AMENDMENT FEVER: THE SURGE OF MORAL AMENDMENTS IN LATE NINETEENTH CENTURY AMERICA

An Undergraduate Research Scholars Thesis

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This work examines the causes behind the surge of moral amendment proposals to the federal Constitution in the late nineteenth century. These amendments began to take shape in 1860 when Congressmen attempted to pass a series of pro-slavery constitutional amendments to prevent southern secession. For the first time, the content of an amendment was molded by social issues rather than restraining federal authority. While these pro-slavery amendments were unsuccessful attempts at pacification, they had important *unintended* effects. They opened the door for future Congressmen to utilize the amending process as a means for social and moral reform. This paper includes three parts—the first on anti-polygamy amendment proposals, the second on temperance amendment proposals, and the third on women's suffrage amendment proposals. Each section contrasts the reform strategies used before and after the Civil War,

examines the influence of industrialization and urbanization on the perceived growth of social vices, describes the history of constitutional challenges against morality laws, and develops the basis for my overall thesis that members of Congress proposed a series of moral amendments in the 1880s to ease public hysteria and protect federal morality legislation from looming constitutional challenges.

DEDICATION

To my parents, thank you for your endless support and encouragement.

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INTRODUCTION

Before 1860, U.S. Congressmen only proposed an average of 3.5 constitutional amendments per year.[1] The content of these amendments was limited to issues of federal authority and governmental structure. For instance, the 11th Amendment, ratified in 1795, restricted the jurisdiction of federal courts to hear lawsuits against state governments brought about by citizens of other states or foreign nations. Similarly, the 12th Amendment, ratified in 1804, altered the procedures of the electoral college system following the presidential deadlock in the election of 1800. Social and moral issues were dealt with at the state or local level.

The Constitution was deeply tied to the American national identity. Americans "worshipped" the Constitution as a way to pay homage to the republic's founding principles of liberty and freedom. [2] Many pre-Civil War Americans glorified the Constitution's fixed, unchanging nature. Michael Vorenberg attributes the pre-Civil War appetence for the Constitution to be "strict and unchanging" to an American desire to legitimize their young nation and create a source of "protonationalism."[3] Since the still-fledgling United States lacked the nationalistic traditions of many older European countries, Americans could point to the Constitution as something fixed and stable to rely upon.[4] The idea of amending the Constitution was met with great resistance and concern (hence, the sparse number of amendment proposals

[1] John Vile, *The Encyclopedia of Constitutional Amendments, Proposed Amendments, and Amending Issues 1789-2012,* 3rd ed. (Santa Barbara: ABC-CLIO, 2010), 566-569.
[2] E.L. Godkin, "The Constitution and Its Defects," *North American Review* 99, no. 204 (July 1864): 120.
[3] Michael Vorenberg, "Bringing the Constitution Back In: Amendment, Innovation, and Popular Democracy During the Civil War Era," in *The Democratic Experiment: Politics and Society in Twentieth-Century America*, ed. Meg Jacobs, William J. Novak, and Julian E. Zelizer (Princeton: Princeton University Press, 2003), 127.
[4] Ibid., 127-128.

between 1792 and 1859). The concept of using the constitutional amending process also as a means to address social issues was "far divorced from political reality."[5]

Consequently, few Americans during the antebellum period viewed the constitutional amending process as a viable way to solve the slavery question. The congressional debates over slavery nearly always acknowledged what came to be called the "federal consensus," that the national government had no power to take direct action against the institution of slavery.[6] Rather, it was the duty of the states to create laws that either maintained or abolished slavery.

However, this "federal consensus" quickly came under fire following the election of President Abraham Lincoln in 1860. At work was what historian Daniel W. Crofts called "secession hysteria": the belief that Lincoln and the Republican Party's "main purpose" was the "final and total" abolition of slavery, which they would achieve through a constitutional amendment.[7] "Moderate" Republicans and a few northern Democrats joined forces to propose a total of 89 amendments in the month of December 1860 alone, 69 of which banned Congress' interference in slavery.[8] This was a dramatic increase from the two amendments proposed in 1859.[9]

Between 1860-1865, the number of proposed constitutional amendments jumped to over 100 per year.[10] Republicans, including President Lincoln, actually supported a pro-slavery constitutional amendment to preserve the Union and "put an end to secessionist propaganda that

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[5] Daniel W. Crofts, *Lincoln and the Politics of Slavery: The Other Thirteenth Amendment and the Politics to Save the Union* (Chapel Hill: University of North Carolina Press, 2016), 34.
[6] Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (New York: W.W. Norton & Company, 2019), 3.
[7] Crofts, *Lincoln and the Politics of Slavery,* 87.
[8] See, for a list of all the constitutional amendments proposed in December 1869, Herman Ames, *The Proposed Amendments to the Constitution of the United States During the First Century of its History* (Brooklyn: Central Book Company, 1968), 355-358.
[9] Ibid.
[10] Vile, *The Encyclopedia of Constitutional Amendments,* 569.

Republicans planned to abolish slavery."[11] Republicans like Congressman John Gilmer from North Carolina believed that a constitutional amendment would guarantee the safety of slavery in "the most positive and indubitable manner for all time to come."[12] They hoped such a measure would prevent southern states from leaving the Union. The fear of secession, combined with the young Republican Party's lack of governing experience (Republican Congressmen had a high turnover rate, making it difficult to establish any law-making patterns), created the necessary preconditions for Congressmen to begin using the amending process as a way to solve the slavery question.[13]

The 1860 pro-slavery amendment surge was a turning point in American constitutional thought. While the sheer number of amendments was remarkable, the shift in content was even more extraordinary. For the first time, Congressmen recognized the constitutional amending process as a legitimate means of addressing social issues. While these amendments were unsuccessful attempts at pacification, they had important *unintended* effects.[14] These amendments opened the door for future Congressmen to utilize the amending process as a means for social and moral reform.

The most obvious beneficiaries of the newly accessible amending process were the abolitionists. They used the constitutional amending process to pass the Reconstruction Amendments. The Thirteenth Amendment prohibited slavery. The Fourteenth Amendment guaranteed the equal enjoyment of the privileges and immunities of national citizenship. The

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[11] Crofts, *Lincoln and the Politics of Slavery,* 281.
[12] Ibid.,154.
[13] Vorenberg, "Bringing the Constitution Back In," 130.
[14] Maury Klein, *Days of Defiance: Sumter, Secession, and the Coming of the Civil War* (New York: Random House, 1997, 308. Klein refers to the 1861 Corwin Amendment (the only pro-slavery amendment proposal to be passed in both Houses of Congress) as a "small action" that "few senators expected anything from." See also Harold Holzer, *Lincoln President-Elect: Abraham Lincoln and the Great Secession Winter, 1860-1861* (New York: Simon and Schuster, 2008), 428-429. Holzer describes the Corwin Amendment as a "last-gasp effort" for a "toothless" and "tepid" compromise.

