Nudging to Prohibition: A Reassessment of Irving Fisher’s Economics of Prohibition in Light of Modern Behavioral Economics

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Abstract:

In this paper we argue that Irving Fisher is an unacknowledged pioneer of ‘New Paternalism.’ Fisher’s New Paternalist orientation is evident in his writings on alcohol prohibition. In these works Fisher argued that behavioral anomalies prevent individuals from making rational choices regarding alcohol consumption. Fisher thought these anomalies arose from three sources: 1) incomplete information; 2) limited cognitive abilities; and 3) lack of will power. These are essentially the same barriers to rational choice identified by modern day New Paternalists. Therefore, we argue that Fisher’s work on Prohibition was a pioneering academic achievement that anticipated recent developments in economics, and not an unscientific diatribe, as previous commentators have presumed. Unlike modern day New Paternalists, however, Fisher rejected minor alterations to the choice architecture and advocated outright prohibition instead. By considering the similarities and the differences between Fisher’s ideas and those of modern day New Paternalists, we hope to shed some new light on the doctrine's history and essence.

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“It is just because I believe so enthusiastically in enlarging the personal liberty of mankind to enjoy the full possession of its powers that I favor prohibition.” Irving Fisher (1926b, 175)

1 Introduction

The influential behavioral economist Richard Thaler has claimed that Irving Fisher was a “pioneer” of “modern behavioral economics” (2009, 439). Thaler argues that Fisher developed unique theories of time preference and money illusion, which follow the “behavioral” approach to economic analysis.¹ We believe that Fisher’s contributions to behavioral economics do not end there. Our goal is to demonstrate that Fisher (1926b; 1928; 1930) also employed the method of behavioral economics in his research on the economics of alcohol prohibition.

For most of his adult life, Fisher ceaselessly campaigned, through writing and speeches, for alcohol prohibition. The weight of Fisher’s reputation enhanced the intellectual legitimacy of the prohibition movement. This work was perhaps the most politically influential output of his career.² Nevertheless, Fisher’s three books on prohibition have long been overlooked as a contribution to economic science. The prevailing consensus among economists is that Fisher’s analysis of prohibition, however influential politically, was merely a normative expression of his personal preferences, and

¹ According to Thaler (2009, 439), “Modem behavioral economics is characterized by three features. First, rational choice is used as a starting point for developing theories of economic decision-making and market equilibria. Second, actual individual behavior is analyzed using a variety of data-collection methods. Third, these observations of human behavior, along with some lessons from other social scientists (especially psychologists) are used to explain and understand the ways in which the rational theories fail to describe the world we live in.”

² Fisher was a man ahead of his time. He made many lasting contributions to neoclassical economics, for instance in his work on the quantity theory of money (Fisher 1911), on financial economics (Hirshleifer 1965; Crockett, 1980), investment decisions (Hirshleifer 1958), and on a myriad of other topics (Tobin 1985). Even so, Fisher’s work on prohibition arguably had a more direct political influence than any of these other writings because it impacted the adoption and the continuation of the eighteenth amendment. See section 2 below.
therefore should not be categorized among his academic work. This judgment, however, was passed during a Neoclassical consensus that only granted scientific legitimacy to work that adhered strictly to the postulate of rational choice. Recently this consensus has broken down, opening the door for research investigating whether individuals make choices in accordance with the predictions of rational choice or according to some other choice heuristic. We argue Fisher’s analysis of prohibition needs to be reevaluated in light of the recent ascendancy of behavioral economics.

Fisher’s positive analysis of prohibition follows the basic approach of modern day behavioral economists who examine addictive substances. Fisher began by collecting extensive statistical data on the effects of alcohol consumption. Then he attempted to estimate the various consequences of prohibition, for instance its influence on the consumption and sale of alcohol, on health, and on GDP. These findings, combined with Fisher’s detailed knowledge of the psychological and medical research of his own time period, led him to abandon a strictly rational choice model of decision making regarding alcohol consumption. Fisher postulated that individuals are cognitively limited in their ability to weigh the long-run costs of drinking alcohol, and that they lack the will power to limit their current consumption to the amount that maximizes their long-run utility. Furthermore, Fisher thought individuals were making choices about drinking on the basis

