court cases from 1931 and 1932 there is some evidence that Stoyko and Hudyma feared Dinning. In 1931 a former APP Detective named William Elock was convicted of extorting money from Stoyko and Hudyma. Elock then accused Stoyko and Hudyma of perjury and they stood trial in 1932.[172] Though they were ultimately acquitted, the testimony from both trials shed light on how Stoyko and Hudyma interacted with the board. Elock promised to help Stoyko secure a license provided Stoyko paid him some money. Once Stoyko had a beer license, Elock then threatened to go to Dinning with the agreement.[173] The testimony in the perjury cases suggest that Stoyko and Hudyma did not speak good English and were thus susceptible to Elock's coercion.[174] The ALCB and Dinning in particular, appear as threatening authority figures with absolute power over hotel licensees. Although Dinning asked to be kept informed of the outcome of the trial, the ALCB did not take any action against the Empire as a result of this case.[175]

The board clearly had a preference for licensees and staff of British descent,[176] yet Stoyko and Hudyma were not the only Ukrainian Albertans to run a hotel in the 96th street region. In 1931, for example, William Olynyk is listed as

[172] The 1931 trial was not the first time Elock had been accused of extortion; a similar accusation arose in 1928 and though he was acquitted of all charges, APP Commissioner Bryan forced him to resign. For the 1928 trial see, PAA, (RG 83.192/612). For a discussion of Elock's treatment see, Greg Thomas Robinson, *British-Canadian Justice in the Ukrainian Colony: Crime and Law Enforcement in East-Central Alberta, 1915-1929* (MA Thesis, University of Alberta, Department of History, 1992) [unpublished] at 199-200, 203-204.
[173] *Roy Stoyko v William Elock* (23 October 1931), Edmonton Police Court, PAA (RG 83.1/8256).
[174] Testimony of Frank E Moroney, Transcript of *R v Hudyma* (25 May 1932), PAA (RG 83.1/8441).
[175] Letter from Inspector Dorman to Dinning (1 October 1932), PAA (RG 74.412/1115).
[176] Based on the names of licensees listed in the ALCB's first annual report, perhaps ten per cent of licenses went to those of non-British descent. Such a count is only a rough measure as some immigrants Anglicised their names.

running the Empress and New Edmonton Hotels in Edmonton.[177] Based on work that has been done on Ukrainian immigrants there is some evidence that they were just as suspicious of 'outsiders' as British Albertans were of them.[178] The ALCB may have felt that Ukrainian Albertan licensees would be better able to control Ukrainian Albertan drinkers. Certainly, the ALCB seemed impressed at how well-run the Empire was in spite of its clientele.[179]

Ukrainian-run hotels may have offered a better way to control Ukrainian Albertan drinkers yet these hotels often competed with each other for customers. In 1932 a number of Edmonton hotels, the Empire included, stood accused of handing out free beer in order to attract more customers. Stoyko defended this practice by claiming that he only treated his friends and that other hotels were doing it too.[180] It was not until 1934 that the ALCB succeeded in ending the practice and even then it required the Alberta Hotelmen's Association to intervene and arrange an agreement between the various hotels to end such beer giveaways. The agreement stated that giving away free beer led to "undesirables" crowding the beer room and drinking too much.[181] It is not clear why the free beer problem took so long to eradicate. Given that Stoyko and Hudyma were generally deferential to the ALCB's wishes their defiance here seems unusual, yet so too does the ALCB's failure to respond swiftly and strictly. At this time many

[177] Affidavit of Surety (26 September 1931), PAA (RG 83.1/8256).
[178] Orest T Martynowych, *Ukrainians in Canada: The Formative Years, 1891-1924* (Edmonton: Canadian Institute of Ukrainian Studies Press, 1991) at 96.
[179] Letter from AH Schurer to ALCB Commissioner (14 April 1931); Report of Inspection on Hotel Application (1934), PAA (RG 74.412/1115); Report of Hotel Inspector ((23 April 1935); Report of Inspector on Hotel Application (29 November 1935), PAA (RG 74.412/1116).
[180] Letter from Roy Stoyko to ALCB (18 March 1932), PAA (RG 74.412/1115).
[181] Letter from AHA President Charles Traunweiser to Dinning (11 April 1934), PAA (RG 74.412/ 1116).

Albertan hotels were suffering financially because of the Depression and the ALCB may have been more lenient towards attempts to increase business. Importantly, the 'free beer' issue did not seem to attract much, if any, press attention.[182] The ALCB tended to respond promptly to public criticism thus the lack of public censure over free beer may explain the board's lax response to the matter.

There was also nothing in the *Liquor Control Act* which prevented hotels from giving away free beer, or setting a price for beer that was different from the norm.[183] In 1933 the ALCB wrote to Edward McAdam, a hotel licensee in Fairview, Alberta, to suggest that his decision to price his beer differently made him unpopular. Though the ALCB had "no jurisdiction over the prices charged by hotelmen" the board told McAdam that "[w]e feel that if any hotelmen comes to the conclusion that he must charge fifteen cents for a glass of beer he should see that nothing less than a ten ounce glass is served."[184] The ALCB's lack of jurisdiction over prices may explain their inability to prevent the free beer issue in Edmonton Hotels. Though Stoyko and Hudyma's decision to give away free beer might seem to be an act of defiance against the ALCB, the board's lack of jurisdiction over beer prices suggest that Stoyko and Hudyma's actions were more in the spirit of attracting business than the ire of the ALCB.

[182] At least I could not find any reference to it in the provincial newspapers.
[183] Letter from ALCB Chairman to Charles Traunweiser, President of the AHA (5 August 1933), PAA (RG 74.4121308) ("[t]he Board has no jurisdiction over the prices charged by hotelmen").
[184] Letter from Dinning to AHA President (5 August 1933); Letter from Dinning to Edward McAdam (14 August 1933), PAA (RG 74.412/1308). Typically hotels sold eight ounce glasses of beer for ten cents.

The ALCB may have been reluctant to license Ukrainian Albertan hotels given the Ukrainian stereotype as primitive and brutish,[185] but the example of Edmonton's Empire hotel demonstrates that Ukrainian Albertans could make good licensees. Stoyko and Hudyma had a habit of immediately reporting any infractions in their beer room to the police or to the board.[186] It is not clear why they took such steps and when coupled with their care to always get permission when they had repairs done on Sundays, their actions appear cautious. Perhaps Stoyko and Hudyma thought that they had to be particularly diligent given their ethnic background. Certainly both knew that the people they really had to impress were the ALCB's staff members and Chairman Dinning himself. That the ALCB failed to take the threatened action over the Empire's repeated use by prostitutes and tolerated the Empire's rough clientele suggests that the board tacitly understood that such things were unavoidable in the 96th Street area and perhaps preferred to have them under some kind of observation.

The ALCB's treatment of these two hotel licensees was not echoed in how the board reacted to Chinese Albertans' and Ukrainian Albertans' use of liquor stores. As Alberta's Chinese population was dispersed across the province, the ALCB could not control how Chinese Albertans drank simply by locating a liquor store in one area and not another. As previously noted the ALCB did do this with

[185] See Chapter Three at footnotes 160 to 162 and accompanying text
[186] See by way of example, Memo from Supervisor of Stocks (12 March 1934), PAA (RG 74.412/1116) (noting that Hudyma had called in to report a disturbance at his beer parlour and that he was also going to report it to the police).

the Ukrainian bloc in east-central Alberta and refused to open a liquor store in that area for many years.[187]

Location was but one way the ALCB controlled Albertans' liquor consumption, another way was through the products the board stocked. The ALCB happily stocked a number of Chinese wines and even went so far as to instruct its liquor store staff to warn purchasers of one particular brand of Chinese wine when the board realised the recipe of the wine had changed.[188] In contrast to this, as late as the 1950s, the ALCB refused to stock vodka. It is not clear what else the ALCB refused to stock and it was only in the 1950s that the ALCB felt the need to justify their decision over vodka. In 1956 the provincial liquor analyst, James A Kelso, warned the ALCB that vodka's lack of "odo[u]r and taste...could lead to abuses" such as "extensive use before and during dance parties and for certain ulterior purposes."[189] If the Ukrainians wanted to buy liquor from a government liquor store, they had to buy the kinds of liquor that the ALCB thought they should drink. The ALCB believed that by its very nature, vodka encouraged excessive consumption and, accordingly, refused to stock it. The ban on vodka prevented everyone – not just Ukrainians – from accessing it but vodka was and remains more closely associated with Eastern European culture.

---

[187] See *supra* at footnotes 109 to 113 and accompanying text.
[188] Letter from Supervisor of Stock to Warehouse Managers and Vendors, Circular STK No 218 (21 February 1934), PAA (RG 74.422/29).
[189] Letter from Kelso to ALCB Chairman George Clash (1 February 1956), PAA (RG 95.440, box 114-29, file 56).

The *Liquor Control Act* itself and the ALCB's regulations may have appeared neutral but anti-Chinese and anti-Ukrainian sentiment continued to affect the enforcement of the liquor laws. Both groups continued to be suspected of illicit activity once prohibition ended though accusations in this respect became less common. It is possible that some accusations were sent directly to the ALCB but the board's records of such correspondence have not survived. Furthermore Alberta's press claimed that the number of liquor law violations declined once prohibition ended.[190] It is also possible that availability of legal liquor sales and hotel beer parlours, shifted attention away from the illicit liquor activities, real or imagined, of Alberta's ethnic minorities. Nonetheless, the surviving accusations of illicit activity and Chinese Albertan and Ukrainian Albertan responses to these accusations maintained the pattern seen during prohibition.

Chinese Albertans continued to use the law to defend themselves against what they perceived to be unfair treatment. LY Wing of Tees, Alberta, for example, complained in late 1924 that his restaurant had been searched four times in two months. Wing wrote that he wanted to protect his good name and that he could "give ample proff [sic] in an affidavit or petition that I am a good law abiding citizen."[191] Wing's letter demonstrated an awareness of legal procedure and demanded an explanation for his unusual treatment. It is not clear whether or not Wing had legal counsel but it is reasonable to assume that he may have pursued legal advice at some stage.

[190] "Liquor Fines Drop Away to Almost Nothing as Compared with 1923", *Lethbridge Herald* (1 April 1925).
[191] Letter from LY Wing to JE Brownlee (13 November 1924), PAA (RG 83.192/414).

The response that Wing eventually received from Attorney General John Brownlee revealed the kind of racism that Chinese Albertans continued to face. Brownlee did investigate Wing's complaint and AH Schurer, Chief of the ALCB Enforcement Branch, explained that in the town of Tees "Chinamen" had been accused of reselling liquor and Schurer "gave instructions that all Chinese restaurants of a doubtful character were to be investigated and searches made where thought advisable."[192] Rather than pass this explanation on to Wing, Brownlee wrote:

> In the enforcement of any legislation like the Liquor Act it is probable that action will be taken that may be considered by individuals as unnecessary. I can only assure you that my Department has no desire to take any unfair action or injure the standing of any person in any community and I am sure the Officers of the Enforcement Branch will not exercise the right of search unless there appears to be good and substantial reason for same.[193]

Brownlee refused to recognise the racism that Wing faced and asserted that *anyone* could have received the treatment accorded to Wing. Thus not only did Brownlee tacitly approve Schurer's tactics, he implied that Wing had no reason to be upset. Brownlee's reference to "good and substantial reason" implied that Wing was not as innocent as he claimed and that the actions of the Enforcement Branch were beyond reproach.[194]

An examination of the Enforcement Branch's reports of how they used their search warrants further suggests that the ALCB's officers were biased

---

[192] Letter from AH Schurer to JE Brownlee (31 December 1924), PAA (RG 83.192/414).
[193] Letter from JE Brownlee to LY Wing (5 January 1925), PAA (RG 83.192.414).
[194] Yet Alberta's press reported claims that the ALCB's Officers consisted of men who had been fired from the APP or the RCMP, which suggests that there were some doubts over the integrity of the Enforcement Branch, "Liquor Squad is to be Maintained", *Lethbridge Herald* (28 March 1927).

against Alberta's ethnic minorities. The members of the ALCB's Enforcement Branch were empowered by a general search warrant to search anyone for liquor. The monthly reports of these searches show that many of those searched had Ukrainian names and that most of the searches failed to find any illicit liquor.[195] It is not surprising that many of these names would be Ukrainian as the end of prohibition did little to end accusations of Ukrainian Albertan misbehaviour. It is clear that many Ukrainian Albertans, and some British Albertans, continued to distill illicit liquor even after prohibition ended and the ALCB's annual reports make repeated reference to the ongoing scourge of illicit stills.[196]

Such anti-Ukrainian feeling was not limited to the ALCB's Enforcement Branch and was also found in the ALCB's inspectorate. The inspector responsible for Edmonton's Empire hotel repeatedly referenced that hotel's undesirable clientele. Likewise in 1930, the inspection report of Leduc's Waldorf hotel notes that "[b]eer room patrons here are mostly foreigners who habitually talk in a loud voice. Twenty of them make more noise than a room full of English

---

[195] ALCB Enforcement Branch Report of Searches Made on General Warrant (23 April to 31 May 1925); ALCB Enforcement Branch Report of Searches Made on General Warrant (31 May to 27 June 1925); ALCB Enforcement Branch Report of Searches Made on General Warrant (28 June to 1 August 1925); ALCB Enforcement Branch Report of Searches Made on General Warrant (1 to 29 August 1925); ALCB Enforcement Branch Report of Searches Made on General Warrant (30 August to 26 September 1925); ALCB Enforcement Branch Report of Searches Made on General Warrant (26 September 1925 to 31 October 1925); ALCB Enforcement Branch Report of Searches Made on General Warrant (1 to 25 November 1925), PAA (RG 75.126/2567a). Further reports from 1926 can be found in PAA (RG 75.126/2568a-b).

