

Chapter 27

Amendment 18: Prohibition: Repealed for Good Reason

Section 1

After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof, into, or exportation thereof from the United States and all territory subject to the jurisdiction thereof, for beverage purposes is hereby prohibited.

Section 2

The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

Section 3

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years from the date of submission hereof to the states by the Congress.

Adopted and Repealed

Along with the Volstead Act (also known as the National Prohibition Act), Amendment 18 was ratified on January 16, 1919, and went into effect on January 17, 1920, commencing the national failure known as Prohibition. The Eighteenth Amendment not only failed to curb alcoholic consumption, it greatly facilitated the black market and organized crime:

The advocates of Prohibition had waged a 50-year campaign to ban alcohol and had high hopes for this “The Noble Experiment.” Supporters anticipated that alcohol’s banishment would lead to the eradication of poverty and vice while simultaneously ennobling the common man to achieve his highest goals. The reality of Prohibition was to prove quite different.

For the next fourteen years much time, money and manpower would be devoted to enforcement, however, the task was impossible. “Rum fleets” filled with liquor from Europe appeared off the Atlantic coast. As many as sixteen ships at a time would lie at anchor just outside U.S. territorial waters while smaller boats made the run to safe harbors. The Canadian border was a sieve through which liquor easily flowed. Clandestine distilleries grew like mushrooms in the city and countryside alike. Speakeasies flourished and the liquor flowed, even finding its way into the White House during Harding’s administration.

Alliances between politicians and gangsters assured the public would not want for alcohol. By 1926, it was apparent the Noble Experiment was not working.¹

Prohibition was eventually deemed unsuccessful, and, in 1933, [Amendment 18](#) was repealed by Amendment 21. Not only was it a failure, it was unbiblical. The Bible condemns drunkenness, but, because it does not condemn alcoholic beverages, forcing abstinence upon others is unlawful.

The temperance movement was at the forefront in pressuring Congress to ban the manufacture, transportation, importation, and exportation of intoxicating liquors. It was

mostly made up of women claiming to be Christians.² However, rather than taking a Biblical stand on alcoholic consumption, they took an unbiblical stand (one still found in many churches today) that was at the center of framing this unlawful amendment.

1 John 3:4 tells us that “Whosoever committeth sin transgresseth also the law: for sin is the transgression of the law.”³ Because most pastors have rejected Yahweh’s⁴ law (which defines sin) as applicable for today,⁵ and because preachers must have sin to preach against to justify their position as “sin killers,” they have come up with their own unbiblical laws – such as condemnation of all alcoholic consumption. Yahweh’s law does not condemn alcoholic consumption, nor does it mandate a civil sanction against drunkenness:

Many actions that are specified in the Bible as sins are not to be tried and judged by the civil magistrate, but this is not evidence of neglect by God; it is instead *a restraint on the growth of messianic civil government*.⁶

Rooftop Liability

In view of the fact that neither Amendment 18 nor church decrees have deterred drunkenness or drug abuse, what can be done about them? Although drunkenness is a sin against Yahweh (what in many instances amounts to idolatry⁷), it is the crimes *committed* by intoxicated people, not the drunkenness itself, that need to be prosecuted:

...if a man cause a blemish in his neighbour; as he hath done, so shall it be done to him; breach for breach [fracture for fracture, NASB], eye for eye, tooth for tooth [or life for life – Deuteronomy 19:21]: as he hath caused a blemish in a man, so shall it be done to him again. (Leviticus 24:19-20)

This law, known as *lex talionis*, is also the judgment (when required by the injured party) in cases of criminal negligence:

When thou buildest a new house, then thou shalt make a battlement [railing] for thy roof, that thou bring not blood upon thine house, if any man fall from thence. (Deuteronomy 22:8)

In ancient Israel, when flat roofs served as terraces where homeowners dried and stored crops and entertained guests, homeowners were required to build protective railings around the perimeters. This statute makes homeowners responsible, within reason, for the safety of family members, visitors, and laborers. If a person is injured or killed because of a homeowner’s negligence, the homeowner is held liable according to *lex talionis*:

The Bible provides an exception to *lex talionis* when the crime is not premeditated:

