When the Eighteenth Amendment took effect on January 17, 1920, most observers assumed that liquor would quickly disappear from the American scene. The possibility that a constitutional mandate would be ignored simply did not occur to them. “Confidence in the law to achieve a moral revolution was unbounded,” one scholar of rural America has pointed out, explaining that “this was, after all, no mere statute, it was the Constitution.” The assistant commissioner of the Internal Revenue Service, the agency charged with overseeing the new federal law, predicted that it would take six years to make the nation absolutely dry but that prohibition would be generally effective from the outset. Existing state and federal law enforcement agencies were expected to be able to police the new law. Initial plans called for only a modest special enforcement program, its attention directed to large cities where the principal resistance was anticipated. Wayne Wheeler of the Anti-Saloon League confidently anticipated that national prohibition would be respected, and estimated that an annual federal appropriation of five million dollars would be ample to implement it. The popular evangelist Bill Sunday replaced his prohibition sermon with one entitled “Crooks, Corkscrews, Bootleggers, and Whiskey Politicians - They Shall Not Pass.” Wartime prohibition, which only banned further manufacture of distilled spirits and strong beer (with an alcohol content exceeding 2.75 percent) had already significantly reduced consumption. Few questioned the Volstead Act’s capacity to eliminate intoxicants altogether. Americans accustomed to a society in which observation and pressure from other members of a community encouraged a high degree of conformity did not foresee that there would be difficulties in obtaining compliance with the law. They did not realize that the law would be rested and resisted by sizable elements in an increasingly urban and heterogeneous society re restraints on the individual were becoming far less compelling.

Within a few months it became apparent that not every American felt obliged to stop drinking the moment constitutional prohibition began. In response to consumer demand, a variety of sources provided at first a trickle and alter a growing torrent of forbidden beverages. Physicians could legally prescribe “medicinal” spirits or beer for their patients, and before prohibition was six mins old, more than fifteen thousand, along with over fifty-seven thousand pharmacists, obtained licenses to dispense liquor. Grape juice or concentrates could be legitimately shipped and sold and, if the individual purchaser chose, allied to ferment. Distributors lessened to attach “warning” labels, reporting that United States Department of Agriculture tests had determined that, for instance, if permitted to sit for sixty days the juice would turn into wine of twelve percent alcohol content. The quadrupled output and rising prices of the California grape industry’s urging the decade showed that many people too such warnings onto heart.

Other methods of obtaining alcoholic beverages were more devious. Some “near-beer,” which was legally produced by manufacturing genuine beer, then removing the three to five percent alcohol in excess of the approved one-half percent, was diverted to consumers before the alcohol was reinjected into near-beer, making what was often called “needle-beer,” watered down, and flavored for beverage purposes. To discourage this practice, the government directed that industrial alcohol be rendered unfit to drink by the addition of denaturants. Bootleggers did not always bother to remove such poisons, which cost some unsuspecting customers their eyesight to their lives.

Theft of perhaps twenty million gallons of good pre-prohibition liquor from bonded warehouses in the course of the decade, as well as an undeterminable amount of home brewing and stilling, provided more palatable and
dependable beverages. By 1930 illegal stills provided the main supply of liquor, generally a higher quality product. The best liquor available was that smuggled in from Canada and from ships anchored on "Rum Row" in the Atlantic beyond the twelve-mile limit of United States jurisdiction. By the late 1920s, one million gallons of Canadian liquor per year, eighty percent if that nation's greatly expanded output, made its way into the United States. British shipment of liquor to islands which provisioned Rum Row increased dramatically. Exports to the Bahamas, for example, went from 944 gallons in 1918 to 386,000 gallons in 1922. The tiny French islands of St. Pierre and Miquelon off the coast of Newfoundland imported 118,600 gallons of British liquor in 1922, "quite a respectable quantity," a British official observed, "for an island population of 6,000." Bootlegging, the illicit commercial system for distributing liquor, solved most problems of bringing together supply and demand. Government appeared unable - some claimed even unwilling - to halt a rising flood of intoxicants. Therefore, many observers at time, and increasing numbers since the law's repeal, assumed that prohibition simply did not work.