[196] Alberta, Legislative Assembly, "First Annual Report of the ALCB, 1924" in *Sessional Papers* (1925) at 11; "Second Annual Report of the ALCB, 1925" in *Sessional Papers* No 13 (1926) at 9; "Third Annual Report of the ALCB, 1926" in *Sessional Papers,* No 3 (1927) at 8; "Fifth Annual Report of the ALCB, 1928" in *Sessional Papers,* No 3 (1929) at 9. See also, Steve Hewitt, *Riding to the Rescue: The Transformation of the RCMP in Alberta and Saskatchewan, 1914-1939* (Toronto: University of Toronto Press, 2006) at 45 ('[i]n the minds of the scarlet-clad men ... Ukrainians [became synonymous] with the operation of illegal stills").

speaking people."[197] Although such comments suggest that the inspector disapproved of the noise the "foreigners" made, loud conversation was not against the *Liquor Control Act*. The inspector's comments speak to the general view that Ukrainians were somehow less refined than those of British or English descent.

Similarly the government of Alberta continued to receive reports that Ukrainians drank too much.[198] In 1925, for example, WH Day a missionary at Spedden, a hamlet in the Ukrainian bloc, wrote to Brownlee to complain that the Inland Revenue people preferred to fine those who distilled liquor because they got some of the fine. Day seemed unaware that Brownlee could do little to chastise the federal Inland Revenue, nonetheless Day wrote to say he thought jail would have been a better option and alleged that there was little respect for law in the area.[199]

Yet at the same time there was also some evidence that the Prohibitionists had succeeded in convincing at least some Ukrainians that liquor was evil. In 1925, the Methodist Minister Rev D Metro Ponich wrote to the Attorney General to express his delight that the hotel at Bellis had lost its license. Ponich claimed that "[o]ur people at heart want to be a good suber [sic] Canadians and they ought to be given and [sic] chance, and not be tempted sore with degradation and the bussenes [sic] that sucks the blood out of their viens [sic]."[200] Ponich's letter

---

[197]Letter from hotel inspector to ALCB (18 July 1930), PAA (RG 74.412/1722).
[198] For reports during prohibition see Chapter Three at footnotes 178 to 181, See also, Martynowych, *Ukrainians*, *supra* note 178 at 97.
[199] Letter from WH Day to Attorney General Brownlee (16 February 1925), PAA (RG 75.126/3258a).
[200] Letter from Rev DM Ponich to the Attorney General (19 November 1925), PAA (RG 75.126/3243b). Ponich had converted to Methodism in 1909, Martynowych, *supra* note 178 at

suggests that there was a divide among Ukrainians themselves over the consequences of liquor consumption. Ponich may have been a marginal figure in the Ukrainian Albertan community given his conversion to Methodism,[201] but there is evidence of broader Ukrainian Canadian opposition to liquor consumption in the plays performed in the Ukrainian immigrant theatre. Orest Martynowych notes that many of these plays mocked alcoholism and had heroes who espoused sobriety.[202]

The *Liquor Control Act* did not end the anxiety that many British Albertans had over the province's ethnic minorities and liquor sales. The ALCB's interactions with Chinese and Ukrainian Albertans paint a more nuanced picture than the popularly held stereotypes, certainly individuals from both ethnic groups proved to be competent and successful hotel licensees. Though the ALCB did impose subtle restrictions on the ease with which certain geographic locations could access hard liquor, at no stage did they issue an outright ban on either Chinese or Ukrainian Albertans from accessing this kind of alcohol. The population of Andrew could, for example, still order liquor through the mail. In this way government liquor control offered incentives for compliance, namely the ability to easily access legal liquor, that prohibition did not. As a result the *Liquor Control Act* proved better able to control how Alberta's ethnic minorities drank.

229-230.
The Bellis Hotel had its license suspended indefinitely for selling liquor after hours, Alberta, Legislative Assembly, "Second Annual Report of the Alberta Liquor Control Board, 1925" in *Sessional Papers* No 13 (1926) at 40.
[201] Martynwoych, *Ukrainians*, *supra* note 178 at 229-230.
[202] *Ibid* at 293-297.

6.3 – Conclusion

The government modelled the *Liquor Control Act*'s enforcement mechanisms on prohibition's medicinal exception and, like that exception, the new Act's control was not perfect. Over the course of the first fifteen years of the ALCB, Albertans found numerous ways to subvert the board's supervision and control. The continued existence of bootleg liquor and moonshine represented the most obvious subversion of the ALCB's control, and the board struggled to end such violations. Less obvious forms of subversion included 'gaming' the ALCB's own recording system, such as buying multiple permits or giving a false address. Both of these were illegal but, as with prohibition's medicinal exception, the ALCB's own records could not provide proof of every kind of violation. That is not to say that the ALCB's enforcement was lax but simply that there were limits to what the new method of control could achieve.

Similarly, the ALCB was not necessarily as strict with the province's licensed premises as it claimed to be. The board tolerated a certain degree of laxity over upgrades to and maintenance of licensed premises, though this laxity did not extend to questions of hygiene. Despite some evidence of leniency, Alberta's licensed premises did provide a controlled environment, and one that was visibly controlled, in which to drink beer. The board's apparent failure to strictly enforce standards represented a balancing act between ensuring the aims of the *Liquor Control Act* were met but also ensuring that Albertans could access legal liquor more easily than illegal liquor. The board's flexibility here also reflects the diversity of Alberta's licensed premises. That being said there can be

no doubt that the new system co-opted hotel licensees into liquor law enforcement and made it their responsibility, on pain of license suspension or cancellation, to uphold the law in their beer rooms.

Though the ALCB claimed to apply the law as neutrally as possible, the board frequently used its discretion to apply the law in uneven ways. The most obvious example of the ALCB's status-based approach to administering the *Liquor Control Act* was in how it treated Chinese Albertan hotel owners. There was also myriad ways in which the board's hotel inspectors could apply or not apply the rules and regulations. The ALCB inspector's decision against lecturing the Waldorf Hotel's license offers an example of the discretion available to inspectors.[203] At the same time, however, the ALCB attempted to depict itself as administering the liquor laws without fear or favour. The board did not, for example, overtly involve itself in politics and did, on occasion, disguise its own biases.[204]

The ALCB's control of liquor consumption in Alberta was not ideal but it was a marked improvement on the situation during prohibition. The *Liquor Control Act'*s emphasis on regulating access to liquor rather than just prosecuting liquor law violations better allowed the ALCB to supervise Albertans' use and consumption of alcohol. The *Liquor Control Act* also finally allowed for the kind of social control that prohibition had aimed at. Not only did Alberta's post-prohibition system offer a more effective way to keep liquor consumption as a

[203] See *supra* at footnotes 63 to 64 and accompanying text.
[204] See the letter to J McKinley Cameron, *supra* footnote 146 and accompanying text.

privilege for those who were employed, who behaved properly, and who did not drink to excess, it also offered a more effective way of shaping the consumption habits of Alberta's population, including its ethnic minorities. Similarly the ALCB's regulation of licensed hotels offered ways to address the moral anxiety that hotels caused because the hotel licenses better allowed for the elimination of prostitution, gambling, and drunkenness in hotels. In fact Alberta's system offered more control than a liquor store only system as the existence of licensed hotels and clubs allowed the ALCB to tacitly push people towards drinking beer which was considered a more moderate drink. By allowing public drinking under the *Liquor Control Act*, the government recognised that alcohol consumption had social aspects – in that it was often consumed in group settings – and sought to design a system of control that would accommodate the social role of alcohol.

7 – Conclusion

On 17 January 1928 an ALCB Preventive Officer caught three leading Albertans illegally consuming a bottle of Daw's Port on the train to Edson. The three men were JH McMillan, Superintendent of Cadomin Coal Company, Chris Pattenson, MLA for Edson, and William Potter, the police magistrate at Mountain Park. McMillan claimed that his doctor had prescribed the port but the officer soon discovered that McMillan had bought the port on single purchase permit number 98751 in Edmonton earlier that day rather than on prescription. McMillan also claimed that he had given the other men a drink as a matter of courtesy and encouraged the officer to throw the bottle of port away. Instead the officer seized the port at which point Pattenson complained: "[he] said that had they been three 'bums' he could have understood my seizing the liquor" and "that respectable citizens could not be treated in that manner."[1] The officer, despite seizing the liquor, "deemed it inadvisable" to prosecute these men "[o]n account of the[ir] standing."[2] A few days later, McMillan's doctor wrote to the Attorney General with a letter which read: "[t]his is to certify that Mr J.M.[sic] MacMillan of Cadomin was advised by me, prior to January 17th, to take wine at regular intervals for a stomach condition."[3]

---

[1]ALCB Enforcement Branch Liquor Report (21 January 1928), PAA (RG 83.192/413).
[2] *Ibid*. Compare this incident with studies arguing that the police and the public believed immigrants needed stricter law enforcement, Augustine Brannigan & Zhiqiu Lin, " "Where East Meets West": Police, Immigration and Public Order in the Settlement of Canada from 1896 to 1940" (1999) 24:1 Canadian Journal of Sociology 87; Gregory Robinson, "Rougher Than Any Other Nationality? Ukrainian Canadians and Crime in Alberta, 1915-1929" (1991) 16 Journal of Ukrainian Studies 147.
[3] Letter from Dr AR Munroe to Whomever it May Concern (19 January 1928) PAA (RG 83.192/413).

This incident illustrates one of the overarching themes of this dissertation: the difference between what the law said and how it actually operated. Even though the three men in question were engaged in what they knew to be a blatant breach of the *Liquor Control Act* they received no punishment other than the loss of the newly bought port.[4] Yet, even though the three men received no punishment, this incident is also an example of the *Liquor Control Act* achieving its more general set of objectives, namely the ability to monitor liquor consumption. The ALCB Officer's failure to take further action obscures the fact that he was able to use the information required by the Act – that is, the record of each liquor sale – to disprove McMillan's claim. Had the officer decided to prosecute, McMillan's story would not have held up in the face of such a detailed record.

The aim of the *Liquor Control Act* was to control liquor by regulating who could access liquor which was a key change from Alberta's prohibition-era *Liquor Act*. The *Liquor Act* had sought to control liquor by prohibiting most incidents of its sale and consumption and by prosecuting those who violated this prohibition. I have argued that when Alberta ended prohibition and introduced government control, the most important difference between the two systems was not that one allowed liquor to be sold and the other did not, but that the post-prohibition system focused on regulating access to liquor rather than prosecuting those who violated the liquor laws. The shift in enforcement, although it was not a complete shift and the ALCB would still seek to prosecute those who violated the *Liquor*

[4] SA 1924, c 14, s 24 ("[l]iquor purchased by any person pursuant to a permit held by him may be kept, given, and consumed, only in the residence in which he resides").

Control Act, has previously gone unnoticed because few studies of Canadian liquor laws examine prohibition and post-prohibition together. The end of prohibition did not mark the end of the prohibitionist movement, or attempts to control the population through their drinking habits, what it did signify was a change in how Prohibitionists' ideas about liquor and attempts at social control were to be implemented.

While it is true that the ALCB did seek to govern the conduct of Alberta's drinking public, the McMillan example shows that ALCB was not always as successful or as strict as it claimed. The ALCB, like the Attorney General's department during prohibition, faced pressures that existing studies of other provincial liquor boards have not always made clear and these pressures affected how the ALCB presented itself and its actions. During prohibition the Attorney General's department and the provincial government endured constant criticism over their failure to enforce prohibition to the standards expected by the public and, in particular, Alberta's Prohibitionists. Likewise, once prohibition ended, the ALCB knew that it would be blamed should drunkenness become endemic in Alberta. In fact the ALCB was deeply concerned with its reputation and the reputation of the hotels and clubs it regulated. The board worried that if too many licensed premises attracted negative attention the Prohibitionists would gather enough support to force a change in the *Liquor Control Act*. The ALCB's concern over Prohibitionist agitation was at least partially self-interested, as those who staffed the board might lose their jobs if the legislation changed. Yet at the same time as the ALCB settled into its role as liquor regulator, it learned that it had to

be flexible and often tolerated quite marked infractions and failures on the part of its licensees as the example of the Smith Hotel demonstrates.[5] The ALCB's claims about its own strictness and the high quality of Alberta's hotels were at least partially symbolic and aimed to placate Alberta's Prohibitionists.

Robin Room argues that the content of liquor laws is driven "by the necessities of symbolic action."[6] I have shown that in the case of Alberta, its government sought to move the laws beyond mere symbolism. With both the *Liquor Act* and the *Liquor Control Act*, Alberta's government wanted to solve the 'liquor problem' by controlling liquor consumption. As important as it might have been to Alberta's Prohibitionists to have legislated prohibition, they wanted that prohibition to be effective, to make Alberta as dry as possible, and they were dismayed when the *Liquor Act* did not deliver. Ironically, the *Liquor Act* resulted in the opposite of what the Prohibitionists hoped it would. When Alberta's government realised that they could not make the *Liquor Act* effective, they tacitly pushed for changes to the liquor laws that would allow for enforceable liquor controls. While such liquor controls ultimately did little to address the problems of poverty and vice that leading Prohibitionists blamed on alcohol,[7] the province's shift from prohibition to government control did manage to bring liquor consumption under more control than had previously existed.

[5] See Chapter 6 at footnotes 24 to 33 and accompanying text.
[6] Robin Room, "Evaluating the Effect of Drinking Laws on Drinking" in J Ewing & B Rouse, eds, *Drinking: Alcohol in American Society – Issues and Current Research* (Chicago: Nelson-Hall, 1978) 267 at 269.
[7] For a discussion see Craig Heron, *Booze: A Distilled History* (Toronto: Between the Lines, 2003) at 64, 147, 165-169.