If an ox gore a man or a woman, that they die: then the ox shall be surely stoned ... but the owner of the ox shall be quit [go unpunished, NASB]. But if the ox were wont to push with his horn in time past [previously in the habit of goring, NASB], and it hath been testified to his owner, and he hath not kept him in, but that he hath killed a man or a woman; the ox shall be stoned, and his owner also shall be put to death. If there be laid on him a sum of money, then he shall give for the ransom of his life whatsoever is laid upon him. Whether he have gored a son, or have gored a daughter, according to this judgment shall it be done unto him. If the ox shall push a manservant or a maidservant; he shall give unto their master thirty shekels of silver, and the ox shall be stoned. (Exodus 21:28-32)

The ransom in this passage is the only exception for someone guilty of the death of another person. The reason for the exception is not, as R.J. Rushdoony declared, “because the ox is the primary murderer.”⁸ The ransom exception applies because no premeditation or malice was involved in the death. This is case law judgment for all cases of negligence.

When a slave is killed because of an ox owner’s negligence, the slave price of thirty shekels can be paid instead of taking the ox owner’s life, if the slave owner agrees to the ransom. If a freeman is killed, no price ceiling exists. Whatever the victim’s next of kin requires – whether the life of the guilty party or whatever ransom amount he requires in lieu of the killer’s life – that judgment must be satisfied. If the offending party cannot pay the required amount, he is to work as an indentured servant until the debt is paid in full (Exodus 22:3). This judgment promotes both individual responsibility and liability. It also helps to curb personal vengeance.

The same is true if the injury were to an eye or a limb. The damaged party would set the price, and the guilty party would choose whether to pay the price or, for example, forfeit his eye. It seems reasonable that the offending party would make a counter offer, but the damaged party would not be obligated to accept it.⁹

An added stipulation for the care of a person who is injured as the result of someone’s negligence is found in Exodus 21:

...if men have a quarrel and one strikes the other with a stone or with his fist [or is injured because of reckless negligence], and he does not die but remains in bed; if he gets up and walks around outside on his staff, then he who struck him [or who is responsible for his injury] shall go unpunished [shall not be put to death]; he shall only pay for his loss of time, and shall take care of him until he is completely healed. (Exodus 21:18-19, NASB)

Deuteronomy 22:8 may seem antiquated; it is, however, case law that extends far beyond terraces:

The general principle was that no dangerous condition which could be a hazard to life and health should be allowed to remain around the premises. The same prohibition extended to animals, such as a goring ox (Ex. 21:28-32), or an uncovered pit (Ex. 21:33-34). If an ox gored a person, it had to be killed; if the ox had been guilty of such behavior in the past and had not been killed, and it now killed someone, then both the ox and its owner had to die. However, if the owner kept a dangerous ox penned up, then the person who became gored in an instance of trespass was himself the guilty party. An excavation should be covered or fenced to eliminate liability. Trespass thereafter was the fault of the victim. Thus, there was a duty to protect friends and neighbors who came to one’s home or land, but the liability did not include trespassers or guests who entered a fenced pasture with a dangerous bull therein.¹⁰

Deuteronomy 22:8, which requires railings around rooftops, is not so much about rooftops as it is criminal negligence. This statute applies to all hazards a person might incur as the result of another person’s negligence. In addition to home safety, this statute applies to the workplace and construction zones, as well as machinery such as farm equipment and automobiles. For example, if demonstrable negligence is established against a tire company for accidents caused by tread separation, the people or company responsible should be held liable according to *lex talionis* and compelled to pay lost wages and hospital bills to the injured or disabled victims. These judgments would go much further in curbing companies

from taking cost-saving, but potentially dangerous shortcuts, than do encroaching bureaucracies such as OSHA, the FAA, or the FDA.

In similar fashion, *lex talionis* should be applied to those who abuse alcohol and drugs and thereby injure or kill others:

An individual who deliberately distorts his own perceptions is implicitly attacking God and his God-created environment.... He then makes decisions under the influence of alcohol or drugs that can physically damage others because of his self-induced distorted perceptions. Drunk drivers are therefore to be prosecuted as criminally negligent, should their acts cause damage. They have “torn off the pit cover” [Exodus 21:33-34, or “removed the railing”: Deuteronomy 22:8] with impunity. Their injury-inflicting acts are not to be considered as accidents.... Their injury-inflicting actions are rather the product of an act of moral rebellion: the implicit denial of their own personal responsibility for their actions....¹¹

