

I am fully aware that these suggestions will be rejected by some out of hand. But what I am saying is really quite simple: alcohol problems are collective problems of the entire society; any attempt to "solve" these problems while at the same time exonerating the majority or a powerful industry from their fair share of the costs of controlling problems is not only unjust, it is doomed to failure.

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The problems which the Uniform Alcoholism and Intoxication Treatment Act addressed are not new, and neither was decriminalization a new solution:

"The manner in which drunkards are dealt with is generally admitted to be unsatisfactory. Men and women afflicted with the disease of habitual drunkenness are ignorantly dealt with as criminals, and the abortive treatment to which they are in consequence subjected is neither deterrent nor reformatory. Scores of these poor creatures spend years of their unhappy lives in moving backwards and forwards between the public-house and the prison. . . . No possible good is done by their incarceration. Their sentence of two, or seven, or fourteen days, or whatever it may be, simply patches them up in preparation for another bout of drink, and so the miserable game proceeds, costing much money and doing no good. . . . It is no uncommon thing to

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find over fifty convictions recorded against one of these unfortunates. Could anything show more plainly the uselessness of the present system? Indeed, it is generally admitted; but, although reform is much talked about, it has been found impossible to get beyond the talking stage. . . . It is not easy to hit upon remedial measures which are free from objections of some kind. It is no doubt due to this difficulty that the present system owes its continuance. To deal effectively with the matter, new ground will have to be broken, and some purely experimental steps undertaken. Objections will no doubt be raised, but they should not be allowed to obstruct reform. The first thing should be to take habitual drunkenness out of the category of crime, and class it as a disease requiring medical rather than prison treatment" (1).

There is little in this 19th-century quotation to distinguish it from a discussion written in the last 15 years—other perhaps than its recognition that "the problem of the chronic drunkenness offender" is not easily soluble. Kurtz and Regier (2), in attributing the deficiencies of the Uniform Act to "the compromising process of social policy formulation," imply that a "rational" and satisfactory solution of the problem is available. My view is closer to that of the 19th-century police captain; the "problem of the chronic drunkenness offender" is a problem to which, given the current "limiting set of social values," there is no fully satisfactory solution. Since the defects of the current solution are always more obvious and painful than the defects of possible alternative solutions, the natural history of an intractable social problem will be of a shift to an alternative solution whenever the spotlight of public attention becomes focused on the problem. As Bruun (3) has noted concerning the historical experience in Finland, "the consistent frustrations concerning the relative lack of success in fighting alcoholism made us move compulsively from one model to another" (p. 552).

Kurtz and Regier portray the Uniform Act as resulting from the interplay of three sets of players—the "alcoholologists," the law enforcers and the jurists. In my view, these players have been in some respects miscast, and important other players in the action have been omitted.

*The "Alcoholologists."* This term was listed as "rare" in 1968 (4), and would not have been a recognizable self-identification in the 1940s or 1950s. We might better speak of an "alcoholism movement," recognizing that the coalition of interests in the movement were united only in allegiance to a "disease concept" of alcoholism, without agreement on what this meant (5, 6), and that to a considerable extent lay thought in the movement led professional thought, rather than the reverse—Jellinek's classic disease concept papers (7, 8) depended on data from a questionnaire designed by and administered to members of Alcoholics Anonymous. Alcohol researchers were in the 1940s and 1950s a tiny band. Their acceptance of the disease concept was doubtless mixed in its motivations, but it smacks a little of the "enormous condescension of posterity" (9, p. 12) to attribute primacy to a "struggle for respectability" for themselves. Quite clearly, an improved status for the patient,

the alcoholic, was a primary motivation; and a disease conceptualization of alcoholism was in any case quite in tune with the tendency of the day to conceptualize social problems in terms of pathology or disease.

The relation of the alcoholism movement to the problems of Skid Row is tinged with paradox. Straus (10) has noted that "in the early 1940s, prevailing studies of alcoholism were limited to the then visible and captive populations of alcoholics. These included, primarily, studies of the habitués of mental hospitals, jails, and some impressionistic reports from Skid Row." He attributed the emergence of the "more respectable alcoholic . . . out of hiding" to two factors: to Alcoholics Anonymous, which "had then, and has continued to have, its greatest appeal and success with alcoholics who have some remnants of community or family stability and some employability," and to the development of the "prototype Yale Plan Clinics of 1944" which developed "an immediate and major clientèle from among the more stable elements of society." Ironically, Straus notes, although such clinics had "often justified their original funding by promising to reduce the public investment in jails and mental hospitals, they actually had little impact on such populations" (10).

As Kurtz and Regier point out, the argument that Skid Row alcoholics are a tiny minority of the alcoholism problem has proved enduringly popular, and has usually been quite explicitly presented as an argument for the respectability of alcoholics—"there is a wide belief that alcoholics are mainly bums. . . . This is one of the damaging misconceptions about alcoholism. . . . The alcoholic can be anyone, rich, poor, brilliant, stupid. Many are successful people, business-wise. Many are very intelligent, sensitive men and women" (11). Bacon's early estimate (11, p. 5) that 20% of alcoholics were on Skid Row was gradually eroded by common tendencies to inflate policy-relevant figures and the expansion of the meaning of "alcoholic" (12) until the current U.S. estimate of "probably less than 4 percent" was reached (13, p. 9). Although the original research report on which the argument is based was by two sociologists (14), the argument soon became primarily the property of clinically oriented policy advocates, and left the realm of research.

Meanwhile, sociologists and social workers became the sole custodians of a renewed research interest in Skid Row per se—a research tradition that had a rich past (15) and that fed into and was often supported by federally funded urban renewal programs, but which did not have much impact on other alcohol studies, at least until recent years. Curiously, in view of the rhetoric about the equation of the alcoholic with the "Skid Row bum," the identifiable Skid Row alcoholic is conspicuous by his absence in the early research literature of the alcoholism movement. His first appearance as the topic of an article in the *QUARTERLY JOURNAL OF STUDIES ON ALCOHOL* is in Volume 7 (1946), in the guise of the "homeless man" (16). The first *JOURNAL* article with Skid Row (actually "Skid Road") in the title appeared in 1953; its opening

remarks were that "it is common knowledge that the Skid Row of any major American city has a large population of alcoholics. Yet few articles which take cognizance of this concentration are to be found in the literature on alcoholism" (17).

How is this statement to be reconciled with such a concurrent statement (18) as, "traditionally, the inebriate has been characterized either as a deteriorated derelict who must be punished in jails or relegated to a Bowery type of existence, or as a person with a mental illness warranting institutionalization"? The answer is perhaps to be found in the strongly clinical orientation of all the early and much of the subsequent research of the alcoholism movement. The early clinical researchers were indeed looking at a largely Skid Row population—what became the Yale-Rutgers Center of Alcohol Studies was originally located at New York's Bellevue Psychiatric Hospital—but they did not identify it as such. The clinician looks at the patient who comes in the door, and not at the environment outside the door from which the patient came. In fact, paying attention to the social background of the patient is often seen as likely to prejudice the clinician in his actions (19, 20). The "revolving door," in this case the door of the clinic, was an early experience of the alcoholism researchers, but the clinician looked at it pathologically rather than ecologically: Norman Jolliffe is quoted as saying in the mid-1930s, "you know, I must be doing the wrong thing. I send these people out cured [of nutritional diseases]; and the same ones keep coming back in. . . . Why are they drinking that way? That's the real question. It's the alcoholism we should be studying!" (21, p. 136).

The tendency to ignore the ecology of alcoholics has remained a characteristic of much of the clinical literature to the present day, and has been reinforced by the rhetoric about the unrepresentativeness of the Skid Row and the vast army of respectable "hidden alcoholics." However, despite both this rhetoric and the large increase in Federal funding of alcoholism treatment centers, most public agency programs for alcoholism continue to have a clientele with more in common with Skid Row than with the socially stable and occupationally integrated client of the Yale Plan Clinics: in the 41 NIAAA-funded alcoholism treatment centers in 1972, only 35% of the patients were currently married and 46% of the patients still in the labor force were employed at intake (22, p. 139-140), and the centers were considered to show a "wide rejection of all but the public inebriate model" (23).

The Skid Row, then, continues as a major presence in alcoholism treatment services and the attendant literature, but his presence is largely unacknowledged and seen as cause for embarrassment. Kurtz and Regier portray the alcoholism movement as somewhat cynically using Skid Row as a "threatening image" to secure public financing of alcoholism programs. But, throughout the period leading to the Uniform Act, I believe that most of those involved in the alcoholism movement continued to regard the "public inebriate" as a millstone, discussed as a "special problem" in carefully segregated sections of comprehensive reports (e.g., 24, pp. 110-116).