More importantly, the *Liquor Control Act* worked to control other facets of Albertan society which went beyond mere drinking. Alberta's seemingly liberal decision to allow the return of licensed premises in 1924 actually placed the ALCB in charge of regulating Alberta's hotels, not just Alberta's drinking habits. The control that Alberta's hotel beer license allowed for extended beyond the confines of the beer parlour, into the hotel itself and, on occasion, out into the private lives of the beer parlours' patrons. The former meant that the ALCB required hotel licensees to run their hotel for the benefit of the public which included providing a restaurant separate from the beer parlour and public washrooms. The latter meant that beer parlour patrons had to be employed, or at least not on the relief rolls, and had to put their families' needs before beer consumption. Through the supervision of hotels and beer parlour patrons, the *Liquor Control Act* and the ALCB's administration of it sought to answer the Prohibitionists' claims that liquor ruined families, while also providing clear benefits to Alberta such as quality hotel accommodation.

This dissertation contributes to the existing literature on Canadian liquor controls and to the history of Canadian administrative boards in a few key ways. Crucially, this dissertation highlights the importance of studying prohibition and government control together, or, in the context of administrative boards, of studying the system which preceded the creation of the board. This dissertation shows how the methods of the ALCB and the content of the *Liquor Control Act* were influenced by the difficulties of prohibition and the *Liquor Act*. While this dissertation supports the idea that governments sometimes created administrative

agencies in order to distance controversial issues from politics,[8] it also suggests that the creation of such agencies marks a change in how the law was to be enforced. That is to say, the creation of administrative agencies points to an increasingly complex form of law enforcement, one that relies on more information than previous forms of enforcement.

This dissertation also illustrates the importance of examining how the administrative agencies used the law and their relationship with the government. The existing studies of Ontario's post-prohibition liquor control, for example, have a tendency to ignore the LCBO's relationship with the provincial government. The result of this lack of attention is that studies of the LCBO portray the board as the final arbiter of Ontario's liquor laws and fail to acknowledge the fact that the LCBO, like all administrative bodies, was and is a statutory delegate with limited powers. While this study cannot speak for the situation in Ontario, Alberta's provincial government kept a close eye on the operation of the ALCB and how it interpreted its legislative mandate. Even though the ALCB seemed to have vast powers, it used them under government supervision and the board did not deviate from the government's wishes.

It is perhaps not surprising that studies of Ontario's liquor laws would overlook the LCBO's place in government as the creation of the LCBO did not mark a change from prohibition in the way that the creation of the ALCB did. Alberta, unlike Ontario, did not have a separate liquor board during prohibition.

[8] See Jamie Benidickson, "The Canadian Board of Railway Commissioners: Regulation, Policy and Legal Process at the Turn-of-the-Century" (1990-1991) 36 McGill LJ 1222 at 1223, 1225-1227.

This dissertation has argued that the government's decision to create the ALCB in 1924 resulted from a desire to maintain public distance yet private control of the board. By studying the relationship of the ALCB with the government I have shown that the board's administration of the *Liquor Control Act* was influenced by what the government wanted. While Reginald Hose's 1928 observation that Canadian liquor boards could "scarcely be less circumscribed" is an accurate reflection of what the *Liquor Control Act* said,[9] it does not capture how the ALCB actually operated. Hose, like many later studies of other provincial liquor boards, failed to take into account the various ways in which provincial governments could express their displeasure about how their liquor boards operated.

Hose's study is, however, very much of its time and echoes many of the concerns that Canadian legal academics had about administrative government. Though Hose attempts to portray himself as a disinterested observer, it is clear that he is fascinated, and perhaps a little concerned, by the powers of the liquor boards. He describes the development of the "bureaucratic system" as "startling" but ultimately concludes that the new system of liquor control retains adherence to the "traditional [British] ideal" of "the liberty of the subject."[10] Concerns over the rapid development of the administrative state led the Canadian judiciary to be hostile towards administrative action which in turn led some Canadian legal academics, such as John Willis, to defend administrative government.[11] Willis, in

[9] Reginald E Hose, *Prohibition or Control? Canada's Experience with the Liquor Problem, 1921-1927* (New York: Longmans, Green and Co, 1928) at 7.
[10] *Ibid* at 2, 106.
[11] John Willis, "Statute Interpretation in a Nutshell: Preliminary Observations" (1938) 16 Can Bar Rev 1 (expressing his frustration with the courts' treatment of administrative government). For histories of this defence see, RCB Risk, "Canadian Law Teachers in the 1930s: 'When the World

particular, defended administrative government on the grounds that it was government by experts.[12]

This dissertation is in some ways a belated answer to Willis' call for legal academics to study what actually happens.[13] Willis thought that by studying what actually happened, concerns surrounding administrative government would be addressed. He also believed that administrative agencies were a necessary tool of government in an increasingly complex society.[14] Certainly this study of Alberta's liquor laws supports the idea that administrative government emerged in response to increasing complexity. The ALCB was responsible for the detailed work of running a system of liquor stores and liquor licenses. At the same time, however, the provincial government also created the ALCB as a way of deflecting controversy. The complexity of liquor control was not limited to the detailed regulation it required but was further compounded by its politically sensitive nature. In fact, the political sensitivity of liquor regulation was one of the reasons Alberta's liquor controls had to be so detailed.

The details of administrative controls are, however, often overlooked by legal scholars. Rather than studying how administrative agencies actually operate, modern administrative law focuses on controlling and limiting their scope of

---

Was Turned Upside Down'" in RCB Risk, *A History of Canadian Legal Thought: Collected Essays*, ed by G Blaine Baker & Jim Phillips (Toronto: University of Toronto Press, 2006) 341; R Blake Brown, "The Canadian Legal Realists and Administrative Law Scholarship, 1930-1941" (2000) 9 Dal J Legal Stud 36.

[12] John Willis, "Introduction" in John Willis, ed, *Canadian Boards at Work* (Toronto: MacMillan, 1941) 65 at 68; Brown, *supra* note 11 at 69; David J Mullan, "Willis v McRuer: A Long-Overdue Reply with the Possibility of a Penalty Shoot-Out" (2005) 55 UTLJ 353 at 560.

[13] John Willis, "Foreword" in Willis, ed, *Canadian Boards at Work*, *supra* note 12, v; "Canadian Administrative Law in Retrospect" (1974) 24 UTLJ 225 at 228.

[14] John Willis, "Three Approaches to Administrative Law: The Judicial, the Conceptual, and the Functional" (1935-36) 1 UTLJ 53 at 58-61; Brown, *supra* note 11 at 48.

action. Such a focus, however, ignores the fact that boards like the ALCB may well develop their own internal limits. Rod Macdonald argues that administrative agencies develop "governing principles and commitments that are as real, permanent, and legal as those of the courts to guide them in the day-to-day exercise of what only appears on paper to be entirely unfettered discretion."[15] The experiences of the ALCB suggest that Macdonald's argument is correct. In the context of hotel licenses, for example, the ALCB's self-imposed guidelines were that it would only license the best hotels. Furthermore, the ALCB's commitment to seeking out government advice acted as a limit on the board's discretion.

Though this dissertation suggests that administrative agencies can and do develop their own internal limits it offers little insight as to how to disseminate court judgements to "front-line decision-makers."[16] Neither the Attorney General's department during prohibition, nor the ALCB during its first fifteen years faced any attempts at judicial review. What this study does illustrate, however, is that both the Attorney General and the ALCB sought to ensure that they regulated liquor within the confines of the law. Whether or not the Attorney General and the ALCB always understood the law correctly is, perhaps, debatable.[17] Nonetheless, both parties were aware that their actions took place in and were limited by a legal framework.

---

[15] Roderick A Macdonald, "Call-Centre Government: For the Rule of law, Press #" (2005) 55 UTLJ 449 at 483.

[16] The term is taken from, Lorne Sossin, "From Neutrality to Compassion: The Place of Civil Service and Legal Norms in the Exercise of Administrative Discretion" (2005) 55 UTLJ 427 at 447.

[17] See for example the confusion over which level of government was responsible for liquor manufacture, Chapter 3 at footnote 12 and accompanying text.

That is not to say that judicial review does not have its place, or that it should be abolished. In fact, given the lack of judicial review of Alberta's administration of its liquor laws from 1916 to 1939, it would be impossible to assess whether or not judicial review actually affects administrative decision-making, let alone whether it does any good. A full study of how administrative agencies respond to instances of judicial review remains to be done.

This dissertation does, however, contribute to current debates surrounding legislative controls on other social vices. In particular, it argues that regimes of strict prohibition are not necessarily effective and are challenging to enforce. Regimes of strict prohibition, where the government seeks out an outright ban on certain forms of behaviour, exist in a range of contexts from environmental legislation to drug laws. The lessons of this dissertation are perhaps most relevant for situations where the government seeks to use legislation to ban a pre-existing form of action, or where social attitudes have shifted to such an extent that individuals no longer find the law compelling. The current attitudes towards cannabis provide a good example of the latter situation, and calls for its de-criminalization have been gaining pace for the past twenty years.[18] Whether cannabis will be legalized remains uncertain, but what is clear is that the legislation prohibiting its use is widely and often violated. As such, it is debatable whether cannabis is, in fact, under control.

[18] Anton RF Schweighofer, "The Canadian Temperance Movement: Contemporary Parallels" (1988) 3 CJLS 175; Cynthia S Duncan, "The Need for Change: An Economic Analysis of Marijuana Policy" (2009) 41 Conn L Rev 1701; Michael Vitiello, "Legalizing Marijuana: California's Pot of Gold" (2009) Wis L Rev 1349.

Yet drug laws may well exist for symbolic reasons, rather than practical reasons. It is clear that Alberta's Prohibitionists wanted the *Liquor Act* both because it was an official expression of the 'evils' of alcohol and because they thought it would end these evils. The *Liquor Act* was supposed to function as a reflection and an imposition of the ideals and beliefs of the Prohibitionists. However, liquor consumption was and is "an age-old custom"[19] which severely limited the reach of the Prohibitionists' message. Drug use was never and is not as widespread as alcohol consumption.[20] Drug use also remains deeply racialized in a way that alcohol consumption never was.[21] Intentionally or not, the continued existence and enforcement of drug laws works to portray drug use and drug users as undesirable, even if the legislation itself may not be effective at controlling illicit drugs.

Though the violence of the modern 'War on Drugs' has lead to some pressure for legalization this dissertation suggests that such a move may not end the violence. Even after prohibition ended, the ALCB faced a lengthy struggle against illicit sources of liquor. The example of Melvin Hough[22] shows how individuals seeking to smuggle liquor either in or out of the province remained a problem even after prohibition ended. A few years into prohibition, Premier

---

[19] Hose, *supra* note 9 at 106.
[20] For recent histories of drug use in Canada see Catherine Carstairs, *Jailed for Possession: Illegal Drug Use, Regulation, and Power in Canada, 1920-1961* (Toronto: University of Toronto Press, 2006); Daniel Joseph Malleck, *Refining Poison, Defining Power: Medical Authority and the Creation of Canadian Drug Prohibition Laws, 1800-1908* (PhD Dissertation, Queen's University at Kingston, Department of History, 1999) [unpublished]. See also Dawn Moore, "Drugalities: the Generative Capabilities of Criminalized 'Drugs'" (2005) 15 International Journal of Drug Policy 419.
[21] Moore, *supra* note 20; Malleck, *Refining Poison*, *supra* note 20 at 1-2; Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2010).
[22] See Chapter 6 at footnotes 132 to 133 and accompanying text.

Brownlee noted that people had learned how to evade the liquor laws,[23] and that knowledge remained useful to certain groups of people even after prohibition ended. As late as 1934 the ALCB justified amendments to the liquor laws on the grounds that they were needed to fight illicit sources of liquor.[24] Any legalization of drugs can expect to continue to wage a similar battle against extra-legal sources, a battle which may well be more difficult given the length of time the drug cartels have had to establish and perfect their distribution systems. While this dissertation might suggest that regulation is more effective than an outright ban at controlling illicit substances, the actual shape of the governing legislation is but one feature of how such substances are controlled.

If this dissertation has an agenda, it is to urge Canadian legal historians to recognise the importance of studying "field-level" uses of law as well as the "mandarin" understanding of law and legal culture.[25] Although Canadian legal historians have long emphasized a broader contextualized legal history over a narrow institutional history, the importance of the legal pluralist insight, that a gap exists between legislation and its enforcement, is perhaps only now becoming clear.[26] The example of the three leading Albertans on the train demonstrates the difference between a rule-of-law approach to law enforcement and an approach

[23] Letter from Brownlee to Mr Shields (31 October 1921), PAA (RG 83.192/410)(" I can only ask you to bear in mind that for some time, people have been learning how to evade the present Liquor Act and we are now getting the full benefit of their experience").
[24] "No Vote on Beer Parlours This Year", *Lethbridge Herald* (13 April 1934); see also Chapter 5 at footnotes 161 to 163 and accompanying text.
[25] These terms are borrowed from Christopher Tomlins, "After Critical Legal History: Scope, Scale, Structure" (2012) 8 Annual Review of Law and Social Science 31 at 34.
[26] John Griffiths, "What is Legal Pluralism?" (1986) 24 J Legal Pluralism 1 at 33; Mary Stokes, "Grand Juries and 'Proper Authorities': Low Law, Soft Law and Local Governance in Canada West/Ontario, 1850-1880" SSRN Paper id1674089 at 1-2. For an American example see, Laura F Edwards, *The People and their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009).

which applied the law according to the extra-legal norms of class and status. Had the ALCB Officer adopted a rule-of-law approach to enforcement he would have prosecuted the three men without caring about their social standing, as the rule of law stipulates that the law should be applied to everyone equally. Yet that is not what he did, nor is it what the three men, including a legislator and a magistrate, suggested he do. They expected and ultimately received different treatment because of their stature, a result which echoes Laura Edwards' findings about "the Peace" in the post-revolutionary American south.[27] The ALCB's unwritten policies about Chinese hotel licensees should be understood as another example of the difference between the law as written and the law as enforced. Just as the preferential treatment received by McMillan and company on the train points to a bias in the application of the law, so too does the discriminatory treatment of Chinese hotel owners. Though Alberta's social hierarchy may not have been as pronounced as it was in other jurisdictions, it existed and affected the application of the provincial liquor laws.