Fifteenth Amendment enfranchised freedmen and recognized their right to vote. Anti-slavery Congressmen were the first to take advantage of this process, but they were certainly not the last.

What caused the post-Civil War "Amendment fever?"[15] This work aims to show how the newly accessible constitutional amending process transformed the Constitution from a largely unchanging written document to a means of combating national-scale problems. This paper examines three case studies—the first on anti-polygamy amendment proposals, the second on temperance amendment proposals, and the third on women's suffrage amendment proposals. Each case study demonstrates varying degrees of concern with a perceived national and moral issue during the late nineteenth century.

In the 1880s, Congress witnessed a surge in a new type of amendment: moral amendments. Social scientists define morality policies as policies based on the *perceptions* of the supporters and their use of moral arguments during debate.[16] This definition can be applied to moral amendments. Moral amendments are more concerned with competing social values than effective governance. The Twelfth Amendment, for example, aimed to make the electoral college more efficient. This did not challenge anyone's personal belief system, so it is not a moral amendment. In contrast, the Eighteenth Amendment, which limited the manufacture, sale, and transportation of intoxicating liquors, was a moral amendment because the debates were primarily concerned with the moral nature of alcohol consumption.

America was rapidly growing as a national-scale society, which created a sense of urgency to combat immoral behavior. The United States began its construction of key technologies like the railroad and telegraph in the 1840s and 1850s. However, following the

[15] Vorenberg, "Bringing the Constitution Back In," 137.
[16] Christopher Mooney, *The Public Clash of Private Values: The Politics of Morality Policy, ed. by Christopher Z. Mooney* (New York: Chatham House Publisher, 2001), 7-8.

Civil War, the United States went on a building boom, constructing large-scale transportation projects that allowed people, goods, and news to travel across the country at an unprecedented rate. The United States laid roughly 93,000 miles of railroad tracks by 1880, and the completion of the transcontinental railroad in 1869 made the cost of traveling from New York to San Francisco as little as $65.[17] These developments in personal and social mobility gradually eroded away the old pre-Civil War sectionalist identity. Americans slowly stopped viewing themselves as citizens of separate states, bound together by the Constitution, and instead began associating their individual sense of belonging to a united nation.[18] While America's advancements in industrialization and urbanization gave Americans a greater sense that they belonged to a national-scale community, it also undermined the efficacy of state morality laws and reinforced public hysteria that social vices were growing out of control. While at first, members of Congress proposed legislation to combat social vices, they grew concerned over the increasing number of challenges to the constitutionality of these laws. As the United States began to assume its modern industrialized shape, Congressmen proposed a series of anti-polygamy, prohibition, and women's suffrage amendments to ease said public hysteria and protect federal morality legislation (present and future) from looming constitutional challenges.

[17] "Life and Times of the Central Pacific Railroad," *The Central Pacific Railroad Photographic History Museum*," accessed April 11, 2021, http://cprr.org/Museum/Life_and_Times_CPRR/Poster.html.; "Central Pacific Railroad Photographic History Museum: FAQ," *The Central Pacific Railroad Photographic History Museum*," accessed April 11, 2021, http://cprr.org/Museum/FAQs.html#Miles.
[18] Shelby Foote, "Remembering Civil War Historian Shelby Foote," *PBS* (July 2005).

1. POLYGAMY AMENDMENTS

The American obsession with polygamy began in 1852 when the president and prophet of the Church of Jesus Christ of Latter-day Saints, Brigham Young, publicly announced that the "celestial" law of polygamy was an essential tenet of the Mormon Church.[19] The concept of marrying multiple women outraged the vast majority of Americans, who saw it as indecent, immoral, and contrary to social mores. The "Mormon Question" raised concerns about the Constitution's moral nature.[20] Should the Constitution, which protects the free exercise of religion, also protect immoral religious acts? The anti-polygamists thought not. At first, anti-polygamists were content to use federal laws as a means to combat polygamy. However, these laws proved ineffective in the face of the transportation revolution. The transcontinental railroad's effect on polygamy was two-fold: it undermined the efficacy of state prohibition legislation and reinforced the media frenzy that polygamy was a disease virulently infecting the population. As a result, Congressmen began using the newly accessible amending process to assuage public fears of mistreated women and also provide a constitutional safeguard for anti-polygamy legislation amidst the Mormons' growing legal challenges.

Before the Civil War, Congressmen were so deeply divided over the constitutionality of federal anti-polygamy laws that the idea of a constitutional amendment was not even a consideration, particularly because the Constitution was still considered sacrosanct. After the Republican Party published its first national platform in 1856, resolving that "it is both the right and imperative duty of Congress to prohibit in the Territories the twin relics of barbarianism—

[19] Sarah Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America* (Chapel Hill: The University of North Carolina Press, 2002), 1.
[20] Ibid., 4.

polygamy and slavery," anti-polygamists were irrevocably tied to abolitionists in the eyes of slaveholders. Fearing that anti-polygamy legislation would create "an [opening] in the protective shield around states' rights" and allow Congress to interfere with the other "twin relic," southern Democrats opposed any federal legislation prohibiting polygamy.[21] As Democratic Congressman Lawrence Keitt from South Carolina argued during a debate over anti-polygamy legislation, "If there is power in Congress to inspect the morals of a nascent political community, and of its own autocratic will to decree this and prohibit that . . . may they not declare slaveholding a crime?"[22] In other words, the possibility that anti-polygamy legislation could be used to interfere in other state matters (i.e., slavery) was far too dangerous.

When the southern Democrats seceded from the Union, anti-polygamists had enough votes to pass their first federal anti-polygamy law. From the start, anti-polygamists understood that they needed a national solution because Mormons had evaded the "laws of the land" by relocating to the Utah territory in 1849.[23] Any state anti-polygamy law lost its efficacy outside state borders, and anti-polygamists knew that there was little chance Mormons would outlaw their "celestial" law. Staying true to the Republican platform, President Lincoln signed the 1862 Morrill Anti-Bigamy Act, which made it illegal for a man to marry multiple women in all U.S. territories. However, this act proved fruitless. Mormon juries in Utah refused to prosecute their neighbors for practicing one of the central tenets of their religion, and the Lincoln Administration was too preoccupied with the Civil War to send in federal reinforcement.

The completion of the transcontinental railroad lay the tracks for an anti-polygamy constitutional amendment. Not only did the railroad allow citizens to travel back and forth

[21] Gordon, *The Mormon Question,* 57.
[22] Ibid., 58.
[23] Maria Ward, *Female Life Among the Mormons: A Narrative of Many Years' Personal Experience by the Wife of a Mormon Elder, Recently in Utah* (London: G. Routledge & CO., 1855), 292.

between the east and west coasts, but it did so by joining the Central Pacific Railroad with the Union Pacific Railroad in Promontory Summit, Utah.[24] The *Salt Lake Desert News* estimated that ten thousand tourists visited Salt Lake City in the summer following the railroad's completion, and by the end of the century, an average of 150,000–200,000 tourists visited Salt Lake Valley every year.[25] The railroad's completion had an immediate effect. It increased the spread of a new literary genre: Mormon thrillers. These novels were useful propaganda tools that made passionate appeals about the dangers of polygamy and the susceptibility of American women. The increase in Utah traffic reinforced the literary narrative that unsuspecting women were being lured to Utah and forced into the polygamous *slave trade*.

