

# THE AMERICANS: THE DEMOCRATIC EXPERIENCE



DANIEL J.  
BOORSTIN  
BY THE AUTHOR OF THE DISCOVERERS

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altering the balance of forces in the representative system. The American people might rush to the cities, but the Constitution continued to provide new resources of wealth and power, and powerful voices, for the interests of a new West.

## 8

### Crime As a Service Institution

"THE HIGH LEVEL of lawlessness," Walter Lippmann observed in 1931, "is maintained by the fact that Americans desire to do so many things which they also desire to prohibit." This observation, which might have been truthfully made in the United States at almost any time after the Civil War, was occasioned by the report of President Herbert Hoover's National Commission on Law Observance. The commission had been charged to look into the whole federal system of law enforcement, and especially to investigate the enforcement of the Eighteenth Amendment, which prohibited the manufacture, sale, or transportation of intoxicating liquors. After nineteen months of work and the expenditure of a half-million dollars of federal funds, the eminent commission, headed by former Attorney General George W. Wickersham, offered its report on January 19, 1931. Public interest focused on the commission's conclusions on Prohibition.

Whatever its strengths in promoting reforms of police and correctional procedures, the Wickersham Report was a wonderfully accurate self-portrait of the national confusion. The commission (by a vote of 10 to 1) opposed repeal of the Eighteenth Amendment. But they reported that public hostility and the profits of bootlegging had made the Prohibition laws unenforceable. Individual commissioners salvaged their consciences in separate reports, each with its own kind of equivocation. "A perfect picture of the public mind," the *San Francisco Chronicle* called it. President Hoover said that he agreed with the commission, which led Heywood Broun to note the President's "apparent intention to fuse the Anti-Saloon League and the Republican Party, retaining the worst features of each." The best summary was Franklin P. Adams' poem in the *New York World*, entitled "The Wickersham Report":



Prohibition is an awful flop.  
We like it.  
It can't stop what it's meant to stop.  
We like it.  
It's left a trail of graft and slime,  
It don't prohibit worth a dime,  
It's filled our land with vice and crime,  
Nevertheless, we're for it.

But this was not the first time that Americans had found the means to preserve both the satisfaction of forbidding vice and the opportunity for its profitable enjoyment.

THE AMERICANS' DESIRE to gamble had been equaled only by their desire to see that gambling was legally forbidden. They loved the moralistic witticisms of Elbert Hubbard, who observed that "the only man who makes money following the races is the one who does so with a broom and a shovel." But there was an element of gamble in all American life, which made it hard to distinguish the prudent planner from the man who won by taking chances—on the fertility of unknown land, on the salability of half-known new minerals, on the prospects of unbuilt railroads and unpopulated cities.

Individual professional gamblers of great wealth were known here as they were in Europe. The elegant "Dick" Canfield, for example, built a gambling club furnished with works of art next door to Delmonico's in New York, helped make Saratoga into the "Monte Carlo of America," and died a respected millionaire-philanthropist. But what made gambling an American enterprise were the peculiarly American opportunities to organize illegal activities into nationwide big business. Several circumstances made this possible: a federal system with a confusing variety of state regulations, and each state's jurisdiction locally confined; a national government with powers so circumscribed that it was compelled to use control over "interstate commerce" and the power to tax as a substitute for a national criminal code; the continuing influx from abroad of new Americans, energetic and ambitious, of various religions, ignorant of and indifferent to local mores; a national tradition of golden opportunities for everybody, but where lawful and respectable opportunities appeared to have been preempted by earlier comers; a mobile people in a fluid society, where social position could be bought with money; a vast continent with speedy techniques of communication and transportation, and lots of places to hide. Brooding over all was the national tradition, opportunity, and challenge to *organize*. Moralistic and un-



realistic laws, as Walter Lippmann explained, provided the underworld with its own effective protective tariff. The result, in the twentieth century, was perhaps the most flourishing array of outlaw enterprises ever found in a modern nation.

Long before the Nevadans decided to change their laws so they could profit legally from the widespread desire to gamble, Go-Getters elsewhere had organized gambling into a remunerative business. They, too, had tried to draw customers from the whole nation.