This call to study field-level uses of law rather than just the mandarin understanding of law is equally applicable to administrative law scholars. Administrative government is not going to go away but until scholars actually study and seek to understand how this form of government implements its legal mandates, an important and influential form of legal action will remain something of a black hole. This microanalysis of Alberta's liquor laws has shown that the need to make liquor control effective forced the government towards a form of

[27] Edwards, *supra* note 26 at 3-11.

control more suited to administrative government, namely the power to give or with-hold.[28] As such, this dissertation supports Willard Hurst's claim that administrative government emerged out of the deep necessities of "effective legal action"[29] rather than some "sinister plot hatched by bureaucrats."[30]

[28] HW Arthurs, *'Without the Law': Administrative Justice and Legal Pluralism in Nineteenth-Century England* (Toronto: University of Toronto Press, 1985) at 125.
[29] James Willard Hurst, *The Growth of American Law: The Law Makers* (Boston: Little, Brown & Co, 1950) at 420. Compare Edward L Rubin, "Public Choice, Phenomenology, and the Meaning of the Modern State: Keep the Bathwater, but Throw out that Baby" (2001-2002) 87:2 Cornell L Rev 309 at 347.
[30] Michael Taggart, "From 'Parliamentary Powers' to Privatization: The Chequered History of Delegated Legislation in the Twentieth Century" (2005) 55 UTLJ 575 at 584.

Bibliography

LEGISLATION

Alberta Pharmaceutical Act, SA 1910, c 38.

Alcoholic Liquor Act, SQ 1921, c 31.

An Act to amend "An Act to make further provision as to Duties of Customs in Manitoba and the North West Territories," and further to restrain the importation or manufacture of Intoxicating Liquors into or in the North West Territories, SC 1874, c 7.

An Act to amend certain Laws respecting Indians, and to extend certain Laws relating to matters connected with Indians to the Provinces of Manitoba and British Columbia, SC 1874, c 21.

An Act to amend the Factory, Shop and Office Building Act, SO 1914, c 40.

An Act to Amend the Liquor Act, SA 1917, c 22.

An Act to Amend the Liquor Act, SA 1922, c 5.

An Act to Prevent the Employment of Female Labour in Certain Capacities, SM 1913, c 19.

An Act to Prevent the Employment of Female Labour in Certain Capacities, SS 1918-19, c 85.

An Act Respecting the Use of Spirituous Liquor in Gaols and Prisons, RSO 1887, c 243.

Canada Temperance Act, SC 1878 (41 Vict), c 16.

Canada Temperance Act, RSC 1906, c 152.

Chinese Immigration Act, SC 1885, c 71.

Chinese Immigration Act, SC 1923, c 38.

Constitution Act, 1867 (U.K.) (30 & 31 Vict), c 3.

Controlled Drugs and Substances Act, SC 1996, c 19.

Direct Legislation Act, SA 1913, c 3.

Equal Suffrage Statutory Law Amendment Act, SA 1916, c 5.

The Factories Act, SA 1917, c20, as am by SA 1918, c 32.

Gaming and Liquor Act, RSA, c G-1.

Government Liquor Control Act of Alberta, SA 1924, c 14.

Government Liquor Control Act of Alberta Amendment Act, SA 1927, c 35.

Government Liquor Control Act of Alberta Amendment Act, SA 1936, c 3.

The Importation of Intoxicating Liquors Act, SC 1928, c 31.

Indian Act, SC 1876, c 18.

Indian Act, SC 1951, c 29.

Initiative and Referendum Act, SM1916, c 59.

Liquor Act, SA 1916, c 4.

Liquor Control Act, SO 1927, c 70.

Liquor Control Act. SA 1953, c 67.

Liquor Control Act, 1958, 1SA 1958, c 37.

Liquor Control Amendment Act, SA 1990, c 27.

Liquor Export Act, SA 1918, c 8.

Liquor License Act, RSO 1877, c 181.

Liquor License Act, RSO 1887, c 194.

Liquor License Act, RSO 1897, c 245.

Liquor Control Amendment Act, SA 1990, c 27.

Liquor License Amendment Act, SA 1907, c 9.

Liquor License Ordinance, 1891-1892, SNWT 1891, c 18.

Liquor License Ordinance, RNSWT 1899, c89 .

Liquor License Ordinance, RSNWT 1905, c 89.

Liquor Licensing Act, SA 1958, c 38.

Municipal Act Amendment Act, SBC 1919, c 63, c 13.

Northwest Territories Act, SC 1875, c 49.

Quebec Prohibition Law, SQ 1919, c 18.

Ontario Temperance Act, SO 1916, c 50.

The Sexual Sterilization Act, SA 1928, c 37.

JURISPRUDENCE

Baker v Canada (Minister of Citizenship and Immigration), 1999 2 SCR 817, 174 DLR (4th) 193.

Christie v York Corporation 1939 CarswellQue 46, [1940] SCR 139, [1940] DLR.81.

Huson v South Norwich (City of) (1885), 24 SCR 145, 1895 CarswellOnt 30

Hodge v The Queen, [1883] UKPC 59, (1883) 9 App Cas 117, CR [9] AC 13.

Lambert v Yellowley 272 US 581.

Manitoba (AG) v Manitoba License Holders' Association, [1901] UKPC 52, [1902] AC 73 .

Nadan v The King (Alberta), [1926] UKPC 13, [1926] AC 482.

Nicholson v Haldimand [1979] 2 SCR 62, 88 DLR (3d) 671

Ontario (Attorney General) v Canada Temperance Federation, [1946] AC 193, [1946] 2 DLR 1 (PC).

Ontario (A G) v Canada (A), [1896] AC 348, [11] AC 222 (PC).

R v Big M Drug Mart, [1985] 1 SCR 295, 18 DLR (4th) 321.

Re Fairview (1930), 24 Alta LR 603, [1930] 2 WWR 542 (SC (AD)).

R v Edwards Books and Art, [1986] 2 SCR 713, 35 DLR (4th) 1.

R v Maclean (1918), 13 Alta LR, 40 DLR 443.

R v Nadan (No 1) (1925), 21 Alta LR 193, 1925 CarswellAlta 14.

R v Nadan (No 2) (1925), 21 Alta LR 231, 1925 CarswellAlta 15.

R v Nat Bell Liquors Limited, [1922] UKPC 35, [1922] 2 AC 128.

The Queen v Rymer (1877) 2 QBD 136.

Re Initiative and Referendum Act, [1919] AC 935, [1919] 3 WWR 1 (PC).

Roncarelli v Duplessis, [1959] SCR 121, 16 DLR (2d) 689.

Russell v The Queen, [1882] UKPC 33, [1882] 7 App Cas 829.

SECONDARY MATERIALS: MONOGRAPHS

Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2010).

Armstrong, Christopher & HV Nelles, *Monopoly's Moment: The Organization and Regulation of Canadian Utilities, 1830-1930* (Philadelphia: Temple University Press, 1986).

Arthurs, HW. *'Without the Law': Administrative Justice and Legal Pluralism in Nineteenth-Century England* (Toronto: University of Toronto Press, 1985).

Breen, David H. *Alberta's Petroleum Industry and the Conservation Board* (Edmonton: University of Alberta Press, 1993).

Boyer, Patrick J. *Lawmaking by the People: Referendums and Plebiscites in Canada* (Toronto: Butterworths, 1982).

Campbell, Robert A. *Demon Rum or Easy Money: Government Control of Liquor in British Columbia From Prohibition to Privatization* (Ottawa: Carleton University Press, 1991).

————. *Sit Down and Drink Your Beer: Regulating Vancouver's Beer Parlours, 1925-1954* (Toronto: University of Toronto Press, 2001).

Carstairs, Catherine, *Jailed for Possession: Illegal Drug Use, Regulation, and Power in Canada, 1920-1961* (Toronto: University of Toronto Press, 2006).

Chase, William C. *The American Law School and the Rise of Administrative Government* (Madison: University of Wisconsin Press, 1982).

Cho, Lily. *Eating Chinese: Culture on the Menu in Small Town Canada* (Toronto: University of Toronto Press, 2010).

Clow, Barbara. *Negotiating Disease: Power and Cancer Care, 1900-1950* (Montreal: McGill University Press, 2001).

Edmonds, W Everard. *The Natural Resources Question: A Plea for the Completion of Alberta's Status as a Province of Canada* (Edmonton: np, 1922).

Edwards, Laura S. *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009).

Finkel, Alvin. *The Social Credit Phenomenon in Alberta* (Toronto: University of Toronto Press, 1989).

Friesen, Gerald. *The Canadian Prairies: A History* (Toronto: University of Toronto Press, 1990).

Foster, Franklin L. *John E Brownlee: A Biography* (Lloydminster: Foster Learning Inc, 1996).

Gibson, Dale and Lee. *Substantial Justice: Law and Lawyers in Manitoba, 1670-1970* (Winnipeg: Pegius Publishers, 1972).

Gidney, RD. & WPJ Millar, *Professional Gentlemen: The Professions in Nineteenth Century Ontario* (Toronto: University of Toronto Press, 1994).

Gray, James H. *Booze: The Impact of Whisky on the Prairie West* (Toronto: Macmillan Company, 1972).

————. *Talk to My Lawyer! Great Stores of Southern Alberta's Bar and Bench* (Edmonton: Hurtig Publishers, 1987).

————. *Bacchanalia Revisited: Western Canada's Boozy Skid into Social Disaster* (Saskatoon: Western Producer Prairie Books, 1982).

Heron, Craig. *Booze: A Distilled History* (Toronto: Between the Lines, 2003).

Hewart, Lord Rt Hon, *The New Despotism* (London: Ernest Benn Limited, 1929).

Hewitt, Steve. *Spying 101: The RCMP's Secret Activities at Canadian Universities, 1917-1997* (Toronto: University of Toronto Pres, 2002).

————. *Riding to the Rescue: The Transformation of the RCMP in Alberta and Saskatchewan, 1914-1939* (Toronto: University of Toronto Press, 2006).

————.*Snitch! A History of the Modern Intelligence Informer* (London: Continuum International Publishing, 2010).

Hose, Reginald E. *Prohibition or Control? Canada's Experience with the Liquor Problem 1921-1927* (New York: Longmans, Green and Co., 1928).

Hurst, James Willard. *The Growth of American Law: The Law Makers* (Boston: Little, Brown and Company, 1950).

Jones, David C. *Empire of Dust: Settling and Abandoning the Prairie Dry Belt* (Calgary: University of Calgary Press, 2002).

Li, Peter S. *Ethnic Inequality in a Class Society* (Toronto: Wall & Thompson, 1988).

Lin, Zhiqiu. *Policing the Wild North-West: A Sociological Study of the Provincial Police in Alberta and Saskatchewan,1905-32* (Calgary: University of Calgary Press, 2007).

Little, Margaret Jane Hillyard. *'No Car, No Radio, No Liquor Permit': The Moral Regulation of Single Mothers in Ontario, 1920-1997* (Oxford: Oxford University Press, 1998).

Loewen, Royden & Gerald Friesen, *Immigrants in Prairie Cities: Ethnic Diversity in Twentieth Century Canada* (Toronto: University of Toronto Press, 2009).

Malleck Dan. *Try to Control Yourself: The Regulation of Public Drinking in Post-Prohibition Ontario, 1927-44* (Vancouver: UBC Press, 2012).

Martynowych, Orest T. *The Ukrainian Bloc Settlement in East Central Alberta, 1890-1930: A History* (Historic Sites Service, Occasional Paper No 10, 1985).

————. *Ukrainians in Canada: The Formative Period, 1891-1924* (Edmonton: Canadian Institute of Ukrainian Studies Press, 1991).

McCann, Charles R. *Order and Control in American Socio-Economic Thought: Social Scientists and Progressive-Era Reform* (London: Routledge, 2012).

McConnell, Grant. *Private Power and American Democracy* (New York: Knopf, 1967).

McLaren, Angus. *Our Own Master Race: Eugenics in Canada, 1885-1945* (Toronto: McClelland & Stewart, 1983).

Macleod, RC. *The NWMP and Law Enforcement: 1873-1905* (Toronto: University of Toronto Press, 1976).

Melnyk, Brian P. *Calgary Builds: The Emergence of an Urban Landscape, 1905-1914* (Edmonton: Alberta Culture, 1985).

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

Oliver, Edmund Henry. *The Canadian North-West, its early development and legislative records*, vol 2 (Ottawa: Government Printing Bureau, 1914).

Owram, Doug. *The Government Generation: Canadian Intellectuals and the State 1900-1945* (Toronto: University of Toronto Press, 1986).

————. *The Promise of Eden: The Canadian Expansionist Movement and the Idea of the West* (Toronto: University of Toronto Press, 1992).

Palmer, Howard. *Patterns of Prejudice: Nativism in Alberta* (Toronto: McClelland and Stewart, 1982).

Palmer, Howard & Tamara Palmer. *Alberta: A New History* (Edmonton: Hurtig Publishers, 1990).

Rennie, Bradford J., ed., *Alberta Premiers of the Twentieth Century* (Canadian Plains Research Centre: University of Regina, 2004).

Risk, RCB. *A History of Canadian Legal Thought: Collected Essays* ed. By G. Blaine Baker & Jim Phillips (Toronto: University of Toronto Press, 2006).