A prominent theme in Mormon thrillers was the unanticipated dangers of westward travel. For example, in Maria Ward's *Female Life Among Mormons*, the narrator gradually learns the "evil" truth about Mormonism as she travels west.[26] She unwillingly becomes a "slave" to her polygamous husband and takes the only action an honest woman can do—she escapes.[27] However, this escape is not available to all Mormon women, as the Mormons track runaways like "bloodhounds and tyrants."[28] Ward advertised her novel as "Truth Stranger than Fiction," an emotional plea to "prevent such descents into misery for others."[29] This message resonated deeply with Americans; the book sold over 40,000 copies and was translated into four different

[24] "Finished Working on the Railroad." *Wild West* 32, no. 1, June 2019, 38–45.
[25] "Salt Lake City," *Harper's New Monthly Magazine* 69, August 1884, 388-404.
[26] "Knowing, as I do, the evils and horrors and abominations of the Mormon system, the degradation it imposes on females, and the consequent vices which extend through all the ramifications of the society, a sense of duty to the world has induced me to prepare the following narrative, for the public eye." Maria Ward, *Female Life Among the Mormons: A Narrative of Many Years' Personal Experience by the Wife of a Mormon Elder, Recently in Utah* (London: G. Routledge & CO., 1855), 294.
[27] "Mormon women are most helpless than the Negro slave, for they are of the weaker sex and must submit to the power of physical might." Maria Ward, *Female Life Among the Mormons*, 3-4.
[28] Ward, *Female Life Among the Mormons*, 201: "We have all heard and sympathized with the runaway slave, who is tracked by bloodhounds; in Utah, guests and visitors are tracked by spies quite as cruel and remorseless (p. 244).
[29] Gordon, *The Mormon Question,* 41.

languages.[30] Like a chapter straight out of Ward's novel, Americans grew hysterical over the increased travel to Utah in 1880. When Americans got word of the "forty-five percent increase" of the Mormon population, petitions from across the country flooded Congress, begging legislators to eradicate polygamy and stop the "female accession" to Utah.[31]

Both anti-polygamy laws and proposed constitutional amendments were aimed to stop the growing migration to Utah and to save women from a perceived life of abuse. However, while some American women did move to Utah to convert to Mormonism, they principally traveled to Utah for its lax divorce laws.[32] In the 1880s, the number of divorces "doubled in proportion to marriages or population in most of the northern states within thirty years."[33] The American advances in transportation enabled the rapid increase in divorce rates because "remarriage without a formal divorce in another jurisdiction was endemic to a culture in which disappearing was as easy as walking away from a failed relationship."[34] Utah's divorce statute was "the most permissive of all" (enacted to allow new Mormons whose spouses did not convert to remarry within the faith quickly), only requiring the petitioner to demonstrate that he or she wished to be a resident.[35] Polygamy was a convenient target for Americans to point their finger at. By attacking polygamy, Americans "could pretend that the legal experience of husbands and wives in the rest of the country was more uniform—more monogamous—than it actually was."[36]

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[30] Leonardo J. Arrington and Jon Haupt, "Intolerable Zion: The Image of Mormonism in Nineteenth Century American Literature," *Western Humanities Review 22* (Summer 1968): 253.
[31] "Current Events and Comments: The Census," *The Banker's Magazine and Statistical Register,* August 1880, 128. See, for a complete list of all petitions presented to Congress calling for the suppression of polygamy, Joseph Meservy, "A History of Federal Legislation Against Mormon Polygamy and Certain United States Supreme Court Decisions Supporting Such Legislation," *Brigham Young University Provo* (1947): 70-71.
[32] Gordon, *The Mormon Question*, 193.
[33] Samuel Dike, "Some Aspects of the Divorce Question," *Princeton Review,* January-June 1884.
[34] Gordon, *The Mormon Question,* 129.
[35] Sarah Barringer Gordon, "The Liberty of Self-Degradation: Polygamy, Woman Suffrage, and Consent in Nineteenth-Century America," *The Journal of American History* 83 (December 1996): 842.
[36] Gordon, *The Mormon Question,* 130.

A federal constitutional amendment regulating marriage and divorce became an appealing solution because it could provide an answer for both polygamy and high divorce rates. As the *Independent* printed in their November 16, 1882 magazine edition:

> The law to suppress polygamy has proved a failure and more stringent measures are needed, as we have often indicated. But an even more sweeping measure than any confined to Utah should receive speedy consideration. Marriage, with all the questions of divorce, legitimacy, and inheritance connected with it, is too important and general an interest to be left to the control of conflicting state laws.[37]

"An amendment covering the three subjects of Divorce, Marriage, and Polygamy" would lower the divorce rates and, as a consequence, dissuade the voluntary migration to Utah.[38] Also, Utah was making frequent petitions for statehood, so an amendment would ensure that Utah would continue to be governed by federal anti-polygamy laws, should it be admitted. Consequently, two Congressmen from New York, John H. Ray (in 1884) and Lewis Beach (in 1886), proposed marriage amendments granting Congress the authority to pass marriage and divorce laws. [39]

The "Mormon tradition of resistance" is another reason that Congressmen desired an anti-polygamy constitutional amendment.[40] While Mormons *literally* resisted all anti-polygamy legislation by refusing to be monogamous, they also challenged the constitutionally of anti-polygamy legislation through a plethora of lawsuits. As indicted polygamist and Mormon historian Orson Whitney wrote, "The Federal courts, and not the mountain fastness, became the battleground of the great contest, which was fought out with laws, arguments and judicial rulings in lieu of swords and bayonets."[41] Although the federal courts rarely ruled in favor of the

[37] Dike, "Some Aspects of the Divorce Question," 169.
[38] Ibid.
[39] Ames, *The Proposed Amendments to the Constitution,* 411- 415.
[40] Gordon, *The Mormon Question,* 186.
[41] Ibid., 155.