Those concerned with the "public inebriate" tended to constitute a special constituency in the movement, oriented around urban renewal programs or the halfway house movement. The Uniform Act, directed at state legislatures, was far less crucial to the movement and far less important in securing financial support than legislation at the Federal level. The alcoholism movement was in fact a relatively passive participant in events leading to the Act. It provided the conceptual basis for the constitutional lawyers' arguments, and organs of the movement joined in some of the test cases, but the primary initiative lay elsewhere.

*The Law Enforcers.* Kurtz and Regier remark on the interest of police and correctional authorities in dignifying their work by ridding themselves of the public inebriate. It is, again, an old concern, perhaps expressed more honestly in earlier times:

"The constant stream of drunkards flowing into the gaols is at once most inconvenient and expensive. Their presence is embarrassing, and interferes considerably with the arrangements for properly accommodating the more legitimate prisoners. . . . A huge army of drunkards and vagrants, owing to drink, march into prison, many of them in a filthy, diseased, and verminous condition, forming at once a danger to the cleanliness, order, and usefulness of the gaol" (1).

Echoes of these sentiments can be found in the current literature: "the general attitude expressed toward the public inebriate by the police officer can be summed up in the comment of one administrative officer when he said, 'The public inebriate is a social and medical problem and not a criminal justice problem, he's just a nuisance and the police end up having to handle him'" (25, p. 102). The police in one San Francisco station complained that they ended up having to deal with public inebriates that a new civilian Mobile Assistance Patrol refused because they were "too dirty" for them to handle" (26, p. 34).

On the other hand, persons arrested for drunkenness have some advantages to the criminal justice system. To the policeman on the beat, the drunk person offers a useful legal tool in maintaining control over public territory—a tool which may well have increased in importance as the courts have gradually outlawed such other "status" crimes as vagrancy (e.g., 27). San Francisco policemen have commented that arrests for drunkenness "are a 'simple solution to a complicated problem,' and they use it as a 'lesser alternative for the benefit of everyone concerned.' For example, when a person is disturbing the peace, and the complainer does not want to get involved with a citizen's arrest, [an arrest for drunkenness] is used, and it helps the police also because they don't have to make an Incident Report. Similarly, if a person continued his behavior he would most likely be arrested for a more serious charge" (26, p. 33).

For the correctional officer, the inebriate offender is often indispensable in running the jail. Griffen (28) has commented on the functional and in some ways privileged position in jails of the Skid Row "regulars"

who "fill most of work roles of the internal economy." In the Sacramento County Correctional Center in California, public inebriates are set apart from other prisoners by wearing red shirts. An officer commented, "when the tower guard sees an inmate in a red shirt in a questionable area, he figures the guy just wandered too far or is lost—but if he sees one in a yellow shirt it's a different matter" (29, p. 20). In this jail, as in many others, "the public inebriate is viewed as a model prisoner. Most are docile in custody and, if health permits, are willing to work. The inebriate has long been regarded as the backbone of the inmate work force. 'The inebriate makes our operation click. He is in a sense a model inmate. In the downtown area the drunk is a problem, out here he does the work.' The recent decline in the Correctional Center's inebriate population . . . has resulted in a need to hire people to do the Center's work" (29, p. 19). Similarly, the city jail in Oakland, California, had to increase its staff by about a quarter—adding nine cooks and kitchen helpers and nine janitors—when a local judge ruled drunkenness arrests illegal.<sup>2</sup> Cost-benefit analyses of the decriminalization of public drunkenness conventionally ignore the fact that removing public inebriates from the jail often increases rather than decreases the costs of administration of the correctional system.

Thus, although there is a general police and correctional interest in concentrating resources on "serious" crimes, associated with the more "heroic and newsworthy" investigative aspects of police work (30), this concern runs counter to other concerns of those engaged in day-to-day police and correctional work, and is likely to be strongly manifested only by those with policy and administrative responsibilities. To the extent that there was a law-enforcement contribution to the Uniform Act, it was at these higher levels, and was not necessarily responsive to the concerns of the policeman on the beat.

*The Jurists.* Conversely, in the judicial system, much of the pressure for change came from below. All over the United States, municipal court judges had demonstrated increasingly over the years that they were tired of their role as the doormen of the "revolving door." Often the judges felt that only they truly comprehended the impossibility of the situation:

"We, Judges, are prone to approach the problem of the drunk docket with a peculiar pessimism which only we can understand. . . . We have been driven to extreme frustration. . . . On the one hand, we are cast in the role of the bully trampling down and further degrading those within our society who are already the weakest and most inadequate among us, which grates on our sense of fairness; but, on the other side, we also find ourselves frustrated by the realization that neither do we protect society by the prevention of law violations in this regard. . . . Little wonder we find ourselves gathering in groups such as this with the hope of reorienting ourselves in gathering a fresh approach" (31).

<sup>2</sup> Interview by Ronald Roizen with Lt. Harold Mijanovich, Commanding Officer, Oakland Jail.

Judges in different localities have tried various strategies for changing the situation. Often these strategies involved "court honor classes" and other judicially initiated strategies for diversion of chronic offenders. Even prosecutors became involved in these efforts (32). But occasionally the judges adopted strategies aimed at destroying the "drunk court" system itself.

New York City provides an early example of the strategy of the judicial sitdown strike. In 1935 a New York magistrate started systematically dismissing charges of public intoxication, and 5 years later his ruling was given general effect in the city by the simple expedient of the Chief Magistrate ordering the destruction of all court forms dealing with public intoxication—although the law on public intoxication was not changed until 1962 (33). The strategy of simply refusing further convictions has since been adopted elsewhere, for example, in Oakland. District of Columbia judges used a variant of this approach in refusing to commit alcoholics for treatment when public officials sought to comply with the *Easter* decision in form but not in substance by changing "the sign over part of the local workhouse to read 'Hospital' rather than 'Jail'" (34, p. 113).

Another strategy adopted in the 1960s was the encouragement and cultivation by local judges of test cases, in hopes that higher court rulings would overturn the system. In the *Easter* case, after the prosecutor, tipped off by a sudden appearance in court of a lawyer and several expert witnesses, declined to prosecute four earlier defendants selected to be test cases, the court's presiding judge tricked the prosecutor into starting the prosecution and then refused to allow the prosecutor to withdraw the case. The judge then took further actions to set up the test case: he permitted the presentation of nearly a full day of defense testimony; he ruled against the alcoholism defense so that the appellate court would have to face the issue; he imposed a sufficient sentence to guarantee a right of appeal; and he suspended the sentence so the case would not become moot (35, pp. 1141-1142).

Although the test-case strategy did not fully succeed in outlawing arrests of alcoholics for drunkenness, it did focus attention on the issue of public drunkenness arrests and their disposition. In the atmosphere created by the *Easter* and *Driver* test cases, two presidential crime commissions—one for the District of Columbia and one national in its scope—faced up to the problem of public drunkenness and recommended decriminalization. In many communities the precedents of *Easter* and *Driver* and the expectation that *Powell* would finally outlaw the arrest of alcoholics for drunkenness produced substantial community planning for change. There is thus some irony that Justice Marshall's prevailing opinion in *Powell* decided against decriminalization not so much on constitutional grounds as on pragmatic grounds of the lack of viable alternatives to arrests for drunkenness (36, p. 1265).

To a considerable degree, the strategy of the test case was a strategy of focusing public attention. Even if *Powell* had been decided as hoped, it would not have outlawed arrests for public drunkenness, but only

arrests of labeled alcoholics. Although local in effect, the strategy of refusal by local judges to convict was potentially more far-reaching, in that it effectively totally nullified the public drunkenness law. To be effective the strategy typically required at least the passive cooperation of presiding and other local judges. The general dissatisfaction of municipal judges with their role in the "drunk court" was an important element in the events leading to the Uniform Act.

*The Civil Liberties Lawyers.* During the 1960s the concept of civil liberties, and in particular the concerns of the American Civil Liberties Union, broadened beyond earlier narrower concerns with First and Fifth Amendment rights. Lawyers, law students and civil libertarians started to take a strong interest in and seek reform of what were seen as the effectively discriminatory or unjust effects of the existing legal system in a number of areas—juvenile court proceedings, mental illness commitment hearings, capital punishment determinations, etc. In line with these interests, a spate of articles about arrests for intoxication appeared in law-school journals, starting in the mid-1960s.

