

FINAL WORD ↻ BY TIM ROWLAND

My Goodness, My Rent-Seeking

Artifacts of the old American temperance movement—a good idea for 10% of the population but a burdensome buzzkill for the rest—remain with us to this day, as anyone who has tried to buy a bottle of Pinot Grigio in a supermarket at 11 a.m. on a Sunday morning can attest.

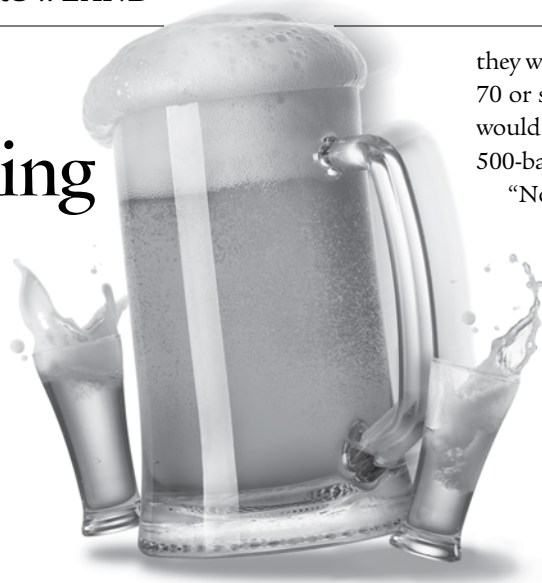
The singular economic effect of Prohibition was to take money away from American workers and public treasuries and invest it in criminals who were canny and daring enough to give the people what they wanted. This lesson seems to have been lost on today's lawmakers as we blunder from one illicit drug crisis to the next.

Dating back to the days of the Whiskey Rebellion, America was quite literally built on hooch. Liquor taxes up through Prohibition comprised an outsized portion of government budgets. The federal government alone lost \$11 billion in revenues to Prohibition, while spending \$300 million to enforce the unenforceable.

Prohibition also threw thousands of employees out of work in the decade leading up to the Great Depression. A little-known part of the New Deal work programs was the legalization of beer, albeit with a lower alcohol content, prior to Prohibition's formal demise. So an accelerated dependence on the income tax and bad beer are two of Prohibition's more dismal unintended consequences.

Even today the government's relationship with alcohol remains awkward. We have not entirely shaken off our Puritan instincts, and through the bulk of the 20th century, state legislators (where whiskey in House and Senate cloakrooms was often dispensed by the keg) have tried

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to soften alcohol laws without making it look as if they were softening alcohol laws. In this way, they hoped to win the votes of reprobates and church ladies alike.

As readers of this magazine know well, those who cheered on the barrel-busting axes sometimes are the private alcohol interests themselves. Earlier this year, an entertaining three-way battle among big brewers, little brewers, and taverns broke out in the Maryland legislature over an existing law that prohibited breweries from selling more than 500 barrels of beer a year at their plants' taprooms.

The kerfuffle began when the international alcohol concern Diageo, whose holdings include the legendary Guinness beer brand, announced it would fashion an old rum plant near Baltimore into a brewery. The plan is for a "world class beer tourism destination" that would test new brews on the public in a trendy, upscale taproom while the plant would become home to the manufacture of Guinness's Blonde American Lager. (Something about Guinness coming out with a blonde beer seems wrong; like Martha Stewart coming out with a diet croquembouche.)

And while 500 barrels, or 125,000 pints, sounds like a lot, it's a drop in the stein compared to what Guinness eventually hopes to sell at the tap room. So it asked Maryland lawmakers for an exclusive and less restrictive liquor license, which they were all too happy to provide. Or at least

they were until they heard a roar from the 70 or so craft brewers in the state, which would still have been burdened by the old 500-barrel limit.

"Nobody who is a Maryland brewer who is part of our association doesn't want to see Diageo come here and be successful," Hugh Sisson, founder of the Heavy Seas label, told the *Baltimore Sun*. "But we don't want to pass another carve-out bill and have a large, international conglomerate have privileges that home-grown businesses don't have."

Then came the retailers, taverns, and restaurants, which complained that brewery taprooms would amount to unfair competition. Well, they didn't put it that way, exactly; they said raising the limit would violate the spirit of Maryland's sacred "three tier" alcohol system, under which only brewers can brew, only wholesalers can distribute, and only retailers can sell to the public. This system was designed, of course, to (*wink*) "protect consumers," which once upon a time maybe it did. But today, like many alcohol laws, it has been commandeered to protect commercial fiefdoms from competition.

So while there are sensible laws against drinking and driving, in all other regards it might be time to start treating alcohol as we would any other commodity. As such, we might substitute "tomato" for "alcoholic beverage" to see if a regulation makes sense: Should we not sell tomatoes before noon on Sunday? Should a tomato purchased in a restaurant not be allowed to be taken off premises? Should it be required that tomatoes be wrapped in an opaque bag before they are taken from the store?

In the end, all Maryland could manage was a stopgap measure that made no one happy. Lawmakers raised the taproom limit to 2,000 barrels—half of what Guinness wanted, but enough for it to proceed with its plans. But lawmakers also required taprooms to close at 10 p.m., just as the night's getting started.

So if you're making a salad, better get those tomatoes early. 