

THE PRESIDENT ON THE JOB

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II.—Prohibition Up To Now

(Special to The Enterprise)

Washington, D. C., April 8.—President Hoover will use every lawful means in the power of the President of the United States to enforce the Prohibition laws and other Federal criminal laws.

He does not expect to achieve 100 percent enforcement. He does not know to what percentage it can be enforced. He knows that 100% is humanly impossible, in the case of this or any other laws. The ten commandments are not fully obeyed after 3,300 years of attempted enforcement. But his effort to enforce it will utilize 100 per cent of the facilities which the law puts into his hands. But 100% of Federal facilities are really only about one-third of the forces needed on the job. About 33% must be done by the state and 33% by local police because the enforcement of Prohibition is a tripartite action of national, state and local authorities.

It ought not to be necessary to state the President's position on Prohibition enforcement at this time. He has stated it himself often enough and clearly enough. But there is a large element of the population of the United States which is accustomed to discount the statements and promises of politicians, and in this element are to be found many who do not realize that the man now in the White House is a different kind of man.

President Hoover has no quarrel with the right of any man to agitate for the repeal of any law which he does not approve, including the 18th Amendment. He does not believe that they will succeed, for 14 states can block it.

He has stated his own view as opposed to its repeal. He insists also that it is his duty under his oath to enforce the laws.

He considers it his duty to demand of Congress that it give him better tools to work with in carrying out the Federal part of the job of enforcement which has been put up to him.

The weakness of the position of the present proponents of Prohibition repeal is their failure to recognize the fact that the thought of the whole civilized world has been concentrating on this problem of liquor traffic regulation by law for at least three generations. Russia under the Czar had abolished vodka long before the world war. France placed alcohol under the ban and is now trying to develop a plan to abolish cognac. Belgium has abolished hard drinks. Sweden's "Gothenberg system" of controlling the traffic in liquor is among the most famous of governmental efforts in this direction and was initiated a great many years ago. Americans generally are familiar with the vigorous and various methods which have been adopted at different times by the Canadian provinces, as well as the efforts of numerous of the United States which had resulted in 70 percent of more of this country, geographically, being to all intents and purposes "dry" before the Eighteenth Amendment was adopted. The forces, social, economic and political, which have made the worldwide movement for prohibition, will result in upholding the Eighteenth Amendment or substituting some other form of legal repression. And the advocates of a change from the present system would strengthen their case immensely if they proposed a workable plan which embraces their universal claim that the saloon must never return—and if the saloon is to be kept away there must be the strongest sort of legal repression.

Mr. Hoover did not write the Eighteenth Amendment nor draft the Volstead Law. But in his seven years as a member of the Cabinet he was in a position to appraise the effectiveness—or lack of it—of the Government's machinery for Prohibition enforcement, and he took office as President with a clear understanding of the magnitude and complexity of the problem and with definite ideas of what was needed to make the Federal enforcement machinery function better, if not perfectly.

He lost no time after taking office in initiating the reorganization of the law-enforcement machinery. The reorganization is not yet complete, but it is under way. Until it shall have been completed, and is functioning to the best of its capacity, the President is not concerned with the popular outcry that "Prohibition cannot be enforced." That is a statement of opinion, not necessarily of fact.

That it has not so far been enforced effectively he is perfectly willing to concede. That is a fact. No one recognizes that fact more clearly than he does. The failure has been partly in the Federal machinery and partly in the State machinery. But even though Congress has not as yet given him all of the tools for better enforcement for which he has asked, the President believes that the Federal machinery of enforcement is more efficient now, after his first year in office, than it was before. He has reason to believe this for there has been a very great increase in convictions for all kinds of crime during the past six months.

And that, as he sees it, is what he was elected for. Mr. Hoover was nominated for the Presidency on a platform which declared in no ambiguous terms for "the vigorous enforcement of this provision of the Constitution." Mr. Smith's platform called for "an honest effort to enforce the

Eighteenth Amendment."

There is no national difference of opinion on this phase of the subject.