The Volstead Act specified how the constitutional ban on "intoxicating liquors . . . for beverage purposes" was to be enforced. What the statute did not say had perhaps the greatest importance. While the law barred manufacture, transport, sale, import, or export of intoxicants, it did not specifically make their purchase or use a crime. This allowed continued possession of intoxicants obtained prior to prohibition, provided that such beverages were only for personal use in one's own home. Not only did the failure outlaw use render prohibition harder to enforce by eliminating possession as de facto evidence of crime, but also it allowed the purchaser and consumer of alcoholic beverages to defend his own behavior. Although the distinction was obviously artificial, the consumer could and did insist that there was nothing illegal about his drinking, while at the same time complaining that failure of government effort to suppress bootlegging represented a break down of law and order.

Adopting the extreme, Prohibitionist view that any alcohol whatsoever was intoxicating, the Volstead Act outlawed all beverages with an alcoholic content of .5 percent or more. The .5 percent limitation followed a traditional standard used to distinguish been alcoholic and nonalcoholic beverages for purposes of taxation, but that standard was considered by many to be unrealistic in terms of the amount of alcohol needed to produce intoxication. Wartime prohibition, after all, only banned beer with an alcoholic content of 2.75 percent or more. Many did not associate intoxication with beer or wine at all but rather with distilled spirits. Nevertheless, the only exception to the .5 percent standard granted by the Volstead Act, which had been drafted by the Anti-Saloon League, involved cider and fruit juices; these subjects of natural fermentation were to be illegal only if declared by a jury to be intoxicating in fact. The Volstead Act, furthermore, did permit the use of intoxicants for medicinal purposes and religious sacraments; denatured industrial alcohol was exempted as well.

The Eighteenth Amendment specified that federal and state governments would have concurrent power to enforce the ban on intoxicating beverages. Therefore the system which evolved to implement prohibition had a dual nature. Congress, anticipating general compliance with the liquor ban as well as cooperation from state local policing agencies in dealing with those violations which did occur, created a modest enforcement program at first. Two million dollars was appropriated to administer the law for its first five months of operation, followed
Most Americans obeyed the national prohibition law. Many, at least a third to two-fifths of the adult population if Gallup poll surveys in the 1930s are any indication, had not used alcohol previously and simply continued to abstain. Others ceased to drink beer, wine, or spirits when to do so became illegal. The precise degree of compliance with the law is difficult to determine because violation levels cannot be accurately measured. The best index of the extent to which the law was accepted comes from a somewhat indirect indicator.

Consumption of beer, wine, and spirits prior to and following national prohibition was apparently reflected in the payment of federal excise taxes on alcohol beverages. The tax figures appear reliable because bootlegging lacks sufficient profitability to be widespread when liquor was legally and conveniently obtainable. The amount of drinking during prohibition can be inferred from consumption rates once alcoholic beverages were again legalized. Drinking may have increased after repeal; it almost certainly did not decline. During the period 1911 through 1915, the last years before widespread state prohibition and the Webb-Kenyon Act began to significantly inhibit the flow of legal liquor, the per capita consumption by Americans of drinking age (15 years and older) amounted to 2.56 gallons of absolute alcohol. This was actually imbibed as 2.09 gallons of distilled spirits (45 percent alcohol), 0.79 gallons of wine (80 percent alcohol) and 29.53 gallons of beer (5 percent alcohol). In 1934, the year immediately following repeal of prohibition, the per capita consumption measured 0.97 gallons of alcohol distributed as 0.64 gallons of spirit, 0.36 gallons of wine, and 13.58 gallons of beer (5 percent alcohol after repeal). Total alcohol consumption, by this measure, fell by more than half because of national prohibition. Granting a generous margin of error, it seems certain that the flow of liquor in the United States was at least cut in half. It is difficult to know whether the same number of drinkers each consumed less or, as seems more likely, fewer persons drank. The crucial factor for this discussion is that national prohibition caused substantial drop in aggregate alcohol consumption. Though the figures began to rise most immediately after repeal, not until 1970 to the annual per capita consumption of absolute alcohol reach the level of 1911–15.