ACLU lawyers took a primary role in the test cases concerning public intoxication. In alliance with elements of the alcoholism movement, and, as I have mentioned, often with the cooperation of the municipal court judges, the test cases concentrated on the disease concept of alcoholism, seeking to apply to alcoholism the precedent set for opiates in *Robinson v. California* (1962) that a person could not be punished for an illness. This was not the only possible ground for attacking the "drunk court" system. Public-drunkenness laws are often potentially unconstitutionally vague, and on that account might be attacked as punishing persons not for an act but for being in the particular mental state of drunkenness. Certainly, the "drunk court" system could have been totally immobilized by insisting on applying to it the standards of procedural due process in criminal cases which were developing during the 1960s. The adoption of the disease concept of alcoholism as the preferred strategy of defense, then, was not an inevitable choice, and reflected the alliance of the civil-liberties lawyers with the alcoholism movement.

But the civil-liberties lawyers also had a contribution to make to the substance of the alliance, a contribution which fundamentally affected the Uniform Act. The proposition that chronic public drunkenness reflects a disease and should be shifted from penal to therapeutic handling is, as I have suggested, a recurrent historical theme. Usually, however, the proposition has been accompanied by the corollary that inebriates should be involuntarily committed for treatment for an extended period of time. The 19th-century police captain quoted earlier (1) is typical on this point: he proposes a course of treatment,

"involving detention, more or less prolonged, in an inebriate reformatory situated some distance from any large center of population. The establishment should not present a prison appearance. . . . The inmates, or more properly speaking, patients, would be habitual drunkards. . . . After a certain number of appearances before the Courts a person might be deemed an habitual



drunkard, liable to detention in the Reformatory. Such detention should not be for less than one year. No possible good could be effected in less time for such cases."

In tune with these sentiments, public and quasipublic inebriates' reformatories, with associated powers of involuntary commitment, were set up in many places in the late 19th century—including at least the United States, Scandinavia, England and Australia.

In the early 1960s the drift in the alcoholism literature was clearly in the direction of long-term involuntary treatment as a major alternative to arrests for public drunkenness. In part because of the voluntaristic and middle-class-oriented traditions of A.A. and the Yale Plan Clinics, the alcoholism movement had a historical predisposition toward voluntary treatment—often expressed in terms of the concept of "motivation." An unmotivated alcoholic, one who was not "ready," could not be helped; the objection was thus pragmatic rather than explicitly ethical. In the early 1960s evidence was gathered to support the proposition that compulsory treatment could be effective, that it could be seen as "one more technique in the caretaker's armamentarium of tools for enhancing the motivation and needs we assume to exist in alcoholics" (37). An influential article argued that the concept of motivation was "a source of institutional and professional blockage in the treatment of alcoholics" (38). At a federally sponsored conference of judges in 1965 on "the court and the chronic inebriate," Pitmann (39) proposed that, for the "revolving door" group,

"we should strongly consider the adoption of compulsory treatment under civil commitment procedures for the alcoholic. . . . If we view the alcoholic individual as being not only one who is suffering from a chronic disease but, in the case of the chronic intoxication offender, one whose behavior is a nuisance to society, then we can construct a case for compulsory intervention by public health measures. Experience has shown that enforced custodial care at a penal institution has not radically altered the behavior of the public intoxicant; therefore, we should perhaps attempt to create compulsory treatment facilities, much in the same sense as they have been established for tubercular cases."

In line with this drift in the literature, two-thirds of a sample of alcoholism agency personnel agreed that "for some Skid Row alcoholics, enforced treatment would probably be successful," and other surveys of treatment personnel showed that "substantial percentages endorse the principle of involuntary treatment" (38, pp. 45, 41).

In any other era, long-term involuntary commitment to treatment might thus have been expected to emerge as the obvious alternative to criminal punishment. Such a solution offered something for everyone: "the conservatives liked the confinement aspects and the moderates liked the treatment provisions" (40, p. 262). For the therapists it offered an assured and captive supply of cases for treatment. Even in the early 1960s, in deciding *Robinson v. California*, the U.S. Supreme Court (41), ruling that opiate addiction per se could not be punished,

had observed that, "a state might establish a program of compulsory treatment for those addicted to narcotics. Such a program of treatment might require involuntary confinement." In line with this decision, California had set up a massive "civil commitment" program under the auspices of the Department of Corrections, to which addicts were committed for treatment for terms usually of 7 years (40). Similar programs were instituted by New York State and by Federal authorities.

But the natural line of development in the societal management of alcoholism was interrupted by the coming onto the scene of the civil-liberties lawyers. Often developments in the mental illness and alcoholism fields have proceeded along parallel but surprisingly independent paths, with alcoholism commonly lagging mental illness by a step or two. Thus, for some examples, the era of founding public inebriate reformatories in the 19th century occurred well after the establishment of state mental hospitals; alcoholism is only now going through, in the form of "responsible drinking" campaigns, the equivalent of the "positive mental health" community organizing campaigns of the 1950s. The doctrine of the "co-alcoholic" gained acceptance well after the "discovery" that the seat of mental illness might be in the family as a whole rather than in the presenting individual. In the mid-1960s, as alcoholism headed toward a policy of long-term involuntary commitment, mental illness was heading away from it. Since the late 1950s, long-term involuntary commitment for mental illness and its institutional embodiment, the state mental hospital, had been under attack from a number of directions: from the countervailing ideology of the community mental health centers movement; from the focus of sociologists on depersonalization in the "total institution" and stigma outside it; from literature calling in question the extent and effectiveness of treatment in the hospital; from attacks on the disease conceptualization of mental illness; from fiscal conservatives unsympathetic to psychiatrists and to expensive state institutions; and from legal attacks on the process and substance of commitment proceedings. In California in the late 1960s these trends culminated in the Lanterman-Petris-Short Act, effectively eliminating long-term involuntary commitment, and the Reagan administration decision, only partly carried out, to close down all state mental hospitals.

The lawyers broke into the developing cycle of alcoholism-thought by bringing with them firmly held and concretely based perspectives forged in the battles over involuntary commitment for mental illness. Again, their position was not unprecedented; the 19th-century author (1) noted that his proposal was "no doubt of a stringent character. . . . Probably well-meaning people would cry out that the liberty of the subject is being unduly interfered with." But it had a new forcefulness. As a staff member of the 1967 President's Commission on Law Enforcement and Administration of Justice put it (42, p. 46), citing an American Bar Foundation study's "excellent description of abuses surrounding the commitment of the mentally disabled,"

"placing alcoholics in confinement against their will, whether on grounds that they pose a threat to their own or others' safety or no stated grounds at all, is simply a continuation of the warehousing program which exists today. Although it may be laced with the illusion of an altruistic treatment program, it is in fact an attempt to get an undesirable population out of our hair, and, more important, out of our sight. Also, it is—whether we care to recognize it or not—a greater threat to the civil liberties of impoverished alcoholics than the method used today."

At an annual meeting of the National Council on Alcoholism, Peter Hutt,<sup>3</sup> the ACLU counsel in the *Easter* and *Powell* cases, stated the lawyers' position unequivocally: "We have not fought for two years to extract DeWitt Easter, Joe Driver and their colleagues from jail, only to have them involuntarily committed for an even longer period of time, with no assurance of appropriate rehabilitative help and treatment. The euphemistic name 'civil commitment' can easily hide nothing more than permanent incarceration."

In its decision on the *Powell* case, the Supreme Court was clearly affected by the winds of change in perspectives on involuntary commitment. Justice Marshall's prevailing opinion (36, pp. 1265-1266) notes that,

"One virtue of the criminal process is, at least, that the duration of penal incarceration typically has some outside statutory limits. . . . 'Therapeutic civil commitment' lacks this feature; one is typically committed until one is 'cured.' Thus, to [rule that alcoholism is unpunishable] might subject indigent alcoholics to the risk that they may be locked up for an indefinite period of time under the same conditions as before, with no more hope than before of receiving effective treatment and no prospect of periodic 'freedom'."

Although the lawyers were bent on halting the drift toward involuntary treatment, they shared a number of fundamental assumptions with the other parties involved: that public drunkenness should be decriminalized; that there should still be some mechanism for removing drunkards from the street; that community authorities should be forced to make treatment and help available to those desiring it. All parties were in agreement that drunkards could be held involuntarily at least until the gross effects of drunkenness or alcohol withdrawal had passed. With these requirements it was inevitable that the detoxication center as a "sobering-up station" and referral agency for those desiring further help should become the chosen alternative to the "drunk tank."