Mormons, their last recourse was to rely on the Free Exercise Clause of the First Amendment. A new constitutional amendment, wrote the *New York Evangelist*, would provide the "machinery necessary" to "[enforce the] disfranchisement" of polygamy.[42] An anti-polygamy constitutional amendment would "destroy" the Mormons' only constitutional defense for polygamy.[43]

In 1882, Congressman John Thomas from Illinois proposed an anti-polygamy amendment to preemptively protect the 1882 Edmunds Act, which Congressmen anticipated would face much Mormon resistance.[44] The Edmunds Act corrected two fundamental points of law that the Mormons had exploited in polygamy trials: the constitution of juries (suspected polygamists could not be jurors in any polygamy trials) and proof (if witnesses "forgot" whether or not the defendant was polygamous, prosecutors could change the charge to "unlawful cohabitation").[45] The Edmunds Act also declared polygamy a felony in federal territories and made it illegal for polygamists to vote or hold office. Thomas' amendment would have made polygamy a felony nationwide and authorized Congress to pass any anti-polygamy legislation (like the Edmunds Act) to enforce this amendment. However, it did not receive enough support and died in the House.

Approximately eighteen anti-polygamy amendments were proposed in Congress between 1879 and 1889, but none of these amendments ever passed Congress by the necessary two-thirds vote.[46] Caving to public pressures, the Mormon Church officially renounced polygamy in 1890 and launched a new media campaign seeking to "convince the visitors [and the American public]

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[42] "The Mormon Agitation," *New York Evangelist*, March 2, 1882.
[43] Ibid.
[44] Cong. Globe, 47 Cong., 1 sess., 1882: 300.
[45] Gordon, *The Mormon Question,* 151.
[46] See, for each anti-polygamy amendment that was proposed from 1875-1888, Ames, *The Proposed Amendments to the Constitution,* 396-421.

that [Mormonism] was a mainstream religion sharing basic tenets of many Christian faiths."[47] One particular railroad promotional, for example, explained how tourists could visit Utah to see the remnants of the time "now happily passed away, when polygamy was quite the thing in Utah."[48] While anti-polygamy attitudes were still very present moving into the twentieth century, the Church of Latter-Day Saints' denouncement of polygamy and subsequent media campaign placated many Americans, subduing the urgency for a constitutional amendment.

[47] Meservy, "City of Saints," 376.
[48] Ibid.

2. TEMPERANCE AMENDMENTS

Twenty-first century Americans generally view the adoption of the Prohibition Amendment—the Eighteenth—as a "reactionary experiment gone wrong."[49] Many would characterize it as an oppressive, misguided effort to control private behavior.[50] This, however, could not be further from the way prohibitionists viewed the Eighteenth Amendment. Prohibitionists viewed the Eighteenth Amendment as a perfect solution to uplift society by stomping out the proliferation of social ills. However, like the anti-polygamy movement, the idea of a constitutional amendment took many years to solidify. Prohibitionists did not seriously consider a constitutional amendment until their alliance with the women's suffrage movement in the 1870s. Women, who first seriously supported a prohibition amendment, panicked over the rapid increase of alcohol consumption in the United States. America's rapid industrialization and urbanization after the Civil War exacerbated alcohol consumption and home life was suffering—men were coming home drunk, drinking away their money, and mistreating their families.[51] A prohibition amendment was appealing because it would protect society from the evils of alcohol and defend probation laws from the pressing constitutional challenges in the legal system.

Prior to the Civil War, temperance activists did not actively seek change through a legal or political route. One of the first large-scale anti-alcohol organizations, the Washingtonian Movement, preferred to use "abstinence-pledges," where they targeted frequent visitors of local

[49] Richard H Chused, "The Temperance Movement's Impact on Adoption of Women's Suffrage," *Akron Law Review* 53, no.2 (2019): 363.
[50] Ibid.
[51] Joe Bubar, "The Prohibition Era: One Hundred Years Ago, a Constitutional Amendment Banned the Sale of Alcohol Nationwide—but a Lawless Underworld of Mobsters, Speakeasies, and Bribery Flourished," *New York Times Upfront* (March 2020): 19.

taverns and distilleries.[52] As Abraham Lincoln explained, temperance activists like the Washingtonian Movement utilized "kind, unassuming persuasion . . . to convince and persuade [their] old friends and companions [to stop drinking]."[53] However, after the Civil War, much like the anti-polygamy movement, temperance activists began seeking legislative reform, albeit focusing primarily at the state level.

The catalyst to Congressmen considering a constitutional amendment was the dramatic increase in alcohol consumption among men. In 1850, Americans consumed roughly 36 million gallons of intoxicating liquor; by 1890, the annual alcohol consumption had skyrocketed to 855 million gallons.[54] Developments in industrialization were the principal cause. A new brewing technique called pasteurization kept alcohol fresh as it traveled cross-continent, which dramatically increased the availability of alcohol. [55] Similarly, as the railroads extended their lines, more individuals (particularly European immigrants) migrated to the cities. Urban cities were often viewed as localities of moral degeneracy with their large European immigrant populations and resistance to prohibition laws.[56] The lack of prohibition laws in urban cities undermined the efficacy of neighboring prohibition laws as men could use the advances in transportation to evade dry laws and travel to wet jurisdictions.

The women's suffrage movement's integration into the temperance movement was an integral component behind the prohibition amendment push. Prior attempts at a temperance amendment had not been successful. Abolitionists such as Wendell Phillips, a self-proclaimed "temperance man of nearly 40 years' standing," had been eager to introduce a federal prohibition

[52] Daniel Okrent, *Last Call: The Rise and Fall of Prohibition* (New York: Scribner, 2011), 9.
[53] Ibid., 266.
[54] Ibid.
[55] Ibid., 26.
[56] Ibid.

amendment as early as 1872.[57] Phillips proclaimed that "the defeat of slavery proved that government action was an appropriate weapon in the battle against moral wrongs," yet his arguments failed to incite a moral urgency among the current temperance activists.[58] However, when Francis Willard made temperance a "woman's issue" in 1874, she dramatically increased the prohibition support base.[59] Women emphasized the moral urgency for a constitutional prohibition amendment because they "felt like they were losing control over domestic alcohol consumption" and were watching "crowd[s] of unwashed, unkempt, hard-looking drinking men… filling every corner and extending out into [every] street."[60]

The paranoia that alcohol was corrupting the family unit began gaining national media coverage. One of the most persuasive post-Civil War media campaigns was when temperance activists framed men as "slaves" to the alcohol "tyrant." As one popular temperance hymn entitled the "Strike for Freedom" asserted, "[men were] slave[s] of the cup…slave[s] on American soil, blot[ting] out the star on the flag of the free . . . with your neck 'neath the feet of the tyrant . . ."[61] This deeply resonated with middle-class women who not only were losing power in their cherished domestic sphere, but were watching their rightful power transfer to the hands of a "tyrant" that aimed to enslave their men.

