ABSTRACT

FROM SUASION TO COERCION: TEMPERANCE REFORM AND PROHIBITION IN ANTEBELLUM MAINE

by Daniel Christopher Melega

Historians of nineteenth-century temperance reform are quick to elevate Neal Dow and the 1851 Maine Law as the example of antebellum prohibition efforts. While Maine’s first-in-the-nation ban on the manufacturing and selling of liquors was unique, it was anything but prohibitive. The law, complete with exceptions and limited consequences, operated more like a tax on those engaged in the practice and that was only if prosecutors and judges did not nullify the law themselves. As a result, characterizations of the Maine Law as prohibitory and Dow as the father of prohibition in Maine deserve critique. Through an examination of newspapers, judicial records, petitions, and the legislative record, one finds that the temperance reform narrative in Maine is much more complex. Mainers of dispersed geographic, socio-economic, political, and religious backgrounds grappled with what, if any, role the state should play in pursuing moral improvement. This work decenters the prohibition narrative away from Dow and focuses on the multifaceted causes of and reasons for the Maine Law’s rise and failure. As a consequence, the statewide temperance effort, including the conflicting views within it on “the drink,” receives deserved attention.
FROM SUASION TO COERCION: TEMPERANCE REFORM AND PROHIBITION IN ANTEBELLUM MAINE

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For my Grandmother
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“Rum did that!” Neal Dow would claim as he crisscrossed Portland’s streets pointing out the disastrous effects of alcohol.¹ For Dow, one of Maine’s most recognizable businessmen, political elites, and temperance crusaders, “the drink” was society’s major vice responsible for poverty, criminal behavior, and intoxication.² To eliminate these scourges, the solution was simple: statewide prohibition, which would eradicate the moral ills brought on by demon rum. By the summer of 1851, Dow got his wish. Maine passed a first-in-the-nation prohibition law, and twelve northern states and territories joined the prohibitory fray by 1855.³ Reformers succeeded in legislating one of the great moral issues of the era out of existence (or so they hoped), and Maine led the way. What was remarkable about all of this was not the fact that temperance reform was on the national agenda, the issue had been present in American life for three decades, but rather, the sudden success of reformers to pass the most stringent kinds of state laws proscribing alcohol.

The impetus for reform legislation, according to historians, usually travelled three paths: a religious one espousing moral improvement, a socio-economic one linking workplace efficiency with one’s ability to provide for the family, and a more hostile class-based, anti-immigrant approach.⁴ These motivations seemingly made Maine an unlikely first stop for prohibitory success. First, rampant industrialization, associated large-scale immigration, and wage earning did not characterize Maine’s economy in the same way as it did other states, and second, the fervor of moral reform was stronger elsewhere, especially across sections of upstate New York and the Ohio Valley.⁵ An older body of scholarship on the history of Maine points to the importance of Portland mayor Neal Dow for the passage of temperance laws. These biographical works, however, ignore the temperance phenomenon in Maine in broader terms. Namely, they leave out the efforts of others in the temperance campaign, and they cast too small

² Ibid.
³ Ibid.
⁵ Ibid.
of a geographic lens by looking mostly at Portland. What is missing in these works is a broader societal analysis.

Charting a course from the late 1830s to 1856 (the repeal of Dow’s 1851 Maine Law), the progression from moral suasion to legislation to address the alcohol problem is clear. Rather than cast the reasons for temperance success as the consequence of one man, however, other factors demand attention. First, what were the circumstances that resulted in Mainers, generally, supporting temperance reform efforts? Second, why did legislation become the preferred way of addressing the temperance issue, and third, to what degree was the legislation successful in accomplishing the goals of the reformers? Taken together, then, this manuscript will not only address temperance reform in Maine, but will also address the attitudes Mainers held on temperance reform and what they suggest about their willingness to rely on the coercive power of the state to pursue moral reform.

By focusing on the public discourse present within the press, statewide judicial records, and a collection of legislative and legal materials, the concerns and motivations of Mainers to pursue and/or oppose temperance reform come into sharper focus. Additionally, by removing Neal Dow as the center of the temperance struggle and placing him back within the wider context of the statewide temperance movement, Maine’s men and women, geographically dispersed, denominationally diverse, politically different, and socio-economically divergent come to the fore in an illustration of the competing strains of antebellum, reform-minded thought. Suasionists pursued personal appeals and individual conversion to dissuade men from liquor while prohibitionists embraced the power of the state to compel positive behavior, and, of course, opponents of reform worked hard to maintain their economic and personal liberty to choose intoxicants.

Moving away from simplified models looking to cast one or two factors as the key motives for social reform, and in keeping with approaches that embrace a more complex

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6 Frank L. Byrne, *Prophet of Prohibition: Neal Dow and His Crusade*, Madison, WI: Department of History, University of Wisconsin, Madison, 1961; In his 1961 review of Frank L. Byrne’s *Prophet of Prohibition: Neal Dow and His Crusade*, Bowdoin College Professor William B. Whiteside noted that the work had “serious limitations.” Chief among Whiteside’s critiques included their being “insufficient attention…paid to the forces for and against prohibition” other than to “indicate Dow’s contact with individual leaders.” Additionally, Whiteside suggested a need for a “larger significance” to be drawn from Byrne’s work beyond its mere biographical focus. *William B. Whiteside, “Prophet of Prohibition: Neal Dow and His Crusade” (Book Review), The Mississippi Valley Historical Review* (48), no. 2 (Sep., 1961), 307-308.

7 Byrne, *Prophet of Prohibition: Neal Dow and His Crusade*.

8 Ibid.
narrative of change, historians have found no single reason: socio-economic, religious, and/or political, responsible for prohibition demands. As Americans faced the new realities of the industrial city and the participatory political age, older authorities lost influence, and reformers of various stripes and interests quickly filled the void left by the collapse of traditional institutions and individual authorities. Although historians have agreed on the complex causality of reform movements, they have diverged on the issue of who drove reform and how.9

Broadly speaking, two camps emerged from the conversation. The first, characterized by the works of Sean Wilentz, Nathan O. Hatch, and others saw a democratization narrative characterized by demands for greater participatory influence and socio-economic access as central to addressing the ills of the day. With the exclusionary attitudes of the likes of Lyman Beecher, a Presbyterian minister and cofounder of the American Temperance Society, who once noted “Illiterate men have never been the chosen instruments of God,” falling out of favor, Hatch suggested that the religious message became increasingly shaped by the audience, the congregation itself.10 Likewise, Wilentz’s 2005 work, illustrated how audience control or the role of the masses in the public sphere came to shape all elements of American life as a Jeffersonian coalition of urban workers and rural farmers became key to overthrowing earlier Federalist attitudes of rule by the few. At its core then, the antebellum story, according to these thinkers, was a narrative of expansive socio-economic and political rights fulfilling the promise of the Declaration for white men whereby “the people…would be sovereign.”11

Other historians, however, have challenged the democratization narrative’s effects. Rather than focus on men, these writers looked more broadly at evolving societal and cultural expectations about work, the family, and male-female relationships. On the one hand, Paul E. Johnson utilized a class lens to explain antebellum societal change and the accompanying calls for reform. On the other, Nancy Hewitt suggested the emergence of a middle-class womanhood with access to the public sphere resulting in increased reform demands. And, finally, Bruce Dorsey’s 2002 work, Reforming Men and Women: Gender in the American City, broadened the scope of antebellum reform agency to include those of lower class backgrounds, including

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women and those of color.\textsuperscript{12} While Johnson and Hewitt believed some amount of economic power was necessary before groups could advance demands for change, Dorsey suggested even those on the periphery of American economic life had access to the political and social sphere. This multiplicity of factors came to a head in Daniel Walker Howe’s \textit{What Hath God Wrought: The Transformation of America, 1815-1848}. Howe rejected the earlier class-based arguments for reform as well as the traditional democratization narrative of others by recasting the “true” democrats as the Whigs, the political minority, rather than the Jacksonians. For these authors, then, antebellum reform became the story of successful minority initiatives (not only white males) that took hold of the democratizing spirit espoused by others for themselves despite the presence of an exclusionary political consensus.\textsuperscript{13}

Scholarship concerning the temperance movement has largely fallen into these categories as well, although few, if any, works specific to Maine and more outlying areas have looked at the issue in such a multifaceted way. Frank Byrne’s work on Neal Dow, the closest Maine-centric approach, suffered from a lack of analytical rigor that often accompanies biographies and placed Dow at the center of the temperance movement. Others, like the work of W.J Rorabaugh, which saw “the rise of urban development, the separation of labor from the land, and the breakdown of settled and known way of life” as contributing to the collapse of stable ways of life resulting in a tendency to drink, proved illuminating, especially his emphasis on social change and the accompanying psychological responses that entailed.\textsuperscript{14} Identifying many of the same causes, although with a more skeptical lens, Ian Tyrrell emphasized the controlling aspects of political and economic elites attempting to maintain their influences over the masses via temperance reforms. In Tyrrell’s view, economic ends meshed nicely with the moral language of religious revivalism to help to not only save souls but more importantly keep the factories running on time.\textsuperscript{15}

While both works mapped the rise and fall of antebellum temperance movements, each work also proved lacking. Rorabaugh’s work, as the author himself conceded, based its claims


\textsuperscript{15} Tyrrell, \textit{Sobering Up: from Temperance to Prohibition in Antebellum America, 1800-1860}, 33-34.
on twentieth century social science studies of other cultures’ experiences with alcohol to establish a speculative baseline for why Americans chose to drink as much as they did. This was problematic in its methodological approach by rooting claims about reform legislation and alcohol in generalizations based on studies of other times and places. Tyrrell’s work on the rise and prominence of temperance organizations also suffered limitations. His study in and around urban areas, especially Worcester, MA, proved compelling due to the extensive source base, but Tyrell offered considerably less about the South, West, and rural regions of New England. Further undercutting the universality of his claims was his failure to recognize the complexity of class relationships and that his socio-economic dichotomy proved far too simple. As one reviewer recognized, “[t]emperance was bound up with conflicts over life-styles and values that cut across…shifting lines of class, property, and occupation.”16 In other words, Tyrrell generalized too much.

Beyond the issue of geographic remoteness, Scott Martin’s 2008 work, Devil of the Domestic Sphere, provided a benchmark for what a contemporary methodological approach on temperance might look like. In it, he utilized a gendered lens to look at middle-class ideology to explain how women were, at first, prominent activists and organizers within temperance organizations only to be later chastened by their male counterparts when these organizations became too overtly political.17 Women faced the burden of defending homely virtue while simultaneously being denied access to take up the cause in public. Martin, therefore, has appeared to tap into a trend little identified in earlier temperance writings, whereby women, having initial success in their campaigns, were ultimately pushed out of the public debate. And Ruth Alexander’s research on working-and-lower class women committed “to the cause of total abstinence” suggested that women’s public engagement was not solely the domain of those in the middle-class during the antebellum period.18

Such studies and interpretative conclusions have implications for how one understands Maine’s antebellum reform experience. For those embracing the participatory democratic

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18 Ruth M. Alexander, ““We Are Engaged as a Band of Sisters”: Class and Domesticity in the Washingtonian Temperance Movement, 1840-1850,” The Journal of American History 75 no. 3 (Dec. 1988).
leanings of Wilentz, the masses proved crucial in advancing Maine on a course of antebellum improvement. Across the era, Mainers pursued economic improvement by voting in favor of tax expenditures for railroads, dams, and river widening projects. Mainers also embraced community services to bolster their chances of economic success or to provide security for their property, as illustrated by the establishment of fire companies and the funding of public schools. The public good was the personal good, and for individuals, progress within the economic sphere was within reach in the ever-expanding opportunities that government-subsidized economic development brought.

Although Mainers voted overwhelmingly for public works and economic development projects, their embrace of state-led improvement had limits. Whereas economic democratization led to greater opportunities and support, many Mainers grew resistant to state interference in their personal lives, especially when state action threatened to curtail a privileged liberty, the right to manufacture, distribute, and possess liquor. Such interference violated one’s right to choose, presumed an inability to maintain sobriety, and threatened to intrude upon one’s private life. Additionally, such moral rules smacked of old-line clerical dictates that Mainers had increasingly cast off in favor of a personal relationship with God rooted in one’s individual experiences. Blanket restrictions, whether from the pulpit or the state, proved increasingly unpopular with most Mainers in the moral sphere. Progress meant maximizing one’s rights whether in terms of economic access or choice of beverage.

Not all Mainers, however, subscribed to democratic understandings that elevated the masses above a knowable and universal good, namely abstinence. For example, old-line Congregationalists, Neal Dow, and women’s reformers all found themselves, at one time or another, on the wrong side of public sentiment, and, as such, worked to advance a decidedly different understanding of liberty that provided for state action to protect communities from the undesirable effects of intemperance. Rather than elevate the freedom to drink upon the mantle of liberty, these groups believed true liberty afforded the state the ability to guard wives, sisters, daughters, mothers, employers, and in some instances the drunkard’s themselves from the excesses of liquor. Freedom from intemperance proved paramount to these groups, even if they lacked broad-based political support, like Dow, or, in the case of women, simply lacked the right to vote and were thereby beyond the pale of antebellum majoritarian conventions.
Both “democratic” strands, as Wilentz and Howe identified them, were present throughout Maine’s reform period. However, the traditional and elite-driven narrative, which Frank Byrne spoke best to in his biographical expose of Neal Dow as “prophet of prohibition,” grossly overstated Dow’s importance to the prohibitory movement. In fact, Dow proved more liability than asset to temperance campaigners. His brash reputation, unwillingness to compromise, and repeated political-and-policy failures, including his notorious handling of the 1855 Rum Riot, undercut any claims he made about building a “grog-free” Portland. Indeed, even Maine’s 1851 Law, which Dow portrayed as prohibitive, was anything but. Dow’s role advancing Maine’s liquor laws has been and continues to be much overstated.

Maine’s temperance reform story was much larger than one man, as the sheer magnitude of public engagement on the question showed. From the urban alleyways of Portland to the logging camps of northern Maine and every place in-between, supporters (suasionists and prohibitionists) and opponents of temperance reform could be found everywhere. Partisan papers, religious assemblies, benevolence groups, and temperance organizations all spoke to the diversity of views on alcohol and how best to accomplish the private as well as the public good. Statewide Washingtonians embraced the importance of brotherly stewardship, affection, and conversion in righting the drunkard on the path to sobriety; whereas Portland Washingtonians sought the punitive tools of the state to affect better behavior.

On the whole, though, Mainer’s were increasingly turning away from authoritarian dictates about one’s individual morality. Indeed, the collapse of Congregationalist assemblies with their doctrines of confinement and despair and the rise of Unitarian churches, which embraced salvation tied to an individual rationality and personal conversion experiences, soured many on the idea of church-or-state sanctioned dogmas. In addition, Dow’s tactics within the prohibitory fray soured not only large masses of the rank-and-file but also other elites who may have otherwise been sympathetic to his commitment to total abstinence. As a result, a generalized distrust of elites, and prohibition elites specifically, made the imposition of state authority unwelcome unless there were tangible and immediate benefits to individuals, as was the case with economic development subsidies.

With no clear consensus on the course of temperance reform and distrust of elite-driven proposals to deny one’s liberty by way of prohibition, the masses resisted outright bans on the retail, manufacture, and possession of liquors. When such a law did arrive, as it did in 1851, it
was not representative of the masses at large but rather the function of momentary political peculiarities and a compromise designed to maintain political power. Mainers had not changed their attitudes on prohibition, but the political climate had allowed third-rail causes and third-rate politicians, like Neal Dow, the temporary opportunity to influence legislative outcomes. Yet, considering the law’s continued allowance for exceptions and exemptions, and the ongoing subterfuge of the law by retailers, traffickers, buyers, judges, prosecuting attorneys, and juries, open disdain more accurately represented just what Mainer’s thought about “prohibition.” State coercion proved laughable. When the political reasons for courting such a small segment of the Maine electorate dissolved in 1855, the “prohibitory” laws dissolved soon after as well.

In this light, then, Maine’s experimentation with “prohibition” fits within current literature on the nineteenth-century state and “police powers.” The “police power,” emblematic of the state’s ability to coerce, meant that state governments could “engage in extensive regulation of the economy, society and morality.” Attempts to control alcohol certainly fell within this scope. What proves telling about the Maine experience, however, was the reluctance to accept the use of such broad powers to pursue prohibition. Instead, Mainers sought to balance state action in pursuit of the public good with individual liberty. To do so, the coercive excesses of prohibition were never fully implemented or accepted, as Mainers chose to fall back on a “less visible” yet not nonexistent role, as Brian Balogh might suggest, for the state to play in regulating alcohol while maintaining one’s right to consume. The coerciveness of the state’s approach, for it to be successful, had to reflect prevailing social mores and attitudes. Prohibition did not do this.

Generally, though, opposition to state-led coercion would not negatively affect the temperance movement. Suasionist support was widespread. This would prove especially true in inland regions where suasionist tactics continued alongside the new prohibitory legislation. In fact, rather tellingly, it was in these more remote regions that enforcement, although here too somewhat limited when compared to the actual provisions of the Acts, proved more

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20 Brian Balogh, A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America, (New York: Cambridge University Press, 2009), 6; While both Gary Gerstle and Brian Balogh focus their studies more exclusively at the national state, the issues surrounding government power that they address are equally relevant for consideration at the state level as well.
commonplace, seemingly signaling that force alone could not compel cultural change. This study, then, highlights the failures of prohibitionist elites to affect moral change, illustrates the widespread participatory spirit and divergent views of Mainers concerning temperance, and challenges characterizations of the Maine Law as prohibitory.
Prohibition’s Rise in Maine (1820-1840)

“Prohibition has been recognized as a principle of law ever since laws have been known to exist. The very first law recorded is prohibitory, and it relates to human aliment.”

- Henry S. Clubb (1856)21

“‘WATER, water, everywhere, and not a drop to drink! ’ instead of Dirigo,
might well be our State-legend.”

– John Neal (1869)22

With the passage of Maine’s first-in-the-nation prohibitory law in 1851, prohibition supporters believed they had struck a fatal blow against one of the great moral ills of the era – demon rum. Indeed, prohibition’s supporters thought the coercive power of the state would make all the difference in freeing the state’s drunkards from the grips of alcohol; thereby restoring them upon the mantle of virtue. Not just content with saving souls; however, state action would also advance the public-and-private order. Drunkenness was not solely a personal problem but one that also had consequences for the family, the workplace, and the community at large.

Earlier reform efforts had failed, prohibitionists said, due to the unwillingness of religiously-minded moral suasionists to embrace state power in the fight against alcohol-related crimes and immorality. Such moderate temperance men proved too accommodating; always leaving room for the ideal drinker as a role model for those who could not yet control their cravings. It was exactly this, the very idea that one could partake in alcohol while maintaining sobriety that infuriated prohibitionist men, men like Portland activist and eventual mayor, Neal Dow, who believed such examples did nothing more than hasten the demise of multitudes who lacked the control that moral suasionists suggested was within their grasp. Only by removing the source of the temptation itself, prohibitionists believed, would men be saved.

To this end, the 1851 Maine Law, which prohibited the selling and manufacture of spirituous or intoxicating liquors within the state, represented the triumph of prohibitionist desires over the personal appeals of moral suasionists and the unrepentant drink lobby.23 Such diversity in approach and attitudes signaled anything but consensus within the temperance reform community and state at large. The 1851 Law was the culmination not of a unified reform spirit washing the land but rather the function of a fissure in the temperance reform movement.

22 John Neal, Wandering Recollections of a Somewhat Busy Life, (Boston: Roberts Brothers, 1869), 363.
23 Maine State Statute 1851, Chapter 211, MSLL.
that harkened back a decade plus. Disagreements over tactics as well as geographical differences all resulted in Maine’s temperance efforts playing out in a variety of complementary but also conflicting ways. What was astonishing about the prohibitory campaign’s success in 1851, then, was its success in spite of a divided anti-alcohol lobby. The Maine Law of 1851 signaled the triumph of one wing of reformers over the others.

Neal Dow, often referenced as architect and champion of Maine prohibition, was not, as some historians and period political pieces have suggested, a unifier for the cause but rather a firebrand elevating prohibition above all else; in the process costing himself valuable allies and support. In spite of this unwillingness to compromise with moderates, Dow and prohibitionist supporters nonetheless secured the law’s passage. On its face, such politics of exclusion would seem to make such success impossible. However, given a set of peculiarities of state-and-national circumstance, electoral dynamics, and Maine’s long history of alcohol related legislation, Dow and others were able to capitalize off the intricacies of such dynamics to advance the 1851 Law. The Maine Law would prove more a function of Maine’s temperance history than of Dow’s proclaimed prohibition.

Part I: Early Temperance Attempts and Legislation in Maine (The 1820s and 1830s)

Maine’s early liquor laws had their foundation in the laws of Massachusetts. And, indeed, following secession from Massachusetts in 1820, Maine legislators passed a licensing law to control the availability of the drink.²⁴ Maine would hold true to its Massachusetts roots and puritanical tradition, and regulate morals, including liquor. Licenses were made available to “Innholders, Retailers, and common Victuallers” provided that local officials authorized the selling of such licenses on an annual basis.²⁵ Once authorized, purchasers paid a sum of six dollars and twenty-five cents for administrative costs and enforcement. Those found selling without a license would be fined ten dollars per offence and for those found guilty of impersonating a licensed seller, penalties would be fifty dollars per offence.²⁶ Suffice it to say, Maine’s early liquor laws supported a licensing regime that gave local authorities control over

²⁵ Maine State Statute 1821, Chapter 133, MSLL.
²⁶ Ibid.
alcohol access. Punishments were limited to fines with the possibility of loss of licensure and
ineligibility to apply for renewal for one year.\textsuperscript{27}

Chapter 133 of the 1821 Maine Statute went further than establishing just a framework
for liquor licensing. It seemed to anticipate the unsavory consequences of liquor houses. Indeed,
as Dow noted in his 1898 autobiography, the 1821 Law banned gambling on “licensed
premises,” prohibited excessive drinking, and banned the selling of alcohol to youths without
parental permission.\textsuperscript{28} Selectmen were also free to ban the sale of liquor “to any person who
should by idleness or excessive drinking of spirituous liquors so misspend, waste or lessen his
estate as to expose himself or family to want, or to indulge in liquor ‘so as to endanger his
life.’”\textsuperscript{29} Liquor’s social costs were already on the minds of state legislators.