In its recent history in the U.S.A., the concept of the detoxication center apparently originated as a change in police-arresting procedures rather than as a separate noncriminal institution. In 1963 the police commissioners in St. Louis, Missouri, "made it mandatory for all individuals 'picked up' from the streets of St. Louis [for drunkenness] to be taken to the emergency rooms of the two city hospitals for physical

<sup>3</sup> Quoted in U.S. Supreme Court (36, p. 1266).

examination" (39). Those "in need of medical care"—about 10% (43, p. 69)—were "hospitalized instead of being jailed"; the others were "held until sober" by the police and then released. By 1965 the idea of a specific "detoxification center" had caught the eye of the Federal Justice Department as a way of reducing what were coming to be seen as extraneous burdens on the law enforcement system. Nicholas Katzenbach (44, p. 50), then Attorney General and later chairman of the President's Commission on Law Enforcement and the Administration of Justice, testified to Congress in 1965 that, "We . . . burden our entire law enforcement system with activities which quite possibly should be handled in other ways. . . . Better ways to handle drunks than tossing them in jail should be considered. Some foreign countries now use 'sobering-up stations' instead of jails to handle drunks. Related social agencies might be used to separate them from the criminal process."

In 1966 the Justice Department funded a demonstration detoxication center in St. Louis (44). A prominent feature of its aims was the reduction of police time spent in processing chronic drunkenness arrests, since it would replace what had become a lengthy arrest process of transportation to the city hospital and then to the lock-up. Faced with the *Easter* decision, the President's Commission on Crime in the District of Columbia in its 1966 report (43, pp. 78, 79) adopted detoxication centers as the mechanism of decriminalization of drunkenness: "persons who are so drunk that they cannot care for themselves should be taken into protective custody by the police, and taken immediately to an appropriate health facility. . . . All public inebriates, whether arrested because of disorderly conduct or taken into protective custody should receive emergency medical care [in an] emergency care unit. . . . The incapacitated inebriate would be detained only until he attains sobriety."

Although the Commission stressed referral for further treatment, it hedged on the issue of involuntary commitment (43, pp. 79, 81):

"the Commission recognizes that the constitutionality of a civil commitment law for alcoholics, in the absence of a criminal charge, is far from clear. . . . Nevertheless, a narrowly drawn statute, providing for short-term commitment of severely debilitated chronic alcoholics who pose a direct threat of immediate injury to themselves, might be a useful adjunct to a treatment program. . . . After an appropriate period of experimentation with voluntary treatment of alcoholics under a comprehensive program, the Judicial Conference of the District of Columbia should consider the need for and the constitutionality of a civil commitment statute for chronic alcoholics."

It was in the report of the District of Columbia Crime Commission, then, that the policy settlement later embodied in the Uniform Act first appeared. Not just the "alcoholics" covered by the *Easter* case, but all public drunkenness arrests (where no disorderly behavior or other crimes were involved) were to be diverted to an "emergency care" center for short-term involuntary detention. This center would both detoxicate its patients and diagnose and refer them for further treatment. Further

treatment would for the most part be voluntary, but a limited provision would be made for involuntary commitment of the severely debilitated.

The civil-liberties lawyers clearly influenced this settlement but did not totally control it. The adoption of the concept of a detoxication center did ensure a clear separation between the process of short-term detention and that of long-term commitment for treatment. Beyond the detoxication center, the emphasis was to be on voluntary treatment. But, however deemphasized and hemmed about with restrictions, provisions for involuntary treatment were still envisaged. The civil-liberties position on involuntary commitment was to be represented not so much in the statutory provisions as in the accompanying declarations of intent.

It was recognized that, if the detoxication center was not to become another revolving door and if involuntary commitment was to be a rare event, most clients would have to volunteer for further treatment. On this crucial point in the workability of its solution, the Commission turned to the "alcoholism consultants to the Commission." In line with the general tenor of the literature at the time, which emphasized the depression, dependency and need for affiliation of Skid Rowers, the experts gave their assurance. "Experts say that the vast majority of chronic alcoholics, typically passive and dependent personalities, would voluntarily join in an effective, comprehensive treatment program" (43, p. 79). It was on this assurance that the policy of the detoxication center as a solution to the problem of chronic drunkenness offenders was built.

Decrimination and civil detoxication centers were also adopted as policy recommendations by the President's Commission on Law Enforcement and the Administration of Justice, which reported in 1967 (45). In this report, however, the civil-liberties position won a fuller victory; there is no mention of involuntary commitment, and it is indicated that after detoxication, "the decision to continue treatment should be left to the individual" (45, p. 5). In line with this position, Pittman, who had earlier called for civil commitment procedures (39), made no mention of them in his consultant paper for the Commission, although such ambiguous locutions as "supervision" and "placing" of alcoholics are used (46). The 1967 Commission report had an important influence in diffusing a collection of significant documents on alternatives to drunkenness arrests throughout the country (45).

As Kurtz and Regier note, the Uniform Act came in the wake both of these commission reports and of previous model-law drafting efforts. By the time the Uniform Act was adopted, Congress and several state legislatures had also had before them public inebriate diversion bills. These bills took varying positions on the issue of involuntary commitment. In the California bill of 1969 (which did not pass) an initial provision for compulsory care for a limited time was amended to lower the maximum commitment to be the same as the new state mental illness commitment limits—14 days (47, p. 281). Since then the mental illness precedent has kept any longer-term commitment provision from passing in California.

As noted above, the Uniform Act adopted the solution of the District of Columbia Crime Commission: provision for involuntary detoxication, and limited and separate provisions for civil commitment for treatment for a total maximum period of 7 months—with three commitment hearings required for the maximum period. In the comments which accompany the Act, all the emphasis is on voluntary treatment, even for the detoxication process:

"A small minority of intoxicated persons are 'incapacitated' in that they are unconscious or incoherent or similarly so impaired in judgment that they cannot make a rational decision with regard to their need for treatment. . . . [Protective custody provisions are] intended to assure that those most seriously in need of care will get it. . . . It is anticipated that the need to resort to short-term commitment for emergency medical care under [a section providing for a 5-day hold] will arise most infrequently" (48, pp. 17, 19).

With respect to longer-term commitments, the emphasis on voluntary process in the comments repeats the earlier Commission's assertion (48, pp. 14, 23) that most alcoholics will volunteer for treatment:

"Voluntary treatment is more desirable from both a medical and a legal point of view. Experience has shown that the vast majority of alcoholics are quite willing to accept adequate and appropriate treatment. . . . Involuntary treatment is permitted only in exceptional and very clearly prescribed circumstances. . . . Involuntary treatment would *not* be warranted merely because the person needs treatment, or has substantially inconvenienced his family, or has frequently been intoxicated in public, or because his drinking is harmful to his health. Commitment would be warranted, however, if the alcoholic exhibited cognitive deficiencies and was so debilitated that his thinking was confused not only with respect to his drinking problem but in other areas of behavior as well."

In making separate provisions for detoxication, and in the explanatory comments and procedural limitations on involuntary commitment, then, the Uniform Act did temper its adoption of the therapeutic solution in accordance with the revived concerns for civil liberties at the end of the 1960s. It may be doubted, however, whether the comments and limitations had much effect on the Uniform Act's target audience. A survey of the status of state legislation in 1973-74 found that "the provision most common in their alcoholism legislation was involuntary commitment to treatment" (49, p. 224): 83% of the 36 responding states reported this provision, which may in some cases have antedated the Uniform Act; while 70% reported that decriminalization of public intoxication had become a fact anywhere in the state, and only 26% reported repeal of all public drunkenness statutes (49, pp. 225-228). The survey suggested that many of the procedural niceties embodied in the Act were not present or effectively used in the state systems; among responding states with involuntary alcoholism commitment procedures, only 62% complied with the Act's provision requiring a physician's examina-

tion or certification for commitment, only 10% complied with the Act's preference that a physician testify at the commitment hearing (48, p. 20), and in only 38% had any commitment application ever been contested.<sup>4</sup>

### *What's the Problem?*

Other participants in the events leading to the Uniform Act could be identified. For instance, the formation of a separate Federal agency specifically concerned with alcohol problems, as the result of an upsurge of Congressional interest in the late 1960s, created a group with an inherent interest in making and being seen to make public policy on alcohol issues, and the adoption of the Uniform Act became a substantial element in the evidence of the National Institute on Alcohol Abuse and Alcoholism that it was accomplishing something (50, pp. 85-97, 105-121). But it is perhaps less important to probe further into the background of the Uniform Act than to assess the relation of it and of alternative solutions to social realities. To do this, we must first consider what is the problem represented by the chronic drunkenness offender which is to be solved.

