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“The Vine Vote:
Why California Went Dry”

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**The Vine Vote:
Why California Went Dry**

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I. Introduction: Volstead, California

Prohibition imperiled George F. Covell's livelihood. Born into an enterprising family in 1865, Covell joined his father's grape growing business at an early age.¹ By the 1910s he was a leader in California viticulture, earning positions of authority within trade groups² and collaborating with University of California researchers to advance farming technology.³ Covell championed grape grower efforts to stave off prohibition at both the federal and state levels, including a last-minute compromise that would ban saloons throughout California.⁴ He failed. On January 16, 1919, Nebraska provided the final vote required to ratify the Eighteenth Amendment. National prohibition under the Volstead Act began on January 17, 1920.⁵ Grape growers were despondent; many dug up their vines, and one even committed suicide.⁶

But then, something unexpected happened: national prohibition proved profitable for Covell. As the 1921 harvest came to a close, he packed over 150 railcars with his wine grapes.⁷ Covell wrote to Western Pacific, tongue-in-cheek, suggesting a name for his new and suddenly bustling cargo stop: Volstead.⁸

At the same time that Covell's fortunes took an unanticipated turn, California voters were deciding on prohibition as a matter of state law. Prohibition appeared as a statewide ballot

¹ GEORGE H. TINKHAM, *HISTORY OF SAN JOAQUIN COUNTY 1583* (1923).

² Cal. Grape Protective Ass'n, *Grape Growers to Discuss the Wine Industry*, S.F. CHRON., July 1, 1917, at C7; *State Grape Meeting to Oppose Prohibition*, CAL. FRUIT NEWS, Sept. 7, 1918, at 13; *Exports from San Francisco for December*, CAL. FRUIT NEWS, Mar. 4, 1922, at 4–5.

³ Ernest B. Babcock, *Studies in Juglans I*, 2 UNIV. CAL. PUBLICATIONS AGRIC. SCI. 1, 64–65 (1913).

⁴ Cal. Grape Protective Ass'n, *supra* note 2.

⁵ Wartime prohibition had gone into effect in 1919, but grape growers and wineries largely ignored the law pending resolution of constitutional challenges. *Injunction Against Dry Act Denied State Grape Men*, S.F. CHRON., Sept. 20, 1919, at 13.

⁶ DANIEL OKRENT, *LAST CALL: THE RISE AND FALL OF PROHIBITION 1* (2011) (“Up in the Napa Valley . . . an editor wrote, ‘What was a few years ago deemed the impossible has happened.’”); GILMAN OSTRANDER, *THE PROHIBITION MOVEMENT IN CALIFORNIA, 1848–1933*, 177–78 (1957).

⁷ Eddie Boyden, *Grape Grower Puts Volstead on California Map*, S.F. CHRON., Sept. 8, 1921, at 15.

⁸ *Id.*

measure five times between 1914 and 1920.⁹ It never passed. State law remained deeply controversial even after federal prohibition: The Eighteenth Amendment contemplated concurrent state enforcement, and Congress had established initial “police arrangements” that were somewhat “superficial” owing to inadequate funding and primary responsibility located within a sub-sub-unit of the Treasury Department.¹⁰ While scholars have long debated the effectiveness of prohibition enforcement,¹¹ contemporaries certainly perceived state “mini” or “baby” Volstead Acts to be critical battlegrounds between the “dries” and the “wets.” In the 1922 California election, after nearly a decade of campaigning, the dries finally won out.

This essay posits an explanation for California’s sudden flip-flop on prohibition: federal law generated windfall profits for the state’s grape growers, causing them to temper their opposition. The argument proceeds in five phases. Part II details the strategic politics of prohibition in California, especially on the part of grape growers, and how 1922 departed from prior elections. The following Part III explains how federal law under national prohibition both tolerated and subsidized home winemaking. Part IV analyzes statistics on grape growing under prohibition, which reveal a sudden surge in fruit production and price. Part V recounts how grape growers recognized prohibition as the cause of their good fortune. Finally, a Conclusion completes the argument: California went dry because prohibition was so profitable.

⁹ See *infra* Part II.

¹⁰ THOMAS PINNEY, *A HISTORY OF WINE IN AMERICA: FROM THE BEGINNINGS TO PROHIBITION* 435 (1989); see MARK THORNTON, *THE ECONOMICS OF PROHIBITION* 100 (1991) (discussing federal and state expenditures on prohibition); *Peril in Dry Repeal Shown*, L.A. DAILY TIMES, Oct. 30, 1926, at 1 (claiming that without state, municipal, or local authorities, there would only be about seventy prohibition enforcement officers in all of California).

¹¹ See THORNTON, *supra* note 10, at 100–01.

II. Prohibition Politics in California

Prohibition was an incremental initiative in California. A state chapter of the Woman's Christian Temperance Union was incorporated in 1879,¹² and a statewide Anti-Saloon League was established in 1898.¹³ Dries began with a persistent effort at the county and municipal levels, first under an 1874 local-option statute¹⁴ (quickly declared unconstitutional by the state supreme court for excessive delegation¹⁵), then through land title restrictions,¹⁶ then through 1883 statutes delegating general police powers to the counties and municipalities¹⁷ (permissible owing to a revised 1879 state constitution¹⁸), and finally under a 1911 local option statute.¹⁹ Dry achievements were slow at first, then rapidly subsumed much of the state's rural areas: 1 county in 1894,²⁰ 5 counties and 175 municipalities by 1901,²¹ and 42% of the state's area by 1911.²² Progress then stalled, owing to the large cities: by 1917, 55% of the state was dry by area, but only 26% by population.²³ No city with a population over 50,000 had elected to go dry; Berkeley was the largest at 40,000.²⁴ Prohibition forces in California required a new, statewide strategy that could leverage rural support against the urban areas.

Beginning in 1914, the California dries attempted a series of ambitious measures to enact statewide prohibition. They began with ballot initiatives to amend the state constitution; when those failed, they turned to statutory ballot initiatives; when those failed too, they at last turned to

¹² ERNEST H. CHERRINGTON, *THE EVOLUTION OF PROHIBITION IN THE UNITED STATES OF AMERICA* 204 (1920); OSTRANDER, *supra* note 6, at 58 ("The state W.C.T.U. took its place almost at once as the most effective temperance organization in California.")

¹³ CHERRINGTON, *supra* note 12, at 266; OSTRANDER, *supra* note 6, at 85, 91.

¹⁴ OSTRANDER, *supra* note 6, at 42–53.

¹⁵ *Ex parte Wall*, 48 Cal. 279, 313–17 (1874).

¹⁶ OSTRANDER, *supra* note 6, at 69–70.

¹⁷ *Id.* at 70–71.

¹⁸ *Ex parte Campbell*, 74 Cal. 20, 23–24 (1887).

¹⁹ *Ex parte Beck*, 162 Cal. 701, 704–11 (1912); OSTRANDER, *supra* note 6, at 71.

²⁰ OSTRANDER, *supra* note 6, at 72.

²¹ *Id.* at 93.

²² CHERRINGTON, *supra* note 12, at 304.

²³ ERNEST H. CHERRINGTON, *THE ANTI-SALOON LEAGUE YEAR BOOK: 1917*, 84 (1917).

²⁴ *Id.* at 83–84, 86–87.

new allies in the state legislature. This final strategy nevertheless yielded statewide ballot measures owing to California’s veto referendum procedure. The following table charts the course of prohibition ballot measures according to certified results from the California Secretary of State (save 1918).

Year	Prop.	Description	Type	For	Against	Voters
1914 ²⁵	2	Prohibition (Supply)	Initiative (C)	41.06%	58.94%	890,317
1914	39	Enforcement Delay if Prohibition Passes	Initiative (C)	66.43%	33.57%	675,336
1914	47	Moratorium on Prohibition Initiatives	Initiative (C)	44.92%	55.08%	791,095
1916 ²⁶	1	Prohibition (Supply and Use, Delayed)	Initiative (C)	44.79%	55.21%	974,839
1916	2	Prohibition (Transfer in Public Accommodations)	Initiative (C)	47.69%	52.31%	966,822
1918 ²⁷	1	Liquor and Saloon Ban	Initiative (S)	43.17%	56.83%	515,425
1918	22	Prohibition (Supply)	Initiative (S)	47.02%	52.98%	559,181
1920 ²⁸	2	Prohibition (Supply)	Referendum	46.24%	53.76%	866,012
1922 ²⁸	2	Prohibition (Supply)	Referendum	51.98%	48.02%	856,209
1926 ²⁹	9	Prohibition Repeal	Initiative (S)	47.04%	52.96%	1,068,403
1932 ³⁰	1	Prohibition Repeal	Initiative (S)	68.92%	31.08%	2,118,186
1932	2	Local Option Ban	Initiative (C)	64.17%	35.83%	2,038,950

California ballot measures on prohibition, 1914–1932.

Type “(C)” denotes a constitutional initiative; type “(S)” denotes a statutory initiative.

The first dry attempt was a concise, supply-side implementation of prohibition in 1914.³¹

Much like the later federal Volstead Act, provisions targeted “[t]he manufacture, the sale, the

²⁵ A.P. Night Wire, *What Happened Last November*, L.A. DAILY TIMES, Dec. 8, 1914, at 7.

²⁶ Charles Morrison, *California*, BONFORT’S WINE & SPIRIT CIRCULAR, Dec. 25, 1916, at 117.

²⁷ *5529 Precincts Beat Rominger Bill by 70,000*, S.F. CHRON., Nov. 13, 1918, at 6 (approximately 90% of precincts reporting); *Summary of State Vote by Counties on Prohibition*, S.F. CHRON., Nov. 16, 1918, at 8 (California Grape Protective Association results on Proposition 22). Low turnout in 1918 appears to have been due to World War I and an influenza outbreak. OSTRANDER, *supra* note 6, at 145.

²⁸ CAL. SEC’Y STATE, CALIFORNIA REFERENDA 1912 – PRESENT (2012), available at <http://www.sos.ca.gov/elections/ballot-measures/pdf/referenda.pdf>.

²⁹ *State Tally Shows Huge Vote Given G.O.P. Ticket*, L.A. DAILY TIMES, Dec. 10, 1926, at 4.

³⁰ *Here’s How California Voted on Propositions*, L.A. DAILY TIMES, Dec. 15, 1932, at 11.

³¹ CAL. SEC’Y STATE, AMENDMENTS TO CONSTITUTION AND PROPOSED STATUTES WITH ARGUMENTS RESPECTING THE SAME 56 (1914).

giving away, or the transportation” of “intoxicating liquor.”³² (Not coincidentally, the Anti-Saloon League played a leading role in the campaign³³ as well as in drafting the Volstead Act.³⁴) Neither side of the 1914 ballot measure was particularly well organized: The dries made a drafting “oversight” in not setting an enforcement date, necessitating an additional corrective ballot measure.³⁵ The wets consolidated around preexisting beer³⁶ and liquor³⁷ groups since the grape-related trades had not yet organized themselves into an influential political institution.

Dry arguments in favor of prohibition were a scattershot of morality (“those who vote [to allow liquor are] *responsible for evil results*”), statistics (on disease, mental health, crime, and economics), and anti-immigrant sentiment (“Immigrants from Europe are generally liquor drinkers . . . turn them elsewhere.”).³⁸ Responses from the wets emphasized libertarian and enforcement concerns, as well as risk to the state’s agricultural economy.³⁹

The wets appreciated that statewide ballot measures threatened their urban strongholds, so they proposed their own constitutional amendment with four safeguards. First, delay: state, county, and local governments could only revise their prohibition policies every eight years.⁴⁰ Second, mandatory local option: any municipality that voted against county or state prohibition (i.e. the cities) would be wet, and any that voted for would be dry.⁴¹ Third, tying: a vote on

³² *Id.* at 56.