Drunkenness, it would seem, was a matter of public concern in Maine as early as 1821
and certainly prior to Maine’s admittance to the Union as a state in 1820. No doubt, local
authorities, mindful of the recent economic collapses associated with the War of 1812 and the
Panic of 1819, sought to, as historian Ian Tyrrell suggested, dissuade men from taking up bad
behaviors at local taverns that lent themselves towards impoverishment.\textsuperscript{30} The City of Portland,
like many other New England coastal communities (Newburyport, Salem, and Marblehead), had
faced a Jeffersonian induced collapse in the fishing and lumber markets due to the
administration’s embargo.\textsuperscript{31} Reverend Edward Payson, writing in December of 1807 on the
people of Portland, noted,

\begin{quote}
A large number of the most wealthy merchants have already failed, and numbers more
are daily following, so that we are threatened with universal bankruptcy. Two failures
alone have thrown at least three hundred persons, besides sailors, out of employ; and you
may hence conceive, in some measure, the distress which the whole number must
occasion. The poor house is already full, and hundreds yet to be provided for, who have
depended on their own labor for their daily bread, and who have neither the means of
supporting themselves here, nor of removing into the country. Many who have been
brought up in affluence, are now depending on the cold courtesy of creditors for a
\end{quote}

\begin{flushright}
\textsuperscript{27} Ibid.\textsuperscript{28} Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 222.\textsuperscript{29} Ibid.\textsuperscript{30} Tyrrell, Sobering Up: From Temperance to Prohibition in Antebellum America, 1800-1860, 35-36.\textsuperscript{31} Ibid, 34-35.
\end{flushright}
protection from the inclemency of the season. If these times continue, nine tenths of the people here will be scattered to the four winds.\textsuperscript{32}

Considering Portland’s early experience with boom-and-bust economic cycles at the beginning of the century and the resultant joblessness that came with those cycles, it was no surprise that Portland, the economic center of the state, would become mired in questions concerning moral improvement, and alcohol licensing and regulation, specifically, for the next three decades. Indeed, as early as 1827, a young Neal Dow would hear Congregationalist Reverend Justin Edwards, a disciple of Lyman Beecher, preach against the dangers of moderate drinking.\textsuperscript{33} Given time, such activity would ultimately tend toward moral degradation and brutal consequences, Edwards believed.\textsuperscript{34} Portland’s introduction to abstinence, albeit somewhat veiled, had occurred. In any case, alcohol use, combined with economic displacement, could destroy men’s ambitions.

It would not take long for changes to come to Maine’s licensing laws. In 1824, license holders were restricted to using their licenses for only one retail location. They had, apparently, taken advantage of an omission in the 1821 Law to sell at multiple points of distribution. Additionally, the 1824 Law also called for the active encouragement of law enforcement, “sheriffs, deputy-sheriffs, constables, and tithing-men,” to help local select boards compile lists of excessive drinkers in order to ensure they did not partake. Presumably, municipalities and plantations were having difficulties keeping track of local drunkards. As a result, the State formally welcomed law enforcement as an extension of local government to help identify excessive drinkers and to restrict their access to drinking shops. While there was certainly cause for concern for the individual drinker, the State was also exercising its power to help mitigate the number of people that might end up in public poor houses. Poorhouse funding in 1821 rested on a two-part formula of charges to communities and an additional excise on retailers.\textsuperscript{35} It would be of interest for communities to keep such costs low, and one suspects that increasing attempts to


\textsuperscript{33} \textit{Portland Advertiser}, October 16, 1827.


\textsuperscript{35} \textit{The Eastern Argus}, March 27, 1821.
regulate and restrict liquor licensing were, in part, a function of this reality. Increased penalties in the 1824 License Law, including an extension of loss of licensure for up to two years appeared as yet another attempt to punish retail enablers of excessive drinkers. One might conclude, as Neal Dow did, that drinking houses had been and were increasingly becoming bastions of bad morals in spite of the alleged reality that licensed sellers, approved by local select boards for the privilege of liquor disbursement, were expected to be men of “sober life and conversation.” These “best men” either had limited impact upon their consumers’ habits, or, perhaps, they were less than virtuous themselves.

Licensing laws continued to evolve throughout the 1820s and into the 1830s. An 1826 law, titled “An Act to Prevent Intemperance at Elections,” and an 1829 amendment to prohibit licensed persons from selling within a five-mile zone to non-commissioned officers in the United States military all signaled concerns about drunkenness on occasions of civic duty or employment. Public drinking, even while “on the clock,” proved ever present. In cities like Portland, “grog time,” a daily break from the monotony of work to have a drink, usually a libation of mixed rum, kept alcohol front-and-center in early nineteenth century life. Taking on the “Eleven O’Clock Bell” in 1829, Dow brought attention to what had become a daily event – a daily distribution of spirits to lessen the tedious repetition of the workday. Employers were sympathetic to calls for restriction, and in response to Dow’s advocacy, the Maine Charitable Mechanic Association ended the practice of free drink distribution. Still, though, the daily breaks remained, and the masters of the Mechanic’s Association likely saw workplace efficiency as the motivating factor for stopping the practice of free drinks rather than out of any moral concern.

Such restrictions, whether legal or voluntary, proved to be the beginning of a public dialogue and attempt to reign in the conspicuousness of alcohol. Reform efforts proved difficult to pursue, especially in light of a kind-of workingman’s majoritarianism that was reaching its apex during the Jacksonian age. For this era, as historian Sean Wilentz has noted, embodied the

36 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 223-224; Maine State Statute 1824, Chapter 278, MSLL.
37 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 224-225; Maine State Statute 1826, Chapter 333, MSLL.
38 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 14-15; Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 205-211; The Eastern Argus, February 3, 1829.
39 Ibid.
40 Ibid.
Revolutionary-era claims of government by the people. Such rule, symbolic for its political inclusivity, although only for white men, shifted power away from knowledgeable elites in the name of greater representation.\textsuperscript{41} Representativeness was not synonymous with wisdom. Resistance to expert-led reforms required the people themselves be provided with a say. As a result, when attempts to restrict particular kinds of on-site drinking came before the Legislature in 1829, state representatives passed a “local-option law,” which allowed for the banning of wine and spirituous or mixed liquors from being consumed on site.\textsuperscript{42} However, tavern keepers could still sell hard liquor for on-site consumption, and other exceptions were possible provided a majority vote in the affirmative to lift the restrictions within a given municipality.\textsuperscript{43} Allowances for greater restrictions were being provided for, but only so long as the voting public could have their say and, in effect, overrule the \textit{de facto} restrictions now present in the law. In addition, the State, in an 1830 action, exempted “beer, ale, and cider” from retail licensing requirements.\textsuperscript{44} On its face, then, the potential for particular kinds of restrictions on-site sale were increasing, but exemptions (fermented drinks for example) existed, and even for those kinds of alcohol eligible for restriction of on-site consumption, majority rule could win out and allow for on-site activity.\textsuperscript{45}

The 1830s represented a kind-of loosening of attempts to control liquor sales and consumption in the state, largely as an outcome of the failure of the earlier licensing system, which would be repealed in full in 1834.\textsuperscript{46} Such action, ultimately undertaken, was a result of an 1833 law, which afforded “any person aggrieved by the refusal to grant…a license…from the municipal licensing board” to appeal such action to the county commissioners.\textsuperscript{47} The twist here was that whichever authority chose to issue the license would receive the financial windfall. Additionally, the provisions for law enforcement identification of excessive drinkers for

\begin{footnotes}
\item[42] Dow, \textit{The Reminiscences of Neal Dow: Recollections of Eighty Years}, 225; Maine State Statute 1830, Chapter 482, MSLL.
\item[43] \textit{Ibid}.
\item[44] Dow, \textit{The Reminiscences of Neal Dow: Recollections of Eighty Years}, 227.
\item[45] \textit{Ibid}; Frank Byrne notes the profitability of the West India trade in Portland, which included molasses and its derivative rum. This may help explain why certain types of drinks were exempted from the law: In Byrne, \textit{Prophet of Prohibition: Neal Dow and His Crusade}, 14.
\item[46] Dow, \textit{The Reminiscences of Neal Dow: Recollections of Eighty Years}, 228; Maine State Statute 1834, Chapter 141, MSLL.
\item[47] Dow, \textit{The Reminiscences of Neal Dow: Recollections of Eighty Years}, 228; Maine State Statute 1833, Chapter 77, MSLL.
\end{footnotes}
purposes of denial of service were repealed in 1832. Presumably, in the latter instance, the burden and cost of such surveillance and reporting on law enforcement exceeded their capacity, and in the former, the legislative reprieves granted by way of multiple avenues of appeal (by vote or to the county commissioner) had created a system friendly to the desires of license seekers.

The breakdown of Maine’s first licensing regime by way of multiple grounds for appeal presented Mainers seeking a license, or just a place to drink, ample opportunities to find one. Such ineffectual legislation represented what was likely the reality on the ground – no significant public demand for temperance and/or demands for generalized public reforms of morals on alcohol. In fact, one of the few victories for licensing supporters, which came from the State Supreme Court in 1830, justified the licensing regime as a “reasonable and proper” exercise of the State’s revenue generating authority. The constitutional question revolved around the State’s ability to “double tax,” which the petitioner believed to be unconstitutional. However, the Court felt otherwise. That said, the moral component did not go unnoticed. The Court noted that

It would appear strange that a law should be deemed unreasonable, because it prohibits the retailing of ardent spirits, without special license; that it should be an unreasonable restraint upon the liberty of the citizens, to check those measures which are known to have a direct tendency to promote intemperance, and multiple evils and crimes in society.

Reformers were on strong footing when it came to the constitutionality of state-supported moral improvement. If they were ever to see successful regulation and/or prohibition, temperance supporters would need meaningful, broad-based support from the public.

Part II: Temperance Organizations in Maine (The 1830s)

As early as the 1820s, temperance organizations were active in Maine and not only in Portland. *The Genius of Temperance and General Moralist (“The Genius”)* was published as early as 1828 in Hallowell, Maine, a farming and light industrial community on the west bank of the Kennebec River just south of Augusta that boasted a population of just under four thousand.

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48 Dow, *The Reminiscences of Neal Dow: Recollections of Eighty Years*, 228; Maine State Statute 1832, Chapter 37, MSLL.
49 *Lunt’s Case.*, 6 Greenl. 412 Supreme Judicial Court of Maine (May Term, 1830), MSLL.
50 Ibid.
51 1830 United States Decennial Census; *The Genius’s* last publication date would be December 21, 1828, where after it would join with a recent temperance publication, *The Light House*, in Wiscasset, approximately twenty-five
Striking a chord of unity in its first issue, the paper called for denominational conformity on the intemperance issue as it presented a “formidable…foe to human happiness.”\textsuperscript{52} Pursuing a tactic of moral suasion, which suggested that the drunkard must “be addressed as a member of the human family” and that “[h]owever odious the vice…we must avoid treating the drunkard with disrespect,” the paper hoped to succeed in “turning him from the error of his ways.”\textsuperscript{53} And finally, to accomplish such a noble task, \textit{The Genius} called for “expostulations” and “touching appeals” from family, friends, and community at large to help lead the drunkard back to God and to “the privileges of respectable citizenship.”\textsuperscript{54} Conversion came, not through coercion, but through the practice of Christian persuasion.

If such works sought to appeal to the underlying goodness in man, or, at least, one’s fear in a vengeful God which necessitated the need to make oneself right with the Lord and community again, they also accomplished this feat through descriptions of personal tragedy as well as appeals to avoid hard liquor as it appeared as something of a gateway drug. For example, in the May 28, 1828 issue, \textit{The Genius} printed the Constitution of the Union Temperate Society. In it, the following:

\begin{quote}
By means of hard drinking, thousands of our citizens are destroying their health, and hastening themselves to a premature grave; many families are undone, and reduced to a state of beggary; and many are the vicious practices that follow in consequence of drunkenness—Hard drinking is an introduction to idleness, gaming, swearing, Sabbath-breaking, lewdness, robbery, murder, and almost every other sin. Drunkenness throws down the fences of fear, reflection and shame, excites men to profane mockery of things sacred, to ridicule and reproach the most sober and pious characters, to revile and vilify their best friends, to commit the greatest outrages to embroil themselves in quarrels and riots, to gratify the basest lusts, and to commit the most rash ruinous crimes…
\end{quote}

\textit{– Constitution of the Union Temperate Society}\textsuperscript{55}

\begin{itemize}
\item miles to the south. Publisher’s noted a change in their location for the reason, which precipitated a cost burden on themselves for keeping the publication running in Hallowell. However, for those who might suspect such transition a “failure,” it is worth noting that \textit{The Light House} was to publish weekly compared to \textit{The Genius}’s biweekly schedule.
\item \textit{The Genius of Temperance and General Morality}, Wednesday Morning, January 9, 1828.
\item \textit{Ibid}.
\item \textit{Ibid}.
\item \textit{Ibid}.
\item \textit{Ibid}, Wednesday Morning, May 28, 1828.
\end{itemize}
Admittedly, such language proved overly dramatic, but the perceptions of its members and their fears for those afflicted or those within proximity are quite clear: ill health, criminal behavior, and the loss of grace. One’s physical, spiritual, and emotional well-being were all under attack by the drink.

When such affirmations of doom did not suffice, oftentimes temperance publications, this time one from the Maine Temperance Society, would publish stories of gloom that had befallen a family due to a broken father, husband, and/or beloved family member. Perhaps most stirring was the following account,

As I was riding in my sleigh I came up with a lad about 16 year old, very raggedly clothed—although an utter stranger to me, I was prompted to give him an invitation to get into my sleigh,…No sooner had he taken a seat, than he commenced relating a tale which touched the very fibres of my soul. Said he “I am an abused child”—the tears gushed from both his eyes—What is the matter? Said I? ‘My father’ he replied ‘is a drunkard—he spends all he can get for rum—he returns home from the stores, fights with mother, who is as bad as my father—he has licked me (to use his own words) till gashes have been cut by the lashes of a green hide, till the blood has run all down over me. I have got no learning. I can’t write any, and read but a very little—my father wont let me go to school, but keeps me all the time to work, and then beats me for doing no more’…

Such cases and the generalized organizing of societies and publications across the state showed temperance to be an issue of growing public concern; however, little by way of coordinated action was yet envisioned by the 1830s and while statewide organizations were finally being formed, such formation was slow, as Dow attributed to the abundance of “work close at hand,” “sparse population,” and “poor roads” that made communication in Maine difficult.

By 1833, Maine would have its first statewide temperance organization, the aforementioned Maine Temperance Society, which was based not in Portland but rather in Augusta. Committed to bearing witness against the excesses of drink, especially distilled liquors,

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57 Ibid; Dow, *The Reminiscences of Neal Dow: Recollections of Eighty Years*, 231. Dow noted that Maine was the second to last state in the North with a statewide temperance organization. One wonders, then, if claims of Maine being at the forefront of the temperance and prohibition movements are warranted.
this group pursued moderation and reform by persuasion rather than force.\textsuperscript{58} The organization itself, decentralized and voluntary, was a clearinghouse for the many local temperance societies within the state. Indeed, the 1833 membership lists illustrate a strong temperance presence dispersed across the state. Communities with active temperance societies and members on the Society’s Board alone included Gorham, Norridgewock, Foxcroft and Dover, New Gloucester, Knox, Freedom, Monson, Orono, and Litchfield.\textsuperscript{59} The 1833 Annual Report went on to recognize a total of 160 societies from 162 communities responding to the Society’s poll of organizations, an impressive number, especially considering their relatively rural and dispersed locations away from major population centers.\textsuperscript{60}

If organizations throughout the state were focused on moderation by way of persuasion, what was happening in Portland around the same time was quite different. Capitalizing on his time as Portland’s Overseer of the Poor in 1834, Dow, seeing a direct link between alcohol and poverty, suggested “that the [license] money…obtained was absurdly inadequate to reimburse the expense that intemperance, fostered in these licensed places, imposed upon the city.”\textsuperscript{61} Additionally, Dow was said to have claimed that of $5000 spent to aid Portland’s poor “certainly all but $200” was a result of the direct effect of the drink.\textsuperscript{62} Unlike the course of temperance reform elsewhere in the state, Dow and members of the small but radical Portland Temperance Society worked to pursue a policy of abstinence from all intoxicating drinks, including wine.\textsuperscript{63} This stand, known as tee-totaling, served to address a concern with moderate temperance organizations, which Dow believed did more harm than good, especially as they “unintentionally, imperceptibly, but none the less certainly, invit[ed] on to it, [the drink], from among the young and inexperienced.”\textsuperscript{64} However, such radicalism also set Dow and members of the Portland organization at odds with other statewide societies, Christian ministers, for whom wine was an essential part of religious worship, and as well as with the wealthy, upper-class

\textsuperscript{58} Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 231-232.
\textsuperscript{60} Maine Temperance Society, Annual Report – January 23, 1833, 67.
\textsuperscript{61} Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 216.
\textsuperscript{62} Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 22; Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 215-216.
\textsuperscript{64} Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 231-232; Christian Mirror, February 12, 1835, January 21, March 3, 17, 24, 31, April 7, 1836.
elites within Portland, who had bankrolled some of the temperance organizations in an effort to moderate the masses attachment to the drink, in particular, spirits. Dow’s call for total abstinence now targeted upper-class elites and Christian reformers for their wine-drinking habits. Conflict and dissension within the temperance movement would prove unavoidable.

The anti-wine position of Dow’s temperance men soon created discord within the ranks of the Maine Temperance Society. When a proposed amendment to the group’s temperance pledge in February of 1837 included “total abstinence” not just from “ardent spirits” but for lesser drinks, including wine, failed, proponents split off to form their own statewide organization, the Maine Temperance Union, committed to “total abstinence from all that intoxicates.” The more moderate members of the Maine Temperance Society largely receded from active agitation within the new society, the Union. Nonetheless, their ideological positioning remained important across the state. William A. Drew, officer of the old Society and Universalist minister, charged the new Union as dominated by Congregationalists, and, as a result, hostile to the interests of moderate denominations which preferred temperance to abstinence and defended their position on the “wine question” in Biblical terms. Even the state’s own Congregationalist periodical, the Christian Mirror, had reservations about the teetotalers’ position on wine. The forcing of what had been an issue local to Portland had created discord within the statewide temperance ranks.

By 1840, things had only gotten worse. In addition to pursuing teetotalism, Dow also supported the advancement of state-backed prohibition, a restriction on the selling and manufacture of liquors, as the best way to ensure abstinence, Dow encouraged James Appleton, a Portland resident, veteran of temperance battles in Massachusetts, and Whig representative to the Maine Legislature, to propose a prohibition bill in the State House. Appleton argued that

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66 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 232-234; Krout, The Origins of Prohibition, 153-167; From: Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 23: Such a separation followed a break in the national organization as well. The Reverend Justin Edwards helped to transform the American Temperance Society into the American Temperance Union, which had a much more strict anti-wine and anti-alcohol position compared to the earlier Society, in 1836.
prohibition, although unlikely to be universally enforced, would serve as a deterrent to drinking and improve public morals. Nonetheless, Appleton’s proposal and Maine’s first legislative debate on prohibition resulted in failure. A similar fate would await a subsequent attempt in 1838 as well.68

Such aggressive pursuit of prohibition coupled with the anti-wine teetotalism of Dow’s Portland temperance men proved too much for moderate members of the temperance movement. In fact, failed attempts to pursue prohibition-related legislative efforts in 1838 and 1839 resulted in a schism within the Maine Temperance Union to the point that on February 5, 1840, Union membership voted to withdraw support, previously granted at the Union’s second meeting, in favor of prohibition demands and returned to calls for suasion.69 The most the Union could muster was a resolution admonishing those engaged in the traffic of intoxicating drinks, as people who were “hindering the progress of temperance, and ought at once as good citizens abandon such traffic.”70 Suasion still held the day.

By 1840, then, the temperance movement in Maine was fractured. Geographic distance and remoteness combined with competing philosophies about how best to address the consequences of demon rum characterized the reform conversation. Indeed, one need look no further than the February 22 and 24, 1837 reports in the Bangor Whig to understand just how unclear and contentious things had become by the late 1830s. Following the breakup of the old Maine Temperance Society and its replacement, in an afternoon, by the Maine Temperance Union, the paper suggested that around “four-fifths if not seven-eighths of the old society joined the new one.”71 Just two days earlier, however, speaking on the secession, the Whig characterized the old Society as out of touch and founded “when the standard of public sentiment was far in the rear of its present point of elevation” and that “total abstinence…[was]…the only

69 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 26.
70 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 26; Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 251-255; Christian Mirror, December 28, 1837; Eastern Argus, January 19, February 24, March 2, 3, 7, 12, 13, 15, 22, 23, 1838; Kennebec Journal, March 28, 1838; Gospel Banner, February 16, 1839; Advertiser, February 25, March 7, 12, 15, 16, October 1, 1839; Maine Temperance Gazette, February 28, March 21, August 1, December 5, 1839, February 13, 1840.
safe, the only tenable, the only consistent ground.”

Now, admittedly, as a politicized daily, the Whig’s position as favorable to abstinence should not be surprising, especially considering the Party’s devotion to reform and improvement. One wonders, though, how the original vote for abstinence in the Society failed if so many of its members joined the newly formed Union that afternoon. Perhaps, it would seem, that for the many, not beholden to abstinence, their fervor in pursuit of the temperance cause proved more mild in passion and moderate in orientation. However, for those pushing greater restrictions, namely abstinence and later prohibition, their collective energies proved more reliable and thus more conducive to supporting a regularly meeting organization. As a consequence, for those who sought to remain under the old banner of the Society, the loss of the regularly-engaged membership forced the larger, somewhat apolitical mass to choose: either withdraw from active organization or join the Union, albeit while not fully supporting its teetotaler message. The Union, as it happened, was happy to welcome their attendance to swell their membership ranks.