The question does not have a single answer. Certainly one element in our concern is the risk of serious harm to the drunken individual if he is not "protected"—whether from the weather, from traffic or other dangers, from crimes against him, from the short-term or cumulative effects of alcohol, or "from himself." As Pittman expressed it, "in Alaska during the winter, if there are bodies in the middle of the street, do you leave them there? . . . We should start with fundamental humanitarian values. People should not be allowed to freeze in the street" (51, pp. 6, 9).

But concern for the drunken individual clearly does not exhaust society's concerns. Perhaps the most insistent and urgent problem, in the form of complaints to and pressure on the police and civic authorities, is the problem of the inebriate on the merchant's doorstep; in a policeman's words, "primarily, the reason you pick up drunks in the daytime is the merchants. They complain" (29, p. 1). More generally, there is a concern with the possession and control of "public territory," and with the definition of appropriate behavior and demeanor in that territory. The late-afternoon patrol wagon round-up of inebriates in San Francisco served the purpose, as a police sergeant put it, of "cleaning up the streets and getting the potential troublemakers off the streets before people start going home from work" (52, p. 3). When San Francisco street drinkers last year started using the seats in newly constructed Hallidie Plaza, a centrally located sunken plaza protected from the wind, even the more liberal local columnists approved the police rousting out what were jocularly referred to as the "skidrogues." Such actions

<sup>4</sup> These percentages are all based on the states which answered yes or no to the question.

illustrate the informal societal policies of hemming in and enclaving disreputable behavior (53) which traditionally helped maintain such "vice districts" as "tenderloins" and Skid Rows as identifiable areas in American cities.

During the last 30 years these chronic skirmishes over the control of territory which are part of the "problem of the chronic drunkenness offender" escalated into a full-scale attack on the offender's home territory, private as well as public. The chronic drunkenness offender, and in particular the Skid Row inhabitant, came to be seen as occupying and by his presence turning into commercially "dead land" (54) what was potentially immensely valuable property. In the age of cheap gasoline and multiplying freeways, with the core city dying from the flight to the suburbs of those with assets and automobiles, Skid Row inhabitants, without political clout or moral legitimacy, served as handy scapegoats to be sacrificed to the profitable processes of "urban renewal" (55). The relocation and other services provided under the Federal urban-renewal program, particularly in its later years as it came under increasing attack, employed many humane and thoughtful professionals and tried many imaginative solutions, but always within the constraints of an over-all policy of obliteration: "the Skid Row way of life is a dangerous and unhealthy one, and Skid Row localities are unfit for human habitation" (56, p. 204). In Philadelphia, for instance, the professional's role on Skid Row was to suggest "what to do before Skid Row is demolished" (57); solutions to the problems of Skid Row should not offer the possibility of regrouping and reforming: "the facility should be sufficiently far away from the action of the city to pose some difficulties in getting to any Skid Row area that may continue to exist or recur"; "rather than concentrating the rooming houses in one section of the city (provide them with a community of their own), these should be located in various parts of the city" (56, pp. 209, 211). In some places traditional police measures also played their role in the tactics of the war of attrition associated with urban renewal, so that the problem of the chronic drunkenness offender as manifested in police arrest statistics peaked during the urban renewal program. For instance, in Sacramento, California, arrests for drunkenness in 1960, at the height of the redevelopment program, were more than twice as numerous as in 1950 or in 1970 (25, pp. 81-83).

Besides the concern for the chronic drunkenness offender's well-being and the various concerns over territory and demeanor, the problem of the chronic drunkenness offender can be seen as a part, filtered through the specific rubric of alcohol, of the larger social concern with what used to be called the "disreputable poor"—"the people," as Matza defines them, "who remain unemployed, or casually and irregularly employed, even during periods approaching full employment and prosperity" (58, p. 289). Matza notes that "skidders are the pathetic and dramatic symbols of the ultimate in disreputable poverty," both in their "tone of neuroticism and flagrant degradation," and in the presence among them of "men and women who have fallen from higher social



standing" which offers "visible evidence of the flimsy foundations of success and standing in society" (58, pp. 295, 296). Kurtz and Regier write of the "public threat" of Skid Row, but the threat is neither as real nor as strongly perceived in the public mind as, for instance, the threat of the drunken driver (59, *Tables 8-10*), but is rather a symbolic threat to societal values, corporeal evidence of "the meanness of social life, and the whimsy of destiny" (58, p. 296). The symbolic nature of the threat is illustrated by the criminal offense of begging, which forms part of the stereotype of Skid Row (60). The difference between the solicitor for charity or the sidewalk newspaper seller and the panhandler does not reside in differences in behavior but rather in the discomfort even many politically liberal persons feel, when solicited, about the panhandler's blatant affront to such values as work and thrift. Bahr and Caplow (61, p. 6) argue that the homelessness and lack of social affiliations of the Skid Row inhabitant are also an important part of the symbolic threat: "The presence of a homeless population often arouses a degree of hostility in a settled population that seems entirely disproportionate. . . . Being homeless or vagrant became a felony in England in the fourteenth century and a capital crime under the Tudors; it is still treated as a criminal offense in many American and European cities."

Even apart from drinking, then, the Skid Row way of life is both a reproach and an affront to general social values in its very existence. It has often been pointed out that not all Skid Row inhabitants drink, and probably only a minority are currently heavy drinkers (61, pp. 246-250); and it has also often been observed that people on Skid Row are sometimes arrested for drunkenness without having had a drink (62, p. 150). Clearly the disreputability of Skid Row is not simply a matter of drinking habits, and clearly drunkenness arrests are often a handy tool in the police's pursuit of other purposes. Nevertheless, the loss of self-control in public demeanor implied by public drunkenness is obviously itself a salient element in the disgrace of the chronic drunkenness offender.

#### *The 1960s Consensus and Its Unraveling*

The social problem of chronic drunkenness offenders has, then, at least three major dimensions: the issue of society's duty to protect the individual from self-inflicted harm; the issue of control of the use and ambience of urban territory; and the issue of tolerance of lifestyles which reject major social values.

The consensus of the 1960s of which the Uniform Act was the logical outcome identified all these three problems with one another by a simple set of equations: the best way to protect the individual from harm was to get him off the street and into long-term treatment; those who needed help or protection were those affronting social values; a solution to the territory problem (urban renewal of Skid Row) would eliminate the affront. The package was neatly tied together with a ribbon of humanitarian and sympathetic sentiment: Skid Row men were basically depressed, dependent and isolated individuals who would wel-

come long-term treatment as a way out of their miserable predicament; and they were in any case going to have to adjust to a change in lifestyles, since Skid Row was perceived as an institution in process of dying a natural death (63).

The civil-liberties lawyers departed from this set of equations only in a small if crucial respect. Part of their concern with avoiding civil commitment procedures was in fact directed not at the chronic drunkenness offender's civil liberties but at the inevitable consequences for the nature of the treatment system of introducing compulsion into it—a concern founded on bitter experience with mental hospitals.

"A statutory structure devised for punishment is not suitable where treatment is the goal. To my mind the keystone of the punitive framework is its compulsory nature. A truly treatment-oriented system must rely on the voluntary desire of the chronic alcoholic to help himself. In the legal framework now evolving in America to handle the derelict alcoholic, there is one major roadblock to a fully treatment-oriented approach. That roadblock is civil commitment. . . . The right to treatment is a fallback position in the struggle to provide humane and effective treatment for the chronic alcoholic if the legislature and the courts refuse to accept the view that civil commitment is unwise, unlawful, or unconstitutional. . . . As long as a city can get away with storing its alcoholics involuntarily in an institution, it will do so" (64, pp. 40, 42).