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3 That this dismissive verdict persists is corroborated by the fact that Fisher’s three books on prohibition are not reprinted with his other scientific studies in his collected works (Barber, 1996). Some of Fisher’s public statements and testimonials before Congress on the subject of prohibition are collected in Chapter 4 of volume 13, which is titled “Crusader for Social Causes,” and added almost as an afterthought to what is perceived as his serious work. According to the editor Barber (1996, p. 1) “The materials gathered in this volume speak to dimensions of Fisher’s interests and activities that extend beyond his work as a professional economist.”

4 For a comprehensive overview of this behavioralist alternative to the mainstream orthodoxy, see Altman (2006).

5 Compare, for instance, O’Donoghue and Rabin’s paternalist approach to sin taxes (2003, 2006).
of imperfect, misleading, and incorrect information. Fisher thought these limitations, taken together, prevent people from making choices that are in their best interest. Therefore, Fisher’s policy conclusion was that the prohibition of alcohol is actually in individuals’ own self-interest, as they themselves define it, because it provides them the means to overcome their innate imperfections and limited information.

Fisher’s policy analysis, like his positive analysis, anticipates the work of modern behavioral economists. Fisher’s reasoning is similar to that employed in the new paternalist literature, which is the dominant strain of policy analysis among modern day behavioral economists. Both Fisher and the new paternalists take individual preferences as given, but argue that these preferences are ill-defined given bounded rationality, bounded self-control, and asymmetric information. Both argue that greater economic efficiency can therefore be promoted by creating laws that direct people into making those choices that maximize their welfare. And they both profess a deep concern for preserving personal liberty. Given that Fisher used a behavioral method, it makes sense that he would reach similar policy conclusions to those who use the same method today.

In the sections that follow, we examine both the similarities and differences between Fisher’s analysis of prohibition and modern day behavioral economics. The observations that led Fisher to reject the rationality postulate were less rigorously gathered than those that form the basis of such rejections today because Fisher did not have access to modern day laboratory techniques. In addition, Fisher’s analysis of prohibition is not a

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6 The new paternalism, also known as soft paternalism, libertarian paternalism, or asymmetric paternalism, is a growing field that seeks to solve the problems resulting from the bounded rationality and bounded self-control of individuals by restructuring the context of decision-making. The new paternalist takes individual preferences as given, but looks for ways to “nudge” choices in the direction they would be made without the influence of default rules, framing effects, and arbitrary starting points. See for instance Gruber and Koszegi (2001); Thaler and Sunstein (2003a, 2003b); Camerer, Issacharoff, Loewenstein, O’Donoghue, and Rabin (2003); Jolls and Sunstein (2006); and Ariely (2009).
pure exercise in new paternalism because it also contains some old-fashioned paternalist sentiment. But this is unsurprising because it is common for a pioneering work to contain elements of the old theories that it attempts to displace. Finally, there is a key difference in terms of policy proscriptions because Fisher advocated outright prohibition of alcohol while new paternalists typically do not. These differences notwithstanding, we argue in the following sections that there is much that can be learned about modern behavioral economics from Fisher’s analysis of America’s experiment with prohibition.

2 The Economist as an Advocate for Social Change: Fisher’s Role in the Prohibition Movement

Fisher began to study the effects of alcohol for personal reasons. In his first book on prohibition, Fisher (1926b, 1-2) explains how he became interested in the subject of alcohol out of a concern for his own health:

While recovering my health I undertook a systematic study of how to get, and keep, well. In the course of this study I soon found that, according to the best evidence, alcohol is a physiological poison, and out of the place in the human body….I next applied the results of this study to my own professional subject, economics. I saw that the use of alcoholics was economically costly and wasteful to the nation, and in more ways than one.7

The cause of Fisher’s health problems was tuberculosis, which he came down with in 1898. After a three-year leave of absence from his Professorship at Yale, and another three years with a reduced workload, he finally overcame the disease. Fisher’s health problems radically altered his notions about the potential realms of fruitful research for economists, as well as his perspective on the role that an economist should play in public policy.8 Beginning as early as 1900, Fisher began to conduct research on matters related to

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7 Cook (2007) makes a similar argument today.
8 See Fisher (1919) for a perceptive account of how economists’ notions about their own role in society changed, over the first two decades of the 20th Century, from being that of an observer of social phenomena.
the public’s health and to advocate for legal reforms. Over the next decade Fisher was a frequent participant in policy crusades for government directed health initiatives. When the American Association for the Advancement of Science organized the committee of one hundred on national health in April 1907, Fisher figured in as a prominent member.

