

1 **Amendment Fever:**
2 **The Surge of Moral Amendments in Late Nineteenth Century**
3 **America**

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10 **Introduction**

11
12 Before 1860, U.S. Congressmen only proposed an average of 3.5 constitutional
13 amendments per year.¹ The content of these amendments was limited to issues of federal
14 authority and governmental structure. For instance, the 11th Amendment, ratified in 1795,
15 restricted the jurisdiction of federal courts to hear lawsuits against state governments brought
16 about by citizens of other states or foreign nations. Similarly, the 12th Amendment, ratified in
17 1804, altered the procedures of the electoral college system following the presidential deadlock
18 in the election of 1800. Social and moral issues were dealt with at the state or local level.

19 The Constitution was deeply tied to the American national identity. Americans
20 “worshipped” the Constitution as a way to pay homage to the republic’s founding principles of
21 liberty and freedom.² Many pre-Civil War Americans glorified the Constitution’s fixed,
22 unchanging nature. Michael Vorenberg attributes the pre-Civil War appetite for the
23 Constitution to be “strict and unchanging” to an American desire to legitimize their young nation
24 and create a source of “protonationalism.”³ Since the still-fledgling United States lacked the
25 nationalistic traditions of many older European countries, Americans could point to the
26 Constitution as something fixed and stable to rely upon.⁴ The idea of amending the Constitution
27 was met with great resistance and concern (hence, the sparse number of amendment proposals
28 between 1792 and 1859).⁵ The concept of using the constitutional amending process also as a
29 means to address social issues was “far divorced from political reality.”⁶

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 Vorenberg, “Bringing the Constitution Back In,” 127-128.

⁵ Another reason the U.S. Constitution is not frequently amended is because of its structural design. While it is legally amendable, some scholars have described the Constitution as constructively unamendable due to the impracticality of attaining a two-thirds majority in both houses of Congress and securing ratification from three-quarters of the states. See, for further discussion about the Constitution’s unamendability, George Mader, “Binding Authority: Unamendability in the United States Constitution-A Textual and Historical Analysis,” *Marquette Law Review*, vol. 99, no. 4 (Summer 2016):841-891; Richard Albert, *Constitutional Amendments: Making, Breaking, and Changing Constitutions* (New York: Oxford University Press, 2019).

⁶ 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.

30 Consequently, few Americans during the antebellum period viewed the constitutional
31 amending process as a viable way to solve the slavery question. The congressional debates over
32 slavery nearly always acknowledged what came to be called the “federal consensus,” that the
33 national government had no power to take direct action against the institution of slavery.⁷ Rather,
34 it was the duty of the states to create laws that either maintained or abolished slavery.

35 However, this “federal consensus” quickly came under fire following the election of
36 President Abraham Lincoln in 1860. At work was what historian Daniel W. Crofts called
37 “secession hysteria”: the belief that Lincoln and the Republican Party’s “main purpose” was the
38 “final and total” abolition of slavery, which they would achieve through a constitutional
39 amendment.⁸ “Moderate” Republicans and a few northern Democrats joined forces to propose a
40 total of 89 amendments in the month of December 1860 alone, 69 of which banned Congress’
41 interference in slavery.⁹ This was a dramatic increase from the two amendments proposed in
42 1859.¹⁰

43 Between 1860-1865, the number of proposed constitutional amendments jumped to over
44 100 per year.¹¹ Republicans, including President Lincoln, actually supported a pro-slavery
45 constitutional amendment to preserve the Union and “put an end to secessionist propaganda that
46 Republicans planned to abolish slavery.”¹² Republicans like Congressman John Gilmer from
47 North Carolina believed that a constitutional amendment would guarantee the safety of slavery
48 in “the most positive and indubitable manner for all time to come.”¹³ They hoped such a measure
49 would prevent southern states from leaving the Union. The fear of secession, combined with the
50 young Republican Party’s lack of governing experience (Republican Congressmen had a high
51 turnover rate, making it difficult to establish any law-making patterns), created the necessary
52 preconditions for Congressmen to begin using the amending process as a way to solve the
53 slavery question.¹⁴

54 The 1860 pro-slavery amendment surge was a turning point in American constitutional
55 thought.¹⁵ While the sheer number of amendments was remarkable, the shift in content was even
56 more extraordinary. For the first time, Congressmen recognized the constitutional amending
57 process as a legitimate means of addressing social issues. While these amendments were

⁷ Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (New York: W.W. Norton & Company, 2019), 3.

⁸ Crofts, *Lincoln and the Politics of Slavery*, 87.

⁹ See, for a list of all the constitutional amendments proposed in December 1860, 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.

