

# *Eighteenth & Twenty-first Amendments*



*(1919 & 1933)*

## WHAT IT SAYS

[Eighteenth Amendment] 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 the 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 the submission hereof to the States by the Congress.

[Twenty-first Amendment] Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

## FROM DRY TO WET: PUBLIC OPINION SHIFTS ON PROHIBITION

The vote in Congress for a constitutional amendment to prohibit the sale of alcoholic beverages went less along party lines than by region, ethnicity, and religion. Both Democrats and Republicans favored Prohibition, but its strongest support came from the South, the West, and rural areas of the Midwest, particularly among evangelical Protestants. Its opposition came largely from the big cities of the Northeast and Midwest, who objected that the “drys” were imposing their moral standards on the rest of society. Most Americans complied with the Eighteenth Amendment, at first. Saloons closed and the consumption of alcoholic beverages declined sharply, as did hospitalizations for alcohol-related illnesses. But people soon began to ignore the law. Liquor was made, imported, and sold in the speakeasies that flourished during the 1920s. The notorious “rumrunner” Al Capone said: “Prohibition is a business. All I do is supply a public demand.” During the 1928 Presidential election, the Republican candidate Herbert Hoover pledged to uphold the law and prosecute offenders more effectively. His Democratic challenger, Alfred E. Smith, charged that Prohibition had bred corruption, caused a rise in crime, and encouraged disrespect for all law. Hoover won the election by a wide margin. Four years later, when the nation was suffering a major economic depression, polls showed that almost 75 percent of Americans favored the repeal of Prohibition. President Hoover would not change his position, while the Democrats made repeal a major plank in their party’s platform. That fall, the Democratic candidate, Franklin D. Roosevelt, campaigned for repeal and recovery. Across the nation, eleven states held referendums on Prohibition, and repeal won in every state by wide margins. This convinced Congress to move quickly in voting for the Twenty-first Amendment. As a consequence of the Prohibition experience, Congress became more wary of employing constitutional solutions for social and moral problems.



# *Eighteenth & Twenty-first Amendments*

## **Maine becomes the first state to ban all liquor**

→ 1851

Promoted by the state's temperance society, Maine passes the first law in the United States to ban alcohol except when used in medicine. Within four years, thirteen of the thirty-one states enact temperance laws. Reformers call drinking a crime against decency and against innocent women and children.

## **National Prohibition Party forms**

→ 1869

Frustrated by the failure of the major political parties to address prohibition, temperance advocates form the National Prohibition Party. The party receives little support in the general elections. Its popularity peaks in 1892 when its candidate for President receives 265,000 votes. The Prohibition Party still exists and continues to run candidates for office.

## **The Interstate Liquor Act prohibits shipping alcohol to dry states**

→ 1913

More than half of the state legislatures have passed laws declaring their states "dry." To eliminate the sale of liquor through the mail, temperance advocates successfully lobby to forbid the shipment of alcohol into these dry states.

## **President Hoover appoints the Wickersham Commission**

→ 1929

After his election, President Herbert Hoover appoints the National Commission on Law Observance and Enforcement, popularly known as the Wickersham Commission, to examine Prohibition enforcement. While the commission concludes that Prohibition is not working, most of the commissioners believe the law should be continued anyway.

## **The Democratic Convention advocates repeal**

→ 1932

Although Presidential candidate Franklin Roosevelt draws much of his support from "dry" areas of the South and West, he accepts the Democratic Party's platform, which calls for the repeal of Prohibition. After Roosevelt's election, but before he takes the oath as President, Congress votes to repeal the Eighteenth Amendment. Within days of becoming President the following year, Roosevelt asks Congress to permit the sale of beer and wine even before the Twenty-first Amendment is ratified.

## **Prosecutions under Prohibition law cannot continue**

→ 1934

Before the states ratify the Twenty-first Amendment, the prosecution of Clause Chambers and Byrum Gibson for possessing and transporting intoxicating liquor in violation of the National Prohibition Act begins. Their prosecution continues even after Prohibition's repeal. The defendants ask the court to dismiss their case because the laws for which they have been arrested are no longer valid. In *United States v. Chambers*, the U.S. Supreme Court agrees that prosecution under a repealed law cannot go forward.

# TIMELINE

## Congress passes the Volstead Act to enforce Prohibition

1919

Following ratification of the Eighteenth Amendment, Congress passes the National Prohibition Enforcement Act (also known as the Volstead Act), which bans any “intoxicating liquors” containing more than 0.5 percent alcohol. The Internal Revenue Service has responsibility for enforcing the Volstead Act. Its field agents, who track down illegal stills, come to be known as “revenooers.”

## Efforts begin to repeal the Eighteenth Amendment

1927

State legislatures in the Northeast and Midwest pass laws preventing police from pursuing reported violations of the alcohol ban. Organized crime accounts for a large increase in illegal bars, known as speakeasies. In 1927, nine prominent New York lawyers form the “Voluntary Committee of Lawyers” to repeal the Volstead Act and the Eighteenth Amendment. They argue that the public’s disregard for Prohibition threatens to undermine respect for the U.S. legal system.

## Prohibition becomes an issue in the Presidential campaign

1928

Alfred E. Smith, the Democratic nominee for President, endorses the repeal of Prohibition, while the Republican candidate, Herbert Hoover, calls for more effective enforcement of the Prohibition laws. Despite Smith’s loss, the campaign raises the level of debate over Prohibition and strengthens the movement for repeal.

## States cannot set wine prices

1980

A wine dealer challenges California’s system of setting prices for wine merchants, arguing it violates the Sherman Antitrust Act. California officials argue that the system protects small wine dealers and say that the price regulation is within the state’s power to regulate alcohol granted in the Twenty-first Amendment. In *California Retail Liquor Dealers Association v. Midcal Aluminum, Inc.*, the U.S. Supreme Court says that while states have wide latitude to regulate alcohol under the Twenty-first Amendment, the amendment cannot be used to justify a system that violates federal antitrust laws.

## Congress promotes a minimum drinking age

1987

Congress passes legislation to reduce a state’s highway funding if that state does not increase the minimum drinking age to twenty-one. South Dakota challenges the law as a violation of its power to regulate alcohol under the Twenty-first Amendment. In *South Dakota v. Dole*, the U.S. Supreme Court holds that Congress has legitimately used its spending power to promote the public welfare and sees no conflict with the Twenty-first Amendment.

## States cannot ban shipments of wine

2005

In the case of *Granholm v. Heald* the U.S. Supreme Court rules that the states cannot bar out-of-state shipments of wine to their residents, despite the provision of the Twenty-first Amendment, which leaves the regulation of liquor sales to the states. In this case, the Court strikes down state laws that discriminate against interstate commerce in violation of the commerce clause and concludes that such discrimination is neither authorized nor permitted by the Twenty-first Amendment.