In terms of the 1960s consensus about chronic drunkenness offenders, the crucial new element introduced by the involvement of the civil-liberties lawyers was a distinction between short-term and long-term harm. Perhaps by analogy with suicide "observation" procedures, perhaps in deference to the merchant's demand that "drunks" be removed from his doorstep, the lawyers concurred with compulsory short-term intervention: "few objections would be raised by civil libertarians if immobile drunks were taken to . . . a civil detoxification facility where the length of incarceration would not exceed a few hours" (62, p. 155). But while they agreed that treatment was the best solution to long-term harm, the liberties of the individual, however misused, outweighed the arguments for making it compulsory:

"The common-law rationale for the compulsory civil hospitalization of citizens is that the citizen is 'dangerous to himself or others.' . . . What does 'dangerous to himself or others' mean? Is the four-pack-a-day smoker dangerous to himself? Or the overweight person who persists in eating fattening foods? Or the religious person who fasts for a month? Certainly, all these people are acting in a physically self-destructive way. They are dangerous to themselves. Yet we do not lock them up in hospitals. . . . Certainly, [the alcoholic] is, in some sense, dangerous to himself. He has embarked on a self-destructive course of behavior. I would submit, however, that under developing notions of the content of the phrase, he is not legally dangerous to himself. . . . Depriving an individual of his liberty under these circumstances strikes me as an assumption of authority by the government that is without meaningful justification" (64, p. 41).

As I have noted, this position was reintegrated into the consensus by the alcoholism experts' unchallenged assertion that most chronic drunkenness offenders would volunteer for treatment. To the extent that this assertion turned out to be true, all interests would be satisfied—the humanitarian's commitment to saving the downtrodden, however recalcitrant, the civil libertarian's commitment to voluntary processes, the merchants' and downtown interests' commitment to displacing the street drinker, the moralist's preference that the Skid Row way of life be proclaimed and admitted to be pathological.

In the meantime a more thoroughgoing questioning of the consensus position on the chronic drunkenness offender had begun to appear in the sociological Skid Row literature, although it was not reflected in the Uniform Act and is not as yet reflected in any explicit policies on public drunkenness. Sociological observers had long recognized that alcoholics on Skid Rows had their own set of social rules and obligations, but postwar discussions had tended to share the view of official agencies that, to the extent Skid Row had an indigenous subculture, it was a subculture of desperation no one would willingly belong to. "Any conception of Skid Row as a tightly-knit, well-integrated and organized community where most of the residents interact freely and have a common 'subculture' and tradition is a complete myth. Skid Row seems to be composed largely of discontented individuals who live in semi-isolation, who have few if any close friends, and who survive by being suspicious of everybody" (65, pp. 169-170).

In 1965 Wallace (66) directly challenged this view. He noted that "the assumption of the skid rower's abnormality—whether social, psychological, physiological, or even physical—has many exponents. The sanction this assumption gives to prevailing community attitudes might have something to do with its popularity. If the skid rower is socially inadequate, disturbed, or intellectually deficient, community programs such as institutionalization become legitimate. The community may even comfort itself with the thought that these men will be 'happier' in institutions" (p. 129). In Wallace's view, "the burden of evidence reviewed herein points toward skid row as a community with rather than without goals and means for its members. . . . Generally they extend to one another those very things which society denies, beginning with toleration, if not acceptance, and ending with mutual sharing" (66, pp. 135, 156). Wallace explained the discrepancy between his observations and previous studies as a matter of the "insider's" as against the "outsider's" point of view; Skid Row men tend to mirror back to the outside world what they think the outside world wants to hear (66, p. 159).

Wallace's distinction between the inside and outside views of Skid Row was developed in Wiseman's landmark study (67) of the discrepancies between the Skid Rower's and the agency worker's perceptions of their mutual interaction. In Spradley's "ethnography of urban nomads" (68), the theme of a Skid Row subculture with its own norms and authenticity was further developed:

"A nomadic way of life not only hides what others may consider to be personal failures, but it is a world of strangers who are friends. . . . There is a 'brotherhood of the road' in this culture which is often entered while in jail. Of course liquor, which is defined in American culture as a social lubricant, is widely used by urban nomads. When strangers meet they become friends more quickly when they have had a few drinks. Aside from the physiological effects of alcohol, drinking rituals, bottle gangs, and sharing a drink with another are powerful symbols of acceptance and comradeship. . . . Skid Row bars are not simply places to drink, they are institutions where strangers with spoiled identities can meet and find security in their common humanity as tramps" (pp. 255-256).

Spradley ends his book with an attack on institutionalization as a policy for dealing with chronic inebriates, calling instead for toleration of the Skid Row lifestyle as one more culture in a multicultural society:

"The lives of urban nomads are surrounded by institutions which act upon them, coercing them to live by their wits, robbing them of a sense of freedom and responsibility for their actions. Most tramps need freedom rather than assistance, respect rather than restrictions. If we grant them this kind of freedom they may drink excessively and appear on our streets in a state of intoxication. . . . There are men who, out of desire, habit, or some other reason, will always be tramps. Is American society large enough to tolerate and even welcome such diversity? . . . Can we allow men to drink from bottles in Skid Road alleys as well as from thermos jugs in football stadiums? . . . Become intoxicated in full public view as well as behind the walls of expensive homes? . . . Recognizing the dignity of urban nomads is a small but important step to creating a world of strangers who are friends" (68, pp. 260-262).

The conclusions of Wallace, Wiseman and Spradley have since been criticized on the basis of findings from Skid Row surveys. Blumberg et al. (56) point out that, in a sample of 236 men in the Philadelphia core Skid Row area interviewed by medical students in 1960, only one-twentieth conformed to what would presumably be "the 'pure' type Skid Rower in Wallace's terms," in that they identified themselves as members of Skid Row *and* liked the neighborhood *and* wanted to relocate to this or another Skid Row (p. 131). Comparing a sample of Bowery men with a sample from Park Slope, an ethnically similar poor district of Brooklyn, Bahr and Caplow (61) found that Skid Row men were less distinctive than was often supposed, but did show differences in happiness and well-being:

"We have found that in many ways the Park Slope man is like the Bowery man, and many of the supposed characteristics of skid row life are merely attributes of poverty and aging. The Bowery man's history is less distinctive than formerly supposed with respect, for example, to marginality, or under-socialization. But there is no doubt that, according to the indicators of well-being and happiness available to us, he is distinctly unhappy. . . . Most of the indicators are directly linked to the Bowery man's present location on skid row, his identity as a skid row man, and the stigmatization which accompanies that identity" (p. 312).

Where Wallace had argued the convenience to the larger society of characterizations of Skid Row which justified intervention, Bahr (69, p. 8) points out that romantic celebrations of Skid Row life can "serve as guilt-reduction devices for the average citizen, as well as for the rehabilitation agent. If skid row men prefer the quality of life which characterizes skid row, then the rest of us are absolved of guilt."

Although the dispute over perspectives has tended to be cast in terms of the validity of data (56, pp. 243-252; 61, pp. 352-362), the two perspectives may after all be compatible. Bahr notes that "the skid row man almost always has some good things to say about the row" (69, p. 1167), and Spradley points out that while Skid Row men "find they don't like a lot of it," they may still prefer its lifestyle to "the alternative of steady job, families, and participating in a community with a spoiled identity" (51, pp. 3-4). And there appears to be no disagreement that many of those living in "Skid Row areas" are not part of the Skid Row subculture, nor for that matter part of the chronic-inebriate population. So the challenge to the consensus of the 1960s posed by Wallace, Wiseman and Spradley remains valid. However much of a minority they may be, there are apparently men who enjoy a Skid Row way of life, and who will not willingly move nor volunteer to be "cured." Should the larger society respect their decision, rather than continuing the traditional policies of enclaving and degradation, or the newer policies of obliteration or therapeutic intervention?

A third challenge to the consensus of the 1960s is only now beginning to be felt, and derives from the accumulating empirical experience from evaluations of various public-inebriate diversion programs (e.g., 25, 26, 29, 70-73). Generally speaking, detoxication procedures and facilities have not accomplished what it was thought they would; as a respondent put it in one evaluation, in terms of the original goals the new detoxication unit had made "no major contribution, except that it's lightened some of the jail's workload. As for the community, the drunks are still there, they are just channeled differently now and with more expense" (73, p. 33).

1. A substantial portion of detoxication center clients do not accept or follow through on referral for further treatment on a voluntary basis. For example, in four California counties, the proportion of cases actually becoming involved in alcoholism aftercare programs decreased 10 to 30% (25, 70, 71, 72).

2. Detoxication centers therefore do not eliminate the "revolving door" and in fact tend to replace it with what observers on the scene often describe as a "spinning door" (25, pp. 9-10; 72, p. 74), since the patient is often back on the street more quickly than under criminal justice procedures. The detoxication center is thus not a solution to the problem of the inebriate on the merchant's doorstep. The increased recidivism "becomes an irritation to the police. . . . They are still receiving complaints from the merchants and the community to clean up the downtown area" (25, p. 43). "The merchants have placed pressure on the law enforcement system to revert back to the old criminal justice

system of long retention in the County Jail to remove the inebriants from the street" (73, p. 45).