Fisher first mentioned the drawbacks of drinking in his report on National Vitality in 1909. By 1912 he was addressing the positive role that government could play by curbing alcohol consumption. Fisher soon became an advocate of prohibition, even before America entered World War I. After the onset of the war, Fisher latched onto the wartime restrictions on alcohol as a means for convincing Congress and the public at large of the merits of prohibition. In 1916 Fisher organized the “Committee of Sixty”, with himself as president. The explicit purpose of the organization was to lobby congress for national prohibition. Fisher (1917) circulated the central arguments for the committee’s cause on a handbill distributed in May. During this early stage these arguments consisted mostly of claims about the gains in production that would exist under prohibition because a sober workforce would be more productive and take less days of sick leave. Fisher reasoned that

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9 In the words of Allen (1993, p.82), one of his biographers, “Irving Fisher returned to New Haven a new man. He had survived an ordeal, and now came to believe that he had a new mission in life. He must teach the world how to live a long life in good health.”
10 The occasion was Fisher’s (1912) testimonial before a subcommittee of the Senate, which was considering the regulation of saloons in Washington, D.C. In his testimony Fisher contrasted the moralizing of the American temperance movement with the scientific approach to the effects of alcohol in England, Germany, and especially in Sweden where a record of vital statistics had already been kept for 150 years.
11 Fisher (1917, 1) declared that “Every reason for prohibition in times of peace is multiplied in times of war, and war removes or weakens almost every argument against it.” Fisher even came to believe that National Prohibition came too soon before war prohibition could be tried and this led to many of the problems the “Noble Experiment” experienced (see Fisher 1926b).
200,000 workers each day were incapacitated from the previous night’s drinking, and that many more were working drunk at impaired speeds. He estimated that the total increase in production from instituting prohibition would be at least $2 billion in an economy with a national income of $40 billion; or, in other words, that there would be at least a 5 percent increase in national output.

Fisher worked tirelessly to ensure that the temporary wartime measures would be strengthened into a national prohibition of alcohol instead of giving way to repeal. In January of 1919, while the 18th Amendment was undergoing the ratification process in several states, Fisher (1919) wrote an influential article in *The Independent* in order to allay skeptics of their doubts about the enforceability of prohibition. He reasoned that past experience with wartime restrictions were relatively effective, and that this, combined with a consideration of the forces aligned for and against prohibition, indicated strongly that prohibition would be a long-term success.12

By the mid-1920’s resistance to prohibition was mounting in response to a perceived lack of success in its enforcement and in its actual delivering on the stated objectives of lower crime and other costs associated with drinking. When Fisher (1926) was called upon to testify before the Senate, he decided to expand and revise his arguments in light of the fact that prohibition was proving more difficult to enforce than he had anticipated.13

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12 Specifically, Fisher argued past experience demonstrated that 1) existing prohibition was already well enforced; 2) evasion was more common where liquor was licensed than where it was prohibited; and 3) that there was growing public sentiment in favor of prohibition. The forces for prohibition he identified were 1) modern science; 2) modern industry; 3) the war; 4) modern ideals of health and efficiency; 5) moral sentiment; and 6) the organization of these anti-alcohol forces. He reasoned that these forces for prohibition were stronger than the forces against, which consisted of 1) commercial interests; 2) conservatism; 3) alcohol drug addiction; and 4) the organization of these pro-alcohol forces.