¹⁰ Ames, *The Proposed Amendments*, 355-358.

¹¹ Vile, *The Encyclopedia of Constitutional Amendments*, 569.

¹² Crofts, *Lincoln and the Politics of Slavery*, 281.

¹³ Crofts, *Lincoln and the Politics of Slavery*, 154.

¹⁴ Vorenberg, “Bringing the Constitution Back In,” 130.

¹⁵ See, for further discussion about proposed and adopted constitutional amendments as signals of constitutional change, Vicki C. Jackson, “The (Myth of Un) amendability of the US Constitution and the Democratic Component of Constitutionalism,” *International Journal of Constitutional Law* 13, no. 3 (July 2015): 575-605 (Jackson argues that proposed constitutional amendments are active forms of public consent for constitutional change because “the people can participate, either directly or through their elected representatives, in order to remain instruments of self-government”); Richard Albert, “America’s Amoral Constitution,” *American University Law Review* 70, no.3 (February 2021): 773-828 (Albert suggests that the Constitution’s legitimacy derives from adopted amendments and that constitutional amending process is “the font of the popular legitimacy that sustains the Constitutions”).

58 unsuccessful attempts at pacification, they had important *unintended* effects.¹⁶ These
59 amendments opened the door for future Congressmen to utilize the amending process as a means
60 for social and moral reform.

61 The most obvious beneficiaries of the newly accessible amending process were the
62 abolitionists. They used the constitutional amending process to pass the Reconstruction
63 Amendments. The Thirteenth Amendment prohibited slavery. The Fourteenth Amendment
64 guaranteed the equal enjoyment of the privileges and immunities of national citizenship. The
65 Fifteenth Amendment enfranchised freedmen and recognized their right to vote. Anti-slavery
66 Congressmen were the first to take advantage of this process, but they were certainly not the last.

67 What caused the post-Civil War “amendment fever?”¹⁷ This work aims to show how the
68 newly accessible constitutional amending process transformed the Constitution from a largely
69 unchanging written document to a means of combating national-scale problems. This paper
70 examines three case studies—the first on anti-polygamy amendment proposals, the second on
71 temperance amendment proposals, and the third on women’s suffrage amendment proposals.
72 Each case study demonstrates varying degrees of concern with a perceived national and moral
73 issue during the late nineteenth century.¹⁸

74 In the 1880s, Congress witnessed a surge in a new type of amendment: moral
75 amendments. Social scientists define morality policies as policies based on the *perceptions* of the
76 supporters and their use of moral arguments during debate.¹⁹ “Moral regulation,” explains legal
77 scholar Alan Hunt, “involve[s] practices whereby some social agents problematize some aspect
78 of the conduct, values or culture of others on moral grounds and seek to impose regulation upon
79 them.”²⁰ Moral amendments are more concerned with competing social values than effective
80 governance. The Twelfth Amendment, for example, addressed a technical aspect of
81 governance—making the electoral college more efficient. This did not challenge anyone’s
82 personal belief system, so it is not a moral amendment. In contrast, the Eighteenth Amendment,
83 which limited the manufacture, sale, and transportation of intoxicating liquors, was a moral
84 amendment because the debates were primarily concerned with the moral nature of alcohol
85 consumption.

¹⁶ 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.

¹⁷ Kathleen Sullivan first coined the term “amendment fever.” See, Kathleen Sullivan, “Constitutional Constancy: Why Congress Should Cure Itself of Amendment Fever,” *Cardozo Law Review* 17 (January 1996): 691-704.

¹⁸ See, for further explanation about the role of constitutional culture and popular beliefs in the rate and formation of constitutional amendments, Tom Ginsburg and James Melton, “Does the Constitutional Amendment Rule Matter at All?,” *International Journal of Constitutional Law* 13, no. 3(2015): 686-713 (suggesting that changes in amendment culture “can be explained by cultural factors surrounding the degree of veneration of the constitution that will affect the number of [amendment] proposals”); Vicki C. Jackson, “The (Myth of Un)amendability of the US Constitution and the Democratic Component of Constitutionalism,” *International Journal of Constitutional Law* 13, no. 3 (July 2015): 575-605 (arguing that proposed and adopted amendments “do not exist in a vacuum but are part of an inter-related set of constitutional arrangements by which both constitutional continuities and constitutional transformations are made possible”).

¹⁹ 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.

²⁰ Alan Hunt, *Governing Morals: A Social History of Moral Regulation* (Cambridge: Cambridge University Press, 1999), ix.