3. For a number of reasons, detoxication procedures do not turn out as an exact replacement of criminal justice procedures. The history of the failure of expectations that one solution to a problem will entirely replace another is lengthy; for instance, alcoholism treatment facilities were closed all over the country at the onset of prohibition in the confident expectation that they would no longer be needed (74, p. 19). Similarly, in Sacramento, "initially the detoxification center was expected to replace the existing system including the city jail drunk tank," and in fact "the city jail drunk was phased out of operation" (25, pp. 84, 86). Often the detoxication center holds clients longer than some of them would be held under informal police "kick-out" procedures; in one case this has produced a recommendation to increase the capacity of the detoxication center by shortening the average stay of clients (29, p. 59). Often the detoxication procedure or center attracts a clientele somewhat different from that of the "drunk tank." Those arrested for public drunkenness are, after all, only a portion of the potentially drunk and ill population. Detoxication centers attract some voluntary clients who, in terms of the original rationale, take beds away from the target population (29, p. 58). In some cases these "volunteers" come in because they see the police paddy wagon coming (26, p. 30), but it is clear that there is some demand for detoxication services that the police do not "serve." For instance, when a Mobile Assistance Patrol was initiated in San Francisco to transport public inebriates who do not refuse its services to detoxication facilities, it was stipulated that the Patrol's "counselors" should not go into private places such as homes and hotel rooms, since the intention was to reduce the police role in public drunkenness. But in practice the Patrol responds to the needs it finds:

"Often calls are made by hotel managers or friends of a client who ask MAP to come into the hotel to pick the client up. MAP in that case urges the caller to get the client at least into the lobby, but often MAP must go into the room. When the counselors were asked, 'How often do you enter a building to assist a public inebriate?', their replies can be summarized as 'more often than we should,' but 'no more often than necessary,' which turns out to be about 40% of the time" (26, pp. 18-19).

The evaluator of the Patrol pointed out that it and the police were in part addressing different problems:

"Those people who make a public disturbance or a public nuisance of themselves when they have been drinking, even only a few drinks, are the main target for this police precinct, whereas those people who are in need of detoxification or medical care, primarily for their own well being instead of directly for the well being of others, are the main target of the Mobile Assistance Patrol. . . . The police are performing their function in arresting people who are causing a disturbance as a result of alcohol and the Mobile Assistance Patrol are performing their function by picking up clients who

have essentially a health problem. Whereas these populations do overlap . . . the populations are not totally the same. Thus . . . arrest statistics will not necessarily be substantially reduced as a result of the Mobile Assistance Patrol" (26, p. 32).

The detoxication staff often take actions to increase the disparity between the police and detoxication populations. When detoxication facilities are limited, the acceptance of voluntary patients in itself increases the disparity (29, pp. 34-35). In addition, staffs will often discourage or refuse particular patients or classes of patients. In two of the four California centers evaluated, the staff for a time maintained formal lists of "Do-Not-Admit" or "Undesirables" (29, pp. 15, 35-36; 73, p. 32). Even in detoxication centers, the treatment staff seem to seek to re-define their concerns toward a more hopeful and respectable clientele, and find themselves in conflict with community pressures to focus in on the visible problems (75).

4. Diversion of public inebriates to a detoxication center is unlikely to cost less than public-drunkenness arrest procedures. In three of four California counties, the total cost of handling public drunkenness rose when detoxication centers opened (70, 71, 72); in the fourth, the decline in costs resulted from a change in criminal procedures following the closing of the "drunk tank," so that the proportion of those arrested for drunkenness who were released without trial after 4-12 hours rose from 1 to 68% (25, p. 89). These calculations do not take into account the loss of jail labor force and the fact that police and jail systems are to some extent fixed-cost systems—their resources can be diverted to other tasks but not really "saved" (29, pp. 31-34).

The issue of costs and their allocation is crucial in any settlement of policies about public drunkenness. Its handling in the U.S. has traditionally been a local matter, dealt with at the city or county level by local authorities acting often under local ordinances. Although federal and state law-enforcement assistance authorities may have viewed the issue of costs primarily in terms of the reallocation of police resources to more "important" work, at the local level the issues of cost have always revolved around the total net cost to the local budget. Beauchamp's detailed history (76, *Chapter 7*) of events in the District of Columbia surrounding the *Easter* decision shows the strength of these budgetary forces even in a Federal enclave. The judges, civil-liberties lawyers and alcoholism-movement people could force changes in the legal framework for processing public drunkenness, but not in the absence of new "outside" funding in the substance of the process: in the wake of *Easter*, a wing of the Workhouse was transferred to the Health Department, and its correctional officers were simply redesignated as "alcoholism counselors."

The issue of the financing of the handling of public inebriates is particularly crucial in the present era of "stagflationary" pressures on local budgets. Local authorities have usually been quite willing to change procedures for handling public drunkenness if Federal or other "outside" money will finance the new facilities, particularly if the

changes open the possibility of closing down the locally financed "drunk tank." However, if the money is not earmarked for public inebriate programs, it tends to be used for other purposes, often more related to the maintenance of county hospitals and other existing institutions than to an over-all plan for alcoholism treatment facilities. Outside money spent on public-inebriate facilities has usually been in the form of demonstration grants, which are made only to a few places, with the presumption that the program will eventually be transferred to local funding. In this situation, a permanent and pervasive solution must seek local funding. The argument for such funding can take two forms: that the program is a necessary or proper responsibility of local government in a humane civilization; or that it is cheaper than any available alternative. The latter argument builds no public understanding of or constituency for a program, but it is always the line of least political resistance. Unfortunately, it is often falsifiable (77)—in general for therapeutic programs, with their high cost and intensive labor requirements, and in particular for therapeutic solutions to public drunkenness. The general experience of the postwar era of therapeutic solutions to social problems appears to have left local authorities with a considerable skepticism about arguments that treatment programs will save them money. Thus, California has allowed for therapeutic diversion from a public drunkenness charge since 1969, and has provided for and expressed a policy preference for civil protective custody and detoxication as an alternative to arrest since 1971. Yet only a few counties have established identifiable public-inebriate facilities, and these facilities appear to be funded largely from "outside" sources (78, pp. 21-22).

Ironically, the problem of costs has led to an abandonment of the medical rubric which was the original aim of the disease concept of alcoholism: in California, state policy now favors nonmedically oriented "social model" detoxication centers (78, pp. 33-34), which appeared as policy alternatives rather suddenly in 1973. In late 1972, Chafetz (79), then director of the National Institute on Alcohol Abuse and Alcoholism, stated that detoxication "is a medical problem and the resources for taking care of any kind of drug overdosage ought to be handled in a medical setting." But 6 months later he was quoted as stating that he was "not convinced that health facilities are the proper place for alcoholic people. Just because it has been the way we've followed in the past, doesn't mean it is the best way" (80).

Another recent strategy to solve the issue of permanent and pervasive funding has been the efforts in a number of states (e.g., California SB 204, 1975) to establish funding for alcoholism programs, notably including detoxication centers, in an earmarked tax on alcoholic beverages. This general strategy has a long history, stretching back through the Connecticut Commission clinics 76, (p. 217) to the 19th century; thus, public patients at the Kings County Inebriates' Home at Fort Hamilton, New York, in the 1880s were financed with a tax on Brooklyn tavern licenses.



*Some Possible Directions*

For the reasons I have enumerated, the 1960s consensus on what to do about public drunkenness appears to be breaking down, but as yet without any clear replacement. As I implied at the outset, there is no entirely satisfactory solution to the problem of public drunkenness, since the problem is defined by long-term conflicts in norms and interests. However, an endless variety of institutional and procedural stratagems have been tried and are being tried in one place or another, and the wide swings in policy from one unsatisfactory solution to the next might be dampened somewhat if we tried systematically to gather together and profit from that experience. Those who learn from history may not repeat its movements quite so compulsively.

The accumulating empirical evidence of the evaluation studies suggests that a useful first step in planning future action would be to disaggregate and address separately the various elements of the social problem of public drunkenness. Beyond this, I offer only some tentative suggestions, clearly value-laden, on directions in which change might be sought.