13 Fisher (1926) summarized his argument in the following eight bullet points: 1) The present situation of imperfect enforcement is intolerable; 2) Conditions are not, however, as bad as commonly represented; 3)
Fisher was extremely confident in his arguments for prohibition and even believed most economists were on his side. In 1927 he attempted to have a roundtable discussion on the issue at the American Economic Association annual meeting. He claimed he was unable to find, despite a thorough search, even a single economist who was willing to speak out against prohibition (Fisher et al. 1927).\textsuperscript{14} Fisher (1926b, 1928, 1930) subsequently wrote 3 books on prohibition expanding the arguments he made in his testimonial. The behavioralist nature of the arguments in these books will be discussed in the following section.

3 Fisher’s Economic Analysis of Alcohol Prohibition: Pioneer of Behavioralism and Precursor to the New Paternalism

The extent to which Fisher relied upon similar arguments to those made by modern day behavioral economists can be seen by comparing Fisher’s work on prohibition side by side with Thaler and Sunstein’s (2008) paradigmatic new paternalist book, \textit{Nudge}. Thaler and Sunstein use evidence from laboratory experiments to show that in certain situations individuals do not make the choices that a rational choice framework would predict they would make. In order to explain these anomalies, Thaler and Sunstein identify three main obstacles that they argue interfere with the process of rational decision making. These are:

Prohibition has accomplished much good, hygienically, economically, and socially; 4) The ‘personal liberty’ argument is largely illusory; 5) We cannot accomplish what the opponents of prohibition really want by amending the Volstead Act, without thereby violating or nullifying the eighteenth amendment; 6) To repeal the eighteenth amendment is out of the question; 7) Therefore, the only practicable solution is to enforce the law; 8) Enforcement is a practical possibility.

\textsuperscript{14} As Fisher (Fisher et. al 1927, 5) said, “I got a list of the economists who are supposed to be opposed to Prohibition, and write them; they all replied either that I was mistaken in thinking that they were opposed to prohibition or that, if we were going to confine the discussion to the economics of prohibition, they would not care to respond. When I found that I was to have no speaker representing the opposite view, I wrote to all American economists listed in “Minerva” and all American teachers of statistics. I have not received from any one an acceptance.”
1) a lack of full information, 2) limited cognitive abilities, and 3) deficiency of willpower. Fisher identified each of these same three problems as the primary reasons why individuals do not make optimal choices regarding alcohol consumption.

Fisher devoted a considerable amount of space in his studies in an attempt to show that consumers are ignorant of the true costs of drinking, and therefore lack the full information necessary to make appropriate choices. Specifically, Fisher argued that the average person lacked complete information in two important respects: first, regarding the full array of health problems that can result from drinking and the actual probability that these ailments might develop; and second, regarding the extent of the economic loss caused by drinking.

Fisher argued that unscientific, misleading, and fabricated statistical studies on the health consequences associated with drinking circulated prevalently and provided consumers with false information about the dangers of drinking. Fisher (1928, 354) concluded that “…the average man does not even know how little he knows on the subject.” And, in Fisher’s (1926b, 3) judgment, this has important implications for the health of the drinker, especially so-called moderate drinkers15, “the moderate user generally sees no need of “reformation.” He does not realize the subtle, steady damage being done to his body and mind, nor the seriousness of the risk he is running of becoming a confirmed addict.”

This lack of information results in exactly the opposite of what the experts in the field expound, at least according to Fisher. For the majority who opposed Prohibition the

15 Fisher believed that moderate drinking was a gateway to excessive drinking. As he (1926b, 112) put it, “What the statistics do prove is that moderate drinkers are bad risks—the risk always including that of becoming immoderate drinkers.” We will talk more on this below.
root cause stemmed from a failure to look at the evidence. In Fisher’s (1926b, 103) own words, “Those who exaggerate the shortcomings of Prohibition or underrate its benefits consist, for the most part, of unlearned people. In general, the scientific world is in favor of total abstinence as an ideal and Prohibition as a means toward that end. But there are a few exceptions.”