86 America was rapidly growing as a national-scale society, which created a sense of
87 urgency to combat immoral behavior. The United States began its construction of key
88 technologies like the railroad and telegraph in the 1840s and 1850s. However, following the
89 Civil War, the United States went on a building boom, constructing large-scale transportation
90 projects that allowed people, goods, and news to travel across the country at an unprecedented
91 rate. The United States laid roughly 93,000 miles of railroad tracks by 1880, and the completion
92 of the transcontinental railroad in 1869 made the cost of traveling from New York to San
93 Francisco as little as \$65.²¹ These developments in personal and social mobility gradually eroded
94 away the old pre-Civil War sectionalist identity. Americans slowly stopped viewing themselves
95 as citizens of separate states, bound together by the Constitution, and instead began associating
96 their individual sense of belonging to a united nation.²² While America’s advancements in
97 industrialization and urbanization gave Americans a greater sense that they belonged to a
98 national-scale community, it also undermined the efficacy of state morality laws and reinforced
99 public hysteria that social vices were growing out of control. Improvements in transportation
100 specifically heightened perceptions that local and state laws could simply be bypassed by
101 traveling to other jurisdictions. While at first, members of Congress proposed legislation to
102 combat social vices, they grew concerned over the increasing number of challenges to the
103 constitutionality of these laws. As the United States began to assume its modern industrialized
104 shape, Congressmen proposed a series of anti-polygamy, prohibition, and women’s suffrage
105 amendments to ease said public hysteria and protect federal morality legislation from looming
106 constitutional challenges.

107 108 **1. Polygamy Amendments** 109

110 The American obsession with polygamy began in 1852 when the president and prophet of
111 the Church of Jesus Christ of Latter-day Saints, Brigham Young, publicly announced that the
112 “celestial” law of polygamy was an essential tenet of the Mormon Church.²³ The concept of
113 marrying multiple women outraged the vast majority of Americans, who saw it as indecent,
114 immoral, and contrary to social mores. The “Mormon Question” raised concerns about the
115 Constitution’s moral nature.²⁴ Should the Constitution, which protects the free exercise of
116 religion, also protect immoral religious acts? The anti-polygamists thought not. At first, anti-
117 polygamists were content to use federal laws as a means to combat polygamy. However, these
118 laws proved ineffective in the face of the transportation revolution. The transcontinental
119 railroad’s effect on polygamy was two-fold: it undermined the efficacy of state prohibition
120 legislation and reinforced the media frenzy that polygamy was a disease virulently infecting the
121 population. As a result, Congressmen began using the newly accessible amending process to
122 assuage public fears of mistreated women and also provide a constitutional safeguard for anti-
123 polygamy legislation amidst the Mormons’ growing legal challenges.

²¹ “Life and Times of the Central Pacific Railroad,” *The Central Pacific Railroad Photographic History Museum*,
accessed April 11, 2021, http://cpr.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://cpr.org/Museum/FAQs.html#Miles>.

²² “Remembering Civil War Historian Shelby Foote,” *PBS*, June 29, 2005, accessed April 11, 2021,
<https://www.pbs.org/newshour/show/remembering-civil-war-historian-shelby-foote>.

²³ Sarah Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century
America* (Chapel Hill: The University of North Carolina Press, 2002), 1.

²⁴ Gordon, *The Mormon Question*, 4.

124 Before the Civil War, Congressmen were so deeply divided over the constitutionality of
125 federal anti-polygamy laws that the idea of a constitutional amendment was not even a
126 consideration, particularly because the Constitution was still considered sacrosanct. After the
127 Republican Party published its first national platform in 1856, resolving that “it is both the right
128 and imperative duty of Congress to prohibit in the Territories the twin relics of barbarianism—
129 polygamy and slavery,” anti-polygamists were irrevocably tied to abolitionists in the eyes of
130 slaveholders. Fearing that anti-polygamy legislation would create “an [opening] in the protective
131 shield around states’ rights” and allow Congress to interfere with the other “twin relic,” southern
132 Democrats opposed any federal legislation prohibiting polygamy.²⁵ As Democratic Congressman
133 Lawrence Keitt from South Carolina argued during a debate over anti-polygamy legislation, “If
134 there is power in Congress to inspect the morals of a nascent political community, and of its own
135 autocratic will to decree this and prohibit that . . . may they not declare slaveholding a crime?”²⁶
136 In other words, the possibility that anti-polygamy legislation could be used to interfere in other
137 state matters (i.e., slavery) was far too dangerous.