Chicago, a center of national enterprises in railroad building and meat packing, was to be a center, too, for the new business of gambling. Mont Tennes, destined to become the biggest gambling operator in the nation before World War I, started modestly in Chicago. Ostensibly a real estate man and owner of a cash-register company, he achieved success from his talent as an organizer. By 1904 Tennes owned a few saloons, a cigar store at 123 North Clark Street, and a string of race horses, and was already known in the gambling world as King of Chicago's North Side. His places were raided by police about once a week, but they promptly reopened. From time to time Tennes announced his retirement, which one newspaper called "repeated swan songs sung for the benefit of the police." A war between rival gambling "syndicates" (in this sense an Americanism just coming into use) began with six bombings in 1907. "I am a marked man," Tennes told the Chicago *Evening American*. "A price has been set upon my life and I am more liable to be assassinated than Alfonso, the Spanish King." At the end of the war, Tennes had established himself as the nation's king of gambling.

Applying a chain-store idea to his illegal gambling establishments, he soon had thirty handbook operations in saloons and poolrooms in Chicago alone. His leadership came from his organized control of the telegraph services that brought in daily returns on races from tracks throughout the country. The racing wire news service was essential to the bookie's operation. For it gave him information on the odds at the track up to the last minute, facilitated his own bets, and made possible the rapid and accurate settling of betting accounts. Tennes paid the Payne Telegraph Service of Cincinnati \$300 a day for exclusive control of the service in Chicago; then he used fire, dynamite, and sometimes the police themselves, to persuade other gamblers to use his service. Later, at considerable personal risk, Tennes set up his own nationwide General News Service, to bring "more reliable" information from the race track. He warned that competitors were trying to break up his business by sending out "wrong winners." With the support of Chicago's three most influential aldermen—Hinky Dink Kenna, Hot Stove Jimmy Quinn, and Barney Grogan—he succeeded in forestalling an investigation. Trying to satisfy the reform-



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ers, Chicago's Chief of Police John McWeeney announced a vigorous new police campaign against the slot machines in which "children wager pennies for candy" and against gambling with dice for drinks and cigars. Meanwhile the Interstate Commerce Commission had decided that the transmission of race-track results was legal.

In 1923 Tennes was said to be netting \$364,000 per year from his two hundred handbook "joints" in Chicago alone. Although periodically, after reform campaigns and ostentatious raids, the police would declare that they had shut down his operation, Tennes continually protested that he was nothing but an innocent dispenser of sporting news, and he was never himself arrested. What finally forced Tennes' retirement about 1928 was not the activities of the police, but the rise of the powerful Capone gang.

Tennes was only one of an impressive gallery of Go-Getters on illegal frontiers. They prospered by selling to Americans something that Americans wanted to prohibit by law. In 1910 Congress passed the Mann Act ("White Slave Traffic Act"), which prohibited the interstate transportation of women for immoral purposes. In 1913 the Supreme Court ruled the act constitutional on the grounds that the illegalizing of prostitution properly fell within federal control over "interstate commerce." But five years later, in 1918, the Court ruled in *Hammer v. Dagenhart* that control of the products of child labor fell outside federal powers over commerce.

Meanwhile Big Jim Colosimo was making his fame and fortune by organizing prostitution into big business in Chicago. After his murder by business competitors in 1920, Colosimo's spectacular funeral attested to public gratitude for the man and his works. Archbishop George Mundelein refused a Catholic burial to Colosimo, but a priest tactfully explained that "it cannot be assumed that the fact of one's being a gangster or bootlegger is alone the cause of his being refused Christian burial, for each individual case must be considered." Five thousand mourners witnessed what, in the words of the *Chicago Tribune*, was "a cavalcade such as moved behind the funeral car of Caesar . . . to pay homage to the memory of the man who for more than a decade has been recognized as the overlord of Chicago's underworld." The public list of honorary pallbearers included three judges, eight aldermen, an assistant state's attorney, two congressmen, leading artists of the Chicago Opera Company, along with gamblers, associates, and ex-associates in Colosimo's business of prostitution.

THE GREAT OPPORTUNITY for illegal enterprise had come, of course, with Prohibition. On December 18, 1917, Congress approved



and submitted to the states a constitutional amendment prohibiting "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes." Ratified as the Eighteenth Amendment by the required number of states on January 29, 1919, it went into effect one year later. Only Connecticut and Rhode Island had failed to ratify. To enforce the amendment, Congress passed an act (October 28, 1919) shaped by Congressman Andrew J. Volstead from rural Minnesota. The Volstead Act defined "intoxicating liquor" as any beverage containing more than one half of 1 percent of alcohol, and put enforcement of the law under the Bureau of Internal Revenue in the Treasury Department. To perfect the law's high purpose, Congressman Volstead soon offered another act, which prohibited the sale of beer to the sick on medical prescriptions.