Fisher also argued that people were unaware of the extent to which economic prosperity was diminished by drinking. Fisher believed that temperance would make society better off and that everyone would benefit in the long run by the gains in economic productivity. And Fisher (1930, 449) held only full confidence that Prohibition was a direct win for the national economy, “…so far as I can ascertain after diligent and thorough search there is no economist in the United States who opposes the view that the nation has gained enormously in an economic sense from National Prohibition.”16 The errors, of course, stem from the failure to connect the benefits of Prohibition and the evils of alcohol. As he (1926b, 235-236),

“The trouble is that very few people really know how dangerous this alcoholic dynamite is. There are few popular books on the subject… The average man does not even know how little he knows on the subject. He is generally sure (1) that alcohol is a stimulant (2) that beer and even light wines are healthful rather than otherwise, (3) that his “thirst” for these is a natural one, and (4) that most people can use them in moderation without danger of using them “in excess”—every one of which four notions is false and has been proved false. Nor does he realize that the interrelations of modern life inevitably involve us in derelictions of a few. He needs to study the social cost of alcohol in poverty, inefficiency, crime, and vice.”

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16 Fisher (1926, 163) even saw the unseen consequences of reduced spending on alcohol, “When Prohibition came, we were told that to destroy the saloon was to destroy that much business, that saloons help “make money circulate.” This is what in the classroom we call “economic non-sense.” To-day I think such talk seems nonsensical to almost everybody. No one has the hardihood to revive such statements, in view of our prosperity since prohibition.”
Lack of information on the part of average individuals was clearly an important factor in the seemingly irrational behavior of those who chose to drink and those who continued to oppose prohibition. The evidence as he saw it was an improvement for both health and economic efficiency. Again, in his (1926b, 169) own words, “In conclusion, we may say that Prohibition is not only sound hygiene but sound economics; not only is it the greatest hygienic experiment but the greatest economic experiment in history and one of the most successful.”

One of the primary reasons why Fisher conducted his own statistical evaluations, and made them a focus in his books, is that he did not believe that there was enough reliable information on the true costs of alcohol consumption. Fisher wished to educate people about the dangers of drinking so that they could make better informed decisions.

Nevertheless, Fisher did not believe that education alone would be sufficient because he believed that individuals lacked the will power to limit their intake of addictive substances, such as alcohol and other narcotics, to the quantity that they themselves deemed to be in their long run self-interest: “The flaw in the moral suasion program as a complete solution of the problem of narcotics, alcohol included, is that the will is weakened by the drug habit” (Fisher 1926b, 3, emphasis in original). The role of education, as a result would only take us so far. He (1926, 4, emphasis in original) was convinced education alone would be insufficient to combat the problem of alcohol, “As a practical student I reached the conclusion that, besides education, there must be some legislation to lessen, or abolish, the opportunity of the saloon-keeper, the brewer, etc., to snare new recruits.” Essentially, according to Fisher, drinking greatly reduced the will power of those who engaged in drinking.
Fisher believed that addiction is a real phenomenon that can prevent individuals from making choices they would normally make in the absence of substance addiction.\textsuperscript{17} Fisher (1926b, 3) concluded that “Ordinarily, there is little or no use in preaching to a dope-fiend or a drunkard. His reason is convinced, but his will is not strong enough to follow his reason, his will has been destroyed by the drug habit and it is too late for the drug habit to be destroyed by the will.”

Fisher (1296b, 113) saw alcohol purely and simply as “a narcotic poison, a habit-forming drug, poisonous as such.” In this view, there was no compromise. The resulting lack of will power comes from a false illusion the drug creates, or as fisher (1926b, 128) stated, “alcohol not only works to slow down the human machine, but at the same time it deludes its victims with the persistent belief that they are being sped up and made more efficient. This strengthens the grip of the alcoholic habit.” Therefore, moderate drinking was a surefire path towards a drinking problem, “many who were moderate drinkers when first insured are certain to become immoderate drinkers later, just because the tendency of all habit-forming drugs is to influence the appetite they seem to satisfy” (1926b, 112).