As a result of these changes, a kind of disconnect had developed whereby the leadership of the Union proved more radical than the rank-and-file. Public support for teetotalism and prohibition, then, was anything but secured, and when considering the many remaining active local organizations not committed to teetotalism, the course of alcohol reform continued to appear unclear. Dichotomies aplenty existed: elite v. poor, urban v. rural, Portland v. Augusta and just what this meant for the course of the temperance movement remained unknown. Uncertainty, much like at the end of the 1820s, remained for the movement some ten years later. Would moderation or abstinence win out, and would suasion or prohibition be the preferred method? Further political infighting within the movement and larger national considerations would provide the answer to these questions in the 1840s and early 1850s.

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73 Indeed, the Maine Temperance Society’s 1833 Annual Report suggested that some societies may have existed more on paper than as active organizations. For some, it appeared such temperance organizations proved more social engagements than fronts for activist moral reform.
74 Byrne, *Prophet of Prohibition: Neal Dow and His Crusade*, 24.
75 Dow, *The Reminiscences of Neal Dow: Recollections of Eighty Years*, 232-255. Dow noted the “lukewarmness of many who, in their way, had been interested in the work…[but] had withdrawn entirely from associated temperance effort (253).” Not everyone appeared to be enthusiastic about the Union’s positions. See Dow, *The Reminiscences of Neal Dow: Recollections of Eighty Years*, 233 for indirect proof of small numbers of teetotaler men. And, even among that group, it appeared that the most the organization could muster on prohibition was for a discussion to be had on the possibility of raising it to the State Legislature for its first meeting agenda (240); Byrne, *Prophet of Prohibition: Neal Dow and His Crusade*, 26.
Part III: Neal Dow’s Retrenchment and Continued Failure

If the course of the temperance reform movement had largely oscillated between geographic centers and outlying communities, changes in the state’s demographic profile likely helped to explain why Portland would become the center of prohibition politics even if it does not explain prohibition’s legislative success. To start, recognizing that Portland and Augusta served as focal points (politically and economically), the happenings within them spoke to changes occurring in the state overall. In 1820, Maine’s first year as a state, the state’s resident population was just shy of 300,000; however, by 1850, the state’s population nearly doubled settling around 583,000 residents. Population centers (measured by square miles) of more than 100 people increased from six in 1820 to seventeen by the end of the 1850s. And the state’s economy over the course of the 1820s/30s/40s was transformed from one of preindustrial agriculture, rural areas, and local markets to one of increased regional exchange emphasizing the benefits of industrial and technological progress across the state’s agricultural, maritime, lumber, and, increasingly textile economic base. While these transitions categorized the state as a whole, it is important to recognize the state’s economic transformation resulted in the linking of outlying communities with more populated centers whether they be commercial centers, political centers, or both. As a result then, the industrial transformation in Maine brought greater uniformity and with it, a sense of shared progress and concerns.

As for the two communities themselves, Portland, a city of 20,819 (1850 Census), served as Maine’s population center. Residing just north of the Fore River on the Maine coast and protected by a chain of islands in Casco Bay to the east, Portland served as a natural harbor and hub for seafaring vessels and the cargos they carried. The lure of Portland as an economic center cannot be overstated. With a population growth of 5,600 between 1840 and 1850, immigrant and

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79 Kennebec Journal Weekly, February 27, 1851.
domestic families sought out economic opportunities here. No other community within Cumberland County, Maine’s most populous county at 79,656 persons in 1850, and, for that matter, the rest of Maine, came close to Portland’s size. Portland, therefore, while playing an important role in the temperance narrative might also be rightly viewed as more exception rather than rule when it came to antebellum Maine’s population and economic dynamics. By extension, efforts to categorize Dow’s prohibitory movement as representative of the state should be taken with caution considering Portland’s relative uniqueness.

Although Portland was the economic hub of the state, Augusta served as seat of the state’s government and was, in theory, its center of politics. On the west side of the Kennebec River, approximately forty miles from the coast, and sixty miles to the north northeast of Portland, Augusta connected Maine’s interior with the commercial and fishing ports of the coast while providing a locus of exchange for riverfront residents, most of them, living in communities between one to four thousand with Augusta (8,227), Gardiner (6,485), and Hallowell (4,769) above that mark. Recently connected to Portland by railroad and benefitting from a new dredging of the River for steamboat passage along with an opening of steamboat lines to points north, including Waterville during the prior decade, Augusta became the center of river navigation and trade. By 1850, its population had increased by 2,913 over the 1840 census.

Population growth, the proliferation of wage-labor in parts of the state, and an influx of Irish immigrants, although not significantly noticeable until after 1850, all resulted in a sense of transition, which must have prompted unease among some who felt that urbanization proved problematic for the state as well as for one’s character. Indeed, Neal Dow targeted the new workingmen of Portland throughout the 1840s and 1850s as key to his prohibition crusade, both

80 Joyce Butler, “Family & Community Life in Maine, 1783-1861,” in Maine: The Pine Tree State from Prehistory to the Present, 221; James B. Vickery, Richard W. Judd, and Sheila McDonald, “Maine Agriculture, 1783-1861,” in Maine: The Pine Tree State from Prehistory to the Present, 257; Robert H. Babcock, Yves Frenette, Charles A. Scontras, and Eileen Eagan, “Work & Workers in the Industrial Age, 1865-1930,” in Maine: The Pine Tree State from Prehistory to the Present, 451. Indeed, Portland’s economy sustained itself on “booming maritime trades and thrived on the exchange of frontier products brought down from the interior” from the turn of the nineteenth century through the 1850s (Butler, 221). Additionally, by the 1850s, Portland saw increased relevance as a place of production and exchange for cotton products as well as men’s attire in addition to its traditional strengths as a maritime hub (see Babcock..., 451 and other citations in this footnote); Kennebec J. Weekly, February 27, 1851.

81 Ibid.


because these men were likely victims of immoral liquor sellers, and also, because, he believed, pressure could be easily brought to bear on them.\textsuperscript{84} If pressure proved ineffective, Dow was not afraid to stoke fires that resulted in coarse language at best and violence at worst, especially against immigrants, later proved by the 1855 Portland Rum Riot.\textsuperscript{85} That said, Maine’s population of the 1840s and 1850s remained largely homogenous and while an important rural-urban split existed, both regions remained economically connected to one another. In fact, much of rural Maine had already adopted a form of prohibition under “local-option” licensing laws in the preceding years, so the story of statewide prohibition and the 1851 Law’s legislative success requires an inclusive approach that sees cities and rural areas as part of a larger system rather than isolated zones unto themselves.

Such apparent connections also covered some rather stark differences, many of which had already come to light in terms of approach and goals for the temperance reformers of the 1820s and 1830s. Ostensibly, it would appear that by the 1840s the Maine Temperance Union was representative of a statewide, pan-denominational movement. Demanding “Total Abstinence From All Concern With Intoxicating Liquors,” and combining secular and religious images by joining the temperance flag with the cross, it appeared a unified front against “vice and crime” existed.\textsuperscript{86} This, however, would prove not to be the case. Even though reformers recognized impediments to their success, including (1) “fashion,” (2) “the love of alcoholic stimulus,” (3) those involved in the economic exchange of the drink, and (4) most importantly, the purchasing of the drunkard’s votes, their efforts were hindered by a “license system” that gave power and poignancy to local governments, which oftentimes went their own ways.\textsuperscript{87} In this sense then, demands for state control would seek to overturn local majorities. Temperance reformers had identified the pervasiveness of the liquor problem but also had uncovered an inconvenient truth, namely that local governments and non-temperance men continued to propagate its social acceptance and economic profitability via the license system. As a result, some reformers began pressing for political action on temperance at the statewide level to tear down a legal structure, which seemingly well intended, had embraced the drink. Such attempts, including the Maine

\textsuperscript{84} Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 27-28.
\textsuperscript{85} Ibid, 56-64.
\textsuperscript{87} Ibid.
Law of 1851, would show just how difficult it would be to utilize state coercion for moral improvement.

And those attempts would be spearheaded by none other than Portland’s own prohibition fanatic, Neal Dow. By 1840, the temperance cause in Maine was in turmoil. Largely a function of a clash between teetotalers, those committed to personal abstinence, and those demanding a more heavy-handed approach, including prohibition, temperance organizations, including the Maine Temperance Union, were heavily split and thus ineffectual in pursuing a program of social or political reform. Prohibition, in particular, faced the strongest rejection when, on February 5, 1840, at the Maine Temperance Union’s annual meeting, the moral suasionists rejected earlier demands for immediate prohibition. Prohibition, by the spring of 1840, appeared dead.\(^8\)

If prohibition appeared politically untenable by 1840, more indirect attempts at reform were not. In particular, the Washingtonians, a Baltimore group which idolized the character and habits of George Washington - but not his drinking - committed themselves to personal abstinence and to encouraging others to do so as well.\(^9\) If not, membership was still welcomed as a starting point to lessen the load of daily drink on the repentant albeit weak-willed men taking the pledge. Relying heavily upon a message of self-improvement and sobriety, the Washingtonians sought to serve as an outreach organization for those struggling with the drink. Through reform, it was hoped, those previously supposed irredeemable might become important agents in the push for tighter alcohol controls.\(^9\) This, then, signaled an important shift in national-and-statewide efforts to build a favorable political coalition to support greater control of and access to liquor.

Setting aside the failed hardline tactics of Appleton’s legislative proposal for prohibition, Dow, out of necessity, took note of the conciliatory tone of the Washingtonians and used it to win supporters before pursuing his hardline tactics once more.\(^9\) Dow, then, while hopeful for prohibition, now viewed state-level action less favorably. Persuasion and attention to individual

\(^8\) Maine Temperance Gazette, February 28, March 21, August 1, December 5, 1839, and February 13, 1840; Journal of American Temperance Union 1840; Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 251-54, 269-270.

\(^9\) Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 27.


\(^9\) Maine Temperance Gazette, March 12 and April 16, 1840; Christian Mirror, March 4, 11, 1841.
conversion would be key. To maximize effect, Washingtonian organizers ensured reformed men, those who previously struggled with the drink, led the experiential rallies directed at those still struggling. Such tactics, including a recruitment model of friends inviting friends, resulted in the organization’s proliferation. Following an open-air meeting of 4,000 in New York City early in 1841 and subsequent successful rallies in Boston, which brought forth “hearty shouts…, broad grins and glorious smiles,” reformers in Maine took note, including Dow. Staying away from messages of condemnation and prohibition, these groups, including the Portland Washingtonian Society, founded in May of 1841, sought to convince drinkers that their habits were bad for “their health…and their families.” These meetings would end with the signing of abstinence pledges. Through suasion and a willingness to allow anyone to attend, including active drunkards, the Washingtonian organizations flourished and provided a means to engage larger numbers of Mainers on their own terms. These meetings also had one additional effect - the development of a clear goal – personal abstinence, which, over time, might be adjusted for total sobriety.

A united front committed to suasion, inward reform, and positive-and-supportive pressures would not last long. Dow, who initially utilized the Washingtonian principle, built a Portland Washingtonian society of upwards of 1,400 men. However, he would soon seek to advance his goal of government-supported prohibition. Turning his attention from the teetotaler campaign of abstinence by choice, Dow soon pursued the rum sellers themselves. For Dow viewed the seller as the lowest of lows, responsible for robbing Portland workingmen the means of supporting their families. Relying on the reformed men or men committed to improvement within the Washingtonian Societies, Dow hoped to be able to turn their attention to the sellers that had materially contributed to their decline. If attacking individual drunkards had proven a failed tactic, shifting the blame to suppliers as exploitative seemingly made sense.

Pursuing such a course would prove problematic, though. For one, the attacks on rum sellers seemingly indicted those still struggling with the drink but otherwise sympathetic to the reform cause. This resulted in Dow’s loss of support of moderates in the movement. Additionally, the coarseness of some Washingtonian speakers along with Dow’s incessant attacks on rum sellers and moderate temperance men incurred the wrath of Christian reformers who found Dow as less than beneficial in his attempt to reach the souls of men.98 Pastor Asa Cummings, editor of the Portland Christian Mirror, spoke out against Dow’s abusiveness and insisted on temperance being properly tied to the virtues of Christian revivalism and reform happening concurrently.99 Dow retorted with derision for the likes of Cummings and other members of the ministerial class seeking to exercise some form of religious control over “his” movement. For Dow, at least, religion’s role in the prohibition crusade would have to be minimized.100 It appeared that the lessons of the anti-wine crusade and the breakup of the Maine Temperance Society had gone unheeded.

Dow was willing to lose this natural political coalition noting that the moderates did more harm than good, as their positive reputations undermined Dow’s narrative of all-corrupting alcohol. Relying, then, on associating liquor with crime, Dow worked to tie rum sellers to society’s worst ills – crime and poverty. The moderate drinkers themselves, Dow believed, would come around by the ongoing successful campaigns of groups like the Portland Washingtonians.

Dow’s inner logic lacked consistency. On the one hand, Dow viewed the Washingtonian movement as a means to speak to and convert moderate drinkers, but on the other hand, he felt such tactics would ultimately get in the way and/or have to cede the field to his program of prohibition. A kind of cognitive dissonance seemingly broke through in Dow’s thinking. He believed the moderates would remain loyal to him because of their Washingtonian association but also believed he could speak out against irregular drinkers without risking their political support. Unfortunately for him, such premises could not hold.

100 Ibid.
Whereas Dow’s group of Washingtonians remained relatively loyal to him, in large part due to his control over the organization, other Washingtonian organizations across the state soon broke against him fearing the power of the state and supporting moral suasion only. Additionally, for those still linking temperance and religious revivalism together (a position Dow no longer held but one still active in the field), members of Washingtonian organizations across the state feared the potential for the state’s moral building to be infused with one set of denominational beliefs at the expense of all others. At the time of Maine’s statehood in 1820, after all, the official state church had been Congregationalist, so religious interference in matters of conscious was a recent concern. Decade-long discord persisted among temperance men across the state. The formation of the “reformed” Washingtonian in Augusta signaled this division. Dow’s former Union supporters and those within his Washingtonian circle ultimately retreated from Augusta and worked exclusively out of Portland not only organizing but also publishing the Maine Temperance Gazette.  

From 1841 to 1845, Dow made use of the Gazette, renamed the Maine Temperance Gazette and Washingtonian Herald upon its move to Portland, to advance local progress on prohibition in Portland. With the help of Thomas Adams, Congregationalist reverend and editor of the Gazette, Dow worked to “choke…off” liquor sellers in Portland by bringing attention to their crimes and vices. In 1842, he had success in fighting off a request to the Legislature to repeal the state licensing laws, something Dow now realized could be used to great local effect to produce de facto local prohibition. This included an effective citywide referendum campaign in favor of prosecuting “unlicensed and unlawful” liquor sellers in the city in November of 1842. Actual prosecutions and convictions, however, proved fleeting. Of fourteen licensing law cases brought before the Cumberland County District Court in November of 1844, the Court directed prosecuting counsel to dismiss charges in five cases involving alleged common sellers of spirituous liquors. Findings of guilt would be upheld in the other nine cases, but the application of fines was no guarantee that distributors and sellers would get out of the business. In addition, much of Dow’s time during these years still involved targeting non-prohibitionist

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102 Bryne, Prophet of Prohibition: Neal Dow and His Crusade, 30.  
103 Advertiser, August 1, 1842; Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 278-280; Letter of “N.D.” and editorial in Temperance Gazette and Washingtonian Herald, July 28, August 4, 11, September 1, 29, October 6, 13, 27, 1842; Maine Washingtonian Journal and Temperance Herald, November 9, 16, 23, 1842.  
104 Cumberland County District Court Volume 15, MSA.
temperance groups like the Portland Peace Washingtonians and the statewide Washingtonians based in Augusta, who he accused “of negotiating with ‘murderers and devils’” over the Augusta organization’s willingness to only prohibit excessive drinking within the taverns themselves. In other words, Dow’s pursuit of ideological conformity within the cause remained front and center. Perhaps his largest symbolic success during this time was the Maine Temperance Union’s reversion to its 1840 prohibition pledge. Successful in alienating themselves from moderates, Dow’s prohibitionists became an increasingly isolated albeit loud presence in the reform field with their true levels of support remaining dubious at best.

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105 Byrne, *Prophet of Prohibition: Neal Dow and His Crusade*, 28-34.
From Suasion to Legislation:  
The Rise of State Action on Temperance (1840-1850)

“This is the first instance, I believe, in which the government of a civilized and Christian State has declared by statute that there shall not be within its borders any traffic in intoxicating liquors, to be used as drink, and that if any such liquors shall be sold for such purpose, under any circumstances, it shall be 'against Law and Equity and good conscience.'”

—Neal Dow (September 1846)

By the 1840s, Mainers involved in the temperance crusade fell into two categories: moral suasionists and prohibitionists. The suasionists, including groups like the Portland Peace Washingtonians and Maine’s statewide Washingtonian organization based in Augusta, sought to convert men to temperance and eventually abstinence through directed appeals and brotherly affection. Prohibitionists, on the other hand, wanted to harness the power of the state to end the liquor trade and ultimately the drink altogether. Each group believed in worldly progress and moral improvement. They differed on how to get there.

Even lacking such a consensus, however, attitudes across the state would become increasingly favorable for some kind of state action. In 1846, a first-of-its-kind ban on the liquor traffic would pass the Legislature, and Mainers, it seemed, embraced the collective power of the state to pursue moral reform much as they had embraced governmental action to affect economic growth and the public good. Granted, state action in 1846 and later would fall far short of the prohibitionist claims of Neal Dow, but, nonetheless, pro-temperance men-and-women from across the state, especially in its interior regions, worked to not only enforce the law but also to compel greater public awareness and support for those in the grips of demon rum as well as their victims. This groundswell of public sentiment made possible legislative enactments directed at limiting the drink’s effects and represented a shared commitment from Mainers to the public good and civic engagement.

Such engagement and commitment to improvement was characteristic of the 1840s with economic transformations in interior locales like Augusta signified by the pooling of individual resources to mitigate risk and advance the public good. The building of schools, fire departments, transportation improvements, and industrial developments were all financed by the public treasury at the behest of voters. Shared work meant shared rewards. Infrastructure growth

was the outward expression of evolving attitudes, which embraced the idea that a better society was within reach and one need not await Heaven for his/her rewards.

This acceptance of the role of individual agency and how collective action could advance individual as well as community interests underscored a movement away from the acceptance of traditional forms of authority, whether clerical or wealth based. Therefore, the economic and moral improvements of the 1840s were driven by the masses rather than from the elites, and this proved especially true the further inland one went, as interior regions proved more egalitarian.

For temperance reform, these realities would mean widespread support for something to be done but also limited acceptance for any action that might be construed as infringing upon one’s liberty (for fear of an elite-directed edict at the many). As a result, elite-driven prohibition attempts by men like Dow ultimately proved limited in their success, as it was the coalition of the masses within the more rural regions of the state that supported action. This action tended to support personal reform first and state action, only if necessary, second. Additional conflicts between religious elites, economic elites, and Dow’s prohibitionist crusaders would further serve to undercut any prospective attempts at an actual ban on the liquor traffic. Ultimately, then, the 1846 law was an expression of competing reform impulses, which sought to improve private- and public mores but disagreed on just how harsh restrictions on one’s liberty should be.

**Part I: A Retail Ban Bill**

On August 7, 1846, Maine legislators approved the first statewide restrictions on the sale of alcohol.\(^{108}\) The previous licensing regime, which the State supported in one fashion or another from 1821 onward, had given way to a first-of-its-kind ban. Large majorities supported the legislation with the House voting eighty-one to forty-two and the Senate voting twenty-three to five in favor.\(^{109}\) Governor Anderson signed the bill into law the same day.\(^{110}\) Those seeking state action on the temperance issue rejoiced. Writing on behalf of the Maine Temperance Union to the national chapter, Neal Dow proclaimed the Act as only the “first blow…[against] the traffic in strong drinks,” a traffic responsible for the “greatest mischiefs upon society.”\(^{111}\)

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\(^{108}\) **Maine State Statute 1846, Chapter 205, MSLL.**

\(^{109}\) **Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 261.**

\(^{110}\) **Ibid.**

Prohibitionists had, it seemed, successfully harnessed the power of the state to pursue their reform ends.

Such enthusiasm as Dow’s and the approximately forty thousand Mainers who signed petitions professing support for prohibition during the 1846 legislative session, however, required tempering, as the law fell far short of an outright ban.\(^\text{112}\) While the newly passed Chapter 205 of the Maine State Statutes prohibited any person from selling “any wine, brandy, rum or other spirituous liquors,” or any liquors partly spirituous, the law was easy to work around.\(^\text{113}\) For example, communities could still license individuals of “good moral character” to sell wine, brandy, and rum, and other spirituous liquors under an exception clause for “medical and mechanical purposes.”\(^\text{114}\) In addition, penalties for illegal sale were locked in, per offense, between one and twenty dollars.\(^\text{115}\) Violators faced no jail time for the exchange. The law sought to restrict the exchange of alcohol in theory, but in practice, the exceptions clause as well as the limited fine structure meant that the trade could continue, albeit at the risk of a nominal added “tax.”

The statute spoke to a ban on the liquor trade, but the law lacked force in confronting liquor traffickers. Furthermore, the law said nothing about possession. All of this belied an important point – the public’s support for state-led restrictions on intoxicating drinks remained soft. This fact was not lost on Dow who understood that the law’s enforcement provisions were particularly weak. In addition, he noted that with the statute’s passage “the time had come when the fire was the hottest, the danger the greatest.”\(^\text{116}\) Opponents would soon become more outspoken and some temperance supporters, faced with the difficulties of enactment, were sure to wilt away when challenged with resistance. Liquor traders now faced the prospect of increased scrutiny and confrontation. Resistance to enforcement would increase, and as a result, in Dow’s eyes, additional actions would be required to bolster the nascent prohibitory regime.