Temperance's association with slavery in public opinion provided a framework for constitutional action, illustrated by the suffering caused by oppressive institutions. The temperance-slavery rhetoric highlighted the "involuntary victims [of slavery], the wife, the

[57] Wendell Phillips, "The Labor Question" (speech delivered at the International Grand Lodge of the Knights of Saint Crispin, Milwaukee, WI, April 1872).
[58] Okrent, *Last Call: The Rise and Fall of Prohibition*, 19.
[59] Ibid., 17.
[60] Chused, "The Temperance Movement's Impact," 363.
[61] "Temperance," *The Weekly Union Times*, April 19, 1889.

children, the neighbors," who were the true yet overlooked victims of man's drunkenness.[62] This appealed to the suffering that middle-class women felt over their declining influence in the private sphere. If the oppressive institution of slavery was brought to "a final end" by a constitutional amendment, prohibitionists argued, the oppressive alcohol industry must "be treated in the same radical way."[63] Many women quickly assented to this argument.

"Following so soon upon the woman's crusade," Congressman Henry W. Blair from New Hampshire offered the first temperance amendment to the federal Constitution in December 1876.[64] His amendment only banned distilled spirits and left the manufacture and sale of other types of intoxicating liquor (i.e., beer, wine, and hard cider) unaffected. While on a practical level, Blair likely reasoned that his tamed amendment was more likely to pass than a sweeping, all-encompassing amendment prohibiting alcohol, it is significant that he chose to ban distilled liquors rather than hard ciders or wine. Since bottles did not reach 35% of the market until 1935, distilled liquors were the easiest to store at home.[65] In this way, Blair's attempt to outlaw distilled liquors demonstrated the temperance movement's commitment to preserving the sanctity of the home first. However, Frances Willard argued that the true purpose of Blair's amendment was to incite a moral urgency "like the spark to tinder . . . in all parts of the nation." And as Willard and Blair hoped, the first temperance amendment to the federal Constitution enflamed the public, inciting hundreds of people to sign pro-temperance petitions.[66]

Blair's amendment also reveals the ongoing conflict over the immorality of liquor. Blair's amendment included an important provision: "Once a state gave its assent to the

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[62] "The Analogy of Slavery and the Intemperance Before the Law," *The New Englander,* May 1880.
[63] Ibid.
[64] *Congressional Globe*, 44th Cong., 2 sess., 1876: 300; Frances Willard, "Romance Versus Reality," *The Chautauquan*, November 1884.
[65] Amy Mittelman, *Brewing Battles: A History of American Beer* (New York, NY: Algora, 2008), 119.
[66] Willard, "Romance Versus Reality," 1884.

amendment, it could not later withdraw its ratification."[67] This would ensure that a change in public opinion would not affect the amendment's ratification. Prohibitionists, such as Frances Willard, also argued that a prohibition amendment "best accords with correct principles of law making . . . It can not be repealed by the legislature, since every member of [Congress] raises his hand in solemn oath that he will defend the Constitution."[68] A shift in public approval was a genuine concern for Congressman Blair, considering the recent repeal of a law in Maine banning alcoholic drinks.[69] This provision paints an interesting picture about popular opinion—many Americans were still divided over the issue of prohibition. As one Cincinnati police officer said in 1882, temperance laws were a "dead letter" because "public sentiment does not sustain it."[70]

Furthermore, on a broader level, a prohibition amendment was appealing because it would ensure that temperance legislation would withstand any constitutional challenges. Frances Willard echoed this sentiment, explaining that an amendment would hold "the law already on the statute book as with clinched nail."[71] A significant number of states did not have temperance laws, and the laws in place were not uniform. In America's mobile society, it was easy for men to avoid dry laws by traveling to wet jurisdictions. A federal prohibition law would counteract this phenomenon. However, prohibitionists worried that federal prohibition laws would be overturned in court because the regulation of inter-state commerce, although listed in Congress' enumerated powers, was still widely regarded as an *interstate* issue. An amendment would

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[67] Thomas E. Heard, "Proposed Constitutional Amendments as a Research Tool: The Example of Prohibition," *Law Library Journal* 84, no. 3 (Summer 1992): 503.
[68] Willard, "Romance Versus Reality," 1884.
[69] Heard, "Proposed Constitutional Amendments as a Research Tool," 503. The 1851 "Maine-Law" banned all alcoholic drinks, unlike Blair's. Specifically, it prohibited the manufacture or sale of "any spiritous or intoxicating liquors, or any mixed liquors a part of which is spirituous or intoxicating." However, Maine repealed this after public opinion shifted to favor the legalization of alcohol.
[70] Lawrence Friedman, *Crime and Punishment in American History* (New York: BasicBooks, 1993), 140.
[71] Willard, "Romance Versus Reality," 1884.

preemptively protect federal prohibition legislation against future lawsuits. However, Blair's amendment, which he proposed in two congressional sessions, received little support.

In 1881, Senator Preston B. Plumb from Kansas proposed an amendment that prohibited the "Manufacture and Sale of Intoxicating Liquors."[72] Kansans in particular were extremely passionate about the temperance movement. Kansas was the first state to go dry in 1880, after adding a prohibition amendment to their state constitution. This amendment withstood all constitutional challenges, namely the case of *Mugler v. Kansas* (1887), where the Supreme Court ruled that the state prohibition amendment had been fairly adapted to the goal of protecting the community from the evils of alcohol.[73] While Kansans "glow[ed] [over their] great temperance victory," prohibitionists were concerned about Kansas' rapid industrialization and urbanization. As one popular temperance newspaper explained, "The South-west and the southward railroads are multiplying rapidly [in Kansas] . . . In twelve of the central counties of Kansas there was a population in 1870 of only 49 souls, in 1878 there were 27,000, and [in 1880] there were 77,000."[74] Temperance activists in Kansas worried that their state amendment like many other dry laws, would be ineffective as consumers could easily travel to neighboring counties and states that did not have dry laws using the railroads. A constitutional amendment mandating national prohibition seemed like the perfect solution.

Senator Plumb's amendment was met with much enthusiasm, and he continued to propose it during each of his congressional sessions. Unlike Blair's amendment, Plumb's proposed amendment banned *all* alcoholic beverages. Newspapers like the *Boston Evening Transcript* applauded Plumb's effort, explaining that a temperance amendment was the "most

[72] Ames, *The Proposed Amendments to the Constitution*, 272-273.
[73] Mugler v. Kansas*,* 123 U.S. 623 (1887).
[74] John F. Hurst, "Our Kansas Field," *The Christian Advocate*, April 28, 1881.

thorough practical and permanent form of legislative effort" because it "enlists all the moral and education forces to help develop a public opinion that use of intoxicants is an injury to the individual, and the drink traffic a crime against the community in which it exists."[75] The *Boston Evening Transcript*'s column demonstrates the ongoing conflict about whether or not the American public considered intoxicating liquor a *moral turpitude*. Generally speaking, the term *moral turpitude* refers to an "act of baseness, vileness, or depravity in the private and social duties which man owes to society."[76] The *turpitude* of an act is not because a law dictates it is wrong, but rather because the public views it as inherently evil.[77] Since the *Boston Evening Transcript* desired an amendment to "develop a public opinion," the newspaper implied that the public's opinion over the morality of temperance had not yet crystallized. At a time when many Americans were still divided over the morality of alcohol, temperance activists desired the legal and public standing that only a constitutional amendment could provide to sway public opinion in their favor.[78]