And, while lack of information, is certainly problematic, Fisher (1926b, 109) noted that it was not always the drinkers fault, “Professor Pearl\textsuperscript{18} has the trappings of a technical expert in presenting his data. His method is admirably calculated to bully the average physician into accepting the results he alleges without question. But his imposing super-structure to technique rest on a basis of fundamental fallacy and prejudice. Scientific

\textsuperscript{17} This implies that Fisher regarded narcotics consumption as an exception to the ordinary economic assumption of revealed preference.
\textsuperscript{18} Raymond Pearl was a biologist whose views and work on drinking were widely attacked in Fisher (1926b).
method without scientific spirit and reliable and adequate data is a means of beclouding, not illuminating, the subject.”

Finally, Fisher argued that individuals’ limited cognitive power interferes with their ability to make rational decisions regarding alcohol consumption. Fisher argued that individuals engage in a hyperbolic discounting of the future costs of alcohol consumption, and thus overindulge in the present to their future regret. In this way, Fisher reasoned that individuals do not act rationally when choosing how much alcohol to consume.

Further Fisher simply put little faith in many individuals, who simply did not have the intelligence to make proper, rational decisions. The increase in wealth was not even without its downside. As Fisher (1926b, 66) notes, “…the recent wide diffusion of prosperity, which has put purchasing power into the hands of irresponsible men and women of low mentality.”19 Individual rationalization simply works to undermine the truth even when directly presented with it. As Fisher (1926b, 135) notes, “The “moderate” user naturally resents being told the truth about his indulgence. He “rationalizes” his conduct and finds all sorts of “reasons” to justify him-self. Such efforts at self-justification explain a major part of the ingenious arguments and statistics to prove that “moderate” drinking is harmless.”

Finally, alcohol, for Fisher, has the effect of greatly reducing the decision-making powers by its very nature. This means that individuals own personal liberty, which we will discuss at greater length in the next section, is greatly impaired by the use of alcohol. And for Fischer (1926b, 172-173) this greatly, limited the cognitive abilities of those who partook in drink,

19 Fisher here is summarizing the findings of Carver (1925, 63-64).
“The mental worker who takes alcohol voluntarily puts a yoke upon himself. He limits the exercise of his faculties, for he cannot judge so wisely, will so forcefully, think so clearly, as when his system is free from alcohol. The athlete who takes alcoholic liquor is similarly handicapped, for he is not free to run so fast, jump so high, pitch a baseball so accurately as when is system is free from the drug. Anyone who has become a “slave to alcohol” has lost the very essence of personal liberty.”

Fisher’s identification of the forgoing behavioral anomalies casts his advocacy of prohibition in a different light than that of other prominent champions of the temperance movement. Other leaders of the temperance movement generally made a paternalistic argument that drinkers simply don’t know what is best for them, while they, the enlightened, knew better. Fisher, on the other hand, did not believe that individuals should adopt his preferences because he knew what was in their best interest. Rather, he believed that individuals fail to act in accordance with their own true preferences because they lack full information, unlimited cognitive abilities, and a strong will power. Fisher’s observance of these difficulties led him to seek a political remedy, in an analytically similar way to how present-day new paternalists formulate policy prescriptions. But where the new paternalists typically recommend simple changes to the choice architecture to improve outcomes, Fisher campaigned for completely restricting the choice of whether to drink alcohol. This raises an interesting question. Why did Fisher advocate outright prohibition of alcohol instead of other, less restrictive policy alternatives that might mitigate the lack of information, will power, or cognitive ability?

4 Liberty Guided By the Experts

While we are arguing that Fisher is coming from a very similar perspective as the modern new paternalists, he is certainly very different in terms of policy prescription. Fisher, as
noted above, was an ardent prohibitionist. This does at least on some margin differ from
the policy prescriptions of many of the new paternalists. We will argue in this section that
Fisher’s support of outright prohibition can and does follow from his reasoning and that
many of the new paternalist arguments are, thus, susceptible to a slippery slope problem.

The new paternalism, unlike the old paternalism, is a form of soft paternalism. Thaler and Sunstein (2008), two of the leading new paternalists, even call their brand of
paternalism libertarian paternalism. As they (2008, 5) put it, “When we use the term
libertarian to modify the word paternalism, we simply mean liberty-preserving. And when
we say liberty-preserving, we really mean it. Libertarian paternalists want to make it easy
for people to go their own way; they do not want to burden those who want to exercise
their freedom.” In other words, the older style paternalists believe they know what’s best
for you and they will make you do it, whereas new paternalists believe you know what’s
best for you and they will help you do it (Whitman 2006).