³³ *Id.* at 77.

³⁴ THOMAS PINNEY, A HISTORY OF WINE IN AMERICA: FROM PROHIBITION TO THE PRESENT 21–22 (2005).

³⁵ Without an explicit, delayed enforcement date as provided in Proposition 39, prohibition would have gone into effect mere days after enactment. The measure was intended to allow alcohol-related businesses and laborers, as well as government institutions, adequate time to prepare for prohibition “in the interest of fair dealing and to make the loss inherent in a change of state policy as light as possible.” CAL. SEC’Y STATE, *supra* note 31, at 82. The provision somewhat reflected disagreement among radical dries and the more cautious Anti-Saloon League. OSTRANDER, *supra* note 6, at 123–26.

³⁶ CAL. SEC’Y STATE, *supra* note 31, at 57 (California State Brewers Association).

³⁷ *Id.* at 77 (Grand Lodge Knights of the Royal Arch); *see also Liquor Men Hosts at Entertainment*, S.F. CALL, Feb. 6, 1906, at 9.

³⁸ CAL. SEC’Y STATE, *supra* note 31, at 57.

³⁹ *Id.*

⁴⁰ *Id.* at 75–76.

⁴¹ *Id.* at 76.

statewide prohibition would trump a vote on county or municipal prohibition.⁴² Fourth and finally, decentralized control: the state legislature would be (implicitly) divested of its authority to regulate or enforce alcohol law.⁴³

The 1914 returns were a blow to the dries.⁴⁴ Not only did they fail to accomplish statewide prohibition (just 41% in favor), they also risked losing the ballot measure as a tool for reform (55% opposed). Both the dries (particularly the W.C.T.U. and Anti-Saloon League) and the wets (especially the grape growers and winemakers) began organizing early for the next vote.⁴⁵

The 1916 campaign represented a professional effort on both sides and reflected the emergence of the wine and grape trades in California politics. The dries unified behind two constitutional initiatives on the ballot: a “complete” prohibition on alcohol possession, manufacture, and transfer to go into effect in 1920,⁴⁶ and a “partial” prohibition on alcohol transfer in public accommodations (i.e. saloons and hotels) to go into effect in 1918.⁴⁷

Wets coalesced around the Grape Protective Association, a new and influential trade group representing the viticulture and wine interests.⁴⁸ This cohesion yielded a comprehensive political strategy, including frequent organizational meetings (both by the statewide organization and local chapters),⁴⁹ fundraising efforts,⁵⁰ articles and advertising in newsprint,⁵¹ and speaking

⁴² *Id.* The provision was intended to target voters who opposed statewide prohibition but supported county or municipal prohibition. *Id.* at 77.

⁴³ *Id.* at 76.

⁴⁴ CHERRINGTON, *supra* note 12, at 338.

⁴⁵ OSTRANDER, *supra* note 6, at 126–32, 137.

⁴⁶ CAL. SEC’Y STATE, AMENDMENTS TO CONSTITUTION AND PROPOSED STATUTES WITH ARGUMENTS RESPECTING THE SAME 3 (1916).

⁴⁷ *Id.* at 5–6.

⁴⁸ John R. Meers, *The California Wine and Grape Industry and Prohibition*, 42 CALIF. HIST. SOC’Y Q. 19, 21–23 (1967); *see generally* CHARLES MERZ, *THE DRY DECADE* 52–53 (1932).

⁴⁹ A.P. Night Wire, *Grape Men Ask Compensation*, L.A. DAILY TIMES, Jan. 9, 1916 (“A vigorous campaign against the proposed constitutional prohibition amendments to be voted upon next November was opened here today by the California Grape Protective Association.”); *Blow at Prohibitionists is Planned by Grape Growers*, S.F. CHRON., Jan. 9, 1916, at 30 (“Leading grape growers wine men of the State completed preliminary plans for a widespread

engagements.⁵² The Grape Protective Association even sponsored a youth essay contest to convey its message into the state's schools and homes.⁵³ The organization's magnum opus was a widely distributed informational pamphlet that detailed, at length and with volumes of statistics, how prohibition would obliterate California's grape and wine sectors.⁵⁴

campaign against prohibition in California . . . under the auspices of the California Grape Protective Association.”); Charles Morrison, *California*, BONFORT'S WINE & SPIRIT CIRCULAR, Jan. 25, 1916, at 289 (“Preliminary steps have been taken by the California Grape Protective Organization, representing the grape-growers and wine-makers of the State for an energetic campaign against prohibition.”); *Life of Industry Depends on Issue, Grape Growers Tell Effects of “Dry” Amendments*, L.A. DAILY TIMES, Mar. 5, 1916, at V13 (recounting meeting of Southern California winemakers and growers); *Grape Association to Hold Meetings*, S.F. CHRON., July 21, 1916, at 2 (“The Sonoma County Grape Protective Association . . . is mapping out work to be done . . . to defeat the two proposed prohibition amendments which will be on the ballot at the November election.”).

⁵⁰ Charles Morrison, *California*, BONFORT'S WINE & SPIRIT CIRCULAR, Feb. 25, 1916, at 385 (“The officers of the California Grape Protective Association are busily engaged gathering the coin to carry on the campaign against prohibition, and they are meeting with encouraging success.”).

⁵¹ *Id.* (“Every issue of the *Sacramento Bee* contains smashing articles against the amendments . . . and the circulation of the paper has materially increased in consequence. The arguments put forth in these articles have done incalculable good to the ‘wet’ cause”); Charles Morrison, *California*, BONFORT'S WINE & SPIRIT CIRCULAR, Aug. 10, 1916, at 228 (“The campaign for and against prohibition is being carried on vigorously by each side, literature forming the chief feature It is taking up considerable time of the publicity department of the California Grape Protective Association”); Charles Morrison, *California*, BONFORT'S WINE & SPIRIT CIRCULAR, Oct. 25, 1916, at 379, 380 (noting the “thoroughly scientific advertising methods [used] by the California Grape Protective Association”); see, e.g., *Stands Opposed to Prohibition, Would Destroy Viticulture of the State*, L.A. DAILY TIMES, Mar. 31, 1916, at 12 (reporting endorsement by the San Francisco Chamber of Commerce); *Wineries Save Grape Growers*, L.A. DAILY TIMES, Oct. 29, 1916, at 112 (recounting speech by a California Grape Protective Association spokesperson); Cal. Grape Protective Ass'n, *Don't Misunderstand Proposition Number 2 to be Voted on at the November Election*, S.F. CHRON., Oct. 6, 1916, at 10 (“Proposition No. 2 would wipe out practically every legitimate avenue of distribution of California wines.”); *Declares Church Dry Signs False, Organization of Grape Men Issues Statement*, L.A. DAILY TIMES, Nov. 6, 1916, at II-2 (correcting alleged misstatements in prominent dry signage).

⁵² Charles Morrison, *California*, BONFORT'S WINE & SPIRIT CIRCULAR, Nov. 10, 1916, at 26 (“The California Grape Protective Association has now several speakers in the field, among them . . . [a former pastor,] a famous orator, . . . a vineyardist . . . [and] its secretary, and they are all doing splendid work.”).

⁵³ *School Children to Write on Vineyards*, S.F. CHRON., Aug. 22, 1916, at 3 (“Acting in the belief that in thousands of homes the doctrine of temperance as opposed to prohibition is taught, the California Grape Protective Association . . . has appealed to the children of the State to express their views in essay forms on the topical question. . . . [T]he topic will be, ‘The Vineyards of California Must Not Be Destroyed by Prohibition.’”); see *How the Youth of California Regard Prohibition*, OVERLAND MONTHLY & OUT WEST MAG. 425, 425–27 (Nov. 1916) (published text of winning essays).

⁵⁴ CAL. GRAPE PROTECTIVE ASS'N, HOW PROHIBITION WOULD AFFECT GRAPE INTERESTS IN CALIFORNIA (1916); see Charles Morrison, *California*, BONFORT'S WINE & SPIRIT CIRCULAR, Apr. 25, 1916, at 555 (“The California Grape Protective Association is taking a most effective way of making the voters acquainted with the issues at stake in the forthcoming election for or against prohibition, in so far as the viticultural industry is concerned. The Association has prepared a ‘Grape Manual,’ illustrated, of sixty-four pages, which fully and unequivocally answers and refutes all of the arguments raised by the prohibitionists. The manual . . . will be distributed to the extent of 100,000 copies where they will do the most good.”).

Unlike in 1914, official ballot pamphlet arguments uniformly emphasized the potential impacts on California agriculture.⁵⁵ Wets, now represented by the grape growers, recounted the value, land, and labor bound up in winemaking.⁵⁶ Dries went so far as to position their anti-saloon initiative as a concession to the grape and wine interests, since exports would be unaffected.⁵⁷

The results were another victory for the wets: both initiatives failed, albeit by narrower margins than in 1914.

In the 1918 round, the grape and wine trades pursued a new political strategy. As succinctly described by a leading account of prohibition in California:

Throughout the prohibition era the grape and wine industry vacillated between three disagreeable alternatives: To oppose the liquor interests was to support the prohibitionists, who refused to distinguish between the native fermented grape juice and other forms of alcoholic beverage; to support the liquor interests was to associate the wine industry with the most disreputable forces in the struggle; and to attempt to stand on its own merits was to face the bitter opposition of both prohibitionists and liquor men.⁵⁸

The Grape Protective Association and allies adopted the last of these options and backed a carefully drafted statute that banned spirits and saloons.⁵⁹ When the bill (unsurprisingly) failed in the state assembly, they took it to the voters as a statutory initiative.⁶⁰ The grape and wine trades had three reasons for charting a compromise course: First, they believed handing dries a partial victory would relieve political pressure for more complete prohibition.⁶¹ Some dry leaders, surprisingly enough, held the opposite view—that voters would press for further restrictions, and

⁵⁵ CAL. SEC'Y STATE, *supra* note 46, at 3–4, 6.

⁵⁶ *Id.* at 4, 6.

⁵⁷ *Id.* at 6.

⁵⁸ OSTRANDER, *supra* note 6, at 135; *see also* NUALA MCGANN DRESCHER, THE OPPOSITION TO PROHIBITION, 1900–1919, 118–20 (1964).

⁵⁹ CAL. SEC'Y STATE, AMENDMENTS TO CONSTITUTION AND PROPOSED STATUTES WITH ARGUMENTS RESPECTING THE SAME 2–4 (1918); OSTRANDER, *supra* note 6, at 135–41, 145.

⁶⁰ OSTRANDER, *supra* note 6, at 139.