In other words, not only did Americans drink significantly less as result of national prohibition but also the effect of the law in depressing liquor usage apparently lingered for several decades after repeal.

Other evidence confirms this statistical picture of sharply reduce liquor consumption under prohibition. After the Volstead Act had been in force for a half dozen years, social worker Martha Bensley Bruere conducted a nationwide survey of drinking for the national Federation of Settlements. Her admittedly impressionistic study,
based upon 193 reports from social workers across the country, focused on lower-class, urban America. Social workers, who generally favored prohibition, perhaps overrated the law’s effectiveness. Nevertheless, Bruere’s book provided probably the most objective picture of prohibition and practice in the mid-1920s.

The Bruere survey reported that adherence to the dry laws varied from place to place. The Scandinavians of Minneapolis and St. Paul continue to drink. On the other hand, prohibition seemed effective in Sioux Falls, South Dakota. In Butte, Montana, the use of intoxicants had declined, though bootleggers actively plied their trade. Idaho, Oregon, and Washington had generally accepted prohibition, and even in the west coast wet Bastion, San Francisco, working-class drinking appeared much reduced. The Southwest from Texas to Los Angeles was reported to be quite dry. The survey cited New Orleans as America’s wettest city, with bootlegging and a general disregard of the law evident everywhere. In the old South, prohibition was said to be effectively enforced for Negros but not whites. Throughout the Midwest, with some exceptions, residents of rural areas generally observed prohibition, but city dwellers appeared to ignore it. In the great metropolises of the North and East, with their large ethnic communities – Chicago, Detroit, Cleveland, Pittsburgh, Boston, New York, and Philadelphia – the evidence was overwhelming that the law was neither respected nor observed.

Throughout the country, Bruere suggested, less drinking was taking place than before Prohibition. Significantly, she reported the more prosperous upper and middle classes violated the alcoholic beverage ban far more frequently than did the working class. Illicitly obtained liquor was expensive. Yale economist Irving Fisher, himself an advocate of prohibition, claimed that in 1928 on the average a quart of beer cost $0.80 (up 600 percent from 1916), gin $5.90 (up 520 percent), and corn whiskey $5.95, (up 150 percent) while average annual income per family was about $2,600. If nothing else, the economics of prohibition substantially reduced drinking by lower-class groups. Thus prohibition succeeded to a considerable degree in restraining drinking by the very social groups with whom many advocates of the law had been concerned. The Bruere study, therefore, offered cheers to drays. The report also demonstrated that acceptance of prohibition varied with ethnic background and local custom as well as economics. Community opinion appeared more influential than federal or state laws or police activity. People in many parts of the United States voluntarily obeyed the Eighteenth Amendment, but elsewhere citizens chose to ignore it. In the latter part of the decade, violations apparently increased, both in small towns and large cities. In Detroit it reportedly became impossible to get a drink "unless you walked at least ten feet and told the busy bartender what you wanted in a voice loud enough for him to hear you above the uproar."

Any evidence to the contrary notwithstanding, national prohibition rapidly acquired an image, not as a law which significantly reduced the use of alcoholic beverages, but rather as a law that was widely flouted. One Wisconsin congressman, writing to a constituent after a year of national Prohibition, asserted, "I believe that there is more bad whiskey consumed in the country today than there was good whiskey before we had Prohibition and of course we have made a vast number of liars and law violators through the Volstead Act." In part this commonly held impression stemmed from the substantial amount of drinking which actually did continue. Even given a 60 percent drop in total national alcohol consumption, a considerable amount of imbibing still took place. Yet the image also derived in part from the unusually visible character of those prohibition violations which did occur.
Drinking by its very nature attracted more notice than many other forms of lawbreaking. It was, in the first place, generally a social, or group activity. Moreover, most drinking took place, Bruere and others acknowledge, in urban areas where practically any activity was more likely to be witnessed. Bootleggers had to advertise their availability, albeit carefully, in order to attract customers. The fact that the upper classes were doing much of the inbibing further heightened its visibility. Several additional factors insured that many Americans would have a full, perhaps even exaggerated, awareness of the extent to which the prohibition law was being broken.