However, Congress would not ratify a prohibition constitutional amendment until forty-three years after the first temperance amendment was proposed. Recognizing that a constitutional amendment would not pass until a significant number of pro-temperance legislators were in Congress, prohibition groups such as the Women Christian Temperance Union and the Anti-Saloon League focused on winning state and local elections from the 1890s to the eventual ratification of the Eighteenth Amendment. This strategy was crucial to the passage of the

[75] "Untitled Article," *The Boston Evening Transcript,* February 18, 1884.
[76] "Validity of Chain Store License Tax," *Iowa Law Review* 17, no.1 (1931): 77.
[77] Ibid.
[78] Willard, "Romance Versus Reality," 1884. A constitutional prohibition amendment "is superior to statutory because it is a more certain and perfect expression of public sentiment; because it carries with it greater weight and dignity." See also Foner, *The Second Founding*, 19. Amending the Constitution "automatically gives [reformers] a powerful claim not only on the legal system but also on public imagination."

Eighteenth Amendment since Congress had not passed a reapportionment bill, allowing dry counties to be vastly overrepresented in Congress.[79] On January 16, 1919, Congress ratified the Eighteenth Amendment, which prohibited the manufacture, sale, or transportation of intoxicating liquors. Not knowing that the Twenty-First Amendment would repeal the prohibition amendment shortly over a decade later, prohibitionists celebrated their success around the country. Looking back, contemporary Americans can appreciate the irony of Congressman Richard Hobson's victory slogan: "Once ratified, always ratified."[80]

[79] Okrent, *Last Call: The Rise and Fall of Prohibition*, 327. A reapportionment bill was finally enacted in June 1929, in which Congress found that twenty-three seats in the House were misallocated.
[80] Okrent, *Last Call: The Rise and Fall of Prohibition*, 105.

3. WOMEN'S SUFFRAGE

Between 1878-1888, Congress considered twelve women's suffrage amendments.[81] Suffragists capitalized on the respective fears of anti-polygamists and prohibitionists. As industrialization heightened fears of moral vices, activists posited women's suffrage as a means for solving all social ills. If given access to the ballot, the virtuous half of society would simply vote out the lecherous activities of polygamy and overconsumption of liquor.

From 1820 to the Civil War, suffragists and abolitionists worked together for a common goal: extending the right to vote to disenfranchised classes. Since the states dictated qualifications for voting at this time, suffragists focused on petitioning state governments for the right to the ballot. When the North was "galvanized by the spirit of universal rights" after the Civil War, suffragists sought to use the newly accessible amending process alongside their abolitionist allies to achieve universal suffrage.[82] They persuaded a handful of Republican and Democratic Congressmen to advocate for women's inclusion in the three Reconstruction Amendments and even proposed a fourth amendment that recognized universal suffrage.[83] However, the suffragists faced a devastating loss. While the Fourteenth Amendment did not explicitly guarantee enfranchisement to anyone, it introduced the word "male" into the Constitution for the first time.[84] In addition, the Fifteenth Amendment extended the right to vote

[81] Ames, *The Proposed Amendments to the Constitution,* 238.
[82] Adam Winkler, "A Revolution too Soon: Woman Suffragists and the Living Constitution," *New York Law Review* 76, no.5 (November 2001): 1474.
[83] See, for an example of an argument for inclusion of women's suffrage into a draft of the Fourteenth Amendment, *Cong. Globe*, 40th Cong,, 1st sess., 1866: 380.
[84] "Section 2 provided that a state's denial of the suffrage to "male inhabitants" would occasion reduced representation in Congress. The obvious implication was that states could deny women inhabitants the vote without penalty." Adam Winkler, "A Revolution Too Soon: Woman Suffragists and the Living Constitution," *New York Law Review* 76, no.5 (November 2001): 1474.

to all men regardless of race, but denied black and white women suffrage. The implication was clear: women were not included in any of Reconstruction's franchise-protective amendments.

The Reconstruction Amendments caused the women's suffrage movement to split into two factions. On one side, the American Woman Suffrage Association supported the Reconstruction Amendments and agreed to work within the Republican Party to achieve universal suffrage. On the other side, the National Suffrage Association, led by Elizabeth Cady Stanton and Susan B. Anthony, opposed the Reconstruction Amendments, arguing that the amendments were a "humiliation… that [left women as] the only human beings outside of state prisons and lunatic asylums adjudged incompetent" to vote.[85] Nevertheless, it was clear to both sides that a universal suffrage constitutional amendment was necessary to reverse the gender discrimination reaped by the Reconstruction Amendments.

Members of Congress remained unmoved by the arguments for a women's suffrage amendment in the subsequent years following the Reconstruction Amendments. They were not persuaded by Virginia Minor and Elizabeth Cady Stanton's claim that suffrage was already included in the Privileges and Immunities Clause of the Fourteenth Amendment.[86] Similarly, Victoria Woodhull's Fifteenth Amendment argument that "women were members of racial groups" and thus could not be disenfranchised did not fare much better.[87] However, what really impeded the suffrage movement was their media campaign that "marriage is a condition of slavery."[88] Americans idealized the *cult of domesticity* from which women garnered their high virtue and morality. During the nineteenth century, women were expected to preserve the family unit, and traditional family functions, such as reproduction and child upbringing, were very

[85] Foner, *The Second Founding*, 113.
[86] Winkler, "A Revolution Too Soon," 1487.
[87] Ibid.
[88] Ibid., 1489.

important.[89] Therefore, an argument attacking marriage terrified Congress. This argument was so detrimental that even radical suffragists in Congress, like Senator Charles Sumner from Massachusetts, revealed that while he believed that "women have the constitutional right to vote," he would "never vote for a [suffrage] amendment."[90] By mid-1871, obtaining a constitutional amendment had become even less likely because Congressmen used the "suffragists' own constitutional claim . . . to avoid fighting another contentious battle for expansion of the franchise."[91]

In the mid-1870s, the suffragists knew that they needed to change their public stigma to ever get an amendment. They began transitioning from an inalienable rights argument to an "argument from expediency" that emphasized how if the moral half were enfranchised, they would vote out social vices like polygamy and alcohol.[92] Frances Willard, for example, published *The Home Protection Manual* (1879) that merged the need for women's suffrage and temperance with the preservation of the family unit. In this pamphlet, she explained that:

> Before this century shall end the rays of love which shine out from woman's heart shall no longer be, as now, divergent so far as the liquor traffic is concerned; but through that magic lens, that powerful sunglass which we term the ballot, they shall all convert their power, and burn and blaze on the saloon, till it shrivels up and in lurid vapor, curls away like mist under the hot gaze of sun-shine.[93]

Willard's message that "the instinct of 'a mother's love, a wife's devotion, a sister's faithfulness, a daughter's loyalty' would motivate women to the polls" was very convincing to