⁶¹ *Id.* at 134–35; *State Doesn't Want To Be Dry, He Says*, L.A. DAILY TIMES, Apr. 13, 1918, at 10 (“If the [anti-saloon initiative] were not on the ballot, [the secretary of the California Grape Protective Association] said, ‘the dries would have initiated a bone-dry measure and the voters, in disgust, would have adopted it believing that it was the only way of rid the State of the saloons and strong drink.’”).

that a weakening of liquor interests would increase the odds of future success.⁶² Second, grape growers and winemakers aimed to avoid the political capital costs and reputational tarnish of lobbying in cooperation with the liquor interests.⁶³ Third and last, many in the grape-related trades were of wine-drinking European descent and earnestly believed that wine served a unique and honorable role in culture and dining.⁶⁴

The wets directed their 1918 campaign toward legislative and gubernatorial elections owing to a perceived inability to pass statewide prohibition by ballot measure⁶⁵ and a desire to ratify the Eighteenth Amendment in California.⁶⁶ Radical temperance proponents nevertheless gathered sufficient signatures for a simple statutory initiative that would have prohibited all alcohol manufacture and transfer.⁶⁷

The Grape Protective Association once again carried the banner for grape and wine interests, focusing efforts on the ballot measures;⁶⁸ a litany of prominent advertisements exhorted

⁶² OSTRANDER, *supra* note 6, at 138, 143–44 (at a statewide convention, dries chose to take no position on the measure); *Drys of State Center Effort in Legislature*, S.F. CHRON., Feb. 7, 1918, at 5 (“The [dry] federation will take no official position toward plans for a measure being initiated by the California Grape Protective Association, prohibiting saloons and the sale of ardent spirits.”). In advance of the statewide convention, there had been substantial disagreement among dry groups in how to react. “Dry” *Factions in Lively Row*, L.A. DAILY TIMES, Jan. 31, 1918, at 6; *To Make Plans for Campaign, Anti-Saloonists to Meet in Fresno Tuesday*, L.A. DAILY TIMES, Feb. 3, 1918. The state chapter of the W.C.T.U. disagreed with the convention’s outcome and vocally opposed the anti-saloon initiative. *Not Strict Enough, W.C.T.U. Resolves that Rominger Measure Cannot Be Supported by Organization*, L.A. DAILY TIMES, Jan. 13, 1918, at 12; *W.C.T.U. Is Opposed to Rominger Measure*, S.F. CHRON., May 11, 1918, at 14.

⁶³ OSTRANDER, *supra* note 6 at 136 (“It became apparent that in the course of the fight the wine interests were becoming dangerously involved in the protection of the saloon, in which they had virtually no interest.”).

⁶⁴ *Id.*

⁶⁵ Editorial, *Proclamation Adopted by the California Grape Protective Association, Annual Meeting, San Francisco, February 9, 1918*, BONFORT’S WINE & SPIRIT CIRCULAR, Mar. 15, 1918, at 66 (quoting a dry leader’s convention speech that noted “[i]t is easier to carry the Legislature than to carry a [prohibition] amendment”).

⁶⁶ OSTRANDER, *supra* note 6, at 146–47.

⁶⁷ CAL. SEC’Y STATE, *supra* note 59, at 54; *Bone Dry State Drive to Start*, L.A. DAILY TIMES, May 25, 1918, at II-6 (recounting upcoming meeting to strategize proposed prohibition amendment); *Bake Barley into Bread*, L.A. DAILY TIMES, May 27, 1918, at 8 (radical prohibitionists denounce Anti-Saloon League for moderate position on anti-saloon initiative).

⁶⁸ *3 Liquor Bills To Go Before Voters*, S.F. CHRON., Mar. 8, 1918, at 9 (discussing Grape Protective Association initiative and ballot pamphlet arguments); A.P. Night Wire, *Grape Growers Plan to Fight “Bone Dry.”*; L.A. DAILY TIMES, Sept. 15, 1918, at 5 (“A campaign against the proposed [prohibition] State constitutional amendment and in favor of the proposed [anti-saloon] measure, which would permit the sale of light wines and beer only, was planned at a meeting of the California Grape Protective Association . . .”).

voters to preserve the state's valuable grape-related trades,⁶⁹ and the Association even offered transportation to polling places in San Francisco.⁷⁰ The gubernatorial election was another significant target;⁷¹ when it appeared both major parties would run dry candidates, the leading spokesman for the Association went so far as to launch an independent campaign.⁷² Strangely, while the Association pledged to fight for control of the state legislature,⁷³ its efforts are not apparent from the historical record.

The grape trades were once again successful in warding off prohibition on the ballot, resorting to their reliable arguments about the economic value of grape growing and winemaking.⁷⁴ Their anti-saloon initiative fared poorly, however, likely owing to insufficient dry support and opposition from liquor interests.⁷⁵ Results in elected positions proved even more disastrous for the wets: dries claimed the Assembly, the governorship, and (barely) the Senate.⁷⁶

⁶⁹ Cal. Grape Protective Ass'n, *Vote "No" on Proposition No. 22*, S.F. CHRON., Oct. 29, 1918, at 6; Cal. Grape Protective Ass'n, *Grape Syrup Will Not Solve Wine Grape Problem*, L.A. DAILY TIMES, Oct. 30, 1918, at 4 (contesting University of California, Berkeley study cited by dries to demonstrate valuable nonalcoholic uses of wine grapes); Cal. Grape Protective Ass'n, *Vote "No" on Proposition No. 22*, S.F. CHRON., Oct. 31, 1918, at 8 ("We believe the people of California . . . will protest . . . against the destruction of our great grape industry which has been fostered and encouraged for more than half a century."); Cal. Grape Protective Ass'n, *Vote "No" on Proposition No. 22*, L.A. DAILY TIMES, Nov. 2, 1918, at II-2 (same); Cal. Grape Protective Ass'n, *Our Soldiers in France Drink Wine and Are Sober, Says Randall the Prohibitionist*, S.F. CHRON., Nov. 2, 1918, at 3 (invoking the experience of American soldiers in France to justify permitting wine); Cal. Grape Protective Ass'n, *Be Fair to the Grape Growers of California*, L.A. DAILY TIMES, Nov. 4, 1918, at II-3.

⁷⁰ Cal. Grape Protective Ass'n, *Every Public-Spirited Citizen Should Go to the Polls Today!*, S.F. CHRON., Nov. 5, 1918, at 6 ("There are many important measures on which you must pass judgment. None is more important than Proposition No. 22, which would CONFISCATE the wine grape industry If we can aid you to get to the polls—ring up our office . . . and we will send an auto for you, take you to your voting booth and back again.")

⁷¹ *Grape Men Favor Hayes' Dry Policy*, S.F. CHRON., May 28, 1918, at 3 (endorsement of gubernatorial candidate who favors anti-saloon initiative).

⁷² *Bell Candidacy Indorsed*, S.F. CHRON., Oct. 5, 1918, at 3.

⁷³ *Grape Men Will Fight Prohibition, Pledge Themselves to Resist Dries' Attempt to Capture Legislature*, S.F. CHRON., Feb. 10, 1918, at 3 (recounting the annual meeting of the Grape Protective Association, which featured speeches and a proclamation urging challenges to dry attempts to seize the state legislature); *Grape Growers Join in Legislative Pledge*, S.F. CHRON., Mar. 17, 1918, at 7 (additional grape growers join efforts).

⁷⁴ CAL. SEC'Y STATE, *supra* note 59, at 5 ("[T]his proposed legislation was initiated by the grape growers of California, who have an industry representing an actual investment of \$150,000,000 which they naturally desire to protect, and which they feel should not unnecessarily be destroyed"); *id.* at 55 ("Does conservation contemplate the destruction of \$150,000,000 worth of property in California . . . ?").

⁷⁵ OSTRANDER, *supra* note 6, at 147.

⁷⁶ *Id.* at 146–47; *Five Districts May Decide on Bone-Dry Act*, S.F. CHRON., Nov. 6, 1918, at 5.

The 1920 campaign differed from its predecessors in two material respects. First, federal prohibition was in effect. The Eighteenth Amendment had been ratified, including by California, and the Volstead Act was both passed and in force. State law was a matter of amplified enforcement through state, county, and municipal police organizations. Second, dries controlled the state legislature and governorship; the wets had to rely on veto referenda to challenge statewide prohibition legislation.⁷⁷

Despite these changes, the election took an entirely familiar tone. The Grape Protective Association and its allies launched another vigorous anti-prohibition campaign, organizing opposition,⁷⁸ placing critical coverage,⁷⁹ and purchasing prominent advertising⁸⁰—including half-page simultaneous runs in the most widely circulated Los Angeles⁸¹ and San Francisco⁸² papers. Arguments did shift slightly, emphasizing liberty and federalism concerns. But grape industry economic protectionism remained a central message, frequently manifested through the optimistic prospect of a state or federal exception for “light” (i.e. almost all) wines.⁸³ Once again a Grape Protective Association affiliate authored the official ballot pamphlet anti-prohibition position.⁸⁴

⁷⁷ CAL. SEC’Y STATE, AMENDMENTS TO CONSTITUTION AND PROPOSED STATUTES WITH ARGUMENTS RESPECTING THE SAME 6–9 (1920).

⁷⁸ *Meeting Unites Foes of Harris Prohibition Act*, S.F. CHRON., Oct. 8, 1920, at 13.

⁷⁹ Theodore A. Bell, *Defeat of Harris Bill Asked on Grounds That It Will Only Add to Complications in State*, S.F. CHRON., Oct. 14, 1920, at 6.

⁸⁰ Cal. Grape Protective Ass’n, *Vote “No” on Proposition No. 2: Argument Against Harris State Prohibition Enforcement Act*, S.F. CHRON., Sept. 13, 1920, at 8; Cal. Grape Protective Ass’n, *Vote “No” on Proposition No. 2: Argument Against Harris State Prohibition Enforcement Act*, L.A. DAILY TIMES, Sept. 14, 1920, at 5 (same); Cal. Grape Protective Ass’n, *Californians, Do You Still Love Your Liberty?*, S.F. CHRON., Oct. 19, 1920, at 6; Cal. Grape Protective Ass’n, *Vote “No” on Proposition No. 2 (Commonly Known as the Harris State Enforcement Act)*, S.F. CHRON., Oct. 28, 1920, at 8; Cal. Grape Protective Ass’n, *Vote “No” on Proposition No. 2 (Commonly Known as the Harris State Enforcement Act)*, L.A. DAILY TIMES, Oct. 29, 1920, at II-3 (same).

⁸¹ Cal. Grape Protective Ass’n, *President of California Grape Growers’ Exchange Answers Questions of Prohibition Leader*, L.A. DAILY TIMES, Oct. 30, 1920, at 5.

⁸² Cal. Grape Protective Ass’n, *President of California Grape Growers’ Exchange Answers Questions of Prohibition Leader*, S.F. CHRON., Oct. 30, 1920, at 7.

⁸³ PINNEY, *supra* note 34, at 31 (“the efforts to get light wines (that is, unfortified dry table wines) legalized proved surprisingly difficult”); *see* OKRENT, *supra* note 6, at 175; OSTRANDER, *supra* note 6, at 160.

⁸⁴ CAL. SEC’Y STATE, *supra* note 77, at 10.

The results of the election were also familiar. Once again statewide prohibition failed, earning an even lesser share of the vote than the 1918 attempt.

Then something odd happened: in the 1922 election, organized wet opposition evaporated. The ballot featured another prohibition referendum with a simple provision to incorporate the Volstead Act into California state law.⁸⁵ The Grape Protective Association once again pledged to contest the measure.⁸⁶ But it appears to have done little: The official ballot pamphlet response was a strangely antifederal screed⁸⁷ penned by a Sacramento judge who had failed to secure reelection fifteen years prior.⁸⁸ The Association merely reprinted the piece in a few, small, poorly placed advertisements.⁸⁹

Prohibition passed. The vote was close—roughly 52% to 48%—but a significant swing from prior years. Even in the large cities, tens of thousands of voters switched from wet to dry.⁹⁰

The grape-related trades acquiesced in state prohibition throughout the 1920s, and no other structured wet opposition sprang up. A disorganized and last minute repeal campaign in 1926 only targeted the cities and roughly replicated the 1922 result.⁹¹

⁸⁵ CAL. SEC'Y STATE, AMENDMENTS TO CONSTITUTION AND PROPOSED STATUTES WITH ARGUMENTS RESPECTING THE SAME 8 (1922).

⁸⁶ *Grape Men Desire Dry Law Revision*, S.F. CHRON., Feb. 19, 1922, at 11 (“The [California Grape Protective Association] went on record as opposed to the Wright state prohibition enforcement act and in favor of a modification of the national prohibition act that will permit the lawful manufacture and sale of light wines and beer under proper restrictions.”).

⁸⁷ CAL. SEC'Y STATE, *supra* note 85, at 9.