The behavior of those who sought to profit by meeting the demand for alcoholic beverages created an indelible image of rampant lawlessness. National Prohibition provided a potentially very profitable opportunity for persons willing to take certain risks. "Prohibition is a business," maintained the best-known and most successful bootlegger of all, Al Capone of Chicago. "All I do is supply a public demand." Obtaining a supply of a commodity, transporting it to a marketplace, and selling it for an appropriate price were commonplace commercial activities; carrying out these functions in the face of government opposition and without the protection of facilities, goods, and transactions normally provided by government made bootlegging an unusual business. Indeed bootleggers faced the problem – or the opportunity that hijacking a competitor's shipment of liquor often presented the easiest and certainly the cheapest way of obtaining a supply of goods, and the victim of such a theft had no recourse to regular law enforcement agencies. Nor, for better or worse, could bootleggers expect government to restrain monopolistic practices, regulate prices, or otherwise monitor business practices. Consequently, participants in the Prohibition era liquor business had to develop their own techniques for dealing with competition and the pressures of the marketplace. The bootlegging wars and gangland killings, so vividly reported in the nation's press, represented, on one level, a response to a business problem. . . .

Violence was commonplace in establishing exclusive sales territories, in obtaining liquor, or in defending a supply. In Chicago, for instance, rival gangs competed intensely. Between September 1923 and October 1926, the peak period of struggle for control of the large Chicago market, an estimated 215 criminals died at the hands of rivals. In comparison, police killed 160 gangsters during the same period. Although by conventional business standards the violence level of bootlegging remained high, it declined over the course of the 1920s. Consolidation, agreement on markets, regularizing of supply and delivery all served to reduce turbulence. John Torrio and Al Capone in Chicago, Charles Solomon in Boston, Max Hoff in Philadelphia collar Purple Gang in Detroit, Mayfield Road Mob in Cleveland, and Joseph Roma in Denver imposed some order on the bootlegging business in their cities. More than a thousand gangland murders in New York during Prohibition reflect the inability of Arnold Rothstein, Lucky Luciano, Dutch Schultz, Frank Costello, and other criminal leaders to gain control and put and end to (literally) cutthroat competition in the largest market of all. . . .

Ironically, the federal government and its efforts to enforce national prohibition often contributed to the image of a heavily violated law. After the Eighteenth Amendment took effect, for example, Jouett Shouse, an Assistant Secretary of the Treasury whose duties included supervising prohibition enforcement, announced
that liquor smuggling had reached such portions that it could no longer be handled by the 6,000 agents of the Customs Bureau. Shouse estimated that 35,000 men would be required to guard the coast and borders against the flood of liquor pouring into the country. The Assistant Secretary attributed the problem to an unlimited market for smuggled whiskey and the 1000 percent profit which could be realized from its sale.

During the 1920 presidential campaign, Republican nominee Warren G. Harding pledged to enforce the Volstead Act "as a fundamental principle of the American conscience," implying that the Wilson administration had neglected its duty. Despite his fondness for drink, Harding attracted dry support with such statements while his opponent, the avowedly wet James A. Cox, floundered. Once inaugurated President Harding tried to fulfill his campaign promise but met with little success. He explained to his wet Senate friend, Walter Edge of New Jersey, "Prohibition is a constitutional mandate and I hold it to be absolutely necessary to give it a fair and thorough trial." The president appointed the Anti-Saloon league’s candidate, Roy A. Haynes, as commissioner of prohibition and gave the corpulent, eternally optimistic Hayes a generally free hand in selecting personnel to wage battle against bootlegging. Harding began to receive considerable mail from across the country complaining about the failure of the dry law. As reports of prohibition violations increased, Harding became more and more disturbed. Never much of a believer in Prohibition himself, Harding had, nonetheless been willing as a senator to let the country decide whether it wanted the Eighteenth Amendment, and now as president he deplored the wholesale breaking of the law. In early 1923, having gradually realized the importance of personal example, Harding gave up his own clandestine drinking. In a speech in Denver just prior to his death, Harding appealed rigorously for observance of prohibition in the interest of preventing lawlessness, corruption, and collapse of national moral fiber. "Whatever satisfaction there may be in indulgence, whatever objection there is to the so-called invasion of personal liberty," the president asserted, "neither counts when the supremacy of law and the stability of our institutions are menaced." Harding’s rhetoric, although intended to encourage compliance with Prohibition, furthered the image of a law breaking down.