Instead of restricting choice, new paternalists believe it is possible and legitimate
for public institutions to affect behavior while also respecting freedom of choice. In order
to address problems of time-consistency in regards to drinking, new paternalists would
look for policies that would change default choices, or possibly advocate a sin tax on
alcohol. These kinds of policies leave choices open, but would alter incentives in a way
that would increase the cost of drinking, and would thereby nudge the individual away
from consuming as much. These kinds of new paternalist policies are a far cry from
prohibition.

While it is certainly true that prohibition itself is not a nudge, but an outright push,
Fisher’s works on Alcohol Prohibition sound remarkably nudge like. It seems very clear
that he means this in the sense that Prohibition is in your interest as well as the interests of society as a whole. While we are not arguing that Thaler and Sunstein, or any of the so-called new paternalists, would agree with Fisher, the language is remarkably similar to their own. Fisher justifies Prohibition in the same “liberty-preserving” language. For example, Fisher (1926b, 208) even proclaims that liberty is impossible given the choice to drink,

“I know nothing that can add so much to the liberties of our people as a whole as Prohibition. America will never be truly free until wholly free from the slavery to alcohol that now limits and endangers our freedom to exercise the faculties with which “nature and nature’s God” endowed us.”

Again, Fisher is a proto-new paternalist, not one in actuality. Most of the new paternalists would hardly support outright prohibition. Still, the justification in Fisher’s view is one of preserving liberty, in which alcohol, almost indisputably, destroys. And not just for the individual but for others and society at large!

“The liberty of the alcoholic-drink manufacturer and seller to profit by the enslavement of the drinker was prohibited in 1920 by the adoption the Eighteenth Amendment to the Constitution and the passage of the Volstead act. That is, the liberty of one man to impair the liberty of another man to make and sell intoxicating drink was held to impair the liberty of another man to enjoy health and economic and social welfare. Ask the wife of the workingman who wants full “personal liberty” to drink whether this would increase her personal liberty. She will cut out the technicalities and go straight to the main point—that her husband’s personal liberty to drink takes away her personal liberty to eat!” (Fisher 1926b, 173-174)

And all three of his books (Fisher 1926b, 1928, and 1930) are filled with many more quotes to the same effect.

20 In this view Fisher (1926b, 196) sees a conflict in the choice to drink. Drinking cannot be a right because that right would impinge on the rights of others and so the liberty is really one for the sellers of alcohol, “One can scarcely go over such a record of “personal liberty” leagues, past and present, without realizing that, however sincerely used by innocent people, the “personal liberty” slogan is, in origin and effect, little more than a camouflage for the liberty of the brewers to resume their parasitic traffic.”
The important difference is in the nature of the policy described by Fisher and that of modern behavioral economists. The idea, however right or wrong, is about preserving liberty in Fisher’s (1926b, 174-175) eyes, “We see then, that properly defined and analyzed, true personal liberty is enlarged through Prohibition just as it is enlarged through compulsory education or through any other beneficent legislation.” And while this is different than the ideas presented by the modern new paternalists the question is how far off is it really? As Whitman noted (2010),

“But if you dig deeper, you’ll find a wide-ranging policy agenda at work... The story begins with the seemingly innocuous proposal to enroll all employees in savings plans automatically (with the ability to opt out). Then it progresses to new default rules in contracts, such as a presumption of “for cause” rather than “at will” employment, again with an opt-out. And then? Default rules that can be waived only through a cumbersome legal procedure. Then default rules with some options ruled out entirely — such as maximum hours that cannot be waived for less than time-and-a-half pay. Then cooling-off periods for high-cost purchases. Then sin taxes for fatty or sodium-rich foods. Then outright bans on ingredients like trans fats.”

While hardly proof that policy will devolve into outright prohibitions Fisher’s views on alcohol prohibition do help highlight the potential of a slippery slope problem associated with new paternalism solutions (see Rizzo and Whitman 2009).