⁸⁸ Cal. Courts, *Charles Emmett McLaughlin*, available at <http://www.courts.ca.gov/2845.htm>.

⁸⁹ *E.g.* Cal. Grape Protective Ass'n, *Judge McLaughlin Opposed to the Wright Act*, S.F. CHRON., Oct. 9, 1922, at 12; Cal. Grape Protective Ass'n, *Judge McLaughlin Opposed to the Wright Act*, L.A. DAILY TIMES, Oct. 10, 1922, at II-5.

⁹⁰ A.P. Night Wire, *Votes Make California “Bone Dry”*, L.A. DAILY TIMES, Nov. 11, 1922 (“This year the unfavorable majority in San Francisco was decreased . . . Los Angeles increased its “dry” margin . . . San Diego switched over . . . and Santa Clara county, of which San Jose is the county seat, turned out a . . . majority for enforcement compared with a neck and neck fight over the [1920] act.”).

⁹¹ *See Dry Repeal Move On*, L.A. DAILY TIMES, June 11, 1926, at 1; *Wet Petitions Being Printed*, L.A. DAILY TIMES, June 16, 1926, at 3.

III. Federal Law and the Grape Growers

The general alcohol manufacture and transfer prohibitions in the Volstead Act were extraordinarily broad:

No person shall on or after the date when the eighteenth amendment to the Constitution of the United States goes into effect, manufacture, sell, barter, transport, import, export, deliver, furnish or possess any intoxicating liquor except as authorized in this Act, and all the provisions of this Act shall be liberally construed to the end that the use of intoxicating liquor as a beverage may be prevented.⁹²

Furthermore, the Act defined “intoxicating liquor” to encompass any substance “fit for use for beverage purposes” with greater than 0.5% alcohol by volume.⁹³ In a plain reading, winemaking was a violation of federal law.

Curiously, a separate provision of the Act (Title II, Section 29) exempted certain home production:

The penalties provided in this Act against the manufacture of liquor without a permit shall not apply to a person for manufacturing nonintoxicating cider and fruit juices exclusively for use in his home, but such cider and fruit juices shall not be sold or delivered except to persons having permits to manufacture vinegar.⁹⁴

The provision is perplexing.⁹⁵ What does “nonintoxicating” mean? If it shares the same definition as elsewhere in the Act (i.e. less than 0.5% alcohol by volume), Section 29 would be surplusage. How does a “fruit juice” differ from wine? What does it mean to “manufacture” at home?⁹⁶

The origins of Section 29 were contested even during national prohibition. This much is clear: the provision was added on the Senate floor, after the Volstead Act had passed the House

⁹² Title II Section 3.

⁹³ Title II Section 1.

⁹⁴ Title II Section 29.

⁹⁵ See PINNEY, *supra* note 34, at 21; George Cyrus Thorpe, *Intoxicating Liquor Law*, 14 GEO. L.J. 315, 330 (1926) (describing the home manufacturing provision as “peculiar”).

⁹⁶ One point of clarity was that, under tax regulations, a maximum of 200 gallons could be produced annually per household. The cap persists to this day at 27 C.F.R. § 24.75. Even a large family, of course, could not consume anything approaching 200 gallons.

and reported from committee.⁹⁷ The *Congressional Record* furnishes only a brief colloquy where a senator from California obliquely references Italian and Greek home winemaking.⁹⁸ In one version, recounted at length by a contemporary viticultural leader, the exception was intended as a minor concession to the grape growers.⁹⁹ The leading history of prohibition in California claims this origin: “hard cider was the traditional drink of certain of the rural, Protestant, native American groups which had been chiefly responsible for the coming of prohibition.”¹⁰⁰ Wet critics offered a similar account, denouncing Section 29 as a giveaway to farming interests.¹⁰¹ Yet another rendition suggested wine was more tolerable because it was less prone to induce social harms than other forms of alcohol.¹⁰² Another version credited fears of angering the apple growers.¹⁰³ Contemporary legal scholarship suggested Section 29 was intended to restrain enforcement efforts.¹⁰⁴

There remains only an anecdotal record for judging among these narratives. When drafters and supporters of the Volstead Act testified after its passage, they did little to clarify the

⁹⁷ 58 Cong. Rec. 4,847 (1919); see PINNEY, *supra* note 34, at 21.

⁹⁸ The following floor colloquy occurred after the amendment of Section 29, between Senators James Phelan (D–CA), Thomas Sterling (R–SD), and Charles Curtis (R–KS).

Mr. Phelan: Mr. President, referring to the amendment which was just agreed to, I should like to learn from the chairman of the committee the exact significance of the amendment . . . It is the practice of certain of our citizens—our Italian-American citizens and our Greek-American citizens—to make a small quantity of wine for domestic consumption in their own homes. Now, of course, wine is a fruit juice, and I suppose it is embraced within the meaning of the amendment.

58 Cong. Rec. 4,847–48 (1919).

⁹⁹ PINNEY, *supra* note 34, at 22; see HERBERT ASBURY, *THE GREAT ILLUSION: AN INFORMAL HISTORY OF PROHIBITION* 237 (1950).

¹⁰⁰ OSTRANDER, *supra* note 6, at 178–79; see see OKRENT, *supra* note 6, at 176 (“[Section 29] was the language [the head of the Anti-Saloon League] inserted into the act ostensibly to allow farmers’ wives to ‘conserve their fruit,’ but really to mollify rural voters who wanted their hard cider.”).

¹⁰¹ *Tydings Says Drys Put Wine in Volstead Act, Gift To Keep Rural Support, He Claims*, CHI. DAILY TRIB., Feb. 7, 1931, at 1.

¹⁰² S.E. Nicholson, *The Volstead Differential, Explaining Why Apparent Partiality to Farmers is Praiseworthy*, N.Y. HERALD TRIB., Apr. 29, 1926, at 22.

¹⁰³ PINNEY, *supra* note 34, at 21.

¹⁰⁴ Comment, *Definition of “Intoxicating Liquors” in the National Prohibition Act*, 38 YALE L.J. 520, 525 n.32 (1929).

original impetus;¹⁰⁵ leaders in the national Anti-Saloon League repeatedly strained to explain and rationalize the special exception for home production.¹⁰⁶

Whatever the motivation for Section 29, its legal implications hinged on the definition of “intoxicating.”¹⁰⁷ Could enforcement officers and prosecutors rely on the Volstead Act’s ordinary, bright-line 0.5% alcohol by volume rule? Or would they have to satisfy a vague “intoxicating in fact” standard thrown into the jury’s discretion? If the rule interpretation governed, home winemaking was plainly unlawful. If the standard prevailed, home winemaking would be legal, or at minimum operate in a zone of case-specific ambiguity where juries were unlikely to convict, prosecutors were unlikely to pursue charges, and officers were unlikely to make arrests.

The reported Senate colloquy provided substantial support for the standard interpretation,¹⁰⁸ as did a plain reading of the statutory text. In July 1920, the Internal Revenue

¹⁰⁵ PINNEY, *supra* note 34, at 22.

¹⁰⁶ Wayne B. Wheeler, *Wheeler Explains Testimony*, WASH. POST, May 25, 1924, at ES2 (contesting interpretation of testimony that home production of intoxicating beverages is lawful); *McBride Statement*, WASH. POST, May 15, 1930, at 1 (similar).

¹⁰⁷ See *Definition of “Intoxicating Liquors” in the National Prohibition Act*, *supra* note 104, at 524–25.

¹⁰⁸ The colloquy above continues:

Mr. Sterling: The Senator will notice that the amendment does not permit the manufacture of intoxicating wines and fruit juices. Under the constitutional amendment we could not authorize the manufacture of wines or fruit juices which would be intoxicating.

Mr. Phelan: Do I understand that the definition of intoxicating liquors in this bill applies to this particular paragraph as defining what intoxicating beverages shall be?

Mr. Sterling: I will say to the Senator from California that there may be some question about that, but I think what is meant here is as to whether or not is intoxicating in fact.

Mr. Phelan: Then that has to be determined, possibly, by a court in adjudicating the matter?

Mr. Sterling: It might be determined by a court in any given case. If the case arises under this provision, it would be determined by the court.

....

Mr. Curtis: Would it not be a question of fact for the jury to pass on in trying the case?

Mr. Sterling: Why, certainly. If there is a case, it will be a question of fact for a jury.

....

Mr. Phelan: I think that is more satisfactory than an arbitrary definition.

58 Cong. Rec. 4,847–48 (1919).

Bureau issued an interpretive rule that formally endorsed the standard approach.¹⁰⁹ By 1921 the prevailing understanding was that home winemaking would be tolerated under national prohibition, if not entirely lawful.¹¹⁰

Representative John Philip Hill (R–MD), a vocal critic of national prohibition with a penchant for showmanship, seized upon Section 29 as an exemplary absurdity of the Volstead Act.¹¹¹ In 1923 and again in 1924 he prepared cider and wine at his home and notoriously dared federal agents to test the beverages.¹¹² The first year he merely received a temporary injunction.¹¹³ The second year Hill hosted a party with hundreds of guests, serving 2.75% alcohol by volume cider;¹¹⁴ he at last drew a six-count federal grand jury criminal indictment.¹¹⁵ Hill contested the charges,¹¹⁶ won a widely publicized district court ruling in favor of the “intoxicating in fact” standard,¹¹⁷ and was finally acquitted by a jury despite evidence of as much

¹⁰⁹ *Allows Home Brew Over Half Per Cent.*, N.Y. TIMES, July 25, 1920 (explaining and providing text of opinion: “the phrase ‘non-intoxicating’ means non-intoxicating in fact, and not necessarily less than one-half of 1 per cent. of alcohol”); see PINNEY, *supra* note 34, at 22.

¹¹⁰ *Rush for Grapes Like Street Fight*, N.Y. TIMES, Oct. 16, 1921, at 36 (explaining Internal Revenue ruling and subsequent demand for grapes).

¹¹¹ Editorial, *Hill’s Home Brew*, N.Y. TIMES, Nov. 13, 1924 (providing an overview of Hill’s campaign and motives); John Philip Hill, *Prohibition and the Republican Party*, 71 FORUM 810, 816 (1924) (recounting exchanges with Representative Andrew Volstead and Federal Prohibition Commissioner Roy Haynes attempting to clarify what percentage of alcohol by volume would constitute “intoxicating in fact”); *Hill Welcomes Action by Justice Department*, WASH. POST, Sept. 23, 1924 (“I am delighted . . . that after efforts of nearly four years the Federal prohibition department, in conjunction with the Department of Justice, seems to be on the verge of deciding what section 29, title 2, of the Volstead act means.”); see PINNEY, *supra* note 34, at 22–23.

¹¹² *Attorney General Expected To Act in Hill’s Cider Party*, WASH. POST, Sept. 23, 1924, at 5 (recounting Hill cider brewing, letter from Hill to Haynes, analysis from Haynes, and Haynes response); see PINNEY, *supra* note 34, at 23.

¹¹³ *Hill Is Indicted Upon Six Counts*, ATL. CONST., Sept. 25, 1924, at 1.

¹¹⁴ *Id.* (reporting 1,500 guests); *Hill, After Cider Content Challenge, Is Indicted Again*, WASH. POST., Sept. 25, 1924, at 2 (reporting hundreds of guests); Editorial, *Hill’s Home Brew*, N.Y. TIMES, Nov. 13, 1924 (reporting between 500 and 2,000 guests).

¹¹⁵ *Hill Indicted on 6 Counts for Making Wine, Cider*, N.Y. HERALD TRIB., Sept. 25, 1924, at 1 (detailing counts in indictment).

¹¹⁶ *Hill’s Plea Not Guilty in Cider Making Charge*, CHI. TRIB., Oct. 1, 1924, at 12.