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[89] Linda Nicholson, "The Personal Is Political: An Analysis in Retrospect," *Social Theory and Practice* 7, no. 1 (April 1981): 88.
[90] Winkler, "A Revolution Too Soon," 1480.
[91] Ibid., 1491.
[82] Aileen Kraditor, *Up From the Pedestal; Selected Writings in the History of American Feminism* (Chicago: Quadrangle Books, 1968), 13.
[93] Frances E. Willard, *Home Protection Manual: Containing an Argument for the Temperance Ballot for Woman; and How to Obtain it, as a Means of Home Protection; Also Constitution and Plan of Work for the State and Local W.C.T Unions,* (New York: The Independent Office, 1879), 9.

temperance supporters.[94] As Jack London, a man who had one opposed suffrage, explained, "the moment women get the vote" they will do the righteous thing and "close the saloons."[95] Men who had initially opposed women's suffrage now had a compelling reason to vote in favor of it. Consequently, Senator Blair from New Hampshire (previously, Congressman Blair, who had proposed the first temperance amendment) presented two suffrage amendments.[96]

During this same time, members of the New England Woman Suffrage Association popularized a suffrage strategy that suggested "a gradual process to enfranchise women" in the territories, "to be followed by a Constitutional amendment at some unspecified time in the future."[97] Capitalizing on the growing hysteria over polygamy, Republican Indiana Congressman George W. Julian reasoned that with the right to vote in Utah, women could shake their "chattel" bonds of slavery and abolish polygamy.[98] Newspapers like the *New York Times* popularized this idea, explaining that: "Female suffrage might perhaps be tried with novel effect in the territory of Utah—the State of Deseret. There, the 'better half' of humanity is in such a strong numerical majority that even if all the other half should vote the other way, they would carry the election. Perhaps it would result in casting out polygamy and Mormonism in general . . . Here would be a capital field for women suffrage to make a start, and we presume nobody would object to the experiment."[99] Congress was not persuaded by this argument, although it did resonate with the Utah Legislative Assembly, who saw suffrage as an opportunity to "convince the country how

[94] Ibid.
[95] Ibid., 63.
[96] Ames, *The Proposed Amendments to the Constitution,* 238.
[97] Kathryn L. MacKay, "Women in Politics: Power in the Public Sphere," in *Women in Utah History: Paradigm or Paradox?*, ed. Scott Patricia Lyn, Thatcher Linda, and Whetstone Susan Allred (Boulder: University Press of Colorado, 2005), 366.
[98] Ibid.
[99] Ibid.

utterly without foundation the popular assertions were concerning the women of the Territory."[100]

Instead of garnering support for a suffrage amendment in Congress, the Utah Legislative Assembly's enfranchise of women in 1870 had an adverse effect: it led to a proposed anti-suffrage amendment.[101] Rather than throwing off their "chattel" bonds, Mormon women used suffrage as a way to defend polygamy. As one Mormon wife explained, "The Church of Jesus Christ of Latter-Day Saints proclaims the greatest freedom and broadest charity for woman. She is regarded as man's equal."[102] Women's suffrage had only increased the political power of the Church of Latter-Day Saints. Anti-polygamists condemned the woman's vote, and by extension "woman suffrage everywhere because by the mid-1880s almost everyone was agreed that it had failed to emancipate" polygamous women.[103] "Woman suffrage," proclaimed one anti-polygamist, only meant "woman suffering."[104] As a result, in February 1882, Illinois Senator John A. Logan proposed an amendment to repeal women's suffrage in Utah, as a means of "purification" for the Utah elections.[105] While Logan's amendment did not receive enough support to be sent to the House (only twenty Senators voted in favor), it inspired Senator George F. Edmunds of Vermont to include an anti-suffrage provision in the anti-polygamy 1887 Edmunds-Tucker Act.[106] Therefore, in the 1880s, the only women's suffrage measure both Houses of Congress voted on was in favor of disenfranchising women.[107]

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[100] Ibid.
[101] Ibid., 369.
[102] Christine Talbot, *A Foreign Kingdom: Mormons and Polygamy in American Political Culture,* 1852-1890 (Champaign: University of Illinois Press, 2013), 50.
[103] Gordon, *The Mormon Question,* 168.
[104] Ibid.
[105] MacKay, "Women in Politics," 374; Gordon, *The Mormon Question,* 169.
[106] Gordon, "The Liberty of Self-Degradation," 816.
[107] Ibid.

The anti-polygamists were in large part responsible for the initial failure of women's suffrage at both the amendment and legislative level in the 1880s. The failure of the "Utah Experiment" branded suffragists with a pro-polygamy stigma that made their cause unpopular in Congress. In order to prove that women's suffrage would assuage social vices, suffragists had to shake their polygamous associations. Luckily, when the Church of Latter-Day Saints renounced polygamy in 1890, the "Utah Experiment" faded to the back of critics' minds.

There were many factors that contributed to the ratification of the Nineteenth Amendment in 1920. In 1917, the United States officially entered into World War I, which was accompanied by a patriotic duty for everyone to contribute to the war effort. As men fought overseas, many women left the *home* to protect the *home-front*. Women filled many of the open agricultural and manufacturing jobs and volunteered in war-time campaigns to boost morale.[108] Similarly, the successive ratifications of the Sixteenth, Seventeenth, and Eighteenth amendments between 1913 and 1919 made the arduous amending process appear less formidable.

However, it is significant that nearly all of the Congressmen who argued in favor of the Nineteenth Amendment used arguments based on virtue and morality rather than equality.[109] For example, in one famous oratory during the final debates over the Nineteenth Amendment, Congressman Edward C. Little of Nebraska passionately argued, "Ninety-nine per cent of all diseases inherited by reason of evil lives of parents come down from the male side . . . If the world were open and the best character of votes were the dominating factor, women would control the ballot entirely."[110] Congressman Little's moral argument was one of many presented during the congressional debates over women's suffrage. The work of suffragists in the late

[108] "Women in World War I," The National WWI Museum and Memorial, accessed April 11, 2021, https://www.theworldwar.org/learn/women.
[109] Chused, "The Temperance Movement's Impact," 381.
[110] Cong. Rec. 65th Cong., Special Session., 1919: 80–81.

nineteenth century established the basic contours of the moral argument for a suffrage amendment. Suffragists in the 1880s capitalized on the moral urgency to suppress social vices, precipitated by America's rising industrialization, and framed a suffrage amendment as a cure for immoral behavior. And roughly forty years later, men in Congress used the morality of women to justify their support of suffrage.