Such concerns about the prospects of the law’s enforcement soon proved correct. Those responsible for the law’s enforcement, municipal officers, often owed their electoral successes to

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\(^\text{112}\) Clubb, *The Maine Liquor Law: Its Origin, History, and Results*, 19; Maine’s population as of the 1840 Census was 501,793. This means that approximately eight percent of Maine residents signed onto a petition asking for state action on alcohol.

\(^\text{113}\) Maine State Statute 1846, Chapter 205, MSLL.

\(^\text{114}\) Ibid.

\(^\text{115}\) Ibid.

a free-flowing tap. As a result, local officials were slow to turn on a trusted tool of the political machine. In Portland, the Board of Alderman, fearing the prohibitory law would hurt the city’s commerce, authorized seven medicinal liquor permits when the law only provided for five, and allegations suggested those licensees prescribed for more than medicinal dispensation. The judicial branch had a history of dragging its feet on liquor cases under the old license laws also, so much so that cases could drag on for years and eventually even be dropped, *nolle prosequi*. One could reasonably, therefore, expect challenges in the courts as well.

As a result, private citizens were left to take up the banner of the law and pursue enforcement. To the northeast of Augusta, across the Kennebec River, members of the Vassalboro temperance union sought to take legal actions, presumably due to the unwillingness of officers of the law, against violators of the 1846 law. Members formed a committee “whose duty it shall be to prosecute any or all persons who shall be guilty of selling liquors in open violation of the law, within our immediate neighborhood.” Such actions showed the tenacity of temperance feeling. They also belied the fact that the law itself proved unfavorable in many quarters, including with local officials. Public pressure proved essential to bring attention to illegal liquor exchanges.

More favorable reports about the laws enforcement came out of the Downeast border town of Calais. In the fall of 1846, “some eight or nine persons” came before Judge Downes for violating the new law. Those that pled guilty faced a fine of five dollars; those that went to trial and were found guilty faced a ten dollar fine and court costs; for those refusing to pay the fines, a nominal jail sentence ensued. Most interesting were the accusations laid out in the local paper that rum sellers were not those of apparent ill repute or little means, but rather, “men who claim to be respectable, and live in big houses.” In Calais, the pro-temperance masses had effect on those peddling in the lucrative liquor trade. Still, though, such paltry fines meant little for curtailing the practice. The continued appearance of liquor sellers and traffickers before Maine courts proved this. During the Kennebec County Supreme Judicial Court’s 1850 May term, the

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118 Byrne, *Prophet of Prohibition: Neal Dow and His Crusade*, 39.
121 Ibid.
Court handled eleven cases under the 1846 law on appeal from lower courts, and of the eleven, four concerned the same George H. Brown.¹²²

Perhaps most damning for prohibitionist sympathizers were the failures of their champion, Neal Dow. Yes, in some quarters Dow had become the leader of the statewide prohibition project and was gaining national recognition within the movement. But, for all of his achievements, contemporaries and his peers have much overstated his fame, success, and importance. Neither his role within the pro-prohibition statewide temperance union, the speech tour and petition drive he completed across rural Maine in the winter/spring of 1846, and his advocacy to the Maine legislature in favor of the 1846 bill were alone responsible for legislative action on the drink. Too much attention to these events has reinforced Dow’s message of state-led prohibition while ignoring crucial evidence. Abuses present under the prior licensing system and the lax enforcement of the retail ban provide tangible evidence that Mainers, no matter how many prohibition petitions Dow paraded in front of the Legislature in June of 1846, had more complicated and nuanced ideas about temperance and the proper role the state might play (or not) in pursuing it.¹²³

One need not go as far to point out the weaknesses and seeming peculiarities within Maine’s legal structure to note that alcohol-related legislation and the accompanying public sentiments were anything but prohibitive by 1846. Dow’s failures alone illustrate this fact. His success in turning Portland into a no-license community was balanced by the fact that city officials were “always excepting the enforcement of the penalties.”¹²⁴ His attempt to get the Legislature to pass a prohibition law in 1845 failed. And through a series of electoral campaigns, including one against Phineas Barnes, a former temperance ally, Dow failed to prevent the reelection of Barnes and a Whig, William Pitt Fessenden.¹²⁵ Dow’s less than popular reception

¹²² Kennebec County Supreme Judicial Court Records, Volume 13, MSA; Considering that, as early as 1834, there were as many as fifteen retailers of ardent spirit in Augusta and bearing in mind Augusta’s population surge between 1830 (3980 persons) to 1850 (8225 persons), the likes of George H. Brown and other sellers were easily visible (Maine Temperance Society, Annual Report..., 67.).
¹²³ It is worth remembering that when Dow addressed the Maine State Legislature on June 25, 1846, the prohibition he hoped for and the one that the Legislature passed in August were two different things. Indeed, evidence suggests that later in the summer, following Dow’s testimony, representatives amended the bill to make it more palatable but also less prohibition friendly. For example, amendments to the bill ultimately exempted wholesalers, who produced quantities of liquor and drink in excess of twenty-eight gallons or more. In this light then, the Bill that started in June versus the one that ultimately passed was actually more prohibition friendly than the eventual Act itself. (MSA 1/1 1846 Chapter 126, Box 215 Folder 10, An Act to restrict the sale of intoxicating drinks).
¹²⁴ Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 36.
¹²⁵ Ibid.
and his limited political effect at bringing full prohibition to bear, therefore, suggest that it was not Dow that was key to changes occurring across Maine concerning the drink. Rather, more broad-based and geographically dispersed changes were leading Mainers to take up state building and the reform banner in the name of a more benevolent society, although one free of the most excessive kinds of state coercion. No time and place represented these changes better than 1840s Maine. In Augusta, economic growth, school-system reform, and growing denominational diversity illustrated the pillars of an ever-growing civil society committed to the public good. And, more generally across the state, the proliferation and continued success of temperance groups, especially women’s organizations, illustrated a groundswell of temperance support across denominational, geographic, political, and socio-economic lines. The roots of the 1846 law can be found here rather than in the prohibitionist extremism of men like Dow.

Part II – Augusta and Interior Maine: Improvement and the Public Good (1840-1850)

By 1840, Augusta, Maine’s capital, was a bustling inland city along the Kennebec River. With a population of 5,314 persons, a thirty percent increase over the 1830 census, and an almost 50/50 male/female ratio, the town had become a prime location for families seeking economic opportunities and a new beginning. The quiet agricultural and frontier community of the early 1830s had given way to a multifaceted market economy, which included strong agricultural, commercial, and industrial sectors as well as a bustling river-and-ocean transport industry and a small, but growing, educational system. As the town grew past its days as a river outpost for trade and granite exploration, the town changed rapidly. Population increases gave birth to a vibrant civil society that embraced the notions of progress and improvement.126

As Augusta’s population grew and more families moved into the community, residents began to identify the importance of shared public goods for their collective security and benefit. The major public projects of the 1840s, including the building of a dam, river widening, and the creation of a public school system, all spoke to the community’s desire to make a better tomorrow. This embrace of the common good was hardly peculiar to Augusta, but it did signal a shift in community attitudes towards collective purpose. Shared work and a commitment to public goods could make citizens’ lives better. Writing on antebellum America, Daniel Walker

126 James W. North, The History of Augusta from the Earliest Settlement to the Present Time. (Augusta: Clapp and North, 1870), 608.
Howe identified an “individual [and] collective responsibility” present in the phenomenon of “improvement.” Americans undertook activities, ranging from singular to collective, “to make use of [improvement’s] potential,” whether that be the creation of a dam for increased economic opportunity, the creation of a public fire department to safeguard one’s home and business, and/or the pursuit of sobriety for personal salvation and familial felicity.

In 1840, Augusta generated $16,950 of tax revenue. Such revenue was a reflection of the town’s growth. It was also an agent of the community’s will. In the first allocation of its kind, four hundred dollars was set aside for two reservoirs for the fire department. This commitment to public infrastructure came to identify the town for the remainder of the decade. Augusta grew so quickly during this period that it would become a formally chartered city by 1849. The first major community investment of the decade came in 1842 with the creation of a unified village school district, which established “one high, two grammar and six primary schools.” With five hundred active school-age residents and over nine hundred potential students, the district board of directors authorized the purchasing of land and the building of two small schools to increase capacity to serve the general student population.

This action, albeit of seemingly meager means was no small feat. Concerns of inequity plagued the Augusta school districts in the 1830s. Public concern revolved around the previous district school boards’ lack of commitment to the common good in favor of advancing their own children’s educational attainment. By working to reorganize the town’s schools, Augustans

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127 Howe, What Hath God Wrought: The Transformation of America, 1815-1848, 244.
128 Ibid.
129 North, The History of Augusta from the Earliest Settlement to the Present Time, 608.
130 Ibid.
131 Ibid, 619.
132 Ibid, 619.
133 Ibid, 619-623; Many held the perception that board members favored the high school with oversized budget appropriations in a case of blanket nepotism for board members’ high-school eligible children to have access to higher learning. As high school education was more luxury than necessity, the masses, James W. North suggests, appeared to question the board’s impartiality and commitment to the common good. School district reforms sought to change this by creating a school system devoted to the needs of the entire community, with secondary and grammar schools serving the public best. Under the unified village school district, the school board, now more representative of the population at large, approved a resolution by Reverend William A. Drew to “establish three grammar schools, one for boys, one for girls, and one for girls and boys, and six primary schools,” and to close the high school (620). As the decade progressed, residents recognized not only the educational benefits of a universal school system, but also the values such a system brought for property values. Furthering the public’s involvement in schools, a district tax would take the place of town-meeting votes to determine school funding by the end of the decade. Votes on tax rates, one suspects, resulted in higher voter turnout, and therefore, more representative policy outcomes with respect to the town’s schools. Under the older town-meeting system, those most invested in the schools, and presumably some of the community’s “best” families likely controlled school funding and spending in
had acted to advance the general welfare of the entire community’s children rather than those of a select few. Public school reform in Augusta was about two things (1) a realization amongst the masses of the importance of educational institutions to their collective well-being, and (2) a response against what had been perceived as elite control of the means to learning. Indeed, a March 31, 1847 school board resolution put it succinctly: all citizens had an obligation “to improve the condition…of our public schools, as upon the success of these schools mainly depend the intelligence and virtue of the people, the security of our persons and property, and the stability of our free institutions.” Community building was serious business. Civil society depended upon it. 

If education was necessary for an informed citizenry and a functional democracy than equally important was the Kennebec River, which provided a thoroughfare for goods, people, and economic opportunities. Following partial destruction of the Kennebec dam at Augusta in 1839, the now partially collapsed dam had created a serious obstacle to river navigation and transport. Boaters would have to stop at the base of the dam to pass goods up to a boat waiting above, as navigation beyond proved impossible outside of flood seasons. River merchants and residents of Augusta suffered economically, and the Locks and Canals Company, which owned the dam was unable to address its condition due to finances. A private-public partnership proved necessary to rebuild it. Alfred Redington offered to rebuild the dam in exchange for land and water from the dam company to drive his mills. Two-to-three dollar voluntary contributions from Locks stockholders proved helpful, but it was through the contributions of community members, who Redington solicited, that made the project possible. Construction began on September 5, 1841. And soon thereafter mills and machine shops “for the working of lumber” appeared with additional factories to follow later in the decade. Total construction costs ran some ten-to-twelve thousand dollars.

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ways that proved less than democratic. A high school would return to Augusta by the end of the decade. (North, 619-623) 

134 Ibid, 623. 
135 It should be noted that North’s accounting was likely heavily influenced by his reform-minded philosophies and Republican political affiliation. Nonetheless, his presentation of institutional changes in Augusta during the 1840s and his perceptions of those changes speak to a larger reform-minded approach and, in that respect, prove reflective of a growing attitude of improvement during the era. 
136 North, The History of Augusta from the Earliest Settlement to the Present Time, 610. 
137 Ibid, 609-610.
As much as the dam proved vital to harnessing the rivers power for economic advancement, the river itself served as a transportation lifeline. With daily Kennebec to Boston routes, the river made Augusta a key commercial locus point. Inland traders and material goods, especially timber, could be brought from points upriver to Augusta to then be sent to coastal points south for sale. Connecting interior Maine with coastal communities also provided a means for not just the market exchange of goods, but also, the exchange of peoples, ideas, and information. Understanding the river as vital to the community’s shared success, Augustans, at a December 28, 1844 meeting, met to discuss the need to make improvements to the river’s channel in order “to admit vessels and steamboats of a large class to come to our wharves at any stage of the water in the river and at any time of tide.” The town approved the undertaking to deepen the river’s channels some three feet by a vote of five hundred sixty two to fifty four. By 1845/46, as more and more people traveled to/moved to Augusta on the larger steamboats, the town industrialized. Citizens established a cotton factory, flour mill, machine shop, and kyanizing shop. Once accomplished, community interest quickly turned to the authorizing of community funds for the connecting of Augusta to points south by rail. Yet again, residents confirmed the merits of public funds for infrastructure development on August 17, 1850, voting nine hundred and eight to forty seven in favor of a two hundred thousand dollar loan to the rail company to connect to the city of Gardiner.

Economic development in Augusta during the 1840s represented a commitment to public works projects that benefitted all. As a result, the masses could support such projects that provided the means for employment, greater access to goods and materials, or educational

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138 Ibid, 636.
139 Ibid, 636-641.
140 Ibid, 640-648; Joel W. Eastman and Paul E. Rivard, “Transportation & Manufacturing” in Maine: The Pine Tree State from Prehistory to the Present, 314-316; During the 1845 legislative session, the state chartered three railroad corporations: the Atlantic and St. Lawrence Railroad, which would run from “the city of Portland, through the counties of Cumberland and Oxford;” the Androscoggin and Kennebec Railroad, which was slated to branch off the first line at Lewiston and to terminate somewhere on the Kennebec River between Waterville and Hallowell; and the Penobscot and Kennebec Railroad, which would run from the terminating point of the previous railroad and head north to Bangor (North, 640). Competition for funds and support proved especially fierce between the Portland-based line and the other lines. Indeed, rivalries between competing lines and regions had plagued the state’s rail development since the legislature’s creation of the Board of Internal Improvements in 1834 (Eastman…, 314). Legislators were jealous of their own rail projects and thus a proliferation of “alternative” lines made it difficult for anyone to gain the requisite funding for completion, not to mention long-term viability. Augustans, facing the reality of a north-south line ending in Gardiner, due to a funding shortage, agreed to loan two hundred thousand dollars to the railroad on August 17, 1850. Nine hundred and eight residents voted in favor and forty-seven against. An iron horse arrived in Augusta for the first time on December 15, 1851. (Sourced from footnote 139 – North; Eastman & Rivard, see above)
advancement while men of wealth were also willing to take on significant personal financial risk, as the case with Redington, to support the rebuilding of infrastructure for personal as well as public gain. This shared commitment across socio-economic lines made possible a community consciousness where everyone took on some risk but likewise stood to reap rewards by way of the town’s improving economic condition.

Commitment to the public good was not only limited to the economic sphere. The lived realities of Mainers, economic and otherwise, were resulting in demands for improvement, especially moral betterment. With the family on the frontline in combatting the excesses of drink on fathers, husbands, brothers, and sons, women worked to advance the cause of temperance activism from the home. This proved especially true in more remote parts of the state where the drink’s effects were more pernicious and readily noticed. A correspondent for the *Hallowell Gazette*, reporting from far northern Aroostook County, “believe[d] that lumbering has been almost an unmitigated curse to this region.”

“Drunkenness,” the writer argued, went hand-in-hand with a logging culture that perpetuated resource exploitation and unpredictability. This was not to suggest that drunkenness begot bad economic practices, but rather that the nature of the logging camps themselves set young men down a bad path.

In these remote regions characterized by physically-demanding labor and considerable distance from the home, men appeared especially prone to the habit. In turn, such regions had active temperance societies. In celebration of the July 4th holiday in 1842, The Temperance Society of Patten and vicinity organized a day of music, scripture reading, patriotic pronouncements, and addresses on temperance directed at drunkards, moderate drinkers, and sellers. Toasts expressing “total abstinence” and the tying of “principles of Independence” with temperate behavior characterized the messages presented to the crowd of three hundred.

And the women of this region, including Bela H. Chelsey, toasted for relief from the tyrant *drink*, worse than Britain, which produced “a bon[da]ge worse than death.” To this end, then, the language of negative liberty, being free from external restraints proved consistent with claims of

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141 In some ways women were responding to the negative consequences of industrial progress in places like Augusta and elsewhere with their own campaigns to advance sobriety.
143 Ibid.
146 Ibid.
147 Ibid.
individual rights whether being espoused by the men of 1776 or Patten’s fledgling Martha Washington Society committed to getting men to take the abstinence pledge.148

These women’s groups whether formal or informal, historians believe, proved crucial to advancing the temperance cause. In her essay on Washingtonians, Ruth M. Alexander noted that women’s temperance organizations, like the Martha Washingtons, were “probably in the hands of women of humble background and social standing” committed to maintaining “the affairs of the home” and “family happiness.”149 And, indeed, the Maine experience bears this out, especially when considering the relative abundance of temperance groups and women’s involvement across outlying areas of Maine, which unlike their coastal neighbors proved more modest in economic and social orientation. Even Dow noted this reception on his 1845-46 speaking tour across interior Maine, suggesting support for reform was more a function of rural attitudes than the consequence of elite-led reform from the city.150

Other examples prove the point. In a July 4 celebration at Lubec, temperance societies held a march through town, which culminated with the gifting of a banner by the Ladies of the town to the Washingtonians. Speaking for the women of Lubec, Miss E. Sikes spoke of the “sighs and tears caused by intemperance” and encouraged the Washingtonian men to treat the drunkard, that “unfortunate slave of appetite,” as the “Good Samaritan” would treat you.151 And, so, through such proclamation, the women of Lubec invoked the Christian language of salvation to encourage continued efforts to reform lost brothers. Reports of women’s groups organizing, caring, and tending for the sick can be found from the state’s borderlands with Canada to Portland where that city’s Martha Washington Society met on the first Wednesday of every month at the Christian Chapel.152 Unlike neighboring states, where the Washingtonian movements were identified as having largely shifted away from attempting to aid those in need directly by the end of the decade, Maine organizations retained a commitment to provide for “that class of citizens who most forcibly call for our assistance.”153

148 Ibid.
150 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 37.
151 Temperance Gazette and Washingtonian Herald, Thursday, July 28, 1842.
152 Maine Temperance Gazette, August 11, 1842.
153 Quote in The Washingtonian Journal, February 2, 1848; The Washingtonian Journal, January 26, 1848; Alexander, “’We are Engaged as a Band of Sisters:’ Class and Domesticity in the Washingtonian Temperance Movement, 1840-1850.”
The 1846 Law, then, begins to make a lot more sense when viewed in the context of the broader societal changes occurring outside of Portland and across Maine, as illustrated by Augusta and the more remote regions of the state in the 1840s. A groundswell of Mainers supported improvement in its variety of iterations, including economic and moral. However, whereas Mainers accepted publically-sanctioned taxation for economic projects, they were less likely to support the role of the state in regulating private, personal matters. As illustrated by the many local Washingtonian societies and women’s auxiliaries, the language of temperance was directed at personal reform first followed by state action, possibly, second. As a result, the temperance law of 1846 makes sense as an attempt by Mainers to address competing values – the desire to reform private behaviors but also to maintain individual liberty. The result was a haphazard law that on its face appeared to end the liquor trade, but in practice allowed it to continue at added costs. And, of course, this says nothing of the many Mainers who outwardly resisted the law and undermined its already weak enforcement mechanisms.

Part III: Denominational Diversity and Temperance Campaigners

Underscoring this secular progress of economic, educational, and urban development were religious undercurrents that were as strong in Augusta as they were elsewhere in the state. In fact, secularized notions of progress often overlapped with religious notions of improvement. Religious questions took hold of antebellum Americans, including Augustans, and for many, this meant antebellum Christianity was perfectly aligned with the “social progress,” “popular judgment,” and “rational discourse” that seemingly characterized antebellum life. Indeed, belief in personal salvation through works, both individual and collective, permeated American state building efforts with a Christianized feel. Such connections, therefore, explain the exalted position of the likes of the Reverend William A. Drew, Unitarian minister of Augusta, chairing meetings concerning Augusta’s schools and economic development throughout the 1840s. Building a better society meant preparing oneself for Christ’s return, whether in this life or the next. Christianity infused debates concerning progress across the nation as well as Augusta and, in particular, on the temperance question.

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154 Howe, What Hath God Wrought: The Transformation of America, 1815-1848, 446.
155 For some Christians, millennialism, the belief in a golden age that would precede Christ’s final judgment helped to drive calls for moral reform, progress, and improvement throughout the antebellum era. Some denominations took such claims figuratively while others viewed them more literally. In other cases, certain Christian sects, including
Denominational diversity characterized Augusta in the 1840s. Congregationalists, Unitarians, Baptists, Methodists, Catholics, and Episcopalians were the predominant Christian sects of the era, and they all, in one way or another, embraced a salvation message. However, as they often do, they differed on the particulars. Some of the sharpest divisions rested with the great social questions of the day. In March of 1844, a splinter group of the First Baptist Church of Augusta broke off to form its own, albeit short lived, church, the Second Baptist Church of Augusta. Their reason for splitting: the slavery stance of the First Church. The biggest denominational conflict existed between the Congregationalists and the Unitarians, while one called for adulation towards the Lord first; the other suggested rational attention to more Earthly progress.

Congregationalism, which could trace its lineage back to John Calvin, held fast to the belief of individual salvation through the Lord alone. God, therefore, was to come first before all things. Many of Augusta’s early nineteenth century residents identified as Congregationalist. Over time, however, more “liberal element[s]” within the Church began to break away over what appears to have been theological issues with predestination. As early as 1826, some members of the First Parish Congregational Church separated to form the East Parish Church. East Parish was a Unitarian denomination, which embraced a rationality-based approach to salvation that included one’s works as a sign of God’s grace. This approach highlighted fissures among Augusta’s Protestant churches.