¹¹⁷ *United States v. Hill*, 1 F.2d 954 (D. Md. 1924) (adopting standard interpretation and investing jury with near-complete discretion); *Court in Hill Case Asserts Cider May Contain More Kick*, WASH. POST, Nov. 12, 1924, at 4; *For Home-Made Wine and Cider, Judge Rules 1/2 of 1 Percent Doesn’t Apply to Them*, BOS. DAILY GLOBE, Nov. 11, 1924, at 16; *Wine Making in Home Given O.K. by Court*, CHI. TRIB., Nov. 12, 1924, at 2; *Home Brew Legal If Not Intoxicating, Court Rules*, N.Y. HERALD TRIB., Nov. 12, 1924, at 1; *Home Brew Legal If Not Intoxicating*, N.Y. TIMES, Nov. 12, 1924, at 1; *Hill Cider Case in Hands of Jury*, N.Y. TIMES, Nov. 13, 1924, at 1 (recounting jury charge); *Waiting Verdict in Case Testing Act of Volstead*, ATL. CONST., Nov. 13, 1924, at 1.

as 11.68% alcohol by volume in his various homebrews.¹¹⁸ Throughout the remainder of national prohibition the federal and state courts widely, though not uniformly, followed the *Hill* opinion.¹¹⁹ The Justice and Treasury departments subsequently acquiesced in the *Hill* view and declined to appeal the rule interpretation of Section 29 to the Supreme Court.¹²⁰ Many contemporary commentators viewed Section 29 post-*Hill* as a special protection for rural practices;¹²¹ by 1926, farming interests had declared their firm support for Section 29, effectively ensuring it would not be amended out of federal law.¹²²

In 1929, grape growers tested the limits of the home winemaking exception.¹²³ A number of grape-related businesses combined in a new venture, Fruit Industries, ostensibly to stabilize prices in the fruit market.¹²⁴ The following year the cooperative announced its lead product: Vine-Glo, a line of home winemaking products and services.¹²⁵ Customers could choose among a range of varietals, originally available as a convenient grape concentrate and later as a dried

¹¹⁸ *Home Brew Is Legal but the Government Will Ignore Verdict*, N.Y. TIMES, Nov. 14, 1924, at 1 (detailing scene in the courtroom, where “[a]mong the congratulatory crowd were many of the jurors,” and Hill thanked them, “[w]ell boys . . . you can make all the cider and wine you want now.”).

¹¹⁹ *Isner v. United States*, 8 F.2d 487 (4th Cir. 1925); *People v. Sinicrope*, 109 Cal. App. Supp. 757 (App. Dep’t, Sup. Ct., L.A. Cty. 1930); *but United States v. Picalas*, 27 F.2d 366 (N.D.W.Va. 1928), *rev’d*, 33 F.2d 1022 (4th Cir. 1929); *In re Baldi*, 33 F.2d 973 (E.D.N.Y. 1929).

¹²⁰ *Andrews Affirms Home Brew Ruling*, N.Y. TIMES, Jan. 11, 1926, at 3.

¹²¹ *E.g.* Editorial, *Class Intoxication*, N.Y. TIMES, Nov. 20, 1924.

¹²² *See, e.g., Declares Farmers Oppose a Repeal of Their Right To Make Wine and Cider*, N.Y. HERALD TRIB., Apr. 22, 1926, at 10 (transcript of Senate hearing on amending Section 29); *The Lucky Farmer*, N.Y. HERALD TRIB., Apr. 23, 1926, at 16 (recounting Senate testimony by a farming trade group representative, who “said he appeared for one million farmers, that a great number of them made cider for their own use, and that they were opposed to the repeal of Section 29 of the Volstead act”).

¹²³ *See generally* EDWARD BEHR, PROHIBITION: THIRTEEN YEARS THAT CHANGED AMERICA 231–32 (2011); OSTRANDER, *supra* note 6, at 179–80; GARRETT PECK, THE PROHIBITION HANGOVER: ALCOHOL IN AMERICA FROM DEMON RUM TO CULT CABERNET 104 (2009); PINNEY, *supra* note 10, at 437; PINNEY, *supra* note 34, at 28–31; RUTH TEISER & CATHERINE HARROUN, WINEMAKING IN CALIFORNIA 181–82 (1982).

¹²⁴ *A California Plan*, L.A. DAILY TIMES, Apr. 3, 1929 (proposal to Congress for a new grape cooperative); *Fruit Sale Deal Made, Growers in Huge Corporation*, L.A. DAILY TIMES, May 8, 1929, at 1 (firm plan for new grape cooperative); *Grape Help in Offing*, L.A. DAILY TIMES, June 20, 1929, at 1 (soliciting participants for cooperative and explaining funding scheme); *State Indorses Grape Merger*, S.F. CHRON., Dec. 18, 1929, at 10 (incorporation of Fruit Industries, noting that it represents over 85% of grape byproduct revenue); *\$30,000,000 Fruit Unit, New California Company, Fruit Industries Inc., Merges Grape Growers*, WALL ST. J., Dec. 18, 1929 (similar).

¹²⁵ *See generally* BEHR, *supra* note 123, at 231–32; PECK, *supra* note 123, at 104; PINNEY, *supra* note 10, at 437; PINNEY, *supra* note 34, at 28–30; OSTRANDER, *supra* note 6, at 178–81; TEISER & HARROUN, *supra* note 123, at 181–82, 187.

brick. (Home producers had previously tended to purchase the fruit itself at a grocery or rail depot and separately have it pressed for winemaking.¹²⁶) For an added fee, a Vine-Glo agent would drop off the product and a keg, start the fermentation process, and later return to bottle the wine. Do-it-yourselfers were coyly given instructions, such as “Warning. Do not place this brick in a one gallon crock, add sugar and water, cover, and let stand for seven days”¹²⁷ The federal government was initially favorable toward Fruit Industries: the Federal Farm Board awarded sizeable loans twice, and the Bureau of Prohibition issued a Circular Letter that instructed agents not to interfere with shipments of grapes and grape products for home beverage production.¹²⁸ Mabel Walker Willebrandt, the chief federal prosecutor for national prohibition, even transitioned to private practice to represent Fruit Industries.¹²⁹

The federal judiciary and executive finally narrowed Section 29 in response to the excesses of Vine-Glo and its competitors. In January 1931, local prohibition agents raided a Vine-Glo competitor in Kansas City, claiming a conspiracy to circumvent the Volstead Act.¹³⁰ National enforcement authorities elected to prosecute the case as a vehicle for testing Section 29, anticipating that Missouri courts and juries would sympathize with the dry cause.¹³¹ Department

¹²⁶ OKRENT, *supra* note 6, at 179–80 (detailing grape supply chain for home winemaking); *id.* at 179 (“In 1926 the chief investigator for the Prohibition Bureau described what he called the ‘twilight zone’ of Prohibition: in tenement neighborhoods, he wrote, ‘you will see grapes everywhere—on pushcarts, in groceries, in fruit and produce stores, on carts and wagons and trucks . . . Wine grapes in crates, by the truckload, and by the carload.’”); *see* BEHR, *supra* note 123, at 86–87; TEISER & HARROUN, *supra* note 123, at 178–81.

¹²⁷ PECK, *supra* note 123, at 104; *see also* PINNEY, *supra* note 10, at 437 (“You take absolutely no chance when you order . . . which Section 29 of the National Prohibition Act permits you”); TEISER & HARROUN, *supra* note 123, at 182 (“This beverage should be consumed within five days; otherwise in summer temperature it might ferment and become alcoholic.”).

¹²⁸ *Id.*

¹²⁹ Some contemporaries speculated that Willebrandt had unethically won favors for her client before exiting government. PINNEY, *supra* note 34, at 29–30; TEISER & HARROUN, *supra* note 123, at 182, 187; *see* BEHR, *supra* note 123, at 232; OSTRANDER, *supra* note 6, at 180.

¹³⁰ *Grape Juice Firm’s Heads Face Arrest*, WASH. POST., Jan. 19, 1931, at 3; *Grape Juice Men Arrested by Drys*, ATL. CONST., Jan. 18, 1931, at 1 *Hold Grape Juice Men in Kansas City Raid*, N.Y. TIMES, Jan. 18, 1931, at 7.

¹³¹ *Test Fight Starts on Grape Juice Sale*, N.Y. TIMES, May 9, 1931, at 5 (detailing federal litigation strategy).

of Justice officials even contemplated an eventual appeal before the Supreme Court.¹³² The federal strategy was to establish sufficient precedent to enable prosecuting grape growers, grape-derivative producers, and home winemaking service providers;¹³³ targeting individual households would be prohibitively demanding of federal resources,¹³⁴ and furthermore, a provision of the Volstead Act sharply limited authority for home searches.¹³⁵

After a quick indictment and bench trial, prohibition officials secured a conviction and favorable interpretation in October.¹³⁶ The district court narrowed Section 29 considerably: a supplier would be liable if it intentionally facilitated “intoxicating in fact” home winemaking, and home winemaking from grape derivatives (i.e. convenient concentrates and bricks) was entirely unprotected.¹³⁷ In the course of his opinion, the presiding judge reflected the spirit of pervasive enforcement exasperation with Section 29:

The defendants are guilty. Nor is their guilt a technical guilt only. It is real guilt. From the very beginning of their enterprise theirs was not the spirit of the law-abiding citizen. . . .

What a hodgepodge of absurdities they have resorted to. Manufacture is not manufacture. A preparation, compound, and substance is not a substance, compound, and preparation. Wine is not wine. Grape juice is not juice of grapes.

A corporation which boasts that its assets are of the value of a million dollars and that its business is nation wide claims the protection of the cloak which Congress designed for the housewife and the home owner who make intoxicating fruit juices for their families.¹³⁸

The ruling effectively empowered prohibition agents to shut down nearly any grape-derivative producer or home winemaking supplier, potentially even reaching the grape growers themselves.

Meanwhile, in April 1931, prohibition agents had raided a Vine-Glo warehouse, purportedly owing to an absent rabbinic prescription for sacramental wine.¹³⁹ In August, federal

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*; see IRVING FISHER, THE “NOBLE EXPERIMENT” 454 (1930) (A contemporary economist supportive of national prohibition noted that “it is absurd to expect home production to be prevented by enforcement officers.”).

¹³⁵ Title II Section 25 of the Volstead Act limited home searches to offenses involving the sale of alcohol. So long as home winemaking was only for personal use or gifts, federal agents could not receive judicial preclearance to enter.

¹³⁶ *United States v. Brunett*, 53 F.2d 219 (W.D. Miss. 1931).

¹³⁷ *Id.* at 231–35.

¹³⁸ *Id.* at 238–39.

officers struck again, seizing the assets of a Vine-Glo competitor with the very purpose of orchestrating a national test case for Section 29.¹⁴⁰ Federal prosecutors secured a similarly favorable district court opinion from that effort in early 1932.¹⁴¹

The viticultural interests declined to litigate Section 29. In November 1931, following the Missouri decision, Fruit Industries announced it was suspending Vine-Glo home service.¹⁴² The entire project collapsed in 1932.¹⁴³ Grape growers made initial steps toward a campaign for legislative and constitutional reform, complaining of how they had been “betrayed” by newly invigorated federal enforcement;¹⁴⁴ the issue was mooted by the Twenty-First Amendment in 1933.

IV. Grape Growing Under National Prohibition

Statistics on California viticulture under national prohibition are “slippery.”¹⁴⁵ Contemporary estimates from federal agencies, state agencies, railway shippers, farming cooperatives, and economists all differ (see Appendix). That said, while each dataset may exhibit its own biases and imprecisions, several general trends are consistent among measurements of grape production, pricing, and planting.