Roberts, Julia. *In Mixed Company: Taverns and Public Life in Upper Canada* (Vancouver: University of British Columbia Press, 2009).

Sandoval-Strausz, AK. *Hotel: An American History* (New Haven: Yale University Press, 2007).

Sharp, Paul F. *Whoop-Up Country: The Canadian American West, 1865-1885* (Helena: Historical Society of Montana, 1960).

Simpson, AW Brian. *Leading Cases in the Common Law* (Oxford: Clarendon Press, 1995).

Struthers, James. *The Limits of Affluence: Welfare in Ontario, 1920-1970* (Toronto: University of Toronto Press, 1994).

————. *Can Workfare Work? Reflections from History* (Ottawa: Caledon Institute of Social Policy, 1996).

Swyripa, Frances. *Ukrainian Canadians: A Survey of Their Portrayal in English-Language Works* (Edmonton: University of Alberta Press, 1978).

————. *Wedded to the Cause: Ukrainian-Canadian Women and Ethnic Identity, 1891-1991* (Toronto: University of Toronto Press, 1993).

————. *Storied Landscapes: Ethno-Religious Identity and the Canadian Prairies* (Winnipeg: University of Manitoba Press, 2010).

Thompson, Scott. & Genosko, Gary. *Punched Drunk: Alcohol, Surveillance and the LCBO, 1927-1975* (Halifax and Winnipeg: Fernwood Publishing, 2009).

Valverde, Mariana. *Diseases of the Will: Alcohol and the Dilemmas of Freedom* (Cambridge: University of Cambridge Press, 1998).

————. *The Age of Light, Soap and Water: Moral Reform in English Canada, 1885-1925* (Toronto: University of Toronto Press, 2008).

Willis, John. ed, *Canadian Boards at Work* (Toronto: The MacMillan Company of Canada Limited, 1941).

Woodsworth, JS. *Strangers Within Our Gates: The Problem of the Immigrant 1909* (Toronto: University of Toronto Press, 1972).

SECONDARY MATERIALS: ARTICLES

"The Alberta Medical Association" (1918) 8:11 Canadian Medical Association Journal 1054.

"Alcoholic Intoxication in Automobile Drivers" (1924) 14:4 Canadian Medical Association Journal 326.

"American Lawyers and Prohibition" (1929) 7 Canadian Bar Review 391.

"Congress Interferes with Physicians' Prescriptions" (1924) 14:9 Canadian Medical Association Journal 878.

"Infraction of the Liquor Law in Alberta" (1925) 15:7 Canadian Medical Association Journal 755.

"Liquor Ships" (1927) 5 Can Bar Rev 310.

"Medical Prescriptions of Alcohol" (1929) 21:1 Canadian Medical Association Journal 100.

"The Nova Scotia Temperance Act and the Profession" (1926) 16:9 Canadian Medical Association Journal 1125.

Abbott, Kathryn A. "Liquor Law in Minnesota Indian Country in the Early Twentieth Century" (2001) Legal Studies Forum 567.

Adams, Eric M. "Canada's "Newer Constitutional Law" and the Idea of Constitutional Rights" (2005-06) 51 McGill LJ 435

――――― ."Building a Law of Human Rights: Roncarelli v. Duplessis in Canadian Constitutional Culture" (2010) 55:3 McGill LJ 437.

――――― . "Errors of Fact and Law: Race, Space, and Hockey in *Christie v York*" (2012) 62 UTLJ 463.

Ajzenstadt, Mimi. "Cycles of Control: Alcohol Regulation and the Constructions of Gender Role , British Columbia 1870-1925" (1995) 11 International Journal of Canadian Studies 101.

Allen, Richard. "The Social Gospel and the Reform Tradition in Canada, 1890-1928" (1968) 49 Canadian Historical Review 381.

Aronson, Mark. "Some Australian Reflections on *Roncarelli v. Duplessis*" (2010) 55:3 McGill LJ 615.

Arthurs, HW. "Rethinking Administrative Law: A Slightly Dicey Business" (1979) 17 Osgoode Hall LJ 1.

――――――. "Constitutional Courage" (2003-2004) 49 McGill LJ 1.

――――――. "The Administrative State Goes to Market (and Cries 'Wee, Wee, Wee' All the Way Home)" (2005) 55 UTLJ 797.

Augustine-Adams, Kif. "Making Mexico: Legal Nationality, Chinese Race, and the 1930 Population Census" (2009) 27 LHR 113.

Aunger, Edmund A. "One Language and One Nationality: The Forcible Constitution of a Unilingual Province in a Bilingual Country, 1870-2005" in Richard Connors & John M. Law, eds, *Forging Alberta's Constitutional Framework* (Edmonton: University of Alberta Press, 2005)103.

Backhouse, Constance. "White Female Help and Chinese-Canadian Employers: Race, Class, Gender and Law in the Case of Yee Clun ,1924" (1994) 26:3 Canadian Ethnic Studies 34.

————. "Legal Discrimination Against the Chinese in Canada: The Historical Framework" in David Dyzenhaus & Mayo Moran, eds, *Calling Power to Account: Reparations and the Chinese Canadian Head Tax Case* (Toronto: University of Toronto Press, 2005) 24.

————. "The White Women's Labor Laws: Anti-Chinese Racism in Early Twentieth-Century Canada" (1996) 14:2 LHR 315.

Baker, G. Blaine. "Willis on 'Cultured' Public Authorities" (2005) 55 UTLJ 335.

Barbour, Dale. " Drinking Together: The Role of Gender in Changing Manitoba's Liquor Laws in the 1950s" in Esyllt W. Jones & Gerald Friesen, eds, *Prairie Metropolis: New Essays on Winnipeg Social History* (Winnipeg: University of Manitoba Press, 2009) 187.

Bate, JP. "Prohibition and the UFA" (1970) 18:4 Alberta History 1.

Benidickson, Jamie. "The Canadian Board of Railway Commissioners: Regulation, Policy and Legal Process at the Turn-of-the-Century" (1990-1991) 36 McGill LJ 1222.

Binnie, Susan. "Maintaining Order on the Pacific Railway: The Peace Preservation Act, 1869-85" in Barry Wright & Susan Binnie, eds, *Canadian State Trials, vol III: Political Trials and Security Measures, 1840-1914* (Toronto: University of Toronto Press, 2009) 204.

Bird, Malcolm G. "Alberta's and Ontario's Liquor Boards: Why Such Divergent Outcomes?" (2010) 53:4 Canadian Public Administration 509.

————. "Privatizing the Crown: The Exceptional Fate of Alberta's Liquor Control Board" (2012) 42:3 American Review of Canadian Studies 329.

Birrell, AJ. "DIK Rine and the Gospel Temperance Movement in Canada" (1977) 58 Canadian Historical Review 23.

Berkowitz, SD. "Forms of State Economy and the Development of Western Canada" (1979) 4:3 Canadian Journal of Sociology 287.

Boyce, Cyril D. "Prohibition in Canada" (1923) 109 Annals of the American Academy of Political and Social Science 225.

Brady, Maggie. "Policy Issues for Indigenous People in the United States, Canada, Australia and New Zealand" (2000) 27 Contemporary Drug Problems 435.

Brannigan, Augustine. & Zhiqiu Lin, " "Where East Meets West": Police, Immigration and Public Order in the Settlement of Canada from 1896 to 1940" (1999) 24:1 Canadian Journal of Sociology 87.

Bright, David. "1919: A Year of Extraordinary Difficulty" in Michael Payne, Donald Wetherall, & Catherine Cavanaugh, eds, *Alberta Formed, Alberta Transformed* vol II (Edmonton: University of Alberta Press, 2006) 412.

Brown, R. Blake. "The Canadian Legal Realists and Administrative Law Scholarship, 1930-1941" (2000) 9 Dal J Leg Stud 36.

Cameron, AT. "Alcohol and Automobile Driving" (1940) 43:1 Canadian Medical Association Journal 46.

Campbell, Robert A. ""Profit was just a circumstance": The Evolution of Government Liquor Control in British Columbia, 1920-1988" in Cheryl Krasnick Warsh, ed, *Drink in Canada: Historical Essays* (Montreal: McGill University Press, 1993) 172.

Cartier, Genevieve. "Procedural Fairness in Legislative Functions: The End of Judicial Abstinence?" (2003) 53 UTLJ 217.

———. "The *Baker* Effect: A New Interface Between the *Canadian Charter of Rights and Freedoms* and Administrative Law – The Case of Discretion" in David Dyzenhaus, ed, *The Unity of Public Law* (Oxford: Hart Publishing, 2004) 61.

———. "Administrative Discretion as Dialogue: A Response to John Willis (or from Theology to Secularization)" (2005) 55 UTLJ 629.

———. "Administrative Discretion and the Spirit of Legality: From Theory to Practice" (2009) 24:3 CJLS 313.

Cassedy, James H. "An Early American Hangover: The Medical Profession and Intemperance 1800-1860" (1976) 50:3 Bulletin of the History of Medicine 405.

Cavanagh, Edward. "A Company with Sovereignty and Subjects of Its Own? The Case of the Hudson's Bay Company, 1670-1763" (2011) 26 CJLS 25.

Chan, Anthony B. "Bachelor Workers" in Franca Iacovetta, Paula Draper & Robert Ventresca, eds, *A Nation of Immigrants: Women, Workers, and Communities in Canadian History, 1840s -1860s* (Toronto: University of Toronto Press, 1998) 231.

Chapman, TL. “The Anti-Drug Crusade in Western Canada, 1885-1925” in DJ Bercuson & LA Knafla, eds, *Law and Society in Canada in Historical Perspective* (Calgary: University of Calgary, 1979) 89.

Cherrington, Ernest H. “World-Wide Progress toward Prohibition Legislation” (1923) 109 Annals of the American Academy of Political and Social Science 208.

Chipman, WF. “Government by Commission” (1911) 31 Can LT 446.

Clark RJ. “Professional Aspirations and the Limits of Occupational Autonomy: The Case of Pharmacy in Nineteenth-Century Ontario” (1991) 8 Canadian Bulletin of Medical History 43.

Colwyn, William D. “Law and Institutions in the North West Territories (1869-1905)” (1963) 28:3 Sask Bar Rev 109.

Connors, Richard. & John M. Law, “Introduction: A Legal and Constitutional History of Alberta” in Richard Connors & John M. Law, eds, *Forging Alberta’s Constitutional Framework* (Edmonton: University of Alberta Press, 2005) xix.

Cook, Tim. ““More Medicine than a Beverage”: ‘Demon Rum’ and the Canadian Trench Soldier of the First World War” (2000) 9 Canadian Military History 6.

Corry, JA. “Administrative Law and the Interpretation of Statutes” (1935-1936) 1 UTLJ 286.

————. “The Fusion of Government and Business” (1936) 2 Canadian Journal of Economics and Political Science. 301.

Couturier, Jacques Paul.“Prohibition or Regulation? The Enforcement of the Canada Temperance Act in Moncton, 1881-1896” in Cheryl Krasnick Warsh, ed, *Drink in Canada: Historical Essays* (Montreal: McGill University Press, 1993) 144.

Crowson, Belinda. “Ethnic Diversity in Lethbridge’s Red Light District, 1880s to 1944” (2009) 57:4 Alberta History 2.

Currie, AW. “The Board of Transport Commissioners as an Administrative Body” (1945) 11:3 Canadian Journal of Economics and Political Science 342.

Davidson, JF. “The Problem of Liquor Legislation in Canada” (1926) 4:7 Can Bar Rev 468.

DeLottinville, Peter. “Joe Beef of Montreal: Working Class Culture and the Tavern, 1869-1889” (1981) 8-9 Labour/Le Travail 9.

Dempsey, Hugh A. “The Day Alberta Went Dry” (2010) 58:2 Alberta History 10.

Dubinsky, Karen & Franca Iacovetta. “Murder, Womanly Virtue, and Motherhood: The Case of Angeline Napolitano, 1911-1922” (1991) 72 Canadian Historical Review 505.

Duncan, Cynthia S. “The Need for Change: An Economic Analysis of Marijuana Policy” (2009) 41 Conn L Rev 1701.

Dyzenhaus, David. “Constituting the Rule of Law: Fundamental Values in Administrative Law” (2001-2002) 27 Queen’s LJ 445-511.

———. “The Politics of Deference: Judicial Review and Democracy” in Michael Taggart, ed, *The Province of Administrative Law* (Oxford:; Hart Publishing, 1997) 279.

———. “The Deep Structure of *Roncarelli v Duplessis*” (2004) 53 UNBLJ 111.

———. “The Logic of the Rule of Law: Lessons from Willis” (2005) 55 UTLJ 691.

———, “Schmitt v Dicey: Are States of Emergency Inside or Outside the Legal Order?” (2005-2006) 27 Cardozo L Rev 2005.

———. “Rand’s Legal Republicanism” (2010) 55:3 McGill LJ 491.

———. & Evan Fox-Decent, “Rethinking the Process/Substance Distinction: *Baker v. Canada*” (2001) 51 UTLJ 193.

Erion, Janice. “Monopolies and State Regulation: The Calgary Power Company, Utilities, and the Alberta Public Utilities Board, 1910-30” in Louis A Knafla & Jonathan Swainger, eds, *Laws and Societies in the Canadian Prairie West, 1670-1940* (Vancouver: University of British Columbia Press, 2005) 280.

Farina, Cynthia R & Jeffrey J Rachlinski, “Foreword: Post-Public Choice” (2002) 87:2 Cornell L Rev 267.

Faust, John M. “Of Saloons and Social Control: Assessing the Impact of State Liquor Control on Individual Expression” (1994) 80 Virginia L Rev 745.

Ferry, Darren. ""To the Interests and Conscience of the Great Mass of the Community:" The Evolution of Temperance Societies in Nineteenth-Century Central Canada" (2003) 14 Journal of the Canadian Historical Association 137.