An 1840 controversy over the permissibility of dance erupted into the most clear cut example of denominational differences, as questions of church governance and authority confronted the South Parish Congregationalists. The matter proved of such importance that it

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the Millerites, proclaimed Christ’s return as imminent. Believers gave up their earthly concerns and responsibilities in preparation for Christ’s second coming only to be left disappointed. Millerism had a sizable following in Maine and goes to speak to the denominational diversity present in the state, as Maineres were trying to adapt in the midst of drastic social-and-economic change. The hysteria brought forth by Millerism and its failed prophetic claims about the date of Christ’s return warranted mentioning in the Portland Advertiser on October 29, 1844, a week after the proclaimed date for Christ’s return, whereby the authors “hoped, that peace and truth will take the place of agitation and delusion.” Not all forms of religious reform and revivalism, then, were strictly speaking viewed as having a rational and knowledge-driven basis. In any case, whether pursuing secular improvement projects or dutifully waiting for Christ’s return, Christian belief undergirded much of the public’s actions through the antebellum era.

156 North, The History of Augusta from the Earliest Settlement to the Present Time, 628-629.
was even referred to President Way at Brown University to adjudicate. Simply put, concerns about the centrality and hierarchy of church power in the hands of a chosen or elite few proved problematic for some. Those who disagreed with the church’s pronouncements left the communion in pursuit of a more egalitarian approach to religiosity that embraced rationality over dogmatic practice and/or tradition that could not be accounted for within the Bible. Personal salvation tied not to the arbitrary impositions of a clerical class, but rather, to works and individualized faith appealed to those who left the fold, oftentimes for the more embracing arms of Unitarianism.

A more individualized note can be drawn here. In his sermon, “The Wages of Sin,” South Parish Congregationalist minister Benjamin Tappan argued against the possibility of reliable individual and collective judgments being made on sin. Only by giving oneself over to God could one hope to rest among those saved. However, Unitarian minister William A. Drew, in the Unitarian and temperance weekly *The Gospel Banner* of which he was editor, professed a liberal reading of the Bible that made room for man’s faculties when making interpretive claims. For example, Drew took a prominent Baptist writer to task over his interpretative remarks on a passage from Proverbs, Chapter V, Verse 11. In his concluding remark on the interpretive claims of his Baptist colleague concerning the passage on Solomon, Drew stated,

> Had Solomon believed in future, eternal punishment, doubtless he would have found language to express such a sentiment, and not left his *strongest* expression in proof of such a sentiment so weak as to make it necessary for men in this age to strain and stretch it beyond measure to obtain an inference from it in support of their system.

Drew’s colorful editorial expose called out biblical interpretations not rooted in rational interpretive claims based on “text and context.” In this particular case, Drew’s Baptist brother was stuck in old doctrinal thinking of a bygone era. Unitarians, for Drew, embraced “progress;” whereas, those refusing to challenge the interpretative claims of those who have come before,

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162 *Gospel Banner and Maine Christian Pilot*, March 17, 1838.
163 *Ibid*. 
whether Baptist, Congregationalist, or other, were bound to a Christian faith not of liberation but of confinement and despair.\textsuperscript{164}

This split in religious approach between traditional and liberal thinking characterized not only Christian theological disputes but also the ways in which such denominations engaged with antebellum reform movements, including temperance. Both Congregationalists and Unitarians engaged in the public discourse on temperance. Some preferred a message of moderation while others grabbed hold of the teetotaler campaigns that supported complete abstinence. Abstinence, though, was tricky business. While the likes of Reverend Tappan and other Augusta clergy lent their talents to Washingtonian groups, their individual denominational attitudes on the subject varied.\textsuperscript{165} Tappan, much like his Congregationalist brother Asa Cummings of Portland, resisted placing religion in a subservient position to temperance reform.\textsuperscript{166} Anti-wine campaigns had had a chilling effect on some denominational support for prohibition, especially among some Congregationalists, who viewed such bans as not in keeping with “Saint Paul’s endorsement of the beverage.”\textsuperscript{167} Reverend Drew, on the other hand, grew weary of what he saw as too much Congregationalist corroboration within the organized temperance movement and urged his like-minded thinkers to stay away from such societies.\textsuperscript{168} And in both cases, each branch of the denominational divide had their reasons to resist state-led compulsory reforms. Congregationalists, it appeared, feared competition with the state, and, at times, state-meddling in religious affairs, and Unitarians feared a state prohibitive regime as dangerous to individual autonomy and individualized salvation.

Competition with religious authorities, then, led to a divide between temperance reformers and religious groups over just how much government intervention should be used in the pursuit of moral betterment. Concerns about the power of the state, however, were not the only factors that kept some denominations and temperance reformers apart. Indeed, some religious groups were becoming increasingly jealous of the following that Washingtonian organizations held. The Thomaston Washingtonian Temperance Society reported on the “refusal

\textsuperscript{164} Ibid; Darnell Cony, providing recollections for the March 17, 1877 edition of the \textit{Maine Farmer}, characterized Drew the following way: “By nature and education a controversialist, possessing a remarkably clear and well trained intellect, he was peculiarly fitted to become the expounder of a comparatively new faith, which was not only a negation of the tenets of orthodoxy, but an affirmation of its diametrically opposite doctrines.”
\textsuperscript{165} \textit{Kennebec Journal Weekly}, February 6, 1846.
\textsuperscript{166} Byrne, \textit{Prophet of Prohibition: Neal Dow and His Crusade}, 29.
\textsuperscript{167} Ibid, 25-26.
\textsuperscript{168} Ibid.
of the Baptist Meeting-houses to hold Washingtonian meetings therein on Sabbath evenings” suggesting that such refusal was not in keeping with the “good cause” of the Washingtonians, and that, in their view, such an activity was appropriate for the Sabbath day.\(^{169}\) It is telling that the Washingtonians, a temperance organization, felt at ease to question the Thomaston Baptists’ religious basis for denying them church access. Such engagements surely provoked animosity, as Washingtonians surely soured some churched allies to the temperance group by their commitment to the cause before God, or so it seemed to the Thomaston Baptist minister.

Such fracturing of denominational attitudes on the drink and on the methods of reform minded temperance organizations did not stop what appears to have been genuine public clamoring for something to be done. In 1843, Augustans voted to prevent the licensing board from granting liquor licenses that year. However, the resolution directing that violators be prosecuted was ultimately voted down. Temperance groups then nominated temperance-friendly board members for election, only to have them voted down.\(^{170}\) Such results spoke to public sentiment that found drunkenness and intemperance abhorrent, but also the inability for consensus to be reached about how to deal with the drinker. It was easier to pronounce something bad rather than actively force one to account.

Attempts to address the liquor question were caught up in more general attitudes about progress. Whether in Augusta, Portland, or elsewhere in the state, public sentiments to improve society resulted in levels of widespread participation and governmental action. These pushes for reform were not isolated to any one part of the state, and they did have some things in common. Egalitarianism drove many reform attempts, especially when it came to educational and economic opportunities, as illustrated by the changes brought forth in Augusta in the 1840s. And even in the churches the revolutionary-era sentiment of levelling and rational inquiry resulted in anti-clerical and anti-orthodox pronouncements by members of the laity. This resulted in new Christian denominational strains that advanced a progressive, rational worldview, like Unitarianism. The East Parish Unitarian congregation was simply a symptom of a larger movement that embraced the public good but did so while maintaining the autonomy of people’s private faith lives. Salvation was a choice and freedom to act was key to that choice. As a result, such modes of secular-and-religious thought embraced the use of the state to pursue public goods

\(^{169}\) *The Washingtonian (Augusta, ME)* – Wednesday, March 2, 1842.

\(^{170}\) North, *The History of Augusta from the Earliest Settlement to the Present Time*, 626.
that had tangible benefits to the community and individuals overall. However, absolute restrictions (prohibitions) on individual liberty (the liberty to make choices for oneself as well as to engage in economic exchange) were oftentimes viewed as beyond the pale of state action. This explains, in part, why public sentiment could, at once, be for state action on temperance, but also refuse to embrace the most stringent of enforcement measures on the liquor trade.

Older line orthodoxies also persisted. For these groups, most prominently the Congregationalists, temperance was a virtue to be pursued in light of the sinful nature brought forth by drink. But, different kinds of fears on state authority affected these communities. In particular, the anti-wine crusades by prohibitionist agitators left many fearful of state overreach in the religious sphere. As a result, even some of the more conservative churches resisted the use of too much state power in the pursuit of moral reform. Matters of soul-saving and salvation were best left to God before country for these groups. Of course, this is not to say that there were not some pro-state intervention Congregationalists; there were, but the fissures present within the Congregational communion and the broader changes outside of it explains strong public sentiment for reform, but a reform agenda that faced limits.

Most notable about these two strains of reform goals is with whom they most clearly clashed: Neal Dow. Dow had established himself as a prohibitionist elite, who attempted to impose his prohibitionist agenda at the expense of all other causes. For the religiously orthodox, then, Dow threatened their autonomy and subordinated God to the reform crusade. For secular rationalists, who defended individual liberty and egalitarianism, Dow’s prohibition crusade smacked of snobbery and elitism. Furthermore, Dow’s push for state sanctions also conflicted with the autonomy of individual choice that Unitarians and others held so important.

Fears of elitist snobbery also took on a regional characteristic. As the competition for railroad funding underscored, coastal and interior Maine, while codependent in some respects, also developed unevenly. As Joyce Butler notes, “Maine’s seaports prospered, [while]…interior agricultural towns…matured much more slowly.” The result was a cultural and geographic separation that contrasted seaport “Federalist refinement,” and the accompanying acceptance of hierarchy and the role of the state in these areas, with the provincialism of inland settlements.

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that, although less refined and developed, were, by their nature, more egalitarian.\textsuperscript{172} Prohibition elites not only held the wrong ideas for most Mainers, but they also faced geographic divides that proved difficult to surmount.

**Part IV: To Prohibition!**

Maine’s anti-retail law proved the embodiment of conflicting demands and interests across the state. Supporters of the law demanded something be done about alcohol consumption while opponents littered the law with loopholes and exceptions designed to undermine enforcement. Neither side liked the law. Bills to amend proved frequent and popular. A repeal drive came first. During the summer of 1847, opponents of the law sought to undue the work “by an antecedent Legislature, under the pressure of a temporary effervescence of the public mind excited by the heated appeals of itinerant temperance lecturers…”\textsuperscript{173} In the end, the repeal lobby was out-petitioned, but a review of the petitions from Kennebec, Cumberland, and Somerset counties made three things abundantly clear: (1) a rural-urban divide existed in the state, (2) pockets of resistance proved strongest on the coast and interior frontiers, and (3) petitioners, themselves, recognized problems with the 1846 law itself.

An accounting of the 1847 repeal drive petitions from Kennebec, Cumberland, and Somerset counties provides considerable insights. For one, the petition breakdowns in Cumberland, Kennebec, and Somerset counties were the following, respectively: 2108 (37%) yeas and 3685 (63%) nays in Cumberland; 724 (22%) yeas and 2581 (78%) nays in Kennebec; and 485 (42%) yeas and 680 (58%) nays in Somerset County.\textsuperscript{174} The more rural the county was the greater the opposition to the law. Such results seem to complicate prior claims from some that Dow’s winter/spring speaking tour across rural Maine in 1846 was a reflection of strong rural support of the proposed bill.\textsuperscript{175} Perhaps rural support had been previously overstated, or perhaps a differentiation between near-and-distant rural places proves necessary, especially as no community in Somerset County had a population above 2,000 as of the 1850 census.\textsuperscript{176} Consideration of a gendered dynamic may also help to explain the apparent rural resistance to

\textsuperscript{172} Ibid, 227.
\textsuperscript{173} 1847 Portland petition for the repeal of Maine State Statute 1846, Chapter 105 in MSA 1/3 1847 Box 186 Folder 35, 2401-0408 LEGISLATIVE GY 184.
\textsuperscript{174} MSA 1/3 1847 Box 184 – Box 187, 2401-0408, Legislative GY 1847.
\textsuperscript{175} Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 37.
\textsuperscript{176} Kennebec Journal Weekly, February 27, 1851.
the law. Men held the law in low esteem. Women did not, as the ones organizing in places like Patten and Lubec saw the law in a much more positive light. Additional breakdown of the data proves illuminating.\textsuperscript{177} Of the localities surveyed from Cumberland, Kennebec, and Somerset counties, fifteen polled in favor of repeal. Among those fifteen, twelve were interior, rural communities situated to the north and west of major urban areas and the coast.\textsuperscript{178} Greater resistance, by way of square miles at least, to restrictions on the liquor trade came from inland Maine.

Two other communities proved interesting as well: Portland and Westbrook because of their locations and the results of the petition drives.\textsuperscript{179} Portland, home to Dow, seat of the prohibitionist reform unions, and to the 3800 women who signed petitions in favor of prohibition in 1846, came in with 1288 signatures for repeal and only 799 against.\textsuperscript{180} Likewise, Westbrook presented a count of seventy four in favor and forty eight against.\textsuperscript{181} Considering 3800 women’s signatures were present to support the law in 1846, one wonders why Portland women did not organize again? Had their numbers been overstated in 1846? Were the local prohibition unions, the Portland Temperance Union, and the Martha Washingtons not as unified and capable as Dow and others had suggested? Perhaps. As the 1846 petitions have not survived, comparisons prove impossible. It is likely that the 1847 data reinforces, in some ways, the clear resistance that Dow found within Portland in response to enforcement attempts of the law. The public simply was not as supportive for harsh enforcement measures, as he would have hoped. The 1847 drive in Portland suggests the possibility of a limited or a lessening of support from the law’s 1846 supporters (hence the decrease in petitions in favor of the law) as well as identifies the stiff resistance that was present in Portland to ending the liquor trade. Such findings prove consistent with newspaper and court record reports from the era and are in keeping with claims about seaport communities being liquor friendly.\textsuperscript{182}

Data aside, the petitions provide a window into the thinking of those for and against the law. Such thoughts ranged from the personal and passionate to the more intellectually and

\textsuperscript{177} Collections of 1847 Petitions: Drive for Repeal of Maine State Statute 1846, Chapter 205 Data for Cumberland, Kennebec, and Somerset Counties, MSA.
\textsuperscript{178} Ibid.
\textsuperscript{179} Portland and Westbrook share a border.
\textsuperscript{180} MSA 1/3 1847 Box 186 Folder 35, 2401-0408 LEGISLATIVE GY 1847.
\textsuperscript{181} MSA 1/3 1847 Box 187 Folder 31, 2401-0408 LEGISLATIVE GY 1847.
\textsuperscript{182} As a case-in-point, Harpswell, a considerably smaller community but one whose existence was tied to seafaring work, came in with forty petitions in favor of repeal and none against.
philosophically developed. Opponents of the 1846 law claimed it was a fabrication of temperance extremists, who desired to “coerce the people in matters purely sumptuary and personal.” 183 Enemies of the law claimed prohibitionists lacked evidence as well as sound judgement when they suggested legislative recourse would provide the “universal prevalence” of the “rational temperance” that the prohibitionists sought. 184 Those supporting repeal were invoking the language of reform themselves, or more specifically the language of progress. With rationality as their guide, opponents of state action suggested state power could never eradicate the vice so hated by men like Dow. State interference would have far more disastrous consequences on personal liberty and would undermine the roots of proper moral conversion, which came inwardly from thyself rather than outwardly from the threat of fines and imprisonment. Petitioners clamored that the 1846 law was a violation of fundamental liberty, that no “evident necessity” existed for such a law, and that the state legislature had woefully overreached creating a law targeting not the abuses of individual persons but rather the singling out of a product, which, on its own, was neither good nor bad.

Supporters of the 1846 law, and those opposing repeal, saw it differently. Responding to the accusations in the repeal petitions, many of which began circulating in February of 1847, opponents of repeal suggested an “evident necessity” did exist. Arguing that “a large portion, perhaps one-third, of the taxes paid in this Commonwealth are required to restrain the mischiefs which society suffers from intoxicating drinks,” supporters set aside philosophical quips for, as they saw it, facts on the ground. 185 Such petitions also called for exemptions from tax obligations for proclaimed temperance men-and-women should the advocates of the drink have their day. Surely, the use of other’s earnings to provide for social welfare services for those broken by drink was a violation of individual liberty. Let the burden fall on those who clamor to have access to the drink such petitioners argued. And, some went further, even encouraging the addition of “Porter, Ale, and Strong Beer” to the list of banned alcoholics that could not be exchanged on the marketplace. 186

183 1847 Portland petition for the repeal of Maine State Statute 1846, Chapter 205 in MSA 1/3 1847 Box 186 Folder 35, 2401-0408 LEGISLATIVE GY 184.
184 Ibid.
185 1847 Standish petition against the repeal of Maine State Statute 1846, Chapter 205, MSA 1/3 1847 Box 187 Folder 10, 2401-0408 LEGISLATIVE GY 1847
186 Ibid.
More “temperate” defenses of the law tended to fall back upon the language of moral virtue noting the importance of familial safety, “good order,” and “happiness.”\textsuperscript{187} For the protection and “quiet and safety of the social state[,]” laws proved necessary, and were hardly groundbreaking considering the earlier licensing regimes, to address the “appalling evils of intemperance.”\textsuperscript{188} Most telling, perhaps, was a petition from Augusta containing 633 signatures of women from the community. The total count for repeal was 245 (all men) and against repeal 784.\textsuperscript{189} Of course, women could not vote, so this presents yet another explanation for the groundswell of temperance support yet limited political-and-enforcement effect. Temperance reform, in some ways, was a recognition and test of the amount of influence women could have in the public sphere. The “ladies of Augusta” clamored that “has not the home of the female been rendered desolate by the vice of intemperance - have not her children been reduced to beggary – her hopes blighted – her heart broken.”\textsuperscript{190} Invoking their “duty” and “interest” to be heard the women of Augusta raised the tenets of “Christianity” in support of the law.\textsuperscript{191} Women, religious, reformers, and employers stood sympathetic to attempts to reign in the liquor trade on the one hand, but on the other, large segments of the voting-eligible population, men, stood in the way of even modest state action and this also included reformers and religious supporters who were suspicious of state power.

Both supporters and opponents invoked the language of progress on their sides. With opponents of the law clamoring for a rational approach to temperance legislation and the protection of individual rights and supporters arguing on behalf of the greater public good, questions surrounding just how far individual rights should reach came into play. For opponents of such laws, alcohol use was a personal choice, but for supporters, those who could not control their habits made their use a matter for the state. As a result, the only sure thing by the summer of 1847, when the repeal attempt failed, was that attempts to address intemperance were not over.

\textsuperscript{187} Portland petition against the repeal of the Maine State Statute 1846, Chapter 205 in MSA 1/3 1847 Box 186 Folder 35, 2401-0408 LEGISLATIVE GY 1847.
\textsuperscript{188} Ibid.
\textsuperscript{189} MSA 1/3 1847 Box 184 Folder 7, 2401-0408 LEGISLATIVE GY 1847.
\textsuperscript{190} Ladies of Augusta petition against the repeal of the Maine State Statute 1846, Chapter 205 in MSA 1/3 1847 Box 184 Folder 7, 2401-0408 LEGISLATIVE GY 1847.
\textsuperscript{191} Ibid.
On March 15, 1849, the Portland City Council, by a vote of eighteen to zero, passed a resolution “for the suppression of ‘tippling shops.’”192 This action reflected a reaction not only to the weaknesses of the 1846 law but the gradual transition of Council board members to take action on what had become an increasing public nuisance at best and embarrassment at worst. With concerns about public riots, including one of recent vintage on George Washington’s birthday, councilors felt a need to restore public order. Indeed, the Council noted that “places for the illegal sale of ardent spirits have increased… during the last two years to an alarming extent—to the number of three hundred [all while the 1846 law remained in force].”193 Additional powers would be necessary to pursue temperance reform.194 And the Legislature agreed. Passing minor reforms to the 1846 Law in 1848 and 1850, the State expanded the definition of drinks included under the 1846 Law to include all “intoxicating liquors” and increased penalties to fines “not less than twenty nor more than three hundred dollars” and/or between thirty days to six months imprisonment.195 Such changes failed to address the concerns of Portland’s Council and others, however. More radical powers appeared necessary. Those additional powers would be based upon a proposed bill in Massachusetts, one that sought to create a quasi-prohibitive regime and provided the necessary means for enforcement.

On March 15, 1848, the Cumberland County Washingtonians held their convention in the Congregationalist Meeting House in North Bridgton.196 The agenda for the convention included a review and comparison of Maine laws concerning the drink to the newly proposed Massachusetts bill. Two parts of the Massachusetts bill gained convention attention, section eight, which provided for imprisonment of retail sellers on the second offense and section eleven, which provided for a search-and-seizure measure to root out illegal drinks on the retail market.197 Present at that meeting was Neal Dow.198 The push for the 1851 Maine Law had begun.

192 Portland Advertiser, March 17, 1849.
193 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 287.
194 Portland Advertiser, March 19, 1849.
195 Maine State Statute 1848, Chapter 67, MSLL; Maine State Statute 1850, Chapter 202, MSLL.
196 The Washingtonian Journal, Wednesday, March 22, 1848.
197 Ibid.
198 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 42; Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 288, 318-319.
Support for state-led reform efforts that included widespread bans on economic and personal behaviors remained controversial by the end of the 1840s. Indeed, the 1846 Law represented a kind of half-way point between the old licensing laws and the outright ban that prohibitionists sought (and suasionists resisted). The 1846 Law’s result, as most everyone recognized, was growing resentment and hostility to state interference. And since the 1846 provisions proved difficult to enforce, Mainers were faced with a decision to either double down on punitive measures or to get the state out of the moral reform business altogether. Mainer’s would choose further legislative action with the passage of the 1851 Maine Law.

The 1851 Law, so frequently described by Neal Dow as prohibitory, however, would also be anything but. Yes, the law would claim to ban the sale of liquor and end its manufacture, but much like the 1846, 1848, and 1850 Laws, the publically proclaimed goal of the Act would be undermined by language elsewhere in the Bill. A collection of exceptions, exemptions, and no outright ban on possession would prove representative of the contested nature of what the temperance reform movement looked like across Maine’s many locales - from seaports, inland river communities, and backcountry timber camps. The Law, complete with increased penalties but undercut by dubious enforcement language (and the previously mentioned exceptions), spoke to the very real conflicts Mainers had about benevolence, the public good, and just how far the state might be enlisted to pursue such goals.