¹³⁹ *Grape Shop Raid Made on Firm of Mrs. Willebrandt*, N.Y. TRIB., Apr. 14, 1931, at 1; *Plant of Mrs. Willebrandt's Client Is Raided, but McCampbell Denies New Fruit-Juice Policy*, N.Y. TIMES, Apr. 14, 1931, at 1.

¹⁴⁰ *Grape Brick Trio Taken*, L.A. DAILY TIMES, Aug. 6, 1931, at 1; *Raid Fifth Av. Shop in 'Wine Brick' Test*, N.Y. TIMES, Aug. 6, 1931, at 1; *U.S. Drys Raid Store Selling Grape Bricks*, CHI. TRIB., Aug. 6, 1931, at 5; *Court Test Looms on Grape Products*, WASH. POST., Aug. 7, 1931, at 2; *Legal Test Coming on "Grape Bricks"*, DAILY BOS. GLOBE, Aug. 7, 1921, at 4.

¹⁴¹ *In re Search Warrant Affecting No. 277 Fifth Ave. in Borough of Manhattan, City of New York*, 55 F.2d 297, 301 (S.D.N.Y. 1932).

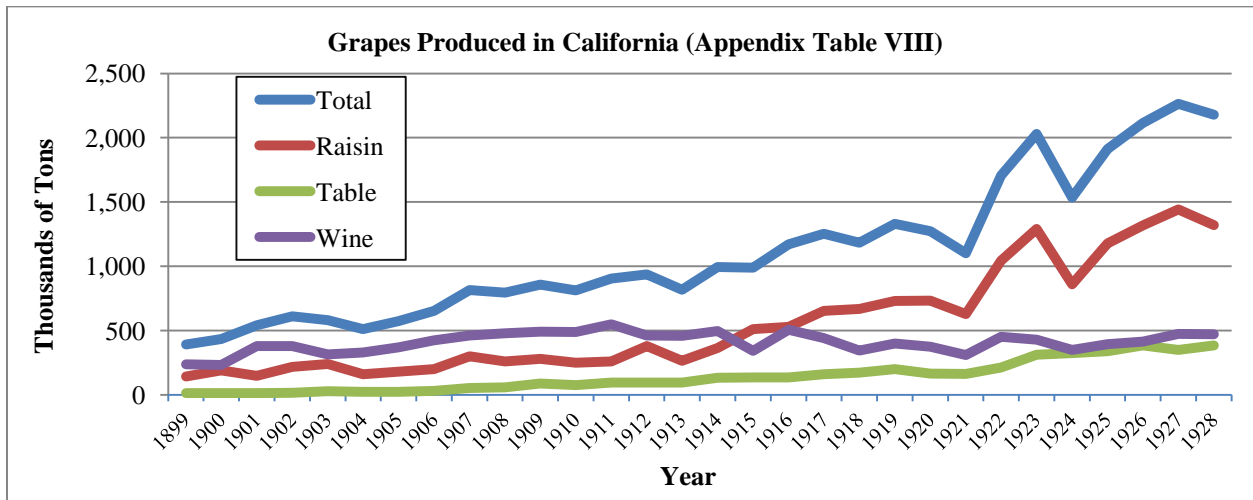
¹⁴² *Will No Longer Aid Home Wine Making*, BOS. GLOBE, Nov. 6, 1931, at 17; *Wine Brick Firm Drops Home Sales*, N.Y. TIMES, Nov. 6, 1931, at 23; *Wine Essence Sale in Homes Is Discontinued*, N.Y. TRIB., Nov. 6, 1931, at 5; *Wine Plan Changed*, L.A. DAILY TIMES, Nov. 6, 1931, at 1; *Wine Products House Service Is Discontinued*, CHI. TRIB., Nov. 6, 1931, at 4.

¹⁴³ *Vine-Glo Fades Out*, N.Y. TRIB., Sept. 16, 1932, at 5.

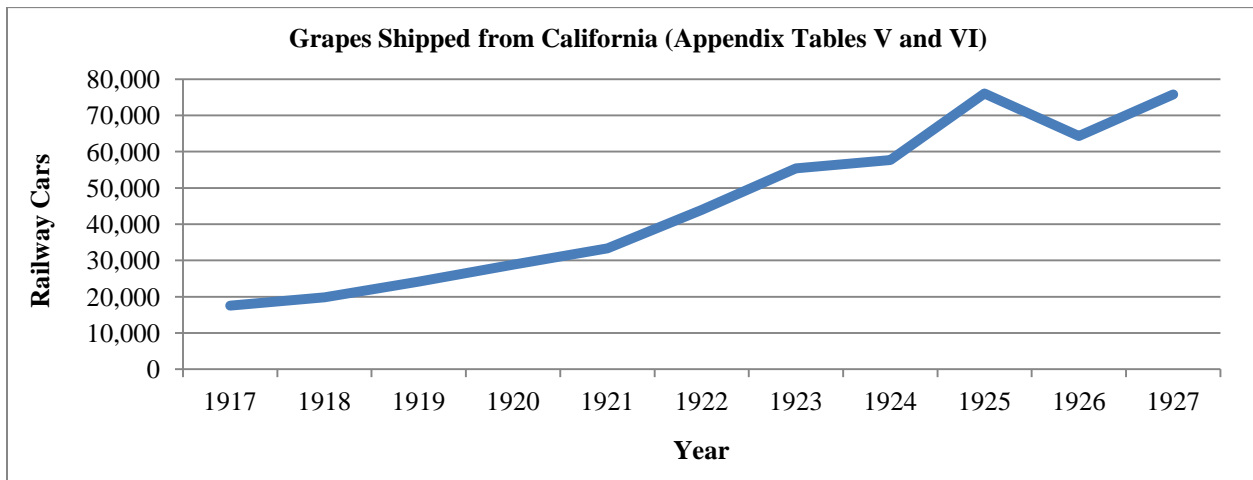
¹⁴⁴ *Wine Move Launched*, L.A. DAILY TIMES, Apr. 26, 1932, at 1; *California "Betrayed."*, N.Y. TIMES, Apr. 27, 1932, at 16.

¹⁴⁵ TEISER & HARROUN, *supra* note 123, at 144.

First, California grape production boomed following the start of national prohibition. All sources of data reflect a significant increase in fruit output, both in total and in each category of fruit. (In addition to wine grapes, raisins and table grapes were also commonly used in home wine production, albeit with significant dispute as to the precise proportion.¹⁴⁶)



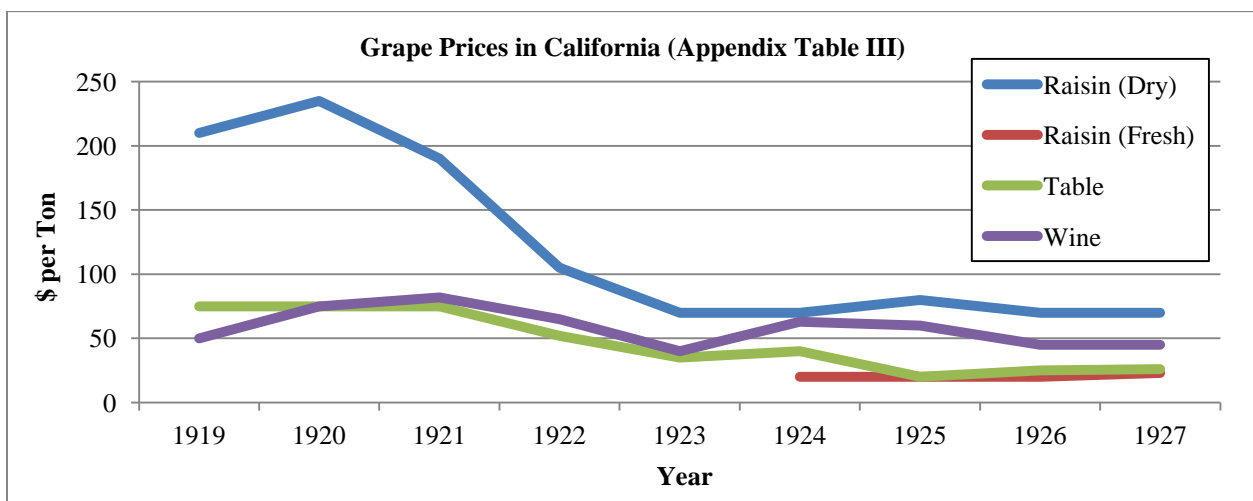
Measures from railway shippers confirm the expansion in production.



¹⁴⁶ See FISHER, *supra* note 134, at 266–78 (1930), CLARK WARBURTON, THE ECONOMIC RESULTS OF PROHIBITION 24–40 (1932).

The railroads were ill prepared. Car shortages and handling delays were common in the years following the imposition of national prohibition; ultimately the railroads built new terminals in Boston, Chicago, Newark, and other hubs just to relieve the strain from grape shipments.¹⁴⁷

Second, grape prices soared during national prohibition. Pre-prohibition data on pricing is incomplete and inconsistent;¹⁴⁸ grapes appear to have hovered roughly between \$5 and \$20 per ton.¹⁴⁹ At the outset of prohibition, prices soared to record highs of five to ten times previous values.¹⁵⁰



The market quickly dipped, and by the mid-1920s overproduction and weather conditions began to cause further drops and instability.¹⁵¹ Nevertheless, through much of national prohibition, grape prices remained far in excess of their pre-prohibition levels.

Increased demand was undoubtedly a driver of skyrocketing grape prices: national prohibition curtailed competing products. The dynamics of the home winemaking market may

¹⁴⁷ OKRENT, *supra* note 6, at 178–79; PINNEY, *supra* note 34, at 19–20; *see, e.g., I.C.C. to Seek Cars for State Grape Crop*, S.F. CHRON., Sept. 22, 1922.

¹⁴⁸ Alan L. Olmstead & Paul W. Rhode, *Quantitative Indices on the Early Growth of the California Wine Industry 8* (Ctr. Wine Econ. Working Paper 901, May 8, 2009).

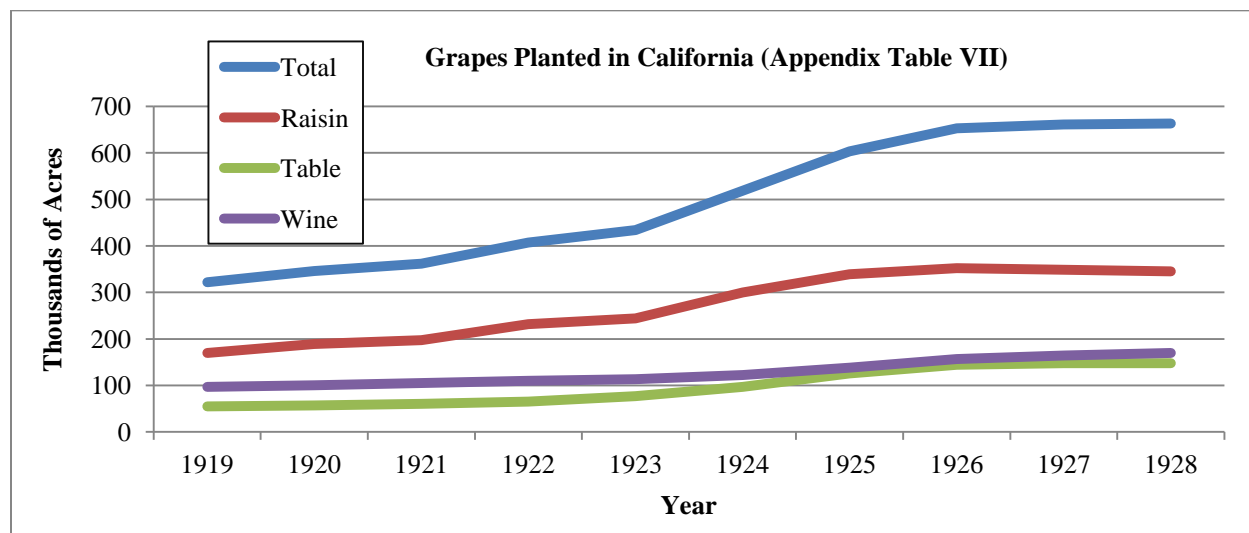
¹⁴⁹ *See* JAMES SIMPSON, *CREATING WINE* 209 (2011); OKRENT, *supra* note 6, at 176; PINNEY, *supra* note 34, at 19; TEISER & HARROUN, *supra* note 123, at 178.