Flanagan, Thomas. & Mark Milke, "Alberta's Real Constitution: The Natural Resources Transfer Agreement" in Richard Connors & John M. Law, eds, *Forging Alberta's Constitutional Framework* (Edmonton: University of Alberta Press, 2005) 165.

Finkel, Alvin. "The Social Credit Revolution" 1935 in Michael Payne, Donald Wetherall, & Catherine Cavanaugh, eds, *Alberta Formed, Alberta Transformed* vol II (Edmonton: University of Alberta Press, 2006) 490.

Finkelman, Jacob. "Separation of Powers: A Study in Administrative Law" (1935-1936) 1 UTLJ 313.

————. "Government by Civil Servants" (1939) 17 Can Bar Rev 166.

Finkelman, Jacob. "The Making, Approval and Publication of Delegated Legislation in Ontario" in John Willis, ed, *Canadian Boards at Work* (Toronto: Macmillan, 1941) 170.

Fish, Morris J. "The Effect of Alcohol on the Canadian Constitution ... Seriously" (2011) 57 McGill LJ 189.

Folsom, Burton W. "Tinkers, Tipples, and Traitors: Ethnicity and Democratic Reform in Nebraska During the Progressive Era" (1981) 50:1 Pacific Historical Review 53.

Forestall, Nancy. "Bachelors, Boarding-Houses, and Blind Pigs: Gender Construction in a Multi-Ethnic Mining Camp, 1909-1920" in Franca Iacovetta, Paula Draper & Robert Ventresca, eds, *A Nation of Immigrants: Women, Workers, and Communities in Canadian History, 1840s -1860s* (Toronto: University of Toronto Press, 1998) 251.

Foucault, Michel. "Governmentality" in *Essential Works of Foucault, 1954-1984* (N.P.: Penguin Group, 2000) 201.

Foster, Hamar. "The Struggle for the Supreme Court: Law and Politics in British Columbia, 1871-1885"in Louis A. Knafla, ed, *Law and Justice in a New Land: Essays in Western Canadian Legal History* (Calgary: the Carswell Press, 1986) 167.

————. “Law and Necessity in Western Rupert’s Land and Beyond, 1670-1870” in Louis A Knafla & Jonathan Swainger, eds, *Laws and Societies in the Canadian Prairie West, 1670-1940* (Vancouver: University of British Columbia Press, 2005) 57.

Fox-Decent, Evan. “The Internal Morality of Administration: The Form and Structure of Reasonableness” in David Dyzenhaus, ed, *The Unity of Public Law* (Oxford: Hart Publishing, 2004) 143.

————. “Democratizing Common Law Constitutionalism” (2011) 55:3 McGill LJ 511.

Franberg, Per. “The Social and Political Significance of Two Swedish Restrictive Systems” (1985) 12 Contemporary Drug Problems 53.

————. “The Swedish Snaps: A History of Booze, Bratt, and Bureaucracy – A Summary” (1987) 14 Contemporary Drug Problems 557.

Gibson, Dale. “Constitutional Amendment and the Implied Bill of Rights” (1966-67) 12 McGill LJ 497.

————. “Bible Bill and the Money Barons: The Social Credit Court References and their Constitutional Consequences” in Richard Connors & John M. Law, eds, *Forging Alberta’s Constitutional Framework* (Edmonton: University of Alberta Press, 2005) 191.

————. “The Supreme Court of Alberta Meets the Supreme Court of Canada” in Jonathan Swainger, ed, *The Alberta Supreme Court at 100: History and Authority* (Edmonton: University of Alberta Press, 2007) 99.

Girard, Philip. “Who’s Afraid of Canadian Legal History?” (2007) 57 UTLJ 727.

————. & Jim Phillips, “Rethinking the Nation in National Legal History: A Canadian Perspective” (2011) 29 LHR 607.

Good, Reginald. “Regulating Indian and Chinese Civic Identities in British Columbia’s “Colonial Contact Zone” 1858-1887,” (2011) 26 CJLS 69.

Gordon, Robert W. “J. Willard Hurst and the Common Law Tradition in American Legal Historiography” (1975) 10 Law & Soc’y Rev 9.

————. “Critical Legal Histories” (1984) 36 Stan L Rev 57.

————. “Willis’s American Counterparts: The Legal Realists’ Defence of Administration” (2005) 55 UTLJ 405.

Griffiths, John. “What is Legal Pluralism?” (1986) 24 J Legal Pluralism 1.

Hanson, EJ. “Public Finance in Alberta Since 1935” (1952) 18:3 The Canadian Journal of Economics and Political Science 322.

Hartog, Hendrik. “Pigs and Positivism” (1985) Wis L Rev 899.

Heron, Craig. “The Boys and Their Booze: Masculinities and Public Drinking in Working-Class Hamilton, 1890-1946” (2005) 86:3 Canadian Historical Review 411.

Hewitt, Steve. “The Masculine Mountie: The Royal Canadian Mounted Police as a Male Institution, 1914-1939” (1996) 7 Journal of the Canadian Historical Association 153.

Hibbitts, Bernard J. “A Bridle for Leviathan: The Supreme Court and the Board of Commerce” (1989) 21 Ottawa L Rev 65.

————. “A Change of Mind: The Supreme Court and the Board of Railway Commissioners, 1903-1929” (1991) 41 UTLJ 60.

Hill, Thomas W. “Ethnohistory and Alcohol Studies” in Marc Galanter, ed, *Recent Developments in Alcoholism* Vol II (New York: Plenum Press, 1984) 313.

Hogg, PW. “The Supreme Court of Canada and Administrative Law, 1949-1971” (1973) 11 Osgoode Hall LJ 187.

Hogg, Peter W. & Cara F. Zwibel, “The Rule of Law in the Supreme Court of Canada” (2005) 55 UTLJ 715.

Hopkins, ER. “Administrative Justice in Canada” (1939) 17 Can Bar Rev 619.

Horrall, Stan. “A Policeman’s Lot is not a Happy One: The Mounted Police and Prohibition in the North-West Territories, 1874-91” in Linda McDowell, ed, *Papers Read Before the Historical and Scientific Society of Manitoba Transactions* Series III, No 30 (Np: Hignell Printing Ltd, 1973-74) 5.

Hutchinson, Allan C & Patrick J Monahan, “Law, Politics, and the Critical Legal Scholars: The Unfolding Drama of American Legal Thought” (1983) 36 Stan L Rev 199.

Hutchinson, Allan C. “The Rise and Ruse of Administrative Law and Scholarship” (1985) 48 Mod L Rev 293.

Hutchinson, Allan C. “Mice Under a Chair: Democracy, Courts and the Administrative State” (1990) 40 UTLJ 374.

Iacobucci, Frank. “Articulating a Rational Standard of Review Doctrine: A Tribute to John Willis” (2001-2002) 27 Queen’s LJ 859.

Inglis, David. “Direct Legislation and the Law” (1897) 6:10 Mich LJ 229.

Janisch, HN. “The Role of the Independent Regulatory Agency in Canada” (1978) 27 UNBLJ 83.

————. “Policy Making in Regulation: Towards a New Definition of the Status of Independent Regulatory Agencies in Canada” (1979) 17 Osgoode Hall LJ 46.

————.“Bora Laskin and Administrative Law: An Unfinished Journey” (1985) 35 UTLJ 557.

————. “Independence of Administrative Tribunals: In Praise of “Structural Heretics”” (1987-1988) 1 Can J Admin L & Prac 1.

Johnson, Arthur Jukes. “Report of the Ontario Medical Council in Relation to the Ontario Temperance Act” (1918) 8:8 Canadian Medical Association Journal 746.

Jones, Bartlett C. “Prohibition and Eugenics” (1963) 18:2 Journal of the History of Medicine 158.

————. “A Prohibition Problem: Liquor as Medicine, 1920-1933” (1963) 18:4 Journal of the History of Medicine 353.

Keith, Berriedale. “Notes on Imperial Constitutional Law” (1922) 4 Journal of Comparative Legislation and International Law 233.

Kennedy, WPM. “The Nature of Canadian Federalism” (1921) 2 Canadian Historical Review 106.

————. “Aspects of Administrative Law in Canada” (1934) 46 Jurid Rev 203.

Klassen, Henry C. “Entrepreneurship in the Canadian West: The Enterprises of A.E. Cross, 1886-1920” (1991) 22:3 Western Historical Quarterly 313.

————. “Lawyers, Finance, and Economic Development in Southwestern Alberta, 1884 to 1920” in Carol Wilton, ed, *Essays in the History of Canadian Law: Volume IV – Beyond the Law: Lawyers and Business in Canada, 1830-1930* (Toronto: University of Toronto Press, 1990) 298.

Kottman, Richard N, "Volstead Violated: Prohibition as a Factor in Canadian-American Relations" (1962) 43 Canadian Historical Review 106.

Law, John M. & Roderick J Wood. "A History of the Law Faculty" (1996) 35 Alta L Rev 1.

Leckey, Robert. "Complexifying Roncarelli's Rule of Law" (2011) 55:3 McGill LJ 721.

Lemke, Thomas. "Foucault, Politics, and Failure: A Critical Review of Studies of Governmentality" in Jakob Nilsson & Sven-Olov Wallenstein, eds, *Foucault, Biopolitics and Governmentality* (Stockholm: Sodertorn University, 2013) 35.

Levi, Ron. & Mariana Valverde, "Knowledge on Tap: Police Science and Common Knowledge in the Legal Regulation of Drunkenness" (2001) 26:4 Law & Soc Inquiry 819.

Levin, Harvey J. "Economic and Regulatory Aspects of Liquor Licensing" (1964) 112 UPenn L Rev 785.

Levine, Harry Gene. "The Birth of American Alcohol Control: Prohibition, the Power Elite, and the Problem of Lawlessness" (1985) 12 Contemporary Drug Problems 63-115.

Levmore, Saul. "From Cynicism to Positive Theory in Public Choice" (2001-2002) 87:2 Cornell L Rev 375.

Lewans, Matthew. "Rethinking the Diceyan Dialectic" (2008) 58 UTLJ 75.

————. "Roncarelli's Green Card: The Role of Citizenship in Randian Constitutionalism" (2010) 55:3 McGill LJ 537.

Li, Peter S. "Chinese Immigrants on the Canadian Prairie, 1910-47" (1982) 19 Canadian Review of Sociology and Anthropology 527.

Lin, Zhiqiu. & Augustine Brannigan, "The Implications of a Provincial Police Force in Alberta and Saskatchewan" in Louis A. Knafla & Jonathan Swainger, eds, *Laws and Societies in the Canadian Prairie West, 1670-1940* (Vancouver: University of British Columbia Press, 2005) 232.

Link, Arthur S. "What Happened to the Progressive Movement in the 1920s?" (1959) 64:4 American Historical Review 833.

Liston, Mary. "'Alert, alive and sensitive': *Baker*, Charter Values and the Ethos of Justification in Canadian Public Law" in David Dyzenhaus, ed, *The Unity of Public Law* (Oxford: Hart Publishing, 2004) 113.

————. "Willis, 'Theology,' and the Rule of Law" (2005) 55 UTLJ 767.

————. "Witnessing Arbitrarines: *Roncarelli v. Duplessis* Fifty Years On" (2010) 55:3 McGill LJ 689.

Lockwood, Glen J. "Temperance in Upper Canada as Ethnic Subterfuge" in Cheryl Krasnick Warsh, ed, *Drink in Canada: Historical Essays* (Montreal: McGill University Press, 1993)43.

Lupton, Mary Jane. "Ladies' Entrance: Women and Bars" (1979) 5 Feminist Studies 571.

Lupul, Manoly R. "Introduction" in Manoly R Lupul, ed, *A Heritage in Transition: Essays in the History of Ukrainians in Canada* (Toronto: McClelland & Stewart, 1982) 1.

MACM. & RWS, "Drunkenness in Canada" (1925) 3 Can Bar Rev 256.

MacCormick, DN. "Spontaneous Order and the Rule of Law: Some Problems" (1989) 2 Ratio Juris 41.

Macdonald, RA. "Judicial Review and Procedural Fairness in Administrative Law" (1979-1980) 25 McGill LJ 520.

Macdonald, Roderick A. "Jurisdiction, Illegality and Fault: An Unholy Trinity" (1985) 16 RGD 69.

————. "On the Administration of Statutes" (1987) 12 Queen's LJ 488.

————. "Call-Centre Government: For the Rule of Law, Press #" (2005) 55 UTLJ 449.

————. "Was Duplessis Right?" (2011) 55:3 McGill LJ 401.

MacDonald, Vincent C. "Judicial Interpretation of the Canadian Constitution" (1935-1936) 1 UTLJ 260.

Macdonnell, PM. "Is Alcoholism a Medical Problem?" (1951) 65:3 Canadian Medical Association Journal 274.

MacLauchlan, H Wade. "Judicial Review of Administrative Interpretations of Law: How Much Formalism Can We Reasonable Bear?" (1986) 36 UTLJ 343.

Macleod, Rod. & Nancy Parker, "Justices of the Peace in Alberta" in Richard Connors & John M Law, eds, *Forging Alberta's Constitutional Framework* (Edmonton: University of Alberta Press, 2005) 267.

Macey, Jonathan R. "Cynicism and Trust in Politics and Constitutional Theory" (2001-2002) 87:2 Cornell L Rev 280.

Malleck, Dan. "Leisure, Liquor and Control: Negotiating Recreation in the Beverage Rooms of Post-Prohibition Ontario, 1927-1939" (2008) 11:3-4 Annals of Leisure Research 368

————. "The Same as a Private Home? Social Clubs, Public Drinking, and Liquor Control in Ontario, 1934-1944" (2012) 93:3 Canadian Historical Review 555.