A report by Attorney General Harry Daughtery to President Calvin Coolidge shortly after Harding’s death suggest the extent to which the Volstead Act was being violated in its early years of operation. Daughtery indicated that in the first forty-one months of national prohibition, the federal government had initiated 90,330 prosecutions under the law. The number of cases had been rising: 5,363 were settled in April 1923, 541 more than in the initial six months of prohibition. The number of new cases doubled between fiscal 1922 and fiscal 1923. The government obtained convictions in 80 percent of the terminated cases. These figures showed, the attorney general argued, that prohibition enforcement was becoming increasingly effective. They could just as well be seen, however, as an indication of an enormous increase the number of violations.

The probation cases brought into federal court most certainly represented only a small fraction of actual offenses. They nonetheless seem to be more than the court and prison system could handle. In 1920, 5,095 of the 34,230 cases terminated in the federal courts involve prohibition violation; during 1929, 75,298 prohibition cases alone were concluded. In 1920, federal prisons contained just over 5,000 inmates; 10 years later they contained over 12,000, more than 4,000 of whom were serving time for liquor violations. The courts were so overworked that they frequently resorted to the expedient of “bargain days.” Under this system, on set days large numbers of prohibition violators would plead guilty after being given prior assurance that they would not
receive jail sentences or heavy fines. By 1925, pleas of guilty, without jury trials, accounted for over 90 percent of the convictions obtained in federal courts. The legal system appeared overwhelmed by national Prohibition.

As president, Calvin Coolidge found Prohibition enforcement to be the same headache it had been for his predecessor. Like Harding, Coolidge was constantly under pressure from Wayne Wheeler and other dry leaders to improve enforcement. He received hundreds of letters deploiring the rate of Volstead Act violations and urging forceful action. Coolidge merely acknowledge receipt of letters on the subject, avoiding any substantial response. As it did with many other issues, the Coolidge administration sought to avoid the prohibition question as much as possible. Other than seeking Canadian and British cooperation in halting smuggling, and holding White House breakfast for prestigious drys, few federal initiatives were taken while Coolidge remained in office. The picture of rampant probation violation stood unchallenged.

Congress, once having adopted the Volstead Act and appropriated funds for its enforcement, assumed its job was done and avoided all mention of prohibition during the law's first year of operation. Evidence of violations, however, quickly provoked dry demands that Congress strengthen the prohibition law. Whenever Congress acted, it drew attention to the difficulties of abolishing liquor. When it failed to respond, as was more frequently the case, drys charged it with indifference to law breaking. Whatever it did, Congress proved unable to significantly alter prohibition's image.

After Harding's inauguration, Congress learned that retiring Attorney General A. Mitchell Palmer had ruled that the Volstead Act placed no limit on the authority of physicians to prescribe beer and wine for medicinal purposes. Senator Frank B. Willis of Ohio and Representative Robert S. Campbell of Kansas moved quickly to correct this oversight by introducing a bill that would forbid the prescription of beer and rigidly limit physicians' authority to prescribe wine and spirits. Only one pint of liquor would be permitted to be dispensed for a patient during any ten-day period, under their plan. Well-prepared dry spokesmen completely dominated the hearing on the Willis-Campbell bill, insisting that this substantial source of intoxicants be eliminated. Physicians and pharmacists protested that beer possessed therapeutic value and that Congress had no right to restrict doctors in the practice of medicine. Nevertheless, in the summer of 1921 the bill passed the house by a vote of 250 to 93, and the Senate by 39 to 20. The Willis-Campbell Act reflected congressional determination to shut off the liquor supply, but like the Volstead Act, it did not resolve the problem of imposing abstinence on those willing to ignore the law in order to have a drink.