Historians disagree over what forces were mainly responsible for passing the Eighteenth Amendment. The voting in the legislatures of the forty-six states that ratified showed that in the upper houses about 85 percent of the members and in the lower houses about 78 percent favored passage of the law. By 1917, even before the amendment was introduced, state-wide prohibition of some sort had already been enacted in twenty-three states, and thirteen were totally dry. Among explanations for passage of national prohibition, we must include the long-standing abuses of the saloon, the wartime concern for conserving grain for food, chauvinistic feeling against the German-Americans who were prominent in brewing and distilling, and the disproportionate political influence of the Anti-Saloon League at a time when large numbers of men were absent in the armed forces. Topping all was the moral fervor inspired by a War to Make the World Safe for Democracy. But whatever the causes of national prohibition, there can be little disagreement about the consequences. It created the greatest criminal bonanza in American history, and perhaps in all modern history.

"Prohibition," the generic word that might have described vast areas of American legislation, now came to mean specifically the prohibition of alcoholic beverages. The Prohibition Party, still in existence in the late twentieth century, is sometimes described as the oldest of American "third" parties, and so is symbolic of even more than its founders intended. No earlier piece of federal legislation, not even the Fugitive Slave Act, was so productive of widespread illegal enterprise or became so prominent in presidential politics. For no earlier legislation of the federal government had so touched the intimate habits of so many Americans, nor so flagrantly violated their daily customs, habits, and desires.



Among the clues to the impotence of Prohibition to prohibit what it legally forbade, none is more revealing than the history of the American language. No legislation could prevent Americans from talking about what interested them most, and American speech showed its usual expressive fertility. *Drunk*, according to the scholarly *Dictionary of American Slang* (1960), by Harold Wentworth and Stuart Berg Flexner, is the subject of 331 slang synonyms which is the largest number for any activity, condition, or concept, including sexual acts. Some expressions (such as *half-seas over*, or *oiled*) go back to colonial times. Others date to the period of first adjustment of the various immigrant groups when, editors Wentworth and Flexner explain, "a fair number turned to whiskey as a compensation for the rejection they suffered as newcomers in a strange land." But most of the words for *drunk* originated or became popular during Prohibition.

During this same period the American language was being enriched, also largely as a result of Prohibition, by a whole new vocabulary of crime. *Gangster*, for example, which in the last years of the nineteenth century had come into use to refer disparagingly to crooked politicians who formed gangs, became obsolete in that sense and by about 1925 referred to criminals. *Moll*, a respectable old English word which originally meant simply a girl or sweetheart, became obsolete in that sense, and in the Prohibition Era, came to mean a gangster's female accomplice. *To take someone for a ride* during these same years came to describe a new institution of American criminal life requiring the automobile.

In other ways, too, the automobile was essential to the day-to-day operations of the well-organized criminals on urban frontiers. Gangsters were often better equipped than the law-enforcing agencies that had to operate within limited budgets and had to persuade public bodies of the reasonableness of their requests. The automobile gave the Prohibition gangsters the "getaway car" in which they could elude the police, dispose of their enemies, and quickly move to another jurisdiction where the pursuing police had no authority. The automobile also made their customers more mobile, and this enabled them to disperse their illegal activities into roadhouses far out in the countryside, or when more convenient to concentrate their gambling resorts, houses of prostitution, and speakeasies in suburbs like Chicago's Cicero. It is hard to imagine how bootleggers of beer and liquor could have prospered by relying on the slow-moving horse and wagon or on the inflexible routes of the railroad. For their purposes the truck was perfect. And it took some time before the radio actually gave any advantage to the police. When radio station WGN in Chicago first began its police broadcasts, the



word went out over the public wavelengths, which meant that well-equipped gangsters often had the information as soon as the police. It was 1930 before the police installed special radio systems.

THE TOWERING FIGURE of crime in the Prohibition Era was, of course, Al Capone. But he was only one in a succession of giant criminal entrepreneurs—from Tennes, through Colosimo and his successor John Torrio, to Capone himself. Each followed and improved on the organizing techniques of his predecessor. By the time Capone arrived in Chicago from the New York slums in 1920, there was a gangster tradition with its own folkways and loyalties. Capone's task was not so much to invent as to develop, elaborate, and organize. And for all these roles he proved superbly competent.