In other words, Mr. Hoover took office, as he believes, with a clear mandate from the people of the United States to enforce the Eighteenth Amendment and the laws adopted by Congress thereunder, and, what is more, he considers the most important issue before the American people is the reduction of criminality and disobedience to laws of all kinds—and prohibition is not the only crime in progress.

How important he regards it is easily deduced from the emphasis which he laid upon it in his inaugural address and in his first regular message to Congress.

I am going to quote here from the President's public utterances emphasizing the point that he still holds the same views.

"I have been elected to enforce and execute the laws of the country," Mr. Hoover said in his inaugural address. But he recognized there that the prohibition law can be enforced only with the cooperation of the public.

"The measure of success that the Government shall attain," he said, "will depend upon the moral support which you, as citizens, extend."

"The duty of citizens to support the laws of the land is coequal with the duty of their Government to enforce the laws which exist. For our citizens to patronize the violation of a particular law on the ground that they are opposed to it is destructive of the very basis of all that protects our life, of homes and property which they rightly claim under other laws," he said on March 4, 1929. "If citizens do not like a law, their duty as honest men and women is to discourage its violation; their right is openly to work for its repeal. Our whole system of self-government will crumble if officials elect what laws they will enforce or citizens elect what laws they will support."

About all a President can do with the citizens of the country as a whole is to point out that they have an obligation to obey the laws as long as these laws are laws. But his active efforts at enforcement of the law are aimed at the professional lawbreakers.

"To those of criminal mind," he said at the same time, "there can be no appeal but vigorous enforcement of the law."

Well, what is President Hoover doing or trying to do to, with or about "those of criminal mind" in the matter of prohibition enforcement?

He tackled this problem in the way in which he tackles every administrative problem. "First get the facts." The way to get facts is to engage experts in that particular kind of facts to dig them out. One of Mr. Hoover's first acts as President was to appoint a commission, headed by George W. Wickersham, to investigate and report upon the whole problem of law enforcement.

In the meantime, he turned his attention to the personnel of the Federal Prohibition Enforcement Unit.

One of the greatest obstacles to efficient enforcement has been the character of the men, or many of them, originally engaged to enforce the law. In the first few years of Prohibition the term "prohibition agent" became almost a synonym for dishonesty and corruption. The temptation to connive at violations of the law was too great for many of them to withstand. And many got themselves appointed because they wanted the opportunity to sell out the Government to the illicit liquor interests.

So long as appointments to the Prohibition and other law enforcement forces were made under political pressure and without regard to fitness, this state of things was bound to get worse instead of better. Congress had, after nearly nine years of the old system, authorized the Executive to pick the enforcement personnel in the same way other Government employees are chosen, by examination as to fitness and character.

Mr. Hoover believes that this is already resulting in improvement in the efficiency of the Prohibition forces, and the work is proceeding rapidly of improving the service. That process is going on, and men of a high standard of character, courage and a sense of duty are replacing the irresponsible ones.

Prohibition enforcement has been a function of the Treasury Department ever since the Volstead Act was passed. That was done in the first instance because there was already in the Treasury the nucleus of a force skilled in hunting down illicit liquor for taxation purposes. In the old days the Federal Government did not concern itself with who made or sold liquor, or where or when it was sold. It was concerned only with seeing that every gallon paid its tax, that every dealer paid his Federal license tax.

Tax-collecting was a proper function of the Treasury, but the enforcement of Prohibition never was. President Hoover urged strongly upon Congress his request for authority to transfer this phase of law enforcement to the Department of Justice, which is the proper place for it. Most other criminal statutes of great importance come under the jurisdiction of the Attorney General, who has a better machine for handling crime than the Treasury has or should have.

This transfer, which the President regards as the second important new tool in his hands for more efficient enforcement, has been agreed upon by the House of Representatives but not, as I write this, by the Senate.

However, there seems little doubt that it will shortly have been made law by the action of both houses.

Then, Mr. Hoover thinks, he will have no more efficient enforcement machine, under better control than he has had up to now.