For years, Congress continue to wrestle with the problem of creating and staffing an effective federal enforcement organization. The Volstead Act delegated responsibility for implementing national prohibition to an agency of the Bureau of Internal Revenue in the Department of the Treasury. The act exempted enforcement agents from civil service regulations, making them political appointees. The Anti-Saloon League, through its General Counsel, Wayne B. Wheeler, relentlessly pressed Harding and Coolidge to name is candidates to positions in the enforcement agency. The prohibition unit, beset by patronage demand and inadequate salaries, attracted a low caliber caliber of appointees and a high rate of corruption. By 1926 one out of twelve agents had been dismissed for such offenses as bribery, extortion, solicitation of money, conspiracy to violate the law, embezzlement, and submission of false reports. A senator who supported
prohibition argued lamely that this record was no worse than that of the twelve apostles, but he could not disguise the enforcement unit’s very tarnished reputation.

Even if the agency had been staffed with personnel of better quality, its task would have been overwhelming. It received little cooperation from the Department of Justice, with which it shared responsibility for prosecuting violators. Furthermore, the prohibition unit lacked both the manpower and the money to deal with the thousands of miles of unpatrolled coastline, the millions of lawbreaking citizens, and the uncountable hordes of liquor suppliers. The agency focused its efforts on raiding speakeasies and apprehending bootleggers, but this task alone proved beyond its capacity and discouraged a series of prohibition commissioners.

Congress steadily increased enforcement appropriations but never enough to accomplish the goal. In 1927 prohibition agents were finally placed under civil service, and in 1930 the Prohibition Bureau was at last transferred to the Justice Department. As useful as these congressional steps may have been, they came long after the enforcement efforts had acquired a dismal reputation and doubts as to whether Prohibition could possibly be effective had become deeply ingrained.

Early in 1929 Congress made a determined effort to compel greater adherence to national prohibition. A bill introduced by Washington Senator Wesley L. Jones drastically increased penalties for violation of the liquor ban. Maximum prison terms for first offenders were raised from six months to five years, and fines were raised from $1,000 to $10,000. The Jones “Five-and-Ten” bill, as it was called, passed by lopsided majorities in Congress and signed into law by Coolidge days before he left office, did not improve prohibition’s effectiveness but strengthened its reputation as a harsh and unreasonable statute.

In the 1920s the Supreme Court did more than either the current Congress or the president to define the manner in which national prohibition would be enforced and thereby to sharpen the law’s image. As a Yale law professor and earlier as president, William Howard Taft had opposed a Prohibition amendment because he preferred local option, disliked any changes in the Constitution, and felt national prohibition would be unenforceable. But when the Eighteenth Amendment was ratified, Taft, a constant defender of the sanctity of democratically adopted law, accepted it completely and even became an advocate of temperance by law. He condemned critics of national Prohibition, saying, “There isn’t the slightest chance that the constitutional amendment will be repealed. You know that that and I know it.” As Chief Justice from 1921 until 1930, he sought to have the prohibition laws strictly enforced and took upon himself the writing of prohibition decisions. The opinions handed down by the Taft Court during the 1920s greatly influenced conceptions of the larger implications of the new law as well as the actual course of prohibition enforcement.

While in reality national prohibition sharply reduce the consumption of alcohol in the United States, the law fell considerably short of expectations. In neither eliminated drinking nor produced a sense that such a goal was within reach. So long as the purchaser of liquor, the supposed victim of a Prohibition violation, participated in the illegal act rather than complained about it, the normal law-enforcement process simply did not function. As a result, policing agencies bore a much heavier burden. The various images of lawbreaking, from contacts with the local bootlegger to Hollywood films to overloaded court dockets, generated a widespread belief that
violations were taking place with unacceptable frequency. Furthermore, attempts at enforcing the law created an impression that government, unable to cope with lawbreakers by using traditional policing methods, was assuming new powers in order to accomplish its task. The picture of national prohibition which emerged over the course of the 1920s disenchanted many Americans and moved some to an active effort to bring an end to the dry law.