In 1925 Al Capone took over from John Torrio, who had been the leader of organized crime in Chicago since the murder of Colosimo five years before. Capone's organization differed from that of some other Chicago gangs (as the sociologist John Landesco's delightful understatement explained) "in that it is not an outgrowth of a neighborhood play group. The Capone gang was formed for the business administration of establishments of vice, gambling and booze." Within two years Capone dominated the establishments that were providing Chicago's citizens the illegal services and commodities they were willing to pay for. Capone, preferring not to risk his own capital, allowed others to own the speakeasies, the houses of prostitution, and the gambling casinos. Instead he elaborated his profitable system of "protection," a blackmail scheme which brought him a regular income from these establishments in return for his guaranteeing their immunity from police raids and from arson, bombings, or murder by his own or rival gangsters. To enforce this system of protection Capone had to find, train, and organize a large and loyal personnel with special qualifications. Wealthy customers could receive from him their choice imported liquors because he had established a nationwide organization that smuggled from Canada, Atlantic ports, and Cuba. Capone's system required the organized cooperation of law-enforcement officers. For the revolvers they carried, Capone's men secured permits from friendly judges, and Capone controlled the elections in Cicero, his suburban headquarters outside Chicago. Chicago's Mayor Big Bill Thompson had helped Capone lay the foundation of all his enterprises. In the late 1920's some national political leaders were reportedly enlisting Capone's aid in the management of federal elections.

Following the practice of his predecessors, Al Capone was careful to keep himself "clean," which meant avoiding any legally detecta-



ble ties to the acts of blackmail, kidnapping, and murder committed by his subordinates. But there was no secret about Capone's business or the methods which made him prosper. "The John D. Rockefeller of some twenty-thousand Anti-Volstead filling stations" (as one biographer characterized him) by 1929 was worth at least \$20 million, but there was no way of estimating his power. Capone himself insisted that he was just another Go-Getter seizing his peculiarly American opportunities. "I make my money by supplying a public demand. If I break the law, my customers, who number hundreds of the best people in Chicago, are as guilty as I am. The only difference between us is that I sell and they buy. Everybody calls me a racketeer. I call myself a business man. When I sell liquor, it's bootlegging. When my patrons serve it on a silver tray on Lake Shore Drive, it's hospitality." Reformers thought the supply of liquor could be suppressed without reducing the demand, but Capone knew that it was the mores of the time that provided him his opportunities. After he retired to Florida in 1929 he was finally convicted and jailed in 1931 for failing to pay his federal income tax. Sentenced to eleven years in prison, he was released because of poor health in 1939, and died in Florida in 1947.

THE REMARKABLE RISE of organized crime in the twentieth century is only another episode in the saga of restless new Americans reaching for opportunities to enlarge their fortunes and to rise in the world. On the list of the most successful organizers of crime as a service institution were a striking number of recent Italian immigrants. Tennes, Colosimo, Torrio, and Capone were all born in Italy and were brought here at an early age. Despite the strong anti-immigrant and anti-Italian bias of the lengthy congressional investigations and voluminous reports on the immigrant record in the early twentieth century, there was no convincing evidence that any immigrant group had a criminal bent. The prominence of Italians in the annals of organized crime in the early and mid-twentieth century tells less about the Italian immigrants themselves than about the situation they found when they arrived. They were the last of the major immigrant groups to reach American shores. Consequently, the sociologist Daniel Bell has pointed out, they found the more obvious and more respectable paths to success preempted by the earlier comers.

Most of the Italian immigrants of the late nineteenth century were peasants with few of the skills that could help them rise in an urban, industrial world. The Italians, Jacob Riis observed, had "come in at the bottom." Even within the Catholic Church, where they comprised a considerable proportion of the communicants, they found



little opportunity for leadership. As late as 1960, when Italian-Americans numbered one sixth of American Catholics, there was not one Italian-American bishop of the hundred Catholic bishops, nor one Italian-American archbishop of the twenty-one Catholic archbishops. The Irish-Americans, who had arrived in large numbers a half-century before the Italians, were in charge of the American Catholic hierarchy.

The Italian community, then, as Bell observes, had to find their opportunities in the interstices, in enterprises not already pre-empted, in those which required neither capital nor specialized training. The success of some of their number in organizing to supply outlawed products and services attested to their determination to find here the opportunity to rise which for generations had been denied them in their Old World homeland. Al Capone's complaint had a historical foundation: "Why, I tried to get into legitimate business two or three times, but they won't stand for it."

Historians have been tempted to facile analogies between the Sicilian secret terrorist organization, the Mafia, which was originally founded to defend the poor and oppressed peasants against their ruthless landlords, and the twentieth-century gangs in American cities. Although Senator Estes Kefauver's televised hearings of the Senate Crime Committee aimed to prove the existence of a national and international Mafia, the main product of the hearings was a new kind of TV spectacular and a vice-presidential nomination for Senator Kefauver.