The postulate that individuals fail to behave in the way that rational choice, in a strict neo-classical sense, would predict is one way that both the modern behaviorists and Irving Fisher on Prohibition should be commended. The problem is the quick jump to policy conclusions while assuming the policy makers are immune to the very cognitive problems that normal individuals suffer from. As Boettke et al. (2013) note,

It is especially troubling that behavioral economists are wont to suggest policy measures to correct these “market failures.” This normative project moves far too quickly. To be really convincing, policy proposals based on behavioral market failures would require a comparative analysis of how markets and civil society on the one hand and government on the other cope
with behavioral biases. Policy makers—like central planners—cannot be exempt from our understanding of the limits of human cognition. That policy measures are suggested in the absence of such analysis should make us suspicious.

Behavioral economists are far from the only economists to question the strict neo-classical take on rational choice theory. In fact, the point Boettek et al. (2013) were making was that despite coming to very similar conclusions about the cognitive abilities of real world decision makers, F.A. Hayek and modern behavioral economists come to very different conclusions. For Hayek, the heavy lifting of coordinated solutions comes not from the cognitive abilities of individuals but from the institutions under-which they operate.

Vernon Smith (2003), having been influenced by Hayek, argued for a need to distinguish between constructivist and ecological rationality. Constructivist rationality treats social institutions as created by conscious deductive processes of human reasoning. Ecological rationality, on the other hand, which sees social institutions as an undersigned system that emerges out of cultural and biological evolutionary processes. The real world is a mix of the two types of systems. Much of the behavioral approach makes the mistake of assuming only the constructivist approach. Ignoring ecological rationality helps to create men of the system, as Adam Smith put it.

To his credit, however, by 1930 Fisher had realized that Prohibition, while still definitely working in his opinion, was far from perfectly effective. Fisher recognized the need for reform, in order to improve the already working Prohibition, to fix some of the issues, such as corruption, particularly corruption of the law. As Fisher (1930, xxxiv) noted,

The most practical plan to make the Eighteenth Amendment effective should be fitted, as nearly as possible, to the policy and methods of the incoming president. That policy, as Mr. Hoover has declared it, is primarily opposed to coercion, bureaucratic extensions, and centralization. Instead, it is a policy of (1) informing the nation, scientifically and from unbiased
sources, of defects and abuses in the application of the Eighteenth Amendment, and (2) invoking the power of informed leadership to remedy the abuses and through organized, voluntary effort to secure general observance of the law.

In other words, Fisher recognized the need for more than a coercive law. Ecological factors were just as important, as he (1926b, 236) noted years earlier, “It is idle to say that the law cannot change habits. By itself, of course, it can do little. But combined with education it can do much.” Fisher was hoping to change the culture of drinking by leading by example, “if by such cooperation the habit of abstinence can included among the rank and file of people, the spirit of the Amendment will be subserved, and legislative, executive, and judicial problems under it will be vastly simplified.” The error made by Fisher, for Alcohol Prohibition in hindsight was a clear failure (c.f. Thornton 1991b), was in excluding other potential solutions, whether the market or civil society solutions (if a solution was even possible).

5 Conclusion

One of the major criticisms against the new paternalist policies is that it carries with it a serious risk of expansion (see for example Rizzo and Whitman 2003, 2007, 2009; and Volokh 2003). Prohibition can be used as an example.

Due to the immense losses to society caused by alcohol that Fisher found in his data he seemed to advocate prohibition at any cost. In his eyes prohibition would work if it was enforced enough. Today we can see the massive costs prohibition had not only in monetary terms but also in the unintended consequences produced by the law. Fisher’s failure to take this into account is a failure that many economists seem to make even today.
As stated above economists today are not likely to support outright prohibitions to correct behavioral problems but other coercive means are still used. O’Donoghue and Rabin (2003, 2006) for example support sin taxes. While the unintended consequences may not be as severe as it would be for prohibition they will still exist. Cigarette sin taxes for example have created smuggling opportunities (Hancock 2010) across the US. This raises the enforcement costs and helps make the trade more dangerous, not better.
References