Manning, Preston. "Federal-Provincial Tensions and the Evolution of a Province" in Richard Connors & John M. Law, eds, *Forging Alberta's Constitutional Framework* (Edmonton: University of Alberta Press, 2005) 315.

Marquis, Greg. "Doing Justice to "British Justice": Law, Ideology and Canadian Historiography" in W Wesley Pue & Barry Wright, eds, *Canadian Perspectives on Law and Society* (Ottawa: Carleton University Press, 1988) 43.

————. "Policing Two Imperial Frontiers: The Royal Irish Constabulary and the North-West Mounted Police" in Louis A. Knafla & Jonathan Swainger, eds, *Laws and Societies in the Canadian Prairie West, 1670-1940* (Vancouver: University of British Columbia Press, 2005) 185.

————. "Regeneration Rejected: Policing Canada's War on Liquor, 1890-1930" in Len Green, ed, *Crime and Deviance in Canada: Historical Perspectives* (Toronto: Canadian Scholars' Press, 2005) 366.

Martynowych, Orest T. "The Ukrainian Bloc Settlement in East Central Alberta, 1890-1930" in Manoly R Lupul, ed, *Continuity and Change: The Cultural Life of Alberta's First Ukrainians* (Edmonton: Canadian Institute of Ukrainian Studies, 1988) 30.

Mashaw, Jerry L "Deconstructing Debate, Reconstructing Law" (2001-2002) 87:2 Cornell L Rev 682.

————. “Between Facts and Norms: Agency Statutory Interpretation as an Autonomous Enterprise” (2005) 55 UTLJ 497.

Mawani, Renisa. “In Between and Out of Place: Racial Hybridity, Liquor, and the Law in Late Nineteenth and Early Twentieth Century British Columbia” (2000) 15:2 CJLS 9.

McKee, Derek. “The Public/Private Distinction in Roncarelli v. Duplessis” (2010) 55:3 McGill LJ 461.

Miller, Thomas & Maril Hazlett. “The Drunken Indian: Myth Distilled into Reality through Federal Indian Alcohol Policy” (1996) 28 Ariz St LJ 223.

Moe, Terry M. “Cynicism and Political Theory” (20010-2002) 87:2 Cornell L Rev 362.

Moffit, LW. “Control of the Liquor Traffic in Canada” (1932) 163 Annals of the American Academy of Political and Social Science 188.

Moore, Dawn. “Drugalities: the Generative Capabilities of Criminalized ‘Drugs’” (2004) 15 International Journal of Drug Policy 419.

Moore, Stephen T. “Defining the “Undefended”: Canadians, Americans, and Multiple Meanings of Border During Prohibition” (2004) 34 American Review of Canadian Studies 3.

Moran, Mayo. “Authority, Influence and Persuasion: *Baker*, Charter Values and the Puzzle of Method” in David Dyzenhaus, ed. *The Unity of Public Law* (Oxford: Hart Publishing, 2004) 389.

Morton, WL. “Direct Legislation and the Origins of the Progressive Movement” (1944) 23 Canadian Historical Review 279.

Mullan, David J. “Willis v. McRuer: A Long-overdue Replay with the Possibility of a Penalty Shoot-Out” (2005) 55 UTLJ 535.

————. “*Roncarelli v. Duplessis* and Damages for Abuse of Power: For What Did It Stand in 1959 and For What Does It Stand in 2009?” (2010) 55:3 McGill LJ 587.

Noel, Jan. “Dry Patriotism: The Chiniquy Crusade” in Cheryl Krasnick Warsh, ed, *Drink in Canada: Historical Essays* (Montreal: McGill University Press, 1993) 27.

Palmer, Howard. “Nativism in Alberta, 1925-1930” (1974) 9 Historical Papers 183.

Patterson, JM. “Alcohol in Medical Practice” (1926) 16:2 Canadian Medical Association Journal 219.

Peabody, W Rodman. “Direct Legislation and its Prospects in the United States” (1905) 20:5 Political Science Quarterly 443.

Penner, DW. & BB Coldwell, “Car Driving and Alcohol Consumption” (1958) 79:10 Canadian Medical Association Journal 793.

Phillips, Jim. “Why Legal History Matters” (2010) 41 VUWLR 293.

Phyne, John. “Prohibition’s Legacy: The Emergence of Provincial Policing in Nova Scotia, 1921-1932” (1992) 7:2 CJLS 157.

Platt, Robert Treat. “Some Experiments in Direct Legislation” (1908-1909) 18 Yale LJ 40.

RWS., “Liquor Legislation” (1925) 3:1 Can Bar Rev 51.

Rachlinski, Jeffrey J & Cynthia Farina, “Cognitive Psychology and Optimal Government Design” (2002) 87:2 Cornell L Rev 549.

Ray, Arthur J. “The Hudson’s Bay Company Fur Trade in the Eighteenth Century: A Comparative Economic Study” in James R Gibson, ed, *European Settlement in North America: Essays in Honour and Memory of Andrew Hill Clark* (Toronto: University of Toronto Press, 1978) 116.

Regher, TD. “The Canadian Prairie Frontier” in Manoly R Lupul, ed, *Continuity and Change: The Cultural Life of Alberta’s First Ukrainians* (Edmonton: Canadian Institute of Ukrainian Studies, 1988) 24.

Rennie, Bradford J. “From Idealism to Pragmatism: 1923 in Alberta” in Michael Payne, Donald Wetherall, & Catherine Cavanaugh, eds, *Alberta Formed, Alberta Transformed* vol II (Edmonton: University of Alberta Press, 2006) 442.

Riddell, William Renwick. “The First Canadian War-Time Prohibition Measure” (1920) 1 Canadian Historical Review 187.

Risk, RCB. “Lawyers, Courts and the Rise of the Regulatory State” (1984) 9 Dal LJ 31.

————. “Canadian Courts Under the Influence” (1990) 40 UTLJ 687.

———. "My Continuing Legal Education" (2005) 55 UTLJ 313.

Rittich, Kerry, "Functionalism and Formalism: Their Latest Incarnations in Contemporary Development and Governance Debates" (2005) 55 UTLJ 853.

Roach, Kent. "The Administrative Law Scholarship of D.M. Gordon" (1988-1989) 34 McGill LJ 1.

———. "Common Law Bills of Rights as Dialogue Between Courts and Legislatures" (2005) 55 UTLJ 733.

Roach, Kent. & Lorne Sossin, "Access to Justice and Beyond" (2010) 60 UTLJ 373.

Robinson, Gregory. "Rougher than Any Other Nationality? Ukrainian Canadians and Crime in Alberta, 1915-1929" (1991) 16 Journal of Ukrainian Studies 147.

Room, Robin. "Evaluating the Effect of Drinking Laws on Drinking" in J Ewing & B Rouse, eds, *Drinking: Alcohol in American Society – Issues and Current Research* (Chicago: Nelson-Hall, 1978) 267.

———. "Alcohol Monopoly as an Idea and as a Reality: Some Perspectives From History" (1985) 2 Alkolopolitik: Tidskrift for nordisk alkoholforskning 1.

Rose-Ackerman, Susan. "Regulation and Public Law in Comparative Perspective" (2010) 60 UTLJ 519.

Rubin, Edward L. "Law and Legislation in the Administrative State" (1989) 89 Columb L Rev 369 -426

———. "The New Legal Process, the Synthesis of Discourse, and the Microanalysis of Institutions" (1995-96) 109 HLR 1393.

———. "Getting Past Democracy" (2000-2001) 149 U Pa L Rev 711.

———. "Public Choice, Phenomenology, and the Meaning of the Modern State: Keep the Bathwater, but Throw out that Baby" (2001-2002) 87:2 Cornell L Rev 309.

———. "The Regulatizing Process and the Boundaries of New Public Governance" (2010) Wis L Rev 535.

SES., "Case and Comment" (1929) 7 Can Bar Rev 326.

Sandoval-Strausz, AK. “Travelers, Strangers, and Jim Crow: Law, Public Accommodations, and Civil Rights in America” (2005) 23 LHR 53.

Schaeffer, Scott. “The Legislative Rise and Populist Fall of the Eighteenth Amendment: Chicago and the Failure of Prohibition” (2010-2011) 26 JL & Politics 385.

Schneiderman, David. “Constitutional Interpretation in an Age of Anxiety: A Reconsideration of the Local Prohibition Case” (1995-1996) 41 McGill LJ 411.

————. “Harold Laski, Viscount Haldane, and the Law of the Canadian Constitution in the Early Twentieth Century” (1998) 48 UTLJ 521.

Schuman, Stanton J. “Constitutional Law: Intoxicating Liquors: Powers of a State to Regulate and Tax the Sale and Import of Liquor in a National Park” (1939) 37 Michigan L Rev 954.

Schweighofer, Anton RF. “The Canadian Temperance Movement: Contemporary Parallels” (1988) 3 CJLS 175.

Scott, FR. “The Consequences of the Privy Council Decisions” (1937) 15 Can Bar Rev 485.

Seidenfeld, Mark. “Cognitive Loafing, Social Conformity, and Judicial Review of Agency Rulemaking” (2001-2002) 87 Cornell L Rev 486.

Shannon, RW. “Delegated Legislation” (1928) 6 Can Bar Rev 245.

Sheehan, Nancy M. “The WCTU and Educational Strategies on the Canadian Prairie” (1984) 24:1 History of Education Quarterly 101.

Shipman, George A. “State Administrative Machinery for Liquor Control” (1940) 7 L & Contemp Prob 600.

Sibenik, Peter M. “Points of Departure: Urban Relief in Alberta, 1930-1937” in Louis A. Knafla, ed, *Law and Justice in a New Land: Essays in Western Canadian Legal History* (Calgary: the Carswell Press, 1986) 313.

Singer, Joseph William. “No Right to Exclude: Public Accommodations to Private Property” (19950-1996) 90 Nw UL Rev 1283.

Smith, Donald B. “Things are Seldom What They Seem” in Michael Payne, Donald Wetherall, & Catherine Cavanaugh, eds, *Alberta Formed, Alberta Transformed* vol II (Edmonton: University of Alberta Press, 2006) 462.

Spence, BH. “Prohibitory Legislation in Canada” (1923) 109 Annals of the American Academy for Political and Social Science 230.

Solomon, Jason M. “New Governance, Preemptive Self-Regulation, and the Blurring of Boundaries in Regulatory Theory and Practice” (2010) Wis L Rev 591.

Sossin, Lorne. “An Inquiry into Authority, Discretion and the Possibility of Engagement in the Welfare State” (1994) 26 Ottawa L Rev 1.

———. “An Intimate Approach to Fairness, Impartiality and Reasonableness in Administrative Law” (2001-2002) 27 Queen’s LJ 809.

———. “The Rule of Law and the Justiciability of Prerogative Powers: A Comment on *Black v Chretien*” (2001-02) 47 McGill LJ 435.

———. “The Rule of Policy: *Baker* and the Impact of Judicial Review on Administrative Discretion” in David Dyzenhaus, ed, *The Unity of Public Law* (Oxford: Hart Publishing, 2004) 87.

———. “Speaking Truth to Power? The Search for Bureaucratic Independence in Canada” (2005) 55 UTLJ 1.

———. “From Neutrality to Compassion: The Place of Civil Service and Legal Norms in the Exercise of Administrative Discretion” (2005) 55 UTLJ 427.

———. “Judicial Appointment, Democratic Aspirations, and the Culture of Accountability” (2008) 58 UNBLJ 11.

———. “The Unfinished Project of *Roncarelli*: Justiciability, Discretion and the Limits of the Rule of Law” (2010) 55:3 McGill LJ 661.

———. “The Puzzle of Independence for Administrative Bodies” (2009) 26 NJCL 1.

———. & France Houle, “Tribunals and Guidelines: Exploring the Relationships between Fairness and Legitimacy in Administrative Decision-Making” (2006) 49 Canadian Public Administration 283.

Spence, David B. “Public Choice Progressivism Continued” (2001-2002) 87:2 Cornell L Rev 397.

Stevenson, GH. “The Psychological and Medical Aspects of the Excessive Use of Alcohol” (1940) 42:1 Canadian Medical Association Journal 57.

Sunstein, Cass R. “On the Expressive Function of Law” (1996) 144 UPenn L Rev 2021.

Swyripa, Frances. “A Survey of Ukrainian-Canadian Historiography” in Manoly R Lupul, ed, *A Heritage in Transition: Essays in the History of Ukrainians in Canada* (Toronto: McClelland & Stewart, 1982) 310.

————. “Negotiating Sex and Gender in the Ukrainian Bloc: Settlement: East-Central Alberta Between the Wars” (1995) 20:2 Prairie Forum 149.

————. “The Politics of Redress: The Contemporary Ukrainian-Canadian Campaign” in Franca Iacovetta, Roberto Perrin & Angelo Principe, eds, *Enemies Within: Italian and Other Internees in Canada and Abroad* (Toronto: University of Toronto Press, 2000) 355.

Szablowski, David. “John Willis and the Challenges for Public Law Scholarship in a Neoliberal Globalizing World” (2005) 55 UTLJ 869.

Taggart, Michael. Review of J.M. Evans, H.N. Janisch, David J. Mullan & RCB. Risk, *Administrative Law: Cases, Texts and Materials* (1996) 46 UTLJ 649.

————. “The Province of Administrative Law Determined?” in Michael Taggart, ed, *The Province of Administrative Law* (Oxford: Hart Publishing, 1997) 1.

————. “The Tub of Public Law” in David Dyzenhaus, ed, *The Unity of Public Law* (Oxford: Hart Publishing 2004) 455.

————. “From ‘Parliamentary Powers’ to Privatization: The Chequered History of Delegated Legislation in the Twentieth Century” (2005) 55 UTLJ 575.