CONCLUSION

The 1860 pro-slavery amendments opened the floodgates to "Amendment fever." Most Americans' view of the Constitution shifted over the ensuing decades. Instead of an unchanging document, the Constitution transformed into a "living" expression of popular opinion that addressed social issues.[111] Americans viewed constitutional amendments as a positive agent for change and recognized the constitutional amending process as legitimate.[112]

America's rapid industrialization and urbanization facilitated the emergence of moral amendments in the 1880s. It opened up the west, traversed borders, and contributed to a media frenzy over America's declining moral nature. Members of Congress proposed a series of anti-polygamy, temperance, and suffrage amendments as a means to combat moral vices in a national-scale society. Also at work behind the "Amendment fever" was a desire for constitutional security in these movements. After the lost opportunity for gender equality in the Reconstruction Amendments, suffragists understood the importance of a federal constitutional amendment. Anything less than security from the supreme law of the land could be undermined by state laws or federal legislation. Similarly, as Mormons challenged the constitutionality of anti-polygamy legislation and temperance activists watched their state-level prohibition legislation come undone, an amendment in the nation's charter was an appealing solution.

The morality amendments reveal an important lesson about altering the Constitution. Even though the amendment floodgates have been opened, attaining a two-thirds majority in both houses of Congress and securing ratification from three-quarters of the states poses a

[111] Vorenberg, "Bringing the Constitution Back In," 137.
[112] Ibid.

daunting task. Even when public opinion is resoundingly in one side's favor, as in the case of anti-polygamy, achieving a constitutional amendment is nearly impossible. Alternatively, if public opinion is still divided, as in the case of prohibition and the Eighteenth Amendment, the amendment will not withstand time. Public approval and political circumstances must perfectly align in order to create a lasting morality amendment.

BIBLIOGRAPHY

Ames, Herman. *The Proposed Amendments to the Constitution of the United States During the First Century of its History*. Brooklyn: Central Book Company, 1968.

Arrington, Leonard J. and Haupt, Jon. "Intolerable Zion: The Image of Mormonism in Nineteenth Century American Literature." *Western Humanities Review* 22 (Summer 1968): 253.

Bubar, Joe. "The Prohibition Era: One Hundred Years Ago, a Constitutional Amendment Banned the Sale of Alcohol Nationwide—but a Lawless Underworld of Mobsters, Speakeasies, and Bribery Flourished." *New York Times Upfront* (March 2020): 18-21.

The Central Pacific Railroad Photographic History Museum. "Life and Times of the Central Pacific Railroad Women in World War I." Accessed April 11, 2021. http://cprr.org/Museum/Life_and_Times_CPRR/Poster.html.

The Central Pacific Railroad Photographic History Museum. "Central Pacific Railroad Photographic History Museum: FAQ." Accessed April 11, 2021. http://cprr.org/Museum/FAQs.html#Miles.

Chused, Richard H. "The Temperance Movement's Impact on Adoption of Women's Suffrage," *Akron Law Review* 53, no.2 (2019): 359-386.

Crofts, Daniel W. *Lincoln and the Politics of Slavery: The Other Thirteenth Amendment and the Politics to Save the Union*. Chapel Hill: University of North Carolina Press, 2016.

Foner, Eric. *The Second Founding: How the Civil War and Reconstruction Remade the Constitution.* New York: W.W. Norton & Company, 2019.

Foote, Shelby. "Remembering Civil War Historian Shelby Foote." *PBS* (July 2005).

Friedman, Lawrence. *Crime and Punishment in American History.* New York: BasicBooks, 1993.

Godkin, E.L. “The Constitution and Its Defects.” *North American Review* 99, no. 204 (July 1864): 120.

Gordon, Sarah Barringer. “The Liberty of Self-Degradation: Polygamy, Woman Suffrage, and Consent in Nineteenth-Century America.” *The Journal of American History* 83, no. 3 (December 1996): 815–847.

Gordon, Sarah Barringer. *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America*. Chapel Hill: The University of North Carolina Press, 2002).

Heard, Thomas E. "Proposed Constitutional Amendments as a Research Tool: The Example of Prohibition." *Law Library Journal* 84, no. 3 (Summer 1992): 503.

Kraditor, Aileen. *Up From the Pedestal; Selected Writings in the History of American Feminism*. Chicago: Quadrangle Books, 1968.

MacKay, Kathryn L. “Women in Politics: Power in the Public Sphere,” in *Women in Utah History: Paradigm or Paradox?*, edited by Scott Patricia Lyn, Thatcher Linda, and Whetstone Susan Allred, 360-393. Boulder: University Press of Colorado, 2005.

Meservy, Joseph. “A History of Federal Legislation Against Mormon Polygamy and Certain United States Supreme Court Decisions Supporting Such Legislation.” Brigham Young University Provo (1947): 1-153.

Mittelman, Amy. Brewing Battles: A History of American Beer. New York: Algora, 2008.

Mooney, Christopher Z. *The Public Clash of Private Values: The Politics of Morality Policy*. Edited by Christopher Z. Mooney. New York: Chatham House Publishers, 2001.

The National WWI Museum and Memorial. “Women in World War I.” Accessed April 11, 2021. https://www.theworldwar.org/learn/women.

Nicholson, Linda. "The Personal Is Political": An Analysis in Retrospect.” *Social Theory and Practice* 7, no. 1 (April 1981): 88.

Okrent, Daniel. *Last Call: The Rise and Fall of Prohibition*. New York: Scribner, 2011.

Talbot, Christine. *A Foreign Kingdom: Mormons and Polygamy in American Political Culture, 1852-1890.* Champaign: University of Illinois Press, 2013.

US Congress. *Congressional Globe*, 40th Cong,, 1st sess., 1866.

US Congress. *Congressional Globe*. 44th Cong., 2nd sess., 1876.

US Congress. *Congressional Globe*, 47th Cong,, 1st sess., 1882.

US Congress. *Congressional Record*. 65th Cong., l Special Session., 1919.

"Validity of Chain Store License Tax." Iowa Law Review 17, no. 1 (November 1931): 72-86

Vorenberg, Michael. "Bringing the Constitution Back In: Amendment, Innovation, and Popular Democracy During the Civil war Era," in *The Democratic Experiment: Politics and Society in Twentieth-Century America*. Edited by Meg Jacobs, William J. Novak, and Julian E. Zelizer, 120-145. Princeton: Princeton University Press, 2003.

Vile, John. *The Encyclopedia of Constitutional Amendments, Proposed Amendments, and Amending Issues 1789-2012*. 3rd ed. Santa Barbara: ABC-CLIO, 2010.

Ward, Maria. *Female Life Among the Mormons: A Narrative of Many Years' Personal Experience by the Wife of a Mormon Elder, Recently in Utah.* London: G. Routledge & CO., 1855.

Willard, Frances E. *Home Protection Manual: Containing an Argument for the Temperance Ballot for Woman; and How to Obtain it, as a Means of Home Protection; Also Constitution and Plan of Work for the State and Local W.C.T Unions.* New York: The Independent Office, 1879.

Winkler, Adam. "A Revolution too Soon: Woman Suffragists and the Living Constitution." *New York Law Review* 76, no.5 (November 2001): 1456-1526.