For a third line of control, the President is urging upon Congress the consolidation of all of the border patrol and coastal protective services into one. There are five different units now engaged in protecting the borders of the United States against the entry of smuggled goods. They are the Customs Service, the Immigration Service, the Coast Guard, the Prohibition Unit and the Narcotics squad.

Each of these has its separate function, and not a man of one of them willingly does anything to help the others. They operate under different chiefs, with different methods.

All of these, the President believes should be consolidated into a single Coast Guard border patrol, which would guard the Canadian and Mexican borders as well as the seacoast. He has asked Congress to authorize this. What Congress will do is still uncertain. If the President gets the authority he seeks, he feels confident that the flow of imported liquor over the borders can be checked down to a trickle. He has no illusion that it can be stopped altogether. We have had laws against smuggling for a hundred years and more and still smuggling goes on. England has tried for a thousand years to stop smuggling, but still some illicit merchandise gets past revenue officers.

"It is not to be expected that any criminal law will ever be fully enforced so long as criminals exist," is the way Mr. Hoover has phrased it. And if Congress does not strengthen his arm in the matter of protecting the borders, he will go ahead and do the best he can with the existing forces on the borders.

The next line of attack is his statement that there is no hope of real enforcement of the criminal laws—and there are many besides prohibition—unless Congress will do something to lessen the congestion in the courts. So long as bootleggers, narcotic sellers, automobile thieves, can be sure of a year or two years before they come to trial they are willing to take a chance.

The fourth line of criminal law enforcement, as the President sees it, is reform in the methods of procedure in the Federal Courts. This has been strongly urged by the Commission of Law Enforcement.

As matters stand today, there are something like 80,000 cases of violations of Federal criminal laws brought before the Federal courts each year, of which only 10,000 or so go to final trial. The rest of the prisoners plead guilty and are fined \$100 or some other sum. This amounts, in effect, to a licensing system for bootleggers and thieves.

The reason for this is that the Federal courts have to handle all Prohibition cases and all other crimes by the processes of indictment by a Federal Grand Jury and a trial by a District Judge before a petty jury. In state court systems there are magistrates before whom minor violations of law are tried, usually without a jury. The right of any prisoner to

a jury trial is not denied, but the great majority of cases for which men are sent to prison for terms under a year, are tried in these minor courts.

The President's Commission on Law Enforcement has recommended, and the President has approved and requested Congress to authorize, the setting up of a similar system for handling Prohibition cases, and the grading of offenses under the Prohibition and other criminal laws. As the laws stand now almost any violation of the Prohibition law is a felony, except casual or slight violations. With "casual or slight violations" defined and the prisoner being willing to waive a jury and the District Attorney willing for him to plead to a minor offense he can be tried without a grand jury indictment, by a method corresponding to trial in magistrates' courts in such cases limited by law to a moderate fine or a short term of imprisonment. The prompt punishment of offenses against the Prohibition and other criminal laws could be assured, the President believes, and respect for the law impressed upon the criminal classes by the only means which they can understand.

This whole question of court procedure is now before Congress. It is too soon to predict what Congress will do about it. There may be no action at this session. But Mr. Hoover does not expect every one of his reforms to take effect overnight.

I wish to make it clear enough that when Mr. Hoover once takes a stand on any question he stays put. He does not shift his ground, because he does not take a stand until he feels sure of his ground. Some folks say he is stubborn. That does not imply that he is deaf to argument, but it takes facts to move him materially from a course once set; facts which have developed since he charted his course, or which were unknown to him when he set out.

The facts about Prohibition, so far as the laws on the subject go and the responsibility upon him for their enforcement are concerned, have not changed since Mr. Hoover became President. He has no option, as he sees it, but to go ahead and do the best he can under the laws as they exist, meantime asking Congress to change those laws only so far as necessary to enable him to enforce the basic law more effectively.