¹⁵⁰ *E.g. Grape Growers Now Receiving Record Price*, S.F. CHRON., Jun. 1, 1919, at B12.

¹⁵¹ *See* OSTRANDER, *supra* note 6, at 181; PINNEY, *supra* note 34, at 24–27; TEISER & HARROUN, *supra* note 123, at 179.

also have contributed. Individual home winemakers (and intermediary wholesalers and retailers) were scattered across the country; their pricing influence was much less than the pre-prohibition winery purchasers'.¹⁵² Eliminating wine-related intermediaries may have allowed grape growers to capture additional value.¹⁵³ Home wine producers may also have been more wasteful than the wineries, further increasing demand.¹⁵⁴

A third point of consistency is that grape growers planted during national prohibition, even after the initial price bubble had burst.¹⁵⁵ Given the substantial investment required for new vines, the data suggests that grape growers expected favorable market conditions for years to come.



Estimates of national wine production and consumption during prohibition do not exhibit consensus. At one end, Yale economics professor Irving Fisher—a vocal prohibition supporter¹⁵⁶—questionably calculated that wine consumption had dropped by roughly a third.¹⁵⁷

¹⁵² See TEISER & HARROUN, *supra* note 123, at 178–79; *You Can Never Tell*, S.F. CHRON., Sept. 17, 1921 (“individuals will pay more for grapes to be made into wine at home than any winemaker would pay for the same grapes for commercial pressing”).

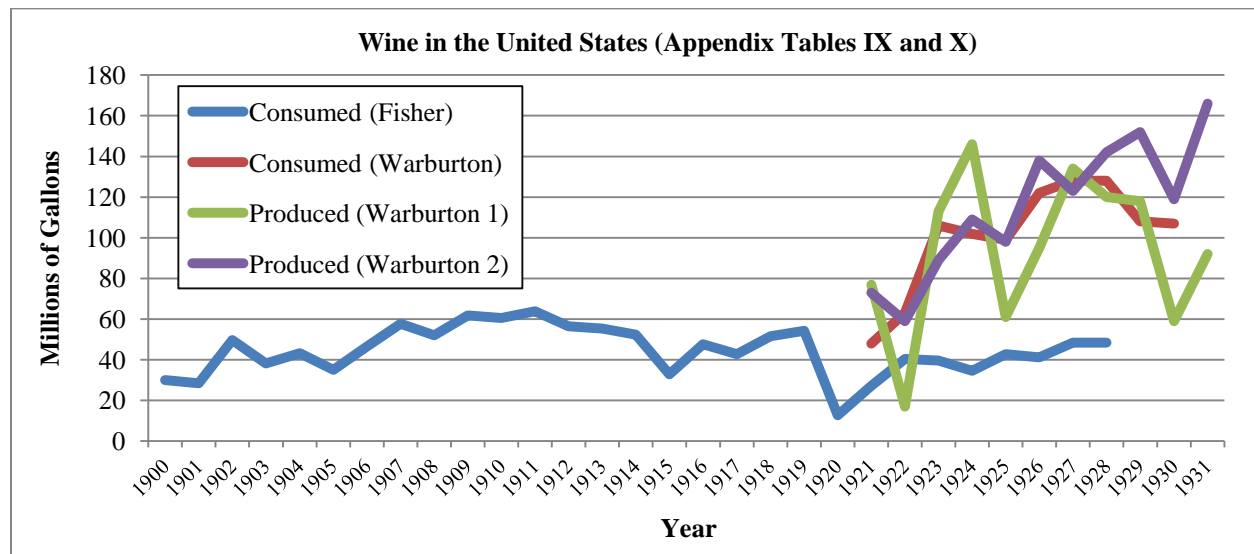
¹⁵³ Ira F. Collins, *A Marketing Lesson in the Eighteenth Amendment*, CHI. TRIB., Sept. 9, 1922, at 6.

¹⁵⁴ See FISHER, *supra* note 134, at 274.

¹⁵⁵ See PECK, *supra* note 123, at 104; PINNEY, *supra* note 34, at 19.

¹⁵⁶ THORNTON, *supra* note 10, at 15–23.

At the other end, Clark Warburton authored a dry-funded economics dissertation at Columbia¹⁵⁸ that estimated leaps in wine production and consumption.¹⁵⁹ The Prohibition Bureau issued figures that roughly aligned with Warburton’s calculations, as did the Wickersham Commission (a presidential blue-ribbon panel on national prohibition).¹⁶⁰



It bears mentioning that national prohibition was not a boon to all of California’s grape-related trades. Wineries struggled to scrape by on exceptions for sacramental, medicinal, industrial, and cooking purposes.¹⁶¹ Treasury authorities kept a close watch to ensure both prohibition and tax compliance.¹⁶² Before national prohibition, California was home to over 700 wineries; by the ratification of the Twenty-First Amendment, fewer than 150 remained.¹⁶³

¹⁵⁷ FISHER, *supra* note 134, at 277.

¹⁵⁸ THORNTON, *supra* note 10, at 28.

¹⁵⁹ WARBURTON, *supra* note 146, at 37–40. Warburton used two different methodologies to estimate illegal winemaking, one based on total grape production less other uses, and the other based on particular types of grapes.

¹⁶⁰ See BEHR, *supra* note 123, at 87; PINNEY, *supra* note 34, at 19.

¹⁶¹ OKRENT, *supra* note 6, at 182–88. In one strange channel for illicit wine distribution, there was a rash of fake rabbis at the outset of national prohibition, and California’s synagogues suddenly swelled ... including with deceased congregants. *Id.* at 187–88.

¹⁶² PINNEY, *supra* note 34, at 12; *id.* at 18 (“The licensed wineries were under close supervision; it was known precisely how much wine they had on hand and what sort of wine it was. If any discrepancy occurred between what was on the record and what the inspectors actually found on the premises, an explanation was at once demanded. Under such close surveillance, the winemaker had little chance to cheat, whatever his wishes might have been.”).

¹⁶³ PECK, *supra* note 123, at 104; TEISER & HARROUN, *supra* note 123, at 180–82; see PINNEY, *supra* note 34, at 10–18.

Varietals also suffered.¹⁶⁴ Home purchasers favored grapes that shipped well and were brightly colored, sacrificing taste for convenience and appearances. Vines of delicate varietals were torn out and replanted to sate the home winemakers. The quality of California's wines took decades to recover.

V. Grape Growers Recognized the Source of Their Windfall

Grape growers had, to be sure, been very concerned about the nation going dry; as the Eighteenth Amendment and Volstead Act loomed, grape growers demanded government compensation¹⁶⁵ and assistance finding new outlets for their products.¹⁶⁶ Some early observers credited the grape boom to a speculative bubble or new outlets for grape-derivative products.¹⁶⁷

Throughout 1920 and 1921 the grape growers came to recognize how Section 29 had worked a gerrymander in their favor. Early news coverage reflected confusion: In a March interview with the *Los Angeles Times*, for example, a representative of a large raisin processor pondered the sudden demand for inedible grapes on the East Coast.¹⁶⁸ In August the *San Francisco Chronicle* recounted the Prohibition Administrator's interpretative opinion on Section 29 and noted related "conversations whispered in offices, street cars and ferry boats."¹⁶⁹ Later that month, grape prices rose on account of the news.¹⁷⁰ When the 1921 crop came in, the *New*

¹⁶⁴ See generally OKRENT, *supra* note 6, at 177; PINNEY, *supra* note 10, at 438; PINNEY, *supra* note 34, at 26.

¹⁶⁵ E.g. *The Ruined Wine Grape Growers*, S.F. CHRON., Jan. 28, 1919, at 18.

¹⁶⁶ E.g. *Help Wine Grape Growers*, N.Y. TIMES, Dec. 16, 1920, at 16.

¹⁶⁷ E.g. *Golden Vineyards*, N.Y. TIMES, Nov. 30, 1919, at 8; *Wine Grape Vineyards Will Be Profitable*, S.F. CHRON., May 30, 1920, at W2; *Wine Grape to be Turned into Genuine Money*, S.F. CHRON., July 25, 1920, at F3; *What Prohibition Didn't Do to the Grape Industry*, L.A. DAILY TIMES, Aug. 21, 1921, at 10.

¹⁶⁸ *Grapes To Get Increased Price*, L.A. DAILY TIMES, Mar. 6, 1920, at 11 ("There never was a market until this year for dried wine grapes to speak of. It is, I suppose, a development of prohibition.").

¹⁶⁹ *Dry Act Proves No Nemesis to Grape Industry*, S.F. CHRON., Aug. 4, 1920, at 2.

¹⁷⁰ *Grape Price Up on Wine Ruling*, L.A. DAILY TIMES, Aug. 28, 1920, at II-10; see also *Price of Wine Grapes Goes to \$150 Per Ton*, S.F. CHRON., Aug. 15, 1920, at F1.

York Times declared: “Home wine making has saved the wine grape growers of California.”¹⁷¹

The *Los Angeles Times* dubbed the windfall a “prohibition miracle” and noted: “There was never any doubt who bought those grapes. They were bought by thousands of persons who made wine in their homes.”¹⁷² The head of the grape growers’ trade group (a Grape Protective Association affiliate) finally acknowledged in September that the industry’s newfound success was “largely because of prohibition”¹⁷³ and proudly declared to his constituency:

One million homes throughout the United States have supplanted the 300 [sic] wineries that were operating in California before prohibition, and not only are they taking care of the California wine grape crop, but they are paying for grapes three times the price [sic] the wineries paid.¹⁷⁴

To the extent grape growers could claim ignorance of Section 29’s effects at the very start of national prohibition, they were unambiguously apprised by the close. When the Director of the Prohibition Bureau delivered an address to grape growers in 1929, his remarks focused almost exclusively on home winemaking.¹⁷⁵ The Vine-Glo episode was national news and involved a substantial proportion of grape-related firms. A series of oral recollections from grape growers collected by University of California, Berkeley historians provides a final source of confirmation: many accounts reflect detailed knowledge of home winemaking, from fruit production to shipping to retail to fermentation.¹⁷⁶ In the words of one grape grower: “Andrew Volstead ought to be considered the patron saint of the San Joaquin Valley.”¹⁷⁷

¹⁷¹ *Home Wine Making Saves Grape Growers*, N.Y. TIMES, Oct. 30, 1921, at 38; see also *Crop Is Saved by Home Brew*, L.A. DAILY TIMES, Oct. 10, 1921, at II-11.

¹⁷² *Grape Growers Are Perplexed*, L.A. DAILY TIMES, Sept. 5, 1921, at II-11; see also *Grape Sales Are Enormous*, L.A. DAILY TIMES, Nov. 1, 1921, at 14.

¹⁷³ *Grape Growers Prosper*, N.Y. TIMES, Sept. 17, 1921, at 8.

¹⁷⁴ *Once Again*, S.F. CHRON., Sept. 17, 1921, at 22.

¹⁷⁵ *Grape Juice Within Law*, L.A. DAILY TIMES, Aug. 28, 1929, at 4.

