

IN DEPTH: PROHIBITION AND LIQUOR REGULATION

Societies in Asia, the Middle East, and Africa have been consuming alcohol for at least 5,000 years. Alcohol in North America is a different story. On Turtle Island—the land we now call Canada—Indigenous people did not brew alcohol. Alcohol was introduced to the land by Europeans. For most of the time since alcohol's introduction, government has been regulating it. While the government's reasons for regulation are varied, two overriding themes can be seen: alcohol causes harm to individuals and to society when misused, and alcohol is a source of revenue for the government.

Government regulations on alcohol have not always been applied equally. Historically, these regulations have been most discriminatory towards Indigenous people. Canada's race-based alcohol laws only began to be unravelled in the 1950s. One of the first discriminatory laws was the *Selling of Strong Liquors to the Indian Ordinance* of 1777. Issued by the British governor in Quebec, this law banned the private sale and distribution of liquor to Indigenous people. The Indian Department became the sole supplier of alcohol to Indigenous people. The *Indian Act of 1876* went further. It completely prohibited Indigenous people from buying or drinking alcohol unless they gave up their Indian status. These laws were said to be a response to the negative effects that alcohol had on Indigenous people. However, the laws were underpinned by the false and racist "firewater myth" that Indigenous people were "more constitutionally prone to develop an inordinate craving for liquor and to lose control over their behaviour when they drink"³⁸.

The *Indian Act's* prohibition did not stop Indigenous people from drinking alcohol. It merely pushed drinking into the shadows. A bootlegging trade popped up to supply alcohol on reserves, and Indigenous people who visited cities and towns were often able to find suppliers in town.

For the settlers in Canada, alcohol laws were also omnipresent. However, they were seldom as draconian as the laws that applied to Indigenous people. Generally governments had little interest in banning alcohol from settlers altogether, largely due to the revenue created by liquor licenses and alcohol sales. However, prohibitionists succeeded in making laws more restrictive. Prohibitionists were a powerful political force in the late 1800s and early 1900s. They were made up of a peculiar alliance of people: capitalists who did not want their workers drinking due to effects on productivity, women's groups who were frustrated with abusive husbands who spent



38 Leland qtd. in Campbell, Robert. "Making Sober Citizens: The Legacy of Indigenous Alcohol Regulation in Canada." *Journal of Canadian Studies*, vol. 42, no. 1, 2008, p. 106.

their earnings on alcohol, and religious groups that rejected alcohol altogether. Together, they pressured the public and lobbied various levels of government to limit or halt alcohol sales. As a result many places in Canada became “dry” in the late 1800s and early 1900s. However, much like the attempts to prohibit Indigenous people from drinking, attempts to prohibit settlers from drinking were exercises in futility. Some people made their own alcohol or imported it from other jurisdictions. And because alcohol was still available in pharmacies for medicinal use, some people simply obtained prescriptions from their doctors to buy alcohol. For example, in 1920 Ontario doctors prescribed 650,000 bottles of liquor. There was a 50% rise in prescriptions over the Christmas holidays.

In communities where prohibition was not in place, alcohol was tightly regulated. The regulations proved hard to enforce, and were often ignored. For example, saloon-keepers regularly served alcohol after the regulated closing hours. When saloon-keepers were caught in the act, commissioners often had trouble getting witnesses to testify because the witnesses did not want their local bar to close.

The excessive liquor regulation during the late 1800s and early 1900s shows how difficult it is for laws to be enforced when they are strongly opposed by many members of a community. Even though alcohol was very strictly regulated or banned in many places across Canada, people who wanted it would find it. And because governments wanted the revenues from alcohol sales, they had little incentive to limit or ban the sale of alcohol. These realities not only help explain the progressive loosening of liquor regulations over the past 100 years, but can also bring some insight into the evolution of laws surrounding marijuana today.

DISCUSS

1. Stephen Leacock was a fierce opponent of prohibition. In his 1919 essay “The Tyranny of Prohibition” he claims that “the fundamental fallacy of prohibition is that it proposes to make a crime of a thing which the conscience of the great mass of individuals refuses to consider as such”³⁹. Leacock’s hostility towards over-regulation of liquor can be seen in *Sunshine Sketches*. Josh Smith refuses to close his bar at the regulated hours. Smith’s “moral code was simplicity itself,—do what is right and take the consequences” (17).
 - a) What was Josh Smith’s usual procedure for closing the bar?
 - b) Josh Smith was breaking the law. Was he doing “what is right”?
2. What similarities are there between liquor prohibition and regulation in the time of *Sunshine Sketches* and the regulation of marijuana or other substances in Canada today?
3. What ways can you protest a law that you believe is wrong?