Tennant, Nigel B. “Administrative Finality” (1928) 6 Can Bar Rev 497.

Thomas, LG. “The Liberal Party in Alberta, 1905-21” (1947) 28 Canadian Historical Review 411.

Thompson, John H, ““The Beginning of our Regeneration”: The Great War and Western Canadian Reform Movements” (1972) 7 Historical Papers 227.

Threedy, Debora L. “Unearthing Subversion with Legal Archaeology” (2003) 13 Tex J Women & L 133.

Thrift, Gayle. ""By the West, for the West": Frederick Haultain and the Struggle for Provincial Rights in Alberta" (2011) 59:1 Alberta History 2.

Tomlins, Christopher L. "What is Left of the Law and Society Paradigm after Critique? Revisiting Gordon's "Critical Legal Histories"" (2012) 37 L & Soc Inq 155.

————. "After Critical Legal History: Scope, Scale, Structure" (2012) 8 Annual Review of Law and Social Science 31.

Valverde, Mariana. "A Postcolonial Women's Law? Domestic Violence and the Ontario Liquor Board's "Indian List," 1950-1990" (2004) 30:3 Feminist Studies 566.

————. "Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance" (2011) 45:2 L & Soc'y Rev 277.

Vitiello, Michael. "Legalizing Marijuana: California's Pot of Gold" (2009) Wis L Rev 1349.

Waines, WJ. "Problems of Public Finance in the Prairie Provinces" (1937) 3:3 Canadian Journal of Economics and Political Science 355.

Walters, Mark D. "The Common Law Constitution in Canada: Return of *Lex Non Scripta* as Fundamental Law" (2001) 51 UTLJ 91.

————. "The Common Law Constitution and Legal Cosmopolitanism" in David Dyzenhaus, ed, *The Unity of Public Law* (Oxford: Hart Publishing, 2004) 431.

————. "Legality as Reason: Dicey, Rand, and the Rule of Law" (2010) 55:3 McGill LJ 563.

Warner, Jessica. "A Foucauldian Hangover", Book Review of *Try to Control Yourself: The Regulation of Public Drinking in Post-Prohibition Ontario, 1927-44* by Dan Malleck (October 2012) Literary Review of Canada 5.

Warsh, Cheryl Krasnick. ""John Barelycorn Must Die": An Introduction to the Social History of Alcohol" in Cheryl Krasnick Warsh, ed, *Drink in Canada: Historical Essays* (Montreal: McGill University Press, 1993) 3.

Weibel-Orlanda, Joan. "American Indians and Prohibition: Effect or Affect? Views from the Reservation and the City" (1990) 17 Contemporary Drug Problems 293.

Williams, Sarah E. “The Use of Beverage Alcohol as Medicine, 1790-1860” (1980) 41 Journal of Studies on Alcohol 543.

Willis, John. “Delegation of Legislative and Judicial Powers to Administrative Bodies” (1932-1933) 18 Iowa L Rev 150.

————. “Three Approaches to Administrative Law: The Judicial, The Conceptual, and The Functional” (1935-1936) 1 UTLJ 53.

————. “Statute Interpretation in a Nutshell: Preliminary Observations” (1938) 16 Can Bar Rev 1.

————. “Administrative Law and the British North America Act” (1939-1940) 53 HLR 251.

————. “Section 96 of the British North America Act” (1940) 18 Can Bar Rev 517.

————. “Delegatus Non Potest Delegare” (1943) 21 Can Bar Rev 257.

————. “Administrative Decision and the Law: The Views of a Lawyer” (1958) 24:4 Canadian Journal of Economics and Political Science 502.

————. “Administrative Law in Canada” (1961) 39 Can Bar Rev 251.

————. “The McRuer Report: Lawyer’s Values and Civil Servants’ Values” (1968) 18 UTLJ 351.

————. “Foreign Borrowings” Book Review of *Royal Commission Inquiry into Human Rights* (1970) 20 UTLJ 274.

———— .“Canadian Administrative Law in Retrospect” (1974) 24 UTLJ 225.

Woolley, Alice. “Legitimating Public Policy” (2008) 58 UTLJ 153.

Wright, Cecil A. “An Extra-Legal Approach to Law” (1932) 10 Can Bar Rev 1.

————. “American Law Institute’s Restatement of Contracts and Agency” (1935-1936) 1 UTLJ 17.

Zimmerman, Jonathan. ““When the Doctors Disagree”: Scientific Temperance and Scientific Authority, 1891-1906” (1993) 48:2 Journal of the History of Medicine 171.

OTHER MATERIALS

Archival Material

Alberta Liquor Control Board Circulars (1934-1943), Edmonton, Provincial Archives of Alberta, (RG 66.160).

Alberta Liquor Control Board Holdings, Edmonton, Provincial Archives of Alberta, (RG 76.2).

Alberta Liquor Control Board Internal Directives (1926-1960), Edmonton, Provincial Archives of Alberta, (RG 72.422).

Attorney General Case Files, Edmonton, Provincial Archives of Alberta, (RG 76.232).

Calgary Brewing and Malting Company Papers, Calgary, Glenbow Alberta Institute Archives.

Department of Public Works, Edmonton, Provincial Archives of Alberta, (RG 70.221).

Files of the Attorney General's Department, Edmonton, Provincial Archives of Alberta, (RG 66.166).

Files of the Attorney General's Department, Edmonton, Provincial Archives of Alberta, (RG, 75.126).

Files of the Deputy Attorney General's Department, Edmonton, Provincial Archives of Alberta, (RG 83.192).

Inspectors' Reports of the Alberta Liquor Control Board, Edmonton, Provincial Archives of Alberta, (RG 74.412).

J. McKinley Cameron Fonds, Calgary, Glenbow Alberta Institute Archives (RG M-6840).

Premiers' Papers (1921-1973), Edmonton, Provincial Archives of Alberta, (RG 69.289).

R.J Dinning Collection, Edmonton, Provincial Archives of Alberta, (RG Number 70.420).

Women's Christian Temperance Union, Alberta Conventions (1913-1925), Calgary, Glenbow Alberta Institute Archives.

Women's Christian Temperance Union Papers (1911-1970), Calgary, Glenbow Alberta Institute Archives.

Government Documents

Alberta, Legislative Assembly, *Sessional Papers*, (1924-1960).

Canada, Bureau of Statistics, *Origin, Birthplace, Nationality and Language of the Canadian People (A Census Study Based on the Census of 1921 and Supplementary Data*) (Ottawa: FA Acland, King's Printer, 1929).

Canada, Department of Trade and Commerce, Census and Statistics Office, *Special Report on the Foreign Born Population* (Ottawa: Government Printing Bureau, 1915).

Canada Mortgage and Housing Corportaion, *Canadian Regional Trends: A Census Profile – 1911-1971* (Ottawa: CMHC, 1979).

Canada, Royal Commission on the Liquor Traffic in Canada, *Report* (Ottawa: Queen's Printer, 1896).

Periodicals

Blairmore Enterprise.

Bow Island Review.

Calgary Albertan.

Calgary Herald.

Claresholm Advertiser.

Chronicle/Crossfield Chronicle.

Edmonton Bulletin.

Edmonton Capital.

Edmonton Journal.

Empress Express.

Gleichen Call.

Grain Growers' Guide.

Irma Times.

Lacombe Guardian.

Lethbridge Herald.

Macleod Times.

Moose Jaw Herald.

Ponoka Herald.

Red Deer News.

Redcliff Review.

Stony Plain Sun.

Strathcona Evening Chronicle.

Strathmore Standard.

The Stranger.

United Farmers of Alberta.

Wetaskiwin Times.

Western Globe.

Unpublished Works

Boddington, Steven Paul. *The Alberta Liquor Control Board, 1924-1935* (MA Thesis, University of Alberta, Department of History, Spring 1990).

Malleck, Daniel Joseph. *Refining Poison, Defining Power: Medical Authority and the Creation of Canadian Drug Prohibition Laws, 1800-1908* (PhD Dissertation, Queen's University, Department of History, 1999).

Moir, Sean Innes. *The Alberta Provincial Police, 1917-1932* (MA Thesis, University of Alberta, Department of History, 1992).

O'Bryne, Nicole Colleen. *The Answer to the 'Natural Resources Question': A Historical Analysis of the* Natural Resources Transfer Agreements (LLM Thesis, McGill University, Faculty of Law, 2005).

Robinson, Greg Thomas. *British-Canadian Justice in the Ukrainian Colony: Crime and Law Enforcement in East-Central Alberta, 1915-1929* (MA Thesis, University of Alberta, Department of History, 1992).

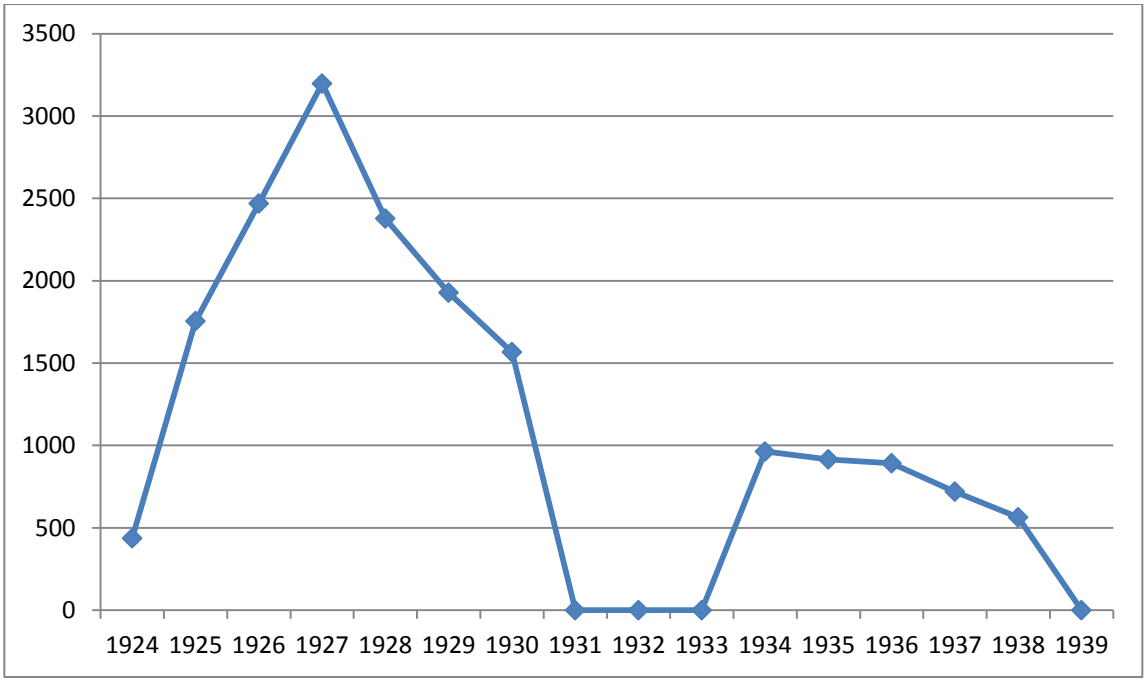
Stokes, Mary. "Grand Juries and 'Proper Authorities': Low Law, Soft Law and Local Governance in Canada West/Ontario, 1850-1880" SSRN paper id1674089 (2010) [forthcoming].

Stretch, Diane Kathryn. *From Prohibition to Government Control: The Liquor Question in Alberta 1909-1929* (MA Thesis, University of Alberta, Department of History, Spring 1979) [unpublished].

Appendices

Appendix A

Graph of Liquor Prescriptions from 1924 to 1958[1]



[1]Figures taken from Alberta, Legislative Assembly, "Annual Reports of the Alberta Liquor Control Board" in *Sessional Papers* (1924-1939). There were no figures for 1931-33, 1939-40, 1957-1960

Appendix B

Locations of Liquor Stores and Year of Opening[2]

Town	Year Store Opened	Year Store Abolished
Banff	1924	
Blairmore	1924	
Bassano	1924	
Calgary	1924	
Calgary East	1924	
Camrose	1924	
Coleman	1924	
Coronation	1924	
Drumheller	1924	
Edmonton	1924	
Edmonton South	1924	
Edson	1924	
Grande Prairie	1924	
Jasper	1924	
Lethbridge	1924	
Macleod	1924	
Medicine Hat	1924	
Mail Order Edmonton	1924	
Mail Order Calgary	1924	
Peace River	1924	
Red Deer	1924	
Stettler	1924	
St Paul	1924	
Taber	1924	
Vegreville	1924	
Vermillion	1924	
Wainwright	1924	
Wetaskiwin	1924	
Hanna	1925	
Mundare	1925	
Pincher Creek	1925	
Smoky Lake	1927	
Lloydminster	1928	
Hythe	1930	1933

[2] Taken from Alberta, Legislative Assembly, "Annual Reports of the Alberta Liquor Control Board" in *Sessional Papers* (1924-1939).

Appendix C

Number of Hotel and Club Licenses from 1924 to 1939[3]

Year	Hotel Licenses	Hotel Suspensions	Hotel Cancellations	Club Licenses	Club Suspensions	Club Cancellations
1924	288	11	1	46	4	0
1925	330	33	0	50	7	0
1926	349	26	2	49	3	0
1927	354	11	2	48	2	0
1928	376	30	2	47	0	0
1929	378	8	0	47	2	1
1930	390	7	0	46	1	0
1931	381	10	0	48	1	0
1932	371	3	0	51	0	0
1933	381	0	0	53	0	0
1934	377	3	0	51	1	0
1935	381	1	0	53	0	0
1936	382	1	0	54	3	0
1937	378	1	0	54	1	0
1938	382	4	0	54	0	0
1939	410	3	0	54	0	0

[3] Figures taken from Alberta, Legislative Assembly, "Annual Reports of the Alberta Liquor Control Board" in *Sessional Papers* (1924-1939).