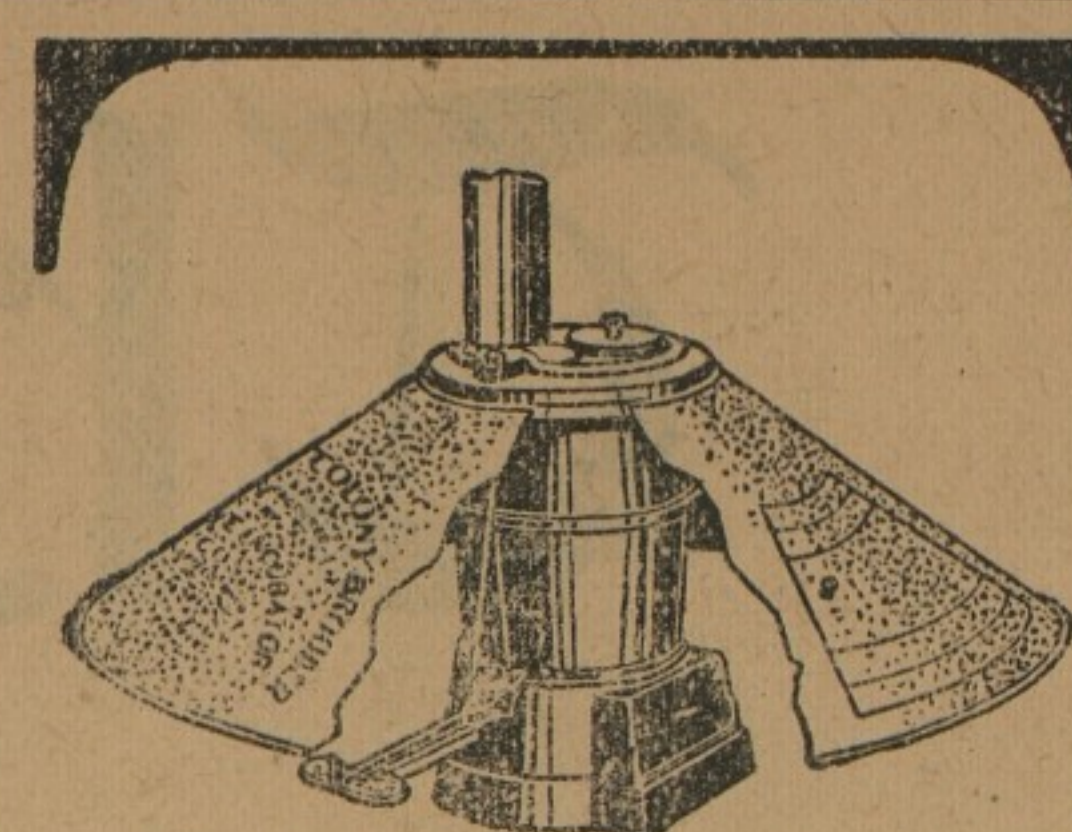
The President has not asked Congress to change the basic Prohibition

law. What he would do if Congress should change it, modify it to permit the sale of light wines and beer, for example, or raise the permitted alcoholic content of beverages, is a question which I cannot answer and which Mr. Hoover himself probably would not answer except in the light of the facts at the time as they might occur.

What his personal opinion of the Eighteenth Amendment and the Volstead Act is I did not ask him. When he described the Eighteenth Amendment as an experiment "noble in purpose" he did not give me a blanket endorsement for all time. What he was indicating was that the feasibility and workability of the present system has yet to be proved and that it has not yet had a fair trial.

But I believe, also, that until the Government has had a full opportunity to demonstrate the best it can do to enforce the present laws, an opportunity which Mr. Hoover has not yet had and will not have until Congress asked for, it will not have had a fair trial. Furthermore, the states must take their share of responsibility if it is to have such a fair trial.

By the end of Mr. Hoover's term, or before, we will have a lot more facts on which to base acceptance of or further agitation for the amendment of the present Prohibition laws. My personal belief is that one of the facts which will have been proved by that Prohibition can be enforced as well as any criminal law is ever enforced. I think Mr. Hoover shares that belief, provided always that the different states will do their part in the enforcement.



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