Most certainly, prohibitionists, suasionists, the happily intemperate, and those who supplied them characterized the nature of the debate. From these groups alone, no clear majority would appear to have the means to affect their program over those of the others. In fact, the violence in opposition to liquor law enforcement at Canaan and Portland and pro-law actions by temperance organizations, many of them led by women’s benevolence groups, from Durham, Skowhegan, and Lubec illustrated a society divided and full of competing crosscurrents so much

199 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 337.
so that even communities would split on prohibition. This is all to say that the critical mass of supporters necessary for such a compulsory law to work would never be achieved.

In the spring of 1851, such failures were still largely in the future, as Dow was on the verge of negotiating a political deal with anti-slavery Democrats for his prohibitory plan. “Dow’s Law,” however, would prove anything but prohibitive, and the open hostility and subterfuge from protesters, politicians, district attorneys, and judges all signaled that the majority public sentiment Neal Dow claimed on behalf of the law was, in fact, opposed to his prohibitive demands. In fact, it was Dow who had been dealt with rather than dealt in by legislators and those left to enforce the law. Yes, the law’s supporters could be found across the state, especially in more rural locales and places like Augusta where judicial proceedings and local conditions would prove more favorable to enforcement. Ultimately, though, it would be a combination of a changing political mood, limited public support for state coercion to begin with, and Dow’s disastrous handling of the 1855 Rum Riot that would undo Maine’s abbreviated and half-hearted foray into “prohibition.”

Part I: The Maine Law’s Passage

While the 1848 and 1850 amendments to the 1846 Law expanded the law’s reach, now including all “intoxicating liquors,” and punitive components, the escalation of fines and imposition of a jail stay for repeat offenders, such deterrents had little practicable effect. Rather than reigning in the liquor traffic, as proponents had hoped, the law seemingly multiplied alcohol-related problems. Not only was intemperance an issue, but significant numbers of Mainers held an open hostility to the law. Many refused to aid in enforcement and intemperate men ignored the consequences of the law, assuming they would never be held to account. Prohibition activists had sought out a legal remedy to solve a moral problem, but they had now created a second moral issue, disdain for the law. A solution, it seemed, could only come from the wholehearted embrace of one of two strategies: moral or legislative. The Legislature would choose an even harsher “prohibitory” law, but only after the successful lobbying of Neal Dow and teetotalers along with a variety of statewide and national political peculiarities.

The first attempt to pass a “prohibitory” bill, one not just focused on selling but also on manufacturing, went ahead in August of 1849 at the behest of the Cumberland County

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200 Maine State Statute 1848, Chapter 67, MSLL; Maine State Statute 1850, Chapter 202, MSLL.
Washingtonians and Neal Dow, who had lifted language from a failed Massachusetts bill. However, while the bill passed the Legislature, Governor John Dana vetoed the presumptive law on May 7, 1850. In his veto message, Dana defended the “sacred precincts of home” from “public inspection” for the professed “public good” of seeking out illegal liquors. Section 2 provided for three persons to swear an oath based on “belief” before a magistrate to allow for the issuance of a search warrant for illegal liquors. With no “special designation of the place to be searched, and the person or thing to be seized,” the Governor found the bill a violation of constitutional rights, natural rights, and the basic tenets of common law. Going further still, Dana “charged” the bill “with a violation of…the constitutional right of a trial by jury.” Such limitations on defendant’s rights might serve enforcement agents in rooting out liquor but at the cost of individual liberties, rights, and personal privacy.

Dana’s veto message, which accused prohibition men of strong-armed tactics and an overstating of the pervasiveness of intemperance, would come to characterize the debate between those supporting and those opposing state intervention on behalf of the moral issue. For Dow and other prohibitionist supporters, Dana’s veto would prove only a temporary setback. Indeed, the pressure was on from the prohibitionist quarter, as supporters of the bill had petitioned the Governor to inform that the people “are fully satisfied from the experience of the past, and the present character of the liquor traffic, that the provisions of said bill are most earnestly demanded, and would result in great good to the State.” The major urban centers of Bangor, Bath, Gardiner, and Portland led the way but petitions from more interior regions like Somerset County’s Skowhegan suggested that even in the more remote-and-liquor-friendly regions of timber country, temperance organizations and abstinence supporters grew increasingly uneasy with the behaviors of the community’s drinkers. Violence would soon seemingly prove their concerns correct.

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202 Byrne, *Prophet of Prohibition: Neal Dow and His Crusade*, 43.
203 *The Eastern Argus*, Saturday, May 18, 1850.
204 Ibid.
205 Ibid.
206 Ibid.
207 Collection of Petitions in 1851, Chapter 19 - An Act for the suppression of drinking houses and tippling shops in MSA 1/1 1851 Box 257 Folder 47.
208 Ibid.
Skowhegan, like the inland frontiers of Patten, Aroostook County, and the eastern borderlands of Calais and Lubec, enjoyed an active temperance presence, which included men and women in its ranks, signifying a hearty provincial egalitarianism. Indeed, the social levelling characteristics of the frontier gave women more push and pull both within and outside the home. Due in large part to Maine’s relative socio-economic equality, women had influence across the state. They also had to be mindful of greater economic uncertainties in Maine’s underdeveloped economy. The loss of a husband’s income could prove life altering. Women, then, pursued civic engagement and temperance reform not only for moral reasons but also to guard their own financial interests. Skowhegan, as the center for northwestern Maine’s timber trade, likely proved susceptible to economic fluctuations that would have concerned wives, mothers, and daughters. This made the fear of losing a husband, son, and/or brother to intemperance real, and women’s charitable organizations, the Martha Washingtons, and temperance associations were extra vigilant not only for benevolence but for survival.

It should be no surprise then that Skowhegan saw its share of active temperance groups. During the summer of 1850, the community of slightly less than 2,000 planned a festive 4th of July celebration with marches, orations at the local Baptist Church, and dinner on Skowhegan Island. Tickets for dinner were required, suggesting an oversized crowd. In keeping with other “Independence” day festivities, the usual toasts were offered by temperance groups like The Temperance League, Cadets of Temperance, Sons of Temperance, and The Daughters of Adam. What was less usual were the quips taken at these groups in the local weekly, The Democratic Clarion. The paper took two veiled swipes: one at the Daughters of Temperance by suggesting the Daughters sought to prevent sons from becoming men and another at the Cadets of Temperance by making a friendly yet purposeful jab at their youthful inexperience. It was the overtly personal and direct attack on Stephen Coburn that revealed major tensions. Coburn, a local attorney, had toasted on behalf of the Daughters of Adam that “they all find happy homes,”

211 Ibid; Ruth M. Alexander, “‘We Are Engaged as a Band of Sisters’: Class and Domesticity in the Washingtonian Temperance Movement, 1840-1850.”
212 Democratic Clarion, Wednesday, July 3, 1850; And apparently dinner was to be the “best kind, and not such a one as is sometimes offered as a good Public Dinner.”
213 Ibid.
214 Democratic Clarion, Wednesday, July 17, 1850.
a common refrain for temperance sympathizers. The Democratic Clarion took Coburn’s sincerity to task, however, by calling into question his unwillingness to provide “one of ‘Mrs. Adam’s’ daughters with a ‘home,’ himself.”215 Whether a veiled attack against Coburn’s sexual promiscuity, fatherhood, lack of charitability, or, perhaps, all three, the Clarion clearly positioned itself as cynical and slightly hostile to those espousing moral betterment.

The literary fireworks within the paper gave way to physical violence later that summer. In late August at Canaan, a lumber community of approximately 1,700 people to the east of Skowhegan, a riot broke out during a liquor selling trial. On Monday, August 26, “a large assemblage of people were present, and crowded the court room” for the beginning of proceedings against some thirty-or-so individuals charged for violating the liquor laws.216 The actions were brought by a Fairfield attorney, Joshua Nye Jr. Approximately an hour into the trial, during Nye’s questioning of the first witness, a group of people rushed the attorney and sought “to drag him out of the court room.”217 Nye resisted, pulled his revolver, and with the help of his co-counsel avoided injury, although his clothes were tattered. The witness was also attacked. Proceedings were postponed to the next day, but once more, following another large gathering on the 27th, had to be delayed again.218

This was the nature of the liquor debate by 1850. Legislative enactments required enforcement and enforcement attempts frequently encountered defendant subterfuge, misdirection, verbal hostility, and now violence. As a result, attitudes and feelings on both sides of the temperance question hardened, and public calls for tougher laws, most prominently from Portland’s Board of Alderman, in light of the apparent failures of the 1846, 1848, and 1850 laws seemed reasonable enough.219 In some ways, then, the impossibility or limited ability of the 1846 law to guarantee enforcement seemingly magnified the problem that prohibitionists hoped to curtail. Such a result was perfect for law-and-order men like Dow, who, concerned about the rampant violations under the selling ban, demanded something stronger. They had manufactured the crisis they were looking to restrain. Still though, a prohibitory law on manufacturing and thereby indirectly on most possession lay out of reach. Large segments of the population still

215 Ibid.
216 Democratic Clarion, Wednesday, September 4, 1850.
217 Ibid.
218 Ibid.
219 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 42.
opposed state coercion as the means for moral improvement. But, a minor change to the State Constitution and national political turmoil over slavery would provide another chance.

“Mexico will poison us” Ralph Waldo Emerson said prior to the outbreak of hostilities in the Mexican-American War. He was right and in more than one way. The addition of the American southwest and the national political debate over slavery’s extension into these newly acquired territories had implications for Dow’s political maneuvering on prohibition in Maine. During the 1848 presidential election, neither major party, Democratic or Whig, supported the Wilmot Proviso. Antislavery feeling in Maine was strong, as Portland’s Whig-leaning paper, the Advertiser, attested:

When Southern slave-holders speak boldly and impudently of their right to extend slavery over territory now free, it is time that the issue should be met boldly and decidedly by the North without any such miserable shifts and compromises…The only way to preserve the Union is to promptly meet and decide the question of liberty.220

Reform-minded feelings were not limited to temperance. As intraparty feuding over slavery resulted in the fracturing of old alliances, political factions looked for new ways to construct a governing majority. Neal Dow and his band of prohibitionist men stood ready to strike a deal.221

Realignment came to Maine’s politics in 1848, although the implications of the shift would take several years to play out. The antislavery faction of the Maine Democratic Party took control of the Party in 1848 and successfully elected their candidate, Hannibal Hamlin, to the United States Senate.222 Hamlin’s election owed partly to antislavery Democratic support but also antislavery sentiments from other parties. Dow knew he might be able to offer Hamlin political cover in the future should pro-slavery Democrats abandon Hamlin. This new anti-slavery coalition provided Dow room to broker potential political deals, as Dow and Hamlin were both antislavery men, albeit in different parties.223

When anti-Wilmot Governor Dana vetoed Dow’s 1849 prohibitory law in the spring of 1850 and pro-Hamlin Democrats in the House failed to overturn the veto, Dow realized an opportunity. In what was surely a quid pro quo, Dow helped antislavery Democrats earn a

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221 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 43.
222 Ibid.
223 Ibid.
legislative majority in 1850 by ensuring that minor-party antislavery representatives voted for Hamlin for the full U.S. Senate term that Hamlin was now up for reelection for. In exchange, Dow gained the support of antislavery Democrats for future prohibitory legislation.\textsuperscript{224}

Another important but often overlooked part of Dow’s 1850 electoral success was his campaign to oust anti-prohibitionist legislators from office. For sure, Dow’s election as head of the Maine Temperance Union and his enlistment of Temperance Watchman Clubs to campaign against legislative opponents helped in terms of turnout and dissemination of campaign information through the press. However, it was just as likely that a recent State Constitutional change provided Dow the cover he needed to make prohibition a key litmus test for election.\textsuperscript{225}

On September 13, 1847, legislators amended the Maine State Constitution to provide for plurality elections for the offices of Governor, Senator, and Members of the House of Representatives. The “highest number” of votes would now dictate election winners rather than the majority requirement that often resulted in multiple rounds of voting.\textsuperscript{226} As a result, minor-party candidates no longer had incentive to run for office if they could instead cut a deal with a major-party candidate to have their particular agenda item heard/adopted. Dow and other prohibitionist-friendly voters, although not a majority of Mainers by any reckoning, could now play kingmaker in local legislative races, especially as the nature of Maine’s political system proved relatively balanced albeit in flux due to the slavery issue.

Indeed, the minority position of prohibition amongst Maine voters can best be seen by Dow’s race for Portland mayor in 1851. During the first round of elections (cities could still elect by majority), Dow managed only a plurality due to anti-Dow Whigs backing a second Whig candidate. It was not until party leaders forced the second Whig to withdraw that Dow gained the necessary majority.\textsuperscript{227} As Dow noted, “it was not probable that an independent nomination would result in my election.”\textsuperscript{228} Dow’s stance on prohibition would not be enough, but his committed support from a bastion of rank-and-file Whigs made him the nominee of choice, ultimately forcing more loyal Whigs (Dow had a habit of bolting on the Party in an effort to support his prohibitionist cause,) to coalescence behind him to support a Whig mayoralty.

\textsuperscript{224} Ibid, 43-44.
\textsuperscript{225} Maine State Resolves 1847, c. 45, MSLL.
\textsuperscript{226} Ibid.
\textsuperscript{227} Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 44.
\textsuperscript{228} Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 322.
Prohibition alone had not won Dow Portland’s mayoral seat, but he, nonetheless, was now mayor.

**Part II: The Maine Law’s Passage**

Following Dow’s successful political maneuvering, the Portland mayor set out to try once more to pass his prohibition bill through a now, he hoped, friendlier Legislature. The bill, titled “An Act for the Suppression of Drinking Houses and Tippling Shops,” sought to do two things: ban the sale of liquor and end its manufacture. Seeking to address the calls to do something about the perceived state of lawlessness that had signified the experience at Canaan and the concerns of the alleged three hundred liquor shops operating with impunity within Portland following the passage of the 1846 law, Dow provided for increased fines, with separate fine schedules now applied for selling and manufacturing, respectively, and also added mandatory jail time for those regularly engaged in the sale of liquors.

What was worrisome for those concerned about the potential abuses of state intrusion on private life were the provisions Dow included about search-and-seizure and the restrictions on defendant’s rights. Lax enforcement and the failure of the courts, at least as Dow and others had seen across the late 1840s, to hold retailers and sellers to account, oftentimes on the grounds of inadequate evidence, precipitated these changes. Especially unpopular were provisions allowing for three persons to swear an oath before a justice of the peace to secure a warrant in pursuit of illegal goods and restrictions on defendant’s rights, including the required posting of bond during appeal. The threat of “double the amount of fines, penalties, and imprisonment awarded against him” in the event of a failed appeal were designed to dissuade court challenges as well. Seeming limitations on the right to jury trial and language proclaiming that judges and prosecuting officers had limited “authority to enter a nolle prosequi” all served to create a

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229 Maine State Statute 1851, Chapter 211, MSLL.
231 Maine State Statute 1851, Chapter 211, MSLL.
232 Dow did, at least, modify the search parameters of this bill from the 1849 bill that was vetoed to require added cause for the searching of a dwelling or home where no liquor shop was kept, namely that “one of said complainants” needed to testify to the actual “act of sale of intoxicating liquors therein.” Reliance on “belief” alone was removed from the 1851 iteration of the bill.
233 Maine State Statute 1851, Chapter 211, MSLL.
seeming presumption of guilt over innocence for those accused, or, at least, to encourage said defendant’s to simply pay up and hand over their illegal liquors for destruction.234

Presenting the bill to the Legislature on May 26, 1851, Dow proclaimed that “If you will enact this bill, the sun shall not rise on Portland, January, 1852, and find there a single open grog-shop.”235 By Thursday, May 29, the bill was up for consideration in the House. Representative John Talbot, Democrat of Lubec, wanted to postpone consideration of the bill to the next session, only to have the motion fail “by a vote of 89 to 16.”236 Immediately following, Representative Carter of Portland moved the previous question and by a vote of 81 to 40 the bill passed the House to be engrossed. The coalition of votes for included “42 Democrats, 31 Whigs, and 8 Free-Soilers; against it, 25 Democrats and 15 Whigs.”237

The Senate took up the bill next and there it faced considerable opposition from Senator Cary, a Democrat, of Aroostook County. Calling the bill nothing more than the work of the “temperance fanatics of Portland, headed by its popinjay Mayor, a Whig abolitionist,” Cary appealed to the anti-temperance, anti-Portland, and anti-Wilmot attitudes that had characterized the Maine Democratic Party.238 The problem, for Cary however, was such positions were out of vogue within the Democratic Party. Cary was right to point out that an apparent deal had been struck (between Hamlin Democrats and temperance men), but it was also equally true that public sentiments on temperance had created a persistent buzz that seemingly demanded action for fear of the political costs, perhaps even of Dow using his temperance band of supporters to oust anti-prohibition legislators, as he had aided the Hamlin Democrats in 1850. Cary’s brand of pro-slavery Democratic politics, best illustrated by Cary’s lamentation of “the reign of niggerism and fanaticism” in “his” party, had fallen to national political circumstances and antislavery attitudes in the state.239 This realignment made possible a deal between Dow (who wanted prohibition) and anti-slavery Democrats (still unsure of their relative political strength and wanting to hold onto Dow’s temperance supporters for reelection purposes).

And, indeed, as the historian Frank Byrne highlighted, the peculiarities of the national political scene played an important role in the Maine Law’s ultimate approval and passage. Fears

234 Ibid.
235 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 337.
236 Ibid, 337-338.
238 Ibid.
239 Ibid, 339.
of a resurgent pro-slavery faction within the state’s Democratic Party following the passage of the Compromise of 1850 at the federal level concerned pro-Wilmot Democrat and Governor John Hubbard. With slavery agitation over, the momentary elevation of anti-slavery Democrats in state politics could soon be threatened, and, as such, Hubbard might need political allies outside the Democratic Party, temperance men, to hold onto office in 1851.240

While Dow proved the beneficiary of the momentary political upheaval, the Maine Law of 1851 revealed an unwillingness amongst Dow’s majority-coalition partners to advance a truly prohibitive law. Even while Dow enjoyed professing the virtues of its prohibitive character, the law possessed loopholes and less-than-certain prospects for successful implementation. For example, the law still provided exemptions for “medicinal and mechanical purposes” and, consistent with a U.S. Supreme Court ruling, allowed for the importing of foreign liquors provided they were in keeping with customs laws.241 And likely most notable, although not explicitly stated, the law did not ban possession. Yes, the burden of proving legal ownership was placed upon those holding the intoxicants (a seeming inversion of the principal of innocent until proven guilty), but a means still existed for Mainers to have their drink.242

Taken in this light, then, the 1851 Maine Law looks less than prohibitive, especially when one considers the difficulties prosecutors faced to prove intent to sell. Issues surrounding intent and whether or not possession alone was prima facie evidence of intent would ultimately come before the Law Court. But, in the interim, trial and appeals courts would be left to navigate the “prohibitory” law’s maze. This version of the law also suggested that to ensure passage, loopholes (for medicinal and mechanical use) and protections (added protection for the privacy of the home from search) were required to procure the votes of moderates in the Legislature, who might have felt good about publically proclaiming against intemperance but sought not to end the practice of consumption. Was the Law, then, truly the elevation of prohibitionist principles as Dow claimed? Would lawmen and the courts enforce the Maine Law vigorously? Would intoxicants be shunned and banished across the state? The state’s court records and public statements suggest sentiments very much at odds with the belief in a newly minted dry state.

240 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 46.
241 Maine State Statute 1851, Chapter 211, MSLL.
242 Ibid.
Part III: Maine Law Enforcement

On behalf of enforcement efforts, Temperance Watchman clubs proved crucial. Such organizations continued the tradition of Washingtonian marches and public speeches of the 1840s, and they attracted considerable followings. One such gathering in Durham on June 17, 1851, attracted some two to three hundred members of the Temperance Watchman and Ladies’ Temperance Band, who had gathered for music and a procession to North Turner where an additional five hundred or so ladies prepared a meal and partook in the temperance gathering. 243 Enthusiasm and support for the new law appeared high, but the disproportionate number of women at such events suggests support was strongest from those who could not vote.

With separate organizations totaling near one hundred by the end of 1851, these clubs helped to entrap sellers who used their homes as fronts to sell liquor. 244 Many a young man was responsible for acquiring a sale of the drink from these home-sellers and utilizing that evidence to advance a search warrant to law enforcement for the timely search, seizure, and prosecution of such residences. 245 While such tactics smacked of entrapment, they proved useful in identifying the traders, although their legal merit remained left to the courts to address. Even more intolerable to opponents, however, were the tactics undertaken by Dow in Portland, who paid informants to turn liquor sellers in. 246

The first person imprisoned under the license law in Portland, and likely all of Maine, was John Rogers, who as of his third offense “was sentenced to pay $20 and costs, and to confinement for three months in jail.” 247 Court actions for Portland in 1851 showed some seventy people convicted under the prohibitory law, seemingly speaking to the law’s effectiveness and Dow’s promise of a “grog-free” Portland by January 1. 248 According to Dow, the “rumsellers of former days abandoned the business” under “the efficacy of the law” and “the determination of the authorities.” 249 The law appeared a splendid success or so the prohibitionists claimed.

243 Portland Advertiser, June 23, 1851.
244 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 301.
245 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 47.
246 Ibid.
247 Portland Advertiser, September 30, 1851.
248 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 47; Aggregated collection of court actions from Maine Temperance Watchman from August – December, 1851 provides an account of Portland liquor-law convictions at approximately seventy four.
Such assertions of the law’s success proved doubtful in light of other reports. Responding to Mayor Dow’s claims that “The watch-house is now used to keep seized liquors in, instead of drunkards,” Portland literary critic, city socialite, and Neal Dow’s cousin, John Neal, found forty-eight persons committed, forty-five of whom were for intoxication.250 The law had not miraculously altered public mores or behaviors. Further criticizing Dow and the Maine Law, which never lasted in one form for more than twelve months, Neal noted that from July 1851 to September 1853 only “eighty-one different persons [had been] committed” under the law, “less than three a month, in a city of [supposed] drunkards, under the vigorous administration of Mayor Dow!”251 If the three-hundred tippling shops and the retailers within were such a problem, as Dow had claimed, surely the Law would have caught more than three persons a month. Either the drink was not nearly as problematic as Dow and other temperance hysterics had led the public to believe or the law did not work. Prohibition was either an overreaction to moral extremists or a flailing legal measure ill-equipped to deal with liquor retailing and intemperance.