¹⁷⁶ Ruth Teiser, *William V. Cruess: A Half Century in Food and Wine Technology* 22–27 (1967) (discussing grape grower relationships with government agencies to prevent enforcement against home winemaking; home winemaking sales to and practice in the Italian-American community); Ruth Teiser, *Horace O. Lanza, Harry Baccigaluppi: California Grape Products and Other Wine Enterprises* 9–15 (recalling the founding of Fruit Industries); *id.* at 88–96 (1971) (recounting sale of sacramental wine; production of grape concentrate and use in home winemaking); Ruth Teiser, *Louis A. Petri: The Petri Family in the Wine Industry* 6–7 (1971) (recounting the business models of illicit organized home winemaking); Ruth Teiser, *Maynard A. Joslyn: A Technologist Views the*

VI. Conclusion: Why California Went Dry

The previous sections detailed how grape growers suddenly ceased their organized and strategic opposition to dry ballot measures in California, how federal law both allowed and encouraged home winemaking, how California's grape growers prospered under national prohibition, and how those viticulturists recognized the source of their windfall. This concluding section aims to complete the argument's arc: California went dry and stayed dry, in large measure, owing to Section 29 of the Volstead Act.

Direct proof of causation is, admittedly, limited. In my searching, I have found just one conclusive link: a 1921 *Los Angeles Times* dispatch on the California government in Sacramento, claiming, "Wine grape growers of California are strong for prohibition."¹⁷⁸ That said, the circumstantial case is strong—so strong that a 1926 *New York Times* article reported on a likely connection.¹⁷⁹

Furthermore, other theories fall short in explanatory force. A review of census data does not reveal any sudden shift in California's voting base. There was not a wave of state prohibition enactments following national prohibition—in fact, larger states resisted going dry,¹⁸⁰ and New York even flipped back to being wet.¹⁸¹ Some evidence suggests that, owing to personnel and

California Wine Industry 3–10, 35–37 (1973) (explaining the distribution and usage of various grape products for home winemaking); Carole Hicke, *Louis J. Foppiano, A Century of Winegrowing in Sonoma County, 1896–1996*, 14–18 (1996) (discussing enormous demand for grapes for home winemaking on the East Coast).

¹⁷⁷ SEAN DENNIS CASHMAN, PROHIBITION: THE LIE OF THE LAND 39 (1981).

¹⁷⁸ *King Tax Bill May Be Invalid*, L.A. DAILY TIMES, Oct. 16, 1921, at 6.

¹⁷⁹ Alfred Holman, *Strict Dry Laws Suit California*, N.Y. TIMES, June 13, 1926, at E3 ("Circumstances and conditions contributing to this change of mood on the part of a State which officially and otherwise for many years had promoted the wine and brandy industries, and which, again and again, and still again, had registered negatively in the matter of prohibition legislation, are significant.").

¹⁸⁰ JACK S. BLOCKER, RETREAT FROM REFORM 236–40 (1976) (collecting and comparing results of state prohibition votes).

¹⁸¹ See CASHMAN, *supra* note 177, at 50; PINNEY, *supra* note 34, at 4–5.

organization shifts, the dries were marginally better prepared¹⁸² and the wets were marginally worse prepared in 1922.¹⁸³ But was the difference so great? And if so, why would the wets (almost) entirely give up the fight following the election? A final explanation might be that state prohibition enforcement law did not matter—but the lobbies and voters appear to have earnestly believed otherwise, and news reports after 1922 reflect a string of state prohibition arrests and prosecutions.

So, why did California go dry? At least in part, it appears, because the state helped the rest of the union stay wet.

Appendix. Statistics on Grape Growing in California Under Prohibition

Year	Production (Thousands of Tons)				Price (\$ per Ton)			Total Value (\$M)
	Raisin	Table	Wine	Total	Raisin	Table	Wine	
1919	182.5	200	400	782.5	210	75	40	69.33
1920	177	190	375	742	235	75	65	80.22
1921	130	125	310	565	190	75	82	59.50

Table I: California grape production, price, and value (1919–1921).¹⁸⁴

Year	Production (Thousands of Tons)				Price (\$ per Ton)			Total Value (\$M)
	Raisin	Table	Wine	Total	Raisin	Table	Wine	
1919	182.5	200	400	782.5	210	75	50	73.33
1920	177	190	375	742	235	75	75	83.97
1921	130	125	310	565	190	75	82	59.50

Table II: California grape production, price, and value (1919–1921).¹⁸⁵

Year	Production (Thousands of Tons)					Price (\$ per Ton)				Total (\$M)
	Raisin		Table	Wine	Total	Raisin		Table	Wine	
	Dry	Fresh				Dry	Fresh			
1919	182.5	–	200	400	782.5	210	–	75	50	73.33
1920	177	–	190	375	742	235	–	75	75	83.97
1921	145	–	210	310	665	190	–	75	82	68.72
1922	237	–	308	450	995	105	–	52	65	70.15

¹⁸² See OSTRANDER, *supra* note 6, at 181.

¹⁸³ See *Theodore A. Bell Killed in Auto Smash*, N.Y. TIMES, Sept. 5, 1922 (death of Grape Protective Association spokesman and counsel immediately before election).

¹⁸⁴ UNITED STATES DEP'T AGRICULTURE, YEARBOOK 1921, 634 (1922).

¹⁸⁵ CALI. DEP'T AGRICULTURE, THE CALIFORNIA GRAPE INDUSTRY—1919, 749 (1920).

1923	290	–	442	428	1,160	70	–	35	40	52.89
1924	170	180	325	350	1,025	70	20	40	63	50.55
1925	200	378	339	395	1,312	80	20	20	60	54.04
1926	272	229	383	414	1,298	70	20	25	45	51.83
1927	285	303	348	473	1,409	70	23	26	45	57.25

Table III: California grape production, price, and value (1919–1927).¹⁸⁶

Year	Wine Grapes	
	Acres (Thousands)	Tons (Thousands)
1880	36	–
1885	65.78	–
1890	90.23	–
1900	86	–
1910	145	–
1920	118.39	338
1925	172.57	442
1930	200.82	486

Table IV: California wine grape planting and production (1880–1930).¹⁸⁷

Year	Railway Cars
1921	33,344
1922	43,952
1923	55,348
1924	57,695
1925	76,066
1926	64,327
1927	75,764

Table V: California grape shipments (1921–1927).¹⁸⁸

Year	Railway Cars
1917	17,500
1918	19,800
1919	24,167
1920	28,832
1921	33,344
1922	43,952
1923	55,348
1924	57,695
1925	76,065
1926	63,522

¹⁸⁶ E.W. Stillwell & W.F. Cox, United States Dep't Agriculture, *Marketing California Grapes* 10 (Circular No. 44, Aug. 1928).

¹⁸⁷ CHARLES L. SULLIVAN, *A COMPANION TO CALIFORNIA WINE* 48 (1998) (providing data from the California Agricultural Statistics Service).

¹⁸⁸ E.W. Stillwell & W.F. Cox, *supra* note 186, at 8.

Table VI: California grape shipments (1917–1926).¹⁸⁹

Year	Acres Bearing Grapes (Thousands)			
	Raisin	Table	Wine	Total
1919	170	55	97	322
1920	189	57	100	346
1921	197	60	105	362
1922	232	65	110	407
1923	244	77	113	434
1924	300	97	122	519
1925	339	126	138	603
1926	352	144	157	653
1927	349	148	164	661
1928	345	148	170	663

Table VII: California grape planting (1919–1928).¹⁹⁰

Year	Production (Thousands of Tons)			
	Raisin	Table	Wine	Total
1899	143	13	236	392
1900	189	12	232	433
1901	148	14	379	541
1902	216	15	380	611
1903	240	27	314	581
1904	160	22	328	510
1905	180	24	370	574
1906	200	31	423	654
1907	300	52	462	814
1908	260	57	478	795
1909	280	88	490	858
1910	250	74	489	813
1911	260	96	549	905
1912	380	95	462	937
1913	264	95	459	818
1914	364	132	497	993
1915	512	134	342	988
1916	528	136	507	1,171
1917	652	161	441	1,254
1918	668	173	343	1,184
1919	730	200	400	1,330
1920	732	166	375	1,273
1921	627	163	310	1,100
1922	1,043	213	450	1,706

¹⁸⁹ S.W. Shear & H.F. Gould, *Economic Status of the Grape Industry* 38 (U. Cal. Col. Agriculture Agricultural Experiment Station Bulletin 429, June 1927).

¹⁹⁰ *Id.* at 34.

1923	1,290	312	428	2,030
1924	860	325	350	1,535
1925	1,178	339	395	1,912
1926 (est.)	1,261	366	413	2,040
1926	1,317	383	414	2,114
1927 (est.)	1,443	348	473	2,264
1928 (est.)	1,321	385	472	2,178

Table VIII: California grape production (1899–1928).¹⁹¹

Year	Grapes Produced in California (Thousands of Tons)	Wine Produced in United States (Millions of Gallons)		
		Illegal		Legal
		Total Method	Varietal Method	
1921	1,249	56	52	21
1922	1,053	11	53	6
1923	1,611	98	74	15
1924	2,030	137	100	9
1925	1,535	57	94	4
1926	1,912	89	132	6
1927	2,114	130	119	4
1928	2,264	115	137	5
1929	2,213	107	141	11
1930	1,751	56	116	3
1931	1,967	85	159	7

Table IX: California grape production and United States wine production (1921–1931).¹⁹²

Year	Wine Consumed in United States (Millions of Gallons)	
	Fisher	Warburton
1900	29.99	—
1901	28.40	—
1902	49.76	—
1903	38.24	—
1904	43.31	—
1905	35.06	—
1906	46.49	—
1907	57.74	—
1908	52.12	—
1909	61.78	—
1910	60.55	—
1911	63.86	—
1912	56.42	—

¹⁹¹ FISHER, *supra* note 134, at 269; Shear & Gould, *supra* note 189, at 30.

¹⁹² WARBURTON, *supra* note 146, at 34–40.

1913	55.33	—
1914	52.42	—
1915	32.91	—
1916	47.59	—
1917	42.72	—
1918	51.60	—
1919	54.27	—
1920	12.72	—
1921	27.24	48
1922	40.35	63
1923	39.57	106
1924	34.57	102
1925	42.81	99
1926	41.21	122
1927	48.51	128
1928	48.39	128
1929	—	108
1930	—	107

Table X: Estimated United States wine consumption (1900–1930).¹⁹³

Year	Raisin Crop (Tons)	Wine Production (Gallons)	
		Dry	Sweet
1897	46,852	28,736,400	5,197,500
1898	40,368	10,750,000	7,779,000
1899	35,784	15,103,000	8,330,000
1900	47,167	16,737,260	6,940,300
1901	37,125	16,473,731	6,270,300
1902	54,375	28,224,146	14,835,146
1903	60,000	21,900,500	12,670,356
1904	37,500	15,589,342	13,571,856
1905	43,750	20,000,000	10,700,000
1906	47,500	26,000,000	15,000,000
1907	60,000	27,500,500	15,500,000
1908	60,000	22,500,000	14,750,000
1909	70,000	27,000,000	18,000,000
1910	56,000	27,500,000	18,000,000
1911	67,500	26,000,000	23,280,044
1912	85,000	22,500,000	17,797,781
1913	65,000	25,000,000	17,307,600
1914	90,000	22,000,000	16,620,212
1915 (est.)	124,000	21,571,000	4,035,240

Table XI: California raisin and wine production (1897–1915).¹⁹⁴

¹⁹³ FISHER, *supra* note 134, at 277; WARBURTON, *supra* note 146, at 34–40.

¹⁹⁴ CAL. DEVELOPMENT BD., CALIFORNIA RESOURCES AND POSSIBILITIES 30–31 (1915).