Because Yahweh’s law does not altogether prohibit alcohol or drugs, the answer is not to make them illegal as the Eighteenth Amendment (and church edict) did. Just as Amendment 18 was inept at controlling alcoholic consumption, so are current drug regulations. Responsible use should be promoted by punishing only those who cause harm to another person or his property. For example, instead of attempting to curb drunk driving by prohibiting excessive alcohol consumption, any drunk driver convicted of causing or contributing to the death of an innocent person should be put to death or forced to pay whatever the next of kin requires as ransom for his life. If the injured or disabled party does not die, the convicted felon (instead of an insurance company) should be compelled to pay for medical expenses and financial compensation for lost wages during convalescence. This compensation should be in addition to an eye for an eye, a tooth for a tooth, or the required ransom. If the perpetrator cannot pay the required compensation, he is to be indentured until his debt is paid.¹² *Lex talionis* not only promotes personal responsibility, it eliminates the need for the insurance industry.

Man’s efforts to control alcohol and drug abusers have been wholly ineffective. When Yahweh’s law is enforced and convicted murderers are put to death, society never suffers from repeat offenders after someone is killed as the result of drunken carelessness. If someone is killed, injured, or disabled as the consequence of another person’s irresponsible use of drugs, the punishment should correspond to the death, injury, or damage to the victim and their property. Today’s ineffective drug and alcohol laws have, in many instances, made criminals out of people who have hurt no one but themselves. This has forced innocent taxpayers to pay for the housing, feeding, and entertaining of people who should never have been imprisoned.¹³ Yahweh’s law makes people personally responsible for their actions, and His judgments substantially reduce both premeditated crime and careless disregard for the lives and property of others. A downsized and smaller government is an additional benefit of *lex talionis*. Federal agencies such as OSHA, the FDA, and the FAA are superfluous under Biblical law. The oversight of a speedy trials and the administration of the proper judgments are the only government intervention required in liability cases.

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End Notes

1. "Prohibition," *Eye Witness to History* (2000), <http://www.eyewitnesstohistory.com>.
 2. Not everyone claiming to be a Christian has been properly instructed in the Biblical plan of salvation. Mark 16:15-16; Acts 2:36-41, 22:1-16; Romans 6:3-4; Galatians 3:26-27; Colossians 2:11-13; and 1 Peter 3:21 should be studied to understand what is required to be covered by the blood of Jesus and forgiven of your sins. For a more thorough explanation concerning baptism and its relationship to salvation, the book [Baptism: All You Wanted to Know and More](#) may be requested from Bible Law vs. The United States Constitution, PO Box 248, Scottsbluff, Nebraska 69363, for free.
 3. All Scripture is quoted from the King James Version, unless otherwise noted. Portions of Scripture have been omitted for brevity. If you have questions regarding any passage, please study the Biblical text to ensure it has been properly used.
 4. YHWH (most often pronounced Yahweh) is the English transliteration of the Tetragrammaton, the principal Hebrew name of the God of the Bible. For a more thorough explanation concerning the sacred names of God, "[The Third Commandment](#)" may be read online, or the book *Thou shalt not take the name of YHWH thy God in vain* may be ordered from Bible Law vs. The United States Constitution, PO Box 248, Scottsbluff, Nebraska 69363, for a suggested \$4 donation.*
 5. See [Chapter One](#) "The Perfect Law of Yahweh" for a more thorough explanation regarding Yahweh's moral law as it applies today under the New Covenant.
 6. Gary North, *Tools of Dominion: The Case Laws of Exodus* (Tyler, TX: Institute for Christian Economics, 1990/1997) p. 532.
 7. For the Scriptural evidence that drunkenness and drug abuse can be forms of idolatry, "[The Second Commandment](#)" may be read online, or the book *Thou shalt not make unto thee any graven image* may be ordered from Bible Law vs. The United States Constitution, PO Box 248, Scottsbluff, Nebraska 69363, for a suggested \$4 donation.*
 8. Rousas John Rushdoony, *The Institutes of Biblical Law* (The Presbyterian and Reformed Publishing Company, 1973) p. 230.
 9. See [Chapter Seventeen](#) "Amendment 8: Bail, Fines, and Cruel and Unusual Punishments" for a more thorough discussion regarding *lex talionis*.
 10. *Ibid.*, p. 350.
 11. North, p. 491.
 12. See [Chapter Twenty-Two](#) "Amendment 13: Constitutional vs. Biblical Slavery" for additional information regarding indentured servitude.
 13. See [Chapter Seventeen](#) "Amendment 8: Bail, Fines, and Cruel and Unusual Punishments" for information regarding the United States Constitutional Republic's unlawful prison system.
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