The Mafia became more vivid and more credible than ever after World War II. For instance, during the Allied invasion of Sicily in July 1943—so the story went—Lucky Luciano (allegedly the head of the Mafia in the United States, at that time serving a thirty-to-fifty-year prison sentence on sixty-two counts of compulsory prostitution) who was a native of Lercara Friddi, a village on the Allied invasion route to Palermo, planned collaboration with the Sicilian Mafia to aid the Allied invasion. The naval intelligence officers who testified at Luciano's parole hearings in 1945 refused to confirm the story, but by 1946 Luciano had been released and returned to Italy, where he was living in a Palermo hotel suite next door to Don Calò, the acknowledged leader of the Sicilian Mafia. How much he was able to add to the repertoire of the Sicilian Mafia from the lessons learned on the illegal frontiers of the New World will never be known.

The Sicilian Mafia experience may have been informally transplanted to America, just as a century earlier the Irish immigrants had adapted their techniques of organizing against the oppressive English landlords to the new politics of the American city. Some features of Italian institutions—the close family ties, and the intense quasi-



tribal feeling among residents of particular parts of Italy—played a part in the success of the criminal organizations in some American cities. That Capone's men, held together by tribal loyalties, were willing to die for him gave him a great advantage over gangs united only by moneymaking. A potent competitor of the Capone gang in Chicago in the late 1920's was the O'Banion gang, whose leaders (in addition to O'Banion, who was Irish) included a Jew, an Italian, a Pole, and still others. Ethnic balance could add power to a political ticket, but did not similarly strengthen a criminal gang. The gang depended more on personal loyalties than on a public appeal, and the O'Banion gang eventually lost out.

American gangsters, who only recently had arrived as downtrodden peasants, became rich businessmen and mayor-makers. And these quickly took their place in the iridescent American folklore of adventuring Go-Getters. For the earlier tales of Western sheriffs and desperadoes, American moviemakers in the twentieth century found counterparts on the urban frontier in tales of loyal, smart, ambitious gangsters and corrupt, stupid, indolent cops.

The hesitation of Americans to abandon their virtuous prohibitions appeared in the shrewd reluctance of presidential candidate Franklin Delano Roosevelt in the campaign of 1932 to take a firm stand for repeal. But Depression and unemployment and the need for jobs in a legalized liquor industry made moralism a too-costly luxury. In February 1933 Congress approved a resolution calling for a constitutional amendment to repeal Prohibition. Within less than a year, the Twenty-first Amendment to the Constitution was adopted by the necessary number of states, and alcoholic beverages were legalized.

Even after the nation as a whole had abolished the nationwide prohibition of alcoholic beverages, separate states kept their own prohibition laws. As late as 1959 two states, Oklahoma and Mississippi, still outlawed alcoholic beverages. An allegory of American history was lived out in April of that year when citizens of Oklahoma once again faced a referendum on changing their state constitution to legalize liquor. In the last hours before the citizenry went to the polls, bootleggers (who had found Oklahoma a refuge of their former prosperity) and Protestant ministers joined in futile all-night prayer meetings against repeal. It was 1966 before Mississippi adopted a local-option liquor law and so became the last state to abandon the luxury of prohibiting what its citizens desired.

After Repeal, the most promising business opportunities created by law were no longer in alcohol. Street prostitution, which had been a rich resource for illegal enterprise in the late nineteenth century, also was losing its commercial promise. The telephone, which had facilitated violations of Prohibition, also brought into being the high-



priced "call girl" (an Americanism which had entered the language by mid-twentieth century) and made her less conspicuous and so less subject to arrest. At the same time loose tax laws provided ways of charging off her services as a business expense for "entertaining customers." Changing sexual morals, looser as the century advanced, and medical innovations reducing the risks from casual sexual encounters, made the sexual commodity so available that it was harder to sell. As Alexander Woollcott complained, prostitution, like acting, was being "ruined by amateurs."

The profits of illegal gambling, however, increased with the years. By the late 1960's, informed observers agreed that it was a multibillion-dollar business, and probably the largest single source of income for organized crime. In 1967 the President's Commission on Law Enforcement estimated the annual profits of illegal gambling at somewhere between \$7 billion and \$50 billion.

By mid-century, organized crime had turned successfully from bootlegging alcoholic beverages to pushing narcotics. While in the days of Prohibition the bootleggers had aimed to satisfy a demand that was already there, when organized crime turned to narcotics it also undertook to stimulate the demand. This in turn created problems of new proportions, without precedent in American history.