A review of the July Session of the Cumberland County Supreme Judicial Court’s actions from 1852 to 1854 proves informative. In July of 1852, the Court, responsible for handling appeals from the municipal and district courts, heard seventeen cases, three of which were liquor related. Of those three, a finding of not guilty and the dropping of charges in the other two cases were the results. In July 1853, fifty-five total cases were heard, thirty-seven liquor related with thirty cases ultimately dropped, six ending in fines, and one resulting in charges being dropped upon seizure of liquor. And, finally, in July 1854, twenty-nine cases were heard, twelve liquor related with nine cases being dropped and three resulting in fines.252 In total that made for fifty-two liquor cases with only ten resulting in an outcome favorable to the government. Dow’s bold language of success left little room for the failings of the law within the Portland courts.

Upon closer examination of the individual cases in the Cumberland County Supreme Judicial Court, two trends become clear: judges and district attorneys showed disdain for the new law. Why? Many judges, it seems, found the law’s intent unpalatable and believed provisions within the law too harsh or of dubious constitutionality. Additionally, judges, being appointed,

251 Ibid, 381.
252 Cumberland County Supreme Judicial Court Records: July 1852 – July 1856, MSA.
were immune to the passions of the populace. And finally, Dow, who had always been seen as something of an outsider to the Portland political-and-social circles, had done little to ingratiate himself to members of the Portland upper-classes from the time of his agitating on the wine question in the late 1830s. Not only, then, was the plain language of the 1851 Law relatively weak in statutory consequences, but those administering the law could weaken it further still by not applying it. Indeed, the following individual cases from Portland undermine Dow’s claims of prohibitory success.

During the Court’s July terms in 1852, 1853, and 1854, Portland’s Richard Robinson, a prolific retailer, appeared six times. Prosecutors dropped charges in three cases, and the other three resulted in fines, usually totaling $100 per infraction and the costs of prosecution. In one particular instance, speaking to the “severity” of the law, Robinson forfeited his surety of $400 in July 1854 to skip out on proceedings. He was eventually compelled into Court by the sheriff to pay a fine of $7.63 and then sent on his way. Joseph Graffam, on two separate occasions in July 1854, also willingly gave up surety by failing to appear, in this case $500. Considering the Law required bond to be posted by someone other than the defendant, such examples speak to the relative ineffectiveness of the law to stigmatize liquor retailing as well as the ineffective financial constraints imposed upon guilty defendants. Fines and even the destruction of merchandise did not deter liquor traders.\(^{253}\) As Dow himself noted, at best the trade simply moved underground.\(^{254}\)

Also telling were the dropped charges against repeat offenders, including Richard Robinson, Joseph Graffam, Andrew McGlinchey, and Andrew Dooley. With respect to all four individuals, the state attorney dropped charges on more than one occasion, seemingly undermining Dow’s claim that in Portland prosecutions would only be dropped for those promising to no longer engage in the retail traffic.\(^{255}\) More likely, it seems, the conditions of the law made it so difficult to ensure legal prosecution that the prohibitive nature of the law was further undermined in the enforcement stage and/or Dow’s guarantee of prosecution of repeat offenders was more show than fact. Whatever the case, the supposed center of Maine’s

\(^{253}\) Ibid.
\(^{254}\) Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 380-381.
\(^{255}\) Ibid, 379.
prohibition movement proved woefully inadequate at securing lasting convictions. Indeed, the ineffectiveness of the Dow regime would best be identified by the 1855 Portland Rum Riot.

Dow’s brashness and personal attacks on prohibition’s foes caught up with him by 1855. Serving as Portland’s mayor again, Dow purchased liquor on behalf of the city in violation of the Maine Law, which required the city to use an agent.\textsuperscript{256} While the agent had been appointed, the necessary bond had yet to be approved.\textsuperscript{257} During this delay, Dow purchased the city’s liquor on behalf of the city agency, and anti-Dow Alderman Joseph Ring took notice.\textsuperscript{258} Seeking to embarrass and punish Dow for the violation of the Maine Law, Ring encouraged police action as did some of the city’s dailies and a growing number of Portlanders themselves.\textsuperscript{259}

On June 2, 1855, some four years after the enactment of the Maine Law and while Dow worked to bring his illegal liquor purchase into conformity with the law, which was ultimately accomplished, members of the community began to agitate for the liquor’s seizure and destruction. News that Dow had had the liquor transferred into the formal care of the official city license agent did little to quell the anger and sense of injustice on the streets that “Dow’s Law” was selectively applied. By the evening of the 2\textsuperscript{nd} and following the “technical” seizure of Dow’s liquors in accordance with a judicial action earlier in the day, a gathering crowd of some one-to-three thousand persons protested the city’s decision to not move the liquor from the Agency room within City Hall.\textsuperscript{260} As a result, calls increased throughout the day for the liquor to be seized and spilt.\textsuperscript{261} By 8PM numerous reports from around the city came into the Mayor’s office of residents demanding “to have it, [the liquor,] out.”\textsuperscript{262}Responding to these reports and fearing the potential for mob violence and destruction of city property (the crowd had begun throwing projectiles of stone and brick at the city hall door by this time), Dow called out the police and later two military companies to enforce the peace and civil law.

By the end of the evening, the police and military guards had fired upon those attempting to breach City Hall’s Congress Street entrance as well as into the crowd of agitated and violent

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\textsuperscript{256} Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 61-62; Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 531-532.
\textsuperscript{257} Ibid.
\textsuperscript{258} Ibid.
\textsuperscript{259} Ibid.
\textsuperscript{260} In fact, the city constable had determined the liquor best be left in the City’s holds for security reasons.
\textsuperscript{261} Report of the Committee appointed by the Board of Alderman of the City of Portland to Investigate the Causes and Consequences of The Riot on the Evening of June 2, 1855, (Portland: Benjamin D. Peck, City Printer, 1855), 12.
\textsuperscript{262} Ibid, 14.
\end{footnotesize}
protesters who had refused to disperse following police order. Following the melee, John Robbins, twenty-two, a seaman, and alleged ringleader of the charge on the City Hall door, lay dead along with seven others wounded.\textsuperscript{263} While Dow had utilized force to maintain the peace, the result of this action quickly undermined his credibility and further damaged public opinion about the liquor law. Conflicting reports about what had happened the night of the incident, one from the Dow-friendly Board of Alderman, which justified Dow’s and the city’s actions as legal and necessary in response to the mob-riot, and another, a Coroner’s Inquest, which argued that Dow had no legal right to call out the militia and that the illegally mustered militiamen were responsible for Robbins’ murder, signaled a divided community. And whereas the Alderman Report had noted the police within City Hall had rightly feared their lives “were in imminent peril,” as Robbins worked to open the door, the Coroner’s Inquest and John Neal, who suggested Dow should be put up for “immediate trial” for having authorized the shooting, viewed the course of the night’s events in decidedly different terms.\textsuperscript{264}

Then there was the fact that Dow’s actions may have been about more than just alcohol. The Dow-friendly Board of Alderman Report identified a specific “Irish boy” initially arrested but soon freed by forcible rescue as illustrative of the tensions between Portland’s Irish Catholic immigrant class, their embrace of drink, and the more austere attitudes of prohibition and nativist-leaning men, who feared Catholics a threat to the American way of life.\textsuperscript{265} Concerns about the potential effect of the mob being predominately Irish and that effect on Dow’s willingness to authorize force permeated the Coroner’s Inquest as well.\textsuperscript{266} And in the midst of reporting on the Rum Riot, the \textit{Advertiser} ran a piece on “religious intolerance” concerning the Catholic Church’s alleged eviction of a woman from the Church for her testimony of truth on behalf of a Yankee man and against that of another Catholic woman.\textsuperscript{267} Prohibition could easily

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\textsuperscript{263} Byrne, \textit{Prophet of Prohibition: Neal Dow and His Crusade}, 64; Report of the Committee appointed by the Board of Alderman of the City of Portland to Investigate the Causes and Consequences of The Riot on the Evening of June 2, 1855; The Death of John Robbins, of Deer Isle, who was shot in the streets of Portland by order of Neal Dow, Mayor, June 2\textsuperscript{nd}, 1855: A Full Report of the Testimony Taken Before the Coroner’s Inquest, (Portland: Bearce, Starbird, Rich & Co., 1855).
\textsuperscript{264} Ibid; Report of the Committee appointed by the Board of Alderman of the City of Portland to Investigate the Causes and Consequences of The Riot on the Evening of June 2, 1855, 33; Neal, \textit{Wandering Recollections of a Somewhat Busy Life}, 409.
\textsuperscript{265} Report of the Committee appointed by the Board of Alderman of the City of Portland to Investigate the Causes and Consequences of The Riot on the Evening of June 2, 1855.
\textsuperscript{266} The Death of John Robbins, of Deer Isle, who was shot in the streets of Portland by order of Neal Dow, Mayor, June 2\textsuperscript{nd}, 1855: A Full Report of the Testimony Taken Before the Coroner’s Inquest, 98.
\textsuperscript{267} \textit{Portland Advertiser}, June 6, 1855.
\end{flushright}
get caught up and coopted by those with less than humanitarian concerns. In Portland, not only had prohibition enforcement failed in the Courts, it had incited public agitation, protest, and eventually violence, a violence that was now used by some to marginalize Maine’s growing immigrant labor populations.268

The combination of violence, death, and nativism that were in play with the 1855 Rum Riot illustrated what the Cumberland County Court Records from 1851-1854 spoke to, albeit with less emotional flair. Consensus and support for Dow’s prohibitory regime in Portland was weak. While the law had failed to end liquor retailing, it had succeeded in angering a sizable portion of the city population against Dow’s moral pronouncements and hypocrisy. The result was not a positive “effect upon the general quiet, good order, and thrift of the city,” as Dow suggested in 1851, but rather, the breakdown of the rule of law and public peace.269 Dow had showed Portland not as the center of state-led improvement but rather of state-sanctioned tyranny on fundamental liberties, including public assembly and speech. Granted, Dow’s backers invoked the defense of the city’s property rights, but this proved ironic considering liquor sellers used those arguments fighting the Maine Law in the courts. The debate over whether Dow had the legal authority to call out the militia or to grant the police the authority to fire into the crowds largely missed the point. Had Dow been concerned about the public good, he could have willingly come forth and voluntarily admitted his relatively minor wrongdoing under the law, but instead, he chose to risk obvious public incitement by seeking to cover his political reputation and power at the cost of a weekend of unrest, one death, and the law’s eventual downfall.

If Portland proved more mirage than example for the prohibitory law’s effects, then the enforcement of the Maine Law in Kennebec County provided the counterexample. For here, in the interior regions, the state’s prohibitory push found greater success. During the August sessions of the Kennebec County Supreme Judicial Court in 1853 and 1854, the Court heard a total of thirty-six cases, twenty liquor related, with a total of twenty liquor convictions. Much

268 Anti-Catholic bias was not limited to Portland. In Donahoe v. Richards, 38 Me. 379 Supreme Judicial Court of Maine (1854), the Court considered a suit against the town schools of Ellsworth for requiring the reading of a Protestant version of the Bible in class by all students. The student who refused was expelled, and the Court ultimately upheld the school district’s ability to compel students to read the school’s prescribed version of the Bible (MSLL).
269 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 380.
like the Cumberland County Supreme Judicial Court, the Kennebec Supreme Judicial Court served as a court of appeals for municipal-and-district court actions. What was different? It seemed the same peculiarities that placed the law in the administration of unsympathetic persons in Portland placed the law within the rule of those more sympathetic in Augusta. However, even here differences in how lower-and-higher court judges adjudicated on these appellant cases demonstrated remarkable fluidity in how the law was to be understood and applied. Yes, Augusta, due to its inland character and the relative strength of local temperance organizations may have provided for greater enforcement success, but the Court records here suggest happenstance more than objective legal doctrine in play or, for that matter, a desire to enforce the “letter of the law.”

In almost every instance, the progression of cases before the Kennebec Supreme Judicial Court took the following course: a common seller would be brought up on charges of violating the 1851 Law against common selling of liquors and intoxicating drinks without a license. These charges would be brought following a complaint, oftentimes by unidentified or “unknown” buyers. Upon conviction by a jury, defense counsel would file legal exceptions to the proceedings, and the trial judge would grant the exceptions to provide for a Law Court hearing. From there, the Law Court would overrule the exceptions, and the case would come before the Supreme Court on appeal and for enforcement to which the Court would then impose a fine, costs of prosecution, and order committal in the event the debt could not be paid. The fact that these proceedings ended in judgments against the defendants in every case, at first glance, suggests a judiciary very much at odds with their peers in Cumberland County. However, this was not necessarily the case.

In August of 1854, Isaiah Furbush came before the Court three separate times having been found guilty by jury trials for being a common seller. Under the 1851 Law, the first conviction was to impose a $100 fine; the second, a $200 fine; the third, a $200 fine and four month imprisonment. However, Furbush, on three separate occasions, received $100 fines in all three cases. Prosecutors were not dropping charges like their neighbors to the south in Portland, but in Augusta, judges were exercising due discretion to avoid the imposition of the

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270 Kennebec County Supreme Judicial Court Criminal Records: July 1852 – July 1855, MSA.
271 Maine State Statute 1851, Chapter 211, MSLL.
272 Kennebec County Supreme Judicial Court Criminal Records: July 1852 – July 1855, MSA.
scalable parts of the 1851 Law for multiple offenses. A similar example exists in John Keen of Leeds, who was found guilty in August 1853 and August 1854 respectively for the same crime of being a common seller. His punishment in both cases, a fine of $100.273

Now, this is not to suggest that the court systems in Portland and Augusta were equal in their subterfuge of the Maine Law. Clearly, they were not. Of the twenty cases presented before the Kennebec County Supreme Judicial Court during the 1853 and 1854 August terms, only five dealt with violations of the law within Augusta city limits. The other fifteen cases came from areas outside the city and predominately to the north, south, and west (more rural areas).274 Considering the relative difficulty in procuring witnesses for illegal actions in these more sparsely populated parts of the state, it seems reasonable to deduce opposition geographically widespread from seaports to timber forests. With respect to enforcement, though, the following comparison falls into place: In Augusta, the judiciary, while exhibiting some reservations about the Law, enforced its provisions upon the County’s populace. But in Portland, on the other hand, frequent appeals often resulted in dropped charges or cases dismissed. Augusta’s political power brokers in this more rural area proved much more favorable to temperance and the state’s pursuit of moral reform than those in Portland, who seemingly actively agitated against the Law. As a result, such findings confirm that while Portland had vocal prohibition men like Neal Dow, it was actually areas far beyond Portland that were more sympathetic to the cause and influential in not only temperance’s rise but also the application of the prohibitory law, even if by way of judicial discretion.

Part IV: Challenges to the Maine Law

While the trial courts and appeals process were one avenue for alleged liquor men to attempt to get around the law, another tactic involved a direct attack on the law itself. As early as February of 1852, a petition by Samuel Chase and 110 others of South Berwick requested the repeal of liquor laws. To bolster their case, these men defended the right to drink as “unalienable” and key to one’s life, liberty, and property rights. Invoking Article I, Section V of the State Constitution, the signees characterized the Maine Law’s search-and-seizure provisions as a violation of the probable cause standard, and finally, that Article I, Section XIX provided

273 Kennebec County Supreme Judicial Court Criminal Records: July 1852 – July 1855, MSA.
274 Ibid.
compensation for seized and/or destroyed property, something the 1851 Law failed to do.\textsuperscript{275} The law’s infringement upon individual liberty proved paramount for such opponents.

Individual rights, of course, had their limits. And, clearly, Chase’s neighbors in South Berwick, some 201 of them, disagreed with Chase, as they sent forth their own petition challenging his claims about strong repeal sentiment in Berwick.\textsuperscript{276} Still others from Skowhegan called into question the law’s unequal provisions, which conferred privileges on one group of residents but not others. In this case, residents of Skowhegan were concerned that rum shops and the kinds of brews traded by and manufactured by farmers were largely unspoken for within the law.\textsuperscript{277} The demand here was for the law to be more expansive, and, indeed, the Clerk of the House of Representatives annotated the petition as a demand for an end to all rum shops and, by implication, rum selling. This proves important for two reasons: one, it notes that even under the prohibitory law certain types of drink, which could prove intoxicating on their own, were, in fact, not envisioned to fall under the breadth of the law. And, second, the arbitrariness in which different forms of alcohol were defined as good or bad likely also fomented discontent of the law. Yes, liquor and spirits were bad, but anything else that could intoxicate was okay.

On some of the Constitutional claims that had been raised by litigants and civically-minded Mainers, the Supreme Judicial Court of Maine broke new ground on addressing the acceptable range of the search-and-seizure clause under the 1851 Law and on just how broadly search warrants could function. With respect to the forfeiture of liquors, the Court found that such drinks must be shown to be for sale or intended for sale in the town they were found rather than the more restrictive standard that Richard Robinson had pressed, namely requesting for it to be proven that the liquors were for sale in the building in which they were found. Far more consequentially, however, was the establishment that proof of ownership and intention to sell must be presented by the claimant at trial. By noting that

\begin{quote}
An affidavit made by three persons, not as testimony on the trial, but for the purpose of obtaining a warrant, that they have good reason to believe, and do
\end{quote}

\textsuperscript{275} MSA 1/3 Box 222 1852, Env. 15, R/P of Seth Chase and others that the Act for the suppression of drinking houses and tippling shops may be repealed.
\textsuperscript{276} \textit{Ibid}.
\textsuperscript{277} \textit{Ibid}.
believe, that the liquors were intended for sale, does not afford the least legal proof of the fact to be established on trial, that they were intended for sale.\textsuperscript{278}

Simply put, the Court further restricted the Law’s search-and-seizure clause, which Dow had already revised-and-restricted following the failure of his 1849 legislative attempt. The Court found that testimony, presented at trial, and open to cross examination was necessary “to sustain the prosecution” of such cases.\textsuperscript{279} Additionally, without such corroborating testimony, no fines were to be lodged against defendants, as their Article I, Section VI rights under the Maine Constitution “to be confronted by the witnesses against him” would be violated.\textsuperscript{280} This, then, likely explains the quashing of cases by appellant courts in Cumberland County, including some of the cases involving Robinson, and it made enforcement of the law more difficult to the point of requiring witnesses to openly identify themselves, which in many cases buyers and neighbors were unwilling to do, even when they were the complainants.\textsuperscript{281}

Not all case law decisions were problematic for the law’s supporters although many were. While \textit{State v. Gurney} (1853) found that the Legislature had the power “to regulate the sale of an article, of which the use would be detrimental to the morals of the people,” the Court also threw out provisions of the 1851 Law that provided for an increase in penalties for any defendant who simply sought to appeal a decision, which the Court found to be a violation of the State Constitution’s guarantee “upon the right of trial by jury.”\textsuperscript{282} In \textit{Preston v. Drew} (1852), the Court ruled that the State could, “by legislative enactment…determine that articles, injurious to the public health or morals, shall not constitute property,” thereby providing an allowance for the seizure of unclaimed liquors.\textsuperscript{283} And a final note of judicial intrigue in \textit{In re Hersom}, (1855), the Court found that municipal and police justices lacked expressly defined jurisdiction to handle liquor law cases because of an omission in state law, which required that defendants now be “bound over” by the municipal courts to the district courts for a proper finding of an indictment.\textsuperscript{284}

\textsuperscript{278} \textit{State v. Robinson}, 33 Me. 564, Supreme Judicial Court of Maine (1852), MSLL.
\textsuperscript{279} \textit{Ibid.}
\textsuperscript{280} \textit{Ibid.}
\textsuperscript{281} \textit{Ibid.}
\textsuperscript{282} \textit{State v. Gurney}, 37 Me. 156, Supreme Judicial Court of Maine (1853), MSLL.
\textsuperscript{283} \textit{Preston & al. v. Drew}, 33 Me. 558, Supreme Judicial Court of Maine (1852), MSLL.
\textsuperscript{284} \textit{In re Hersom}, 39 Me. 476, Supreme Judicial Court of Maine, (1855), MSLL; \textit{Eastern Argus}, July 2, 1855.
Such findings, while seemingly minor or relatively “technical,” had an impact on the law’s enforcement. Unable now to rely on municipal judges and the police courts to apply overly broad search warrant standards in an effort to secure a prohibition-friendly verdict, prosecutors, provided they supported the law themselves, would now have to be extra mindful of the legal niceties for each case and face the likelihood of tougher scrutiny at a district court level. In addition, the nullification of the double penalty meant that the cost of doing business for retailers and manufacturers went down, thereby acting as an incentive for added violations than a wall against them. As a consequence of these findings, the Legislature passed an amendment to the Maine Law in 1853 and replaced the Law with an “intensified” version in 1855.285

In response to the Court’s findings in the Robinson search-and-seizure case, the Legislature firmed up the Maine Law’s search provisions in an 1853 amendment that required a higher standard of credibility for persons making allegations under the law for purposes of securing a search warrant. Whereas the 1851 Law spoke only of “persons,” the new law mentioned “persons who are competent to be witnesses in civil suits” and required them to be residents of the county where the complaint was being made.286 This ensured such complainants could serve as witnesses at trial. During debate on the 1853 Law, Senator Cary of Aroostook County and prohibition opponent lamented “why should its[, the Maine Law’s,] professed friends seek to disturb – to remodel it?...it is said by its friends to have worked wonders.”287 Cary’s comments were no defense of the original law, but rather a public mocking of the prohibition party’s failures even as that same party claimed success. The 1851 Law had not done what proponents claimed it would do. Liquor-selling, even if largely off the public streets, continued, and the failure to secure consistent and meaningful convictions spoke to enforcement difficulties under the original law. The 1853 Law also provided a means for handling liquors of unknown and/or unclaimed origins, established an exemption for cider manufacturing, began targeting public drunkards with arrest, increased fines, and made possible first conviction imprisonments.288

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285 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 62.
286 Maine State Statute 1853, Chapter 48, MSLL.
287 The Maine Expositor, Wednesday, April 6, 1853.
288 Maine State Statute 1853, Chapter 48, MSLL; Penalties for illegal possession with intent for unlawful sale under 1853 Law: (First Conviction) - $20 fine plus “costs and commitment until paid;” (Second Conviction) - $20 fine plus “costs and thirty days imprisonment;” (Third Conviction) - $20 fine plus “costs and sixty days imprisonment;” (Fourth and Each Additional Conviction) - $20 fine plus “costs and four months imprisonment.”
Such changes, though, proved of limited effect. Records from the July 1855 term of the Cumberland County Supreme Judicial Court and the August 1855 term of the Kennebec County Supreme Judicial Court suggest a criminal justice system continuing to operate largely on its own terms. Whereas Justice Rice’s Supreme Judicial Court in Augusta oversaw nine liquor-related cases, most all of them concerning common seller without license charges, with findings of guilty in all cases, including several jury trials that all resulted in convictions, the results in Portland were completely different. While the judiciary and public appeared to have reached a pro-enforcement consensus in Kennebec County, Portland found itself mired in quite different circumstances.