1. *Desensitization to Public Drunkenness.* Communities vary greatly in their sensitivity to public drunkenness, and police statistics reflect this general sensitivity. An analysis of Atlanta statistics pointed out that the city had a drunkenness rate in 1962 that was five times the average for large cities, and the authors commented that the rate "reflects the efforts of the Atlanta Police Department in keeping public drunkenness at an absolute minimum" (81, pp. 85-86). On the other hand, New York City at the same time had no arrests for public drunkenness, and an estimated rate of disorderly-conduct arrests of "drunken derelicts" less than 4% the Atlanta drunkenness arrest rate (33, p. 66). Public-drunkenness arrests are in general much more prevalent in "drier" than in "wetter" cultural situations (82). The U.S. as a whole appears to be becoming "wetter" and the traditionally "drier" parts of the country are gradually converging with the "wetter." Thus we may expect sensitivity to public drunkenness gradually to decrease.

Spradley's argument (68) for toleration of the Skid Rower is essentially an argument for desensitization to a particular kind of public drunkenness, similar to the National Commission on Marihuana's argument (83) for desensitization of societal response to the use of that drug. It is an argument to apply to the derelict street drunkard the same norms of civil inattention that apply to the intoxicated alumnus at the football game or the wanderer from the college beer blast.

Most of the pressures on city authorities to "do something" about public drunkenness and Skid Row come not so much from the community at large as from a narrow but locally influential segment, the downtown merchants. The pressure is often for a general "clean-up" rather than for response to specific incidents. Public-drunkenness laws have often served as a kind of civic beautification scheme, a zoning

ordinance applied to people rather than property, which keeps out of sight classes of people whose presence, whether drunk or sober, may offend or disturb sensibilities. As all kinds of disabilities, disfigurements and personal styles are gradually brought back out of the closet into which 19th-century esthetics forced them, we may expect community support for civil beautification in the form of people removal to diminish.

2. *Elimination of Public-Drunkenness Arrests.* Public-drunkenness arrests can be eliminated without seriously compromising public order. There are a wide variety of other rubrics available to arrest anyone causing a disturbance or obstruction. In fact, it is often argued that the elimination of the public-drunkenness charge results simply in the police use of other charges: thus the District of Columbia Chief of Police suggested that the D.C. Crime Commission's proposed elimination of the simple public drunkenness charge would not materially decrease the number of arrests, since "most arrests for drunkenness have some element of disorderly conduct" (43, p. 78). Indeed, in communities like Atlanta where one can "not feel comfortable looking and living like a derelict" (81, p. 88), elimination or limitation of the public-drunkenness charge can sometimes bring greater hardship to the derelict. Thus one of the few recorded concerted political actions by public-drunkenness offenders in modern times was against the consequences of the application to them of the disease concept of alcoholism. In Atlanta, when persons certified as "chronic alcoholics" were made immune to further drunkenness arrests, they were instead

"arrested and convicted for violations of City Ordinances other than plain drunkenness and, instead of the 13- to 27-day sentences they were formerly receiving, [were] being given consecutive sentences on separate counts (e.g., cursing, sleeping in a public place, loitering and loafing, etc.) which frequently total 60 or 90 days or more. In April, 1968, virtually all of the inmates of the City Stockade went on strike in protest. . . . The strike was conducted in an orderly and non-violent manner and had as its only purpose the focusing of attention of both the police and public officials on treatment which the inmates considered to be unfair and illegal" (84, p. 2).

Nevertheless, particularly when combined with the other changes suggested here, the decriminalization of simple public drunkenness is likely to reduce the incidence of Skid Row arrests. It changes the criterion for arrest from issues of people's appearance and mental state to issues of overt behavior, and this makes mass arrests in police "sweeps" less feasible, and the charges more defensible in court. In many jurisdictions an arrest under another charge is also considerably more trouble for the policeman.

3. *Representation of the Client.* Skid Row is one of the last niches in society where outsiders can get away with "knowing what's best for" an adult population. There are some signs of change: in a recent evaluation (26) some Skid Rowers were asked their preferences for what would happen to them, and poverty-agency lawyers have sometimes

been involved in battles to save cheap hotels and other single-people's housing from redevelopment. Studies of Skid Row have often contrasted the apathy of the present with the active political life of tramps and hoboes 60 years ago. Although there have been occasional calls for organizing derelicts (64, p. 43) and for organized self-policing of the district by Skid Row residents (45, p. 4), sustained political organization would clearly be difficult to attain and maintain.

It is an open question how much of the apathy of Skid Row inhabitants is in fact enforced by the agencies which deal with them. It is clear that the "drunk court" system operates to punish any plea other than guilty—both formally in the sentencing procedure and in such ways as imposing "dead time" in jail on those who do not plead guilty but cannot pay bail. Spradley's Skid Row friend, Bill Tanner, described these processes at work after he had filed a writ of habeas corpus—and also less formal processes; as the desk sergeant put it to him, "Tanner, you broke your pick with me. Don't expect any more favors from us. Where did you find out about this alcoholism bit?" (68, pp. 19-26). The effects of the implicit compliance-enforcement structure of the court system can be seen most clearly by what happens when an element of the system is changed: when Legal Aid Society defense lawyers were provided for all inebriates charged with disorderly conduct in New York City, the rate of pleading guilty fell to 9% and the rate of convictions of the remainder fell below 1% (34, p. 109).

The compliance-enforcement mechanisms of other Skid Row agencies are often less obvious but no less efficient (67). Skid Rowers, to an even greater extent than other poor clients of public or charitable agencies, repeatedly find themselves in situations where there is no third-party observer and no credibility for their account of the situation. The provision of an independent ombudsman mechanism for clients of social agencies, and legal representation for the interests of Skid Row people, can help redress the situation and provide a balance against the well-represented interests of the merchants, the social agencies and the moral crusaders.

*4. Alternative Living and Recreational Facilities.* A large part of the problem of Skid Row is the problem of control of public territory. To some extent this problem can be alleviated without coercion, though usually at some cost. Those who do not have private resources for living and recreation—no bed, no living room, not enough money to "rent" a barstool—must use public places unless alternatives are provided. If the alternatives are attractive and adapt themselves to the lifestyle of the clientele, they will be used. Skid Row observations suggest a general preference for drinking inside (in bars) to drinking outside: bottle-gangs and other outside drinking require less money and tend to flourish at the end of the month, when pension or other money has run out. Even resources off the "main stem" will be used: Bahr and Caplow (61) found that New York's Camp LaGuardia, a voluntary "wet" (cheap beer) country camp for men from the Bowery, operated at nearly full

capacity and held a substantial proportion of Bowery men at any one time (pp. 22-24).

The provision of alternative living and recreation facilities is an area where there has been an enormous experience in many places over many years, which should be collated and learned from. It is not clear that direct municipal operation is the best method; Rice (85) long ago argued that a private lodging house could be more efficient and serve its clients better, and municipal operation often raises moral qualms which can impede the facility's effectiveness—e.g., about allowing or serving alcohol. On the other hand, many privately operated Skid Row facilities are clearly exploitative.

5. *Protection for the Incapacitated and their Treatment.* Those in danger of death or immediate harm can be reached with a mechanism such as San Francisco's Mobile Assistance Patrol, helping those who do not refuse its services to get to a safe place where they can recover under observation for possible complications. Such assistance services should not be limited to the Skid Row area, nor to those who are in a public place. A formal detoxication center, medical or otherwise, may not be a necessity if some functional equivalent is available. Treatment facilities should be available on a voluntary basis to Skid Row residents and street drinkers as to all other citizens, as a matter of right. Since the prevalence of toxic consequences of alcohol appears to be intimately related to the patterns of drinking of the society as a whole, it can be argued that the provision of sobering-up facilities and treatment programs would be appropriately supported by a surtax on alcohol sales.

It should be recognized that these suggestions on possible directions of development are small steps in an intractable situation. As their history illustrates, Skid Row (66) and disreputable poverty generally (58) are reflective of and responsive to general social trends. Larger social agendas—e.g., the establishment of income supports and medical care availability as a matter of right—will have a greater long-run impact on public drunkenness and Skid Row than any politically conceivable solution directed specifically at Skid Row or public drunkenness. But realizing this does not justify inaction; in the meantime, some small steps can be taken.

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## CORRECTION

In the article by WARNER, R. H. and ROSETT, H. L. The effects of drinking on offspring; an historical survey of the American and British literature. *J. Stud. Alc.* 36: 1395–1420, 1975, on page 1414, the fourth line from the bottom should read: "reported on a survey of 200 women at registration for prenatal. . . ."