The Cumberland County Supreme Judicial Court held proceedings on thirty-three liquor cases in July of 1855 and out of those thirty-three cases, only one resulted in a finding of guilt. These cases, which came to the Court on appeal from the police and municipal Courts, illustrated several things. First, in light of the Supreme Judicial Court of Maine’s decision in In re Hersom, the Court stripped municipal judges, police court judges, and justices of the peace of any authority over liquor law cases, with the exception of imposing limited fines in keeping with their individual charges and being able to bind defendants over for trial in local trial courts, district and supreme courts. As a result, cities like Portland, which utilized the police courts to prosecute significant numbers of their liquor cases, saw their enforcement efforts nullified. Considering the State Supreme Court’s attention to defendant’s rights in other cases concerning the liquor laws and constitutional matters, the possibility that the justices were well aware of the effect of their jurisdictional decision on liquor law enforcement seems reasonable.

Second, while the timing of the In re Hersom decision suggests a likely explanation for the quashing of some of the thirty-three cases before the Cumberland County Supreme Judicial Court, it does not account for them all. Certainly, one would have expected the Court to throw out any cases arising out of a constitutional issue over lower court jurisdiction, but this did not happen with respect to at least three cases where the prosecution ultimately dropped charges in

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289 Kennebec County Supreme Judicial Court Criminal Records: July 1852 – July 1855, MSA.
290 Cumberland County Supreme Judicial Court Records: July 1852 – July 1856, MSA; Following an indictment for the selling of a half pint of gin to Matthew Burns, Mary McMahon pled guilty to the charges and accepted a $20 fine, $15.64 court cost bill, and thirty days in jail. Considering the outcome of other cases, she may have done well to place her fate in the hands of the Court.
lieu of settlement with the defendant for payment of costs.\textsuperscript{292} To this end, then, one suspects that the prosecutors had reasonable legal standing in those cases with the potential to try those cases had they desired. Still, though, the general reliance upon non-trial proceedings against liquor law defendants to begin with suggests Mayor Dow and prohibition sympathizers faced hostility at the trial court either by the judges themselves or the public more broadly, by way of juries. Even after the State Supreme Court ruled police courts unable to adjudicate on liquor law cases, the City continued to rely upon them. Such action suggests the City’s motives for prosecution less tied up in legal findings than simply trying to tie up those engaged in the liquor trade.\textsuperscript{293}

Indeed, the Police Court’s handling of four cases concerning James Dumphy proves this point. Finding Dumphy guilty of selling intoxicating liquors on four separate occasions between May and June 1855, the Police Court fined Dumphy twenty dollars, ordered him to pay the costs of prosecution, and sentenced him to thirty days in prison for each charge.\textsuperscript{294} It is worth remembering that the liquor laws actually provided for Dumphy to face increased punishments on each successive conviction, so in theory, Dumphy could have faced four months imprisonment by the fourth charge.\textsuperscript{295} The fact that the Police Court did not impose such sanctions suggests the Court understood itself to be on dubious legal ground to begin with and possibly provides a tacit recognition of the Court’s actions as more political than legal. With the County Supreme Court ultimately quashing these lower court proceedings, the actions of the City’s mayor, police, and attorneys had limited legal effect, but they could make life more difficult for sellers and traffickers by tying up frivolous cases in police courts. Such actions, of course, would appear rather petty, but, no doubt, would have proven consistent with the brazenness of Dow and the riotous atmosphere that characterized the city during the Rum Riots that same summer.

Findings in two additional cases spoke to the Cumberland County Supreme Judicial Court’s liquor law hostility. First, Dumphy, up for a fifth charge in the same term, faced a Grand Jury indictment for selling a glass of gin illegally. As a result, Dumphy settled to have his case

\textsuperscript{292} Cumberland County Supreme Judicial Court Records: July 1852 – July 1856, MSA.
\textsuperscript{293} Ibid; Such attempts to slow down sellers proved costly. An aggregation of the costs of prosecution left uncollections during the term left the prosecutor’s office with a $102.56 deficit, and this accounting is likely conservative due to missing data on other cases.
\textsuperscript{294} Cumberland County Supreme Judicial Court Records: July 1852 – July 1856, MSA.
\textsuperscript{295} Maine State Statute 1853, Chapter 48, MSLL.
heard by a jury and the result, a finding of not guilty.\textsuperscript{296} Most telling here was the jury, an extension of the public at large, settling with rather than against the frequent target of Dow’s Portland police office.

Most astonishing, however, was the proceeding commenced against well-known public retailer Richard Robinson. Brought before the Police Court in May 1855, the Court found Robinson guilty of keeping and depositing liquors with intention to sell. Indeed, among a collection of liquor-related vessels, he had one two-hundred gallon drum of intoxicant. After the issuance of an order for the liquors and vessels to be destroyed and for Robinson to pay costs and spend thirty days in jail, Robinson appealed to the Cumberland Supreme Judicial Court where, in due course, the Court on motion of the defense quashed the proceedings against Robinson and ordered the return of the liquors.\textsuperscript{297} Given the circumstances and the evidence collected, a jury trial at the County Court seemed to make most sense, but given Robinson’s propensity for getting out of earlier cases, it appeared that the City and the mayor had settled for a friendly venue albeit one of limited to no real legal recourse.\textsuperscript{298}

The failed application of consistent enforcement measures speaks to broad sentiments against either the intent of the law itself or the ways in which it sought to affect its desired changes. Petitioners spoke to equal protection problems as well as the violations of their fundamental rights that they believed the law allowed. The State Supreme Court curtailed portions of the law meant to dissuade defendants from exercising their rights, and the members of the criminal justice system, from judges to attorneys to jurors, all acted in their own individual ways to nullify portions of the law in an attempt to lessen its impact. As a result, the Maine Law, riddled with exemptions to begin with, was further weakened to the point of lessened effect in areas like Kennebec County and almost to the point of legal oblivion in the intemperate hotbed of Portland.

\textsuperscript{296} Cumberland County Supreme Judicial Court Records: July 1852 – July 1856, MSA.
\textsuperscript{297} Ibid.
\textsuperscript{298} Police courts, justices of the peace, and municipal court officers retained their rights to fine for minor offenses, and this could, in theory, be applied to liquor law cases. However, the fines imposed by such courts would be considerably less than those of district and supreme courts fully empowered to adjudicate such cases.
Part V: Conclusion

For prohibition to be dead, it had to have lived, and in the instance of the Maine Law’s five year run from 1851-1856, it proved anything but prohibitive. Faced with open hostility from the start, the critical mass of public support necessary to enforce such a restrictive law, especially on actions often beyond the public sight or reach, was never attained. Governor Dana’s veto message on the 1849 bill lived on in the hearts, minds, and actions of Mainers who sought to undo and curtail the liquor laws, as the State Supreme Court’s actions had shown. Dana himself, it appears, had even provided the surety for Portland’s infamous liquor seller Richard Robinson. Former Governor John Hubbard, who had signed the original law, claimed he had done so for political rather than policy reasons. Undermining the law had become the new Maine pastime.

This is not to say that there were not supporters for the restrictions. There were. However, those most sympathetic and key to its success were not the likes of Dow, whose own actions spoke more of individual ego, signified by his increased attention to national liquor law campaigns, and eventually paved the way for the law’s collapse. Rather the law’s supporters came from across the state but predominately in more rural regions where socio-economic disparity was less. This explains the more dutiful administration of the laws in places like Kennebec County compared to the actions taken in Portland. Even so, though, intemperance proved present everywhere as well. With women, such an important block of support for the restrictions, unable to vote, “prohibition” remained a function of momentary political convenience, as anti-slavery politicians guarded their reelection chances by courting prohibition voters even when it was against their own personal convictions. As a result, anti-prohibition men worked to undermine the law as it existed and waited for the right political moment to destroy it. By the late spring of 1855 this moment had arrived with the Portland Rum Riot. In April of the following year, the Legislature repealed the Maine Law and with it Maine’s experimentation with state coercion for moral betterment.
The Limits of State Coercion

“[T]here is an inherent weakness and impracticability in the whole thing...”
Report of the Committee on the Judiciary Relating to the Sale of Intoxicating Liquors (February 29, 1856.)

The 1851 “Maine” Law, as observers nationwide had come to call the state’s prohibitory law, signaled a dramatic shift in state efforts to control the liquor trade and indirectly intemperance. By shifting from the old license laws to a prohibitory one, Neal Dow and statewide temperance supporters had hoped to drive the scourge of intoxicating drinks out of the marketplace. Loss of access to a free-flowing tap would mean men freed from their drinking habit. With the full force of state government, Mainers, prohibitory supporters argued, could drive out the manufacturers and sellers that stood in the way of statewide sobriety and progress.

Such goals, however, proved woefully unattainable for Maine’s less-than prohibitory laws of 1851, 1853, and 1855. To start, all three laws undercut any meaningful attempt to hold all keepers of liquors accountable. With exceptions in the law for medicinal and mechanical uses as well as for particular kinds of drinks, whether implicitly, as the original 1851 Law had done by targeting only liquor-based drinks, or expressly, as the 1853 and 1855 laws did by exempting first cider and then also wine from the law’s restrictions, the law ensured access to alcohol remained a mainstay for those desiring it. Indeed, the 1855 “intensified” law recognized this reality in its first paragraph when it noted “the term intoxicating liquor...means and includes every liquid preparation that will produce intoxication.” For four years then, the bungling of terminology and what did/did not constitute a prohibited drink seemingly rested on the minds of many, as it did the petitioner from Skowhegan concerned about farmers, who produced rum, being free from the kinds of restrictions that liquor retailers faced. It seemed likely, then, that the definitional ambiguity about what constituted a drink (outside of readily accepted liquor-based drinks) acted as an additional loophole for enterprising defense attorneys, judges, and juries seeking to look the other way when it came to adjudicating liquor-law cases.

Even overlooking such problems, the law proved difficult to enforce, and even when it was, convictions had limited effect. Whether in Portland or Kennebec County, Mainers appeared unwilling to embrace the law’s full effects. In Augusta, while trial courts demonstrated a

299 Maine State Statute 1855, Chapter 166, MSLL.
300 MSA 1/3 Box 222 1852, Env. 15, R/P of Seth Chase and others that the Act for the suppression of drinking houses and tippling shops may be repealed.
willingness to convict violators of the laws, judges and juries oftentimes resisted escalating punishments according to the schedule provided. No wonder then that Isaiah Furbush, William Lombard, and others so frequently showed up before the courts. A continued reliance on the “first offense” rate allowed liquor peddlers to easily carry on their trade.

In Portland, the situation was worse with legal subterfuge openly practiced. Judges set aside lower court rulings and/or reduced sentences beneath those called for in law. Prosecutors unfriendly to the law dropped charges, and, perhaps most tellingly, juries allowed alleged offenders to walk. Such realities contrasted starkly with the creative fiction Neal Dow pronounced about a Portland removed from the worst elements of the liquor traffic. It was in Portland where violators were most likely to operate with impunity, even with the mayor’s office utilizing the police courts in ways not prescribed by law and paying informants to catch offenders. There was no groundswell of support for prohibition in Portland or across the state. Sure most Mainers supported the goals of temperance, but there willingness to actively support a law, which infringed upon the private lives and decisions of individuals proved more fleeting. Rather, the law’s initial legislative success was a function of the political peculiarities of national political realignment and state constitutional changes.

In spite of such resistance to the laws, whether expressed through the Rum Riot or, as Dow noted, in the “carrying on” of “the outlawed trade” in places beyond the sight of the general public, efforts to correct the laws deficiencies and to fulfill the original goal continued. As a result, legislators worked to amend the law once in 1853 and replaced it with a stronger version in 1855. The 1855 Law, which eliminated judicial discretion on the issuance of warrants, expanded the law to cover any drink that produced intoxication, increased penalties to include prison for first-time sellers, manufacturers, and transporters, and worked to close the “pay to play” function of fines upon conviction, sought to quash the ever resilient liquor trade and traffic. To do so, however, the law took the same path that had existed in liquor legislating since 1846 - escalation. And at each stop along the way, increased violence and lax enforcement proved the rule. In a final attempt to deal with the problem of unfriendly juries, the 1855 Law even banned individuals engaged in the liquor traffic from being impaneled.

301 Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years, 380.
302 Maine State Statute 1855, Chapter 166, MSLL; Byrne, Prophet of Prohibition: Neal Dow and His Crusade.
The problem was that the 1855 Law, much like the earlier versions, proved tough in theory and public proclamation, but the hurried nature of its passage created new loopholes for the ones supposedly being closed. Missing sections from the 1855 Law removed explicit language that granted police, municipal, and peace justices the ability to adjudicate most liquor cases under the law. This resulted in countless numbers of court proceedings and judgements thrown away, and in Portland, especially, this proved a boon for illegal sellers, as such lower-level courts had been used to target many still engaged in the traffic.

And, as it would happen, an opportunity to fix the law once more, as Dow and prohibition supporters had tried to do since 1851 (and earlier), ultimately failed, as Dow, in his handling of the Rum Riot in June of 1855, helped to create a wave of public opposition to himself as well as the law. This resulted in the collapse of the fragile political coalition that had helped Dow maintain the prohibitory law’s place on Maine’s political agenda when Hamlin Democrats bolted Dow, recognizing the public fervor over the Riot and generalized unease with the state of the law. Such a political reality showed Dow to be nothing more than the third-rail, single-issue politician that he was, more opportunist (at best) than someone with a sustained plan for political as well as policy success. In fact, it was perhaps the Hamlin Democrats and legislators that had used Dow over the previous four years to shore up their electoral bases. By always producing bills with loopholes for the drink, the minds of the state’s legislators were never with Dow on prohibition. Dow’s ability to polarize made for a catchy 1855 gubernatorial slogan whereby Democrats and Whigs argued that “A vote for Morrill[,] the Republican candidate[,] is a vote for Neal Dow, and a justification of all his illegal, tyrannical, and murderous acts.”303 Morrill lost the election, party men blamed the intensified liquor law and Dow, and with it, any immediate hope for prohibition to remain on the political and legislative agendas was lost.304

In February of 1856, the new Legislature’s Committee on the Judiciary issued a report “relating to the sale of intoxicating liquors,” where it declared that “the statute law, which prohibits the well-behaved citizen from drinking, so that the ill-disposed and vicious may not have access to liquors, not only denies the right of the virtuous man to choose for himself, but puts his right and the wrong of the wrong-doer upon the same level. It confounds virtue and vice

303 Eastern Argus, September 10, 1855; Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 66.
304 Byrne, Prophet of Prohibition: Neal Dow and His Crusade, 67.
Invoking the language of natural right, recognizing the continued accessibility of alcoholic liquors within the state for “those with an appetite” to get them, and denying the power of the state to coerce reformation “in the masses,” the Legislature on April 7, 1856, repealed the previous “prohibitory” law and replaced it with a new license law, similar to those prior to the Maine Law’s passage in 1851. Expressing the sentiments of Portland, the *Eastern Argus* reported “The Maine Law expired on Monday, and Portland rejoiced on Tuesday.”

In essence, then, the state’s almost-but-not-really experiment in prohibition had come full circle. Much like the 1821 Law, the 1856 Licensing Law made licenses available to manufacturers and retailers. While restrictions on the number of licenses were tied to population, few impediments remained in the way of one’s eligibility to sell, although the State placed some restrictions upon sellers, including prohibitions on selling to minors, selling outside one’s places of business, and on selling to those beyond sobriety. Local select boards could, if they desired, also choose to not license any sellers and/or manufacturers within their municipal limits, which, in effect, maintained a local option for prohibition. Such options remain in place even to this day with approximately fifty-six Maine municipalities remaining dry as of 2013.

As for Maine’s foray into state-led prohibition in the 1850’s, three conclusions are apparent: those for and against state coercion couched their arguments in the language of liberty expressing a desire to have the “freedom from” or “freedom to” engage in alcohol’s commercial exchange and drink. For those opposed to state coercion, liberty meant maintaining one’s ability to make independent choices and to do so beyond the prying eyes of the state. Such desires were not limited to just the alcohol question. Religious groups, fearful of state interference in their practice, embraced suasion over coercion as the key to proper inward conversion (for God as well as temperance) and as a means to keep the state properly distanced from the constitutionally protected realm of the church.

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305 Report of the Committee on the Judiciary Relating to the Sale of Intoxicating Liquors in SENATE on February 29, 1856, State of Maine, Thirty-Fifth Legislature, Senate No. 15, page 6, MSA.
306 Maine State Statute 1856, Chapter 255, MSLL.
307 *Eastern Argus*, April 10, 1856.
308 Maine State Statute 1856, Chapter 255, MSLL.
309 Ibid.
Not all, however, embraced such an atomized view of liberty. Others, including some old line Congregationalists, who disavowed a strict separation of church and state; women’s and temperance groups, concerned about the family and the abuses alcoholism wrought; some leading citizens, who viewed drunkenness as an economic-and-social burden, believed communal rights ultimately trumped individual choice. The public good, after all, was about the community in total rather than the impetuous desires of the few or one. Much as communities had gotten together to pursue public projects and infrastructure development across the 1840s, these Mainers believed state-led coercion could elevate men’s souls and, by extension, free all Mainers from the impoverishment, domestic violence, and poor values that liquor was said to create.

The problem, however, for coercionists, was that the law, even in its less than absolutist form, generated little respect from large quarters of the populace, and for those, women, that might have been able to give the law additional support, they could not vote. Such pervasive disdain resulted in the creation of black markets, legal-and-judicial subterfuge, and, at times, outright violence. Rather than treat drunkenness as a moral problem, the state’s decision to criminalize hardened resistance from those most needing help, and/or created, at most, a less-than-burdensome fine schedule that most traffickers simply accepted as the cost of doing business. The law punished but did little to aid those actually suffering from alcoholism.

State intervention created an untenable situation. By criminalizing the economic exchange, the state made it more difficult to identify those that it sought to help and made it equally difficult to identify those manufacturers and retailers engaged in peddling alcoholic drinks. The threat of sanctions appeared to make witnesses, who oftentimes knew the retailers personally and/or were the much maligned intemperate men themselves, more difficult to come by for criminal cases. With the retiring of the old licensing laws, the state lost its ability to track, regulate, and tax those engaged in the trade and exchanged it for a ban that incentivized people to hide their behaviors, thereby undercutting proponent’s claims that the law would help reform alcoholics. For some, more moderate men, the law likely curtailed some retail exchanges and drove some sellers out of business, but it also encouraged men to obtain their drinks elsewhere. Men of means could seek out legal alternatives; whereas, the impoverished intemperate was the one most likely forced, it seemed, onto the black-market where sellers might extract a higher price. Genuine moral reform gave way to shifting behaviors to the shadows. Finally, of course,
the law itself, when it did identify repeat offenders and retailers of prominence, did not work. Retailers of means kept coming back, as the law’s fine structures proved well below the actual cost of doing business. By embracing direct intervention, the state had lost the ability to address the moral and economic concerns of the trade that a more indirect form of state intervention, like regulation, provided.

In this light, then, Maine’s failed prohibitory regime showcased the folly of attempting to ban a practice so culturally engrained. With workaday practices that guaranteed a twice-a-day drink and socialized behaviors that accepted liquor’s place upon the beverage mantle, legal restrictions stood no chance. The many exceptions written within the law and the law’s ineffectual enforcement showed this. While some viewed the ingrained and widely accepted social practices as immoral, others did not. And even for those not overcome by intemperance, the law made sober men, who enjoyed the occasional drink, potential criminals as well, thereby enlarging the numbers of people touched by the law and presumably increasing the risk of generalized resistance. The expansiveness of the law missed the mark on identifying those in most need of help, and instead, by targeting intoxicating drinks, created a law so invasive, restrictive, and unpopular that it was doomed to failure.
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MSA: Maine State Archives
MSLL: Maine State Law Library

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*Additional Notes
Frank L. Byrne’s work proved immensely helpful in tracking down primary sources for this project. His careful work chasing down and locating many Maine-related sources, especially period newspapers guided me throughout. Also, Byrne’s attention to Neal Dow helped to encourage my work here to go beyond Dow in an effort to speak to Maine people more completely. And finally, Byrne’s approach to handling temperance, prohibition, and Dow helped to inform and guide my stylistic decisions in how I chose to lay this thesis out.
James W. North’s history of Augusta also proved beneficial, as his attention to the comings-and-goings of antebellum Augusta made possible the comparisons and conclusions that I sought to tease out in this work. Additionally, North’s work made possible my selection and description of the particular examples I used in chapter two to link Augusta to the larger conversation about societal transformation and temperance.