138 When the southern Democrats seceded from the Union, anti-polygamists had enough
139 votes to pass their first federal anti-polygamy law. From the start, anti-polygamists understood
140 that they needed a national solution because Mormons had evaded the “laws of the land” by
141 relocating to the Utah territory in 1849.²⁷ Any state anti-polygamy law lost its efficacy outside
142 state borders, and anti-polygamists knew that there was little chance Mormons would outlaw
143 their “celestial” law. Staying true to the Republican platform, President Lincoln signed the 1862
144 Morrill Anti-Bigamy Act, which made it illegal for a man to marry multiple women in all U.S.
145 territories. However, this act proved fruitless. Mormon juries in Utah refused to prosecute their
146 neighbors for practicing one of the central tenets of their religion, and the Lincoln
147 Administration was too preoccupied with the Civil War to send in federal reinforcement.

148 The completion of the transcontinental railroad lay the tracks for an anti-polygamy
149 constitutional amendment. Not only did the railroad allow citizens to travel back and forth
150 between the east and west coasts, but it did so by joining the Central Pacific Railroad with the
151 Union Pacific Railroad in Promontory Summit, Utah.²⁸ The *Salt Lake Desert News* estimated
152 that ten thousand tourists visited Salt Lake City in the summer following the railroad’s
153 completion, and by the end of the century, an average of 150,000–200,000 tourists visited Salt
154 Lake Valley every year.²⁹ The railroad’s completion had an immediate effect. It increased the
155 spread of a new literary genre: Mormon thrillers. These novels were useful propaganda tools that
156 made passionate appeals about the dangers of polygamy and the susceptibility of American
157 women. The increase in Utah traffic reinforced the literary narrative that unsuspecting women
158 were being lured to Utah and forced into the polygamous *slave trade*.

159 A prominent theme in Mormon thrillers was the unanticipated dangers of westward
160 travel. For example, in Maria Ward’s *Female Life Among Mormons*, the narrator gradually learns
161 the “evil” truth about Mormonism as she travels west.³⁰ She unwillingly becomes a “slave” to

²⁵ Gordon, *The Mormon Question*, 57.

²⁶ Gordon, *The Mormon Question*, 58.

²⁷ 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.

²⁸ “Finished Working on the Railroad.” *Wild West* 32, no. 1, June 2019, 38–45.

²⁹ “Salt Lake City,” *Harper’s New Monthly Magazine* 69, August 1884, 388–404.

³⁰ “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

162 her polygamous husband and takes the only action an honest woman can do—she escapes.³¹
163 However, this escape is not available to all Mormon women, as the Mormons track runaways
164 like “bloodhounds and tyrants.”³² Ward advertised her novel as “Truth Stranger than Fiction,” an
165 emotional plea to “prevent such descents into misery for others.”³³ This message resonated
166 deeply with Americans; the book sold over 40,000 copies and was translated into four different
167 languages.³⁴ Like a chapter straight out of Ward’s novel, Americans grew hysterical over the
168 increased travel to Utah in 1880. When Americans got word of the “forty-five percent increase”
169 of the Mormon population, petitions from across the country flooded Congress, begging
170 legislators to eradicate polygamy and stop the “female accession” to Utah.³⁵

171 Both anti-polygamy laws and proposed constitutional amendments were aimed to stop
172 the growing migration to Utah and to save women from a perceived life of abuse. However,
173 while some American women did move to Utah to convert to Mormonism, they principally
174 traveled to Utah for its lax divorce laws.³⁶ In the 1880s, the number of divorces “doubled in
175 proportion to marriages or population in most of the northern states within thirty years.”³⁷ The
176 American advances in transportation enabled the rapid increase in divorce rates because
177 “remarriage without a formal divorce in another jurisdiction was endemic to a culture in which
178 disappearing was as easy as walking away from a failed relationship.”³⁸ Utah’s divorce statute
179 was “the most permissive of all” (enacted to allow new Mormons whose spouses did not convert
180 to remarry within the faith quickly), only requiring the petitioner to demonstrate that he or she
181 wished to be a resident.³⁹ Polygamy was a convenient target for Americans to point their finger
182 at. By attacking polygamy, Americans “could pretend that the legal experience of husbands and
183 wives in the rest of the country was more uniform—more monogamous—than it actually was.”⁴⁰

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

187
188 The law to suppress polygamy has proved a failure and more stringent measures are
189 needed, as we have often indicated. But an even more sweeping measure than any
190 confined to Utah should receive speedy consideration. Marriage, with all the questions of

world has induced me to prepare the following narrative, for the public eye.” Maria Ward, *Female Life Among the Mormons*, 294.

³¹ “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.

³² “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.” Ward, *Female Life Among the Mormons*, 201.

³³ Gordon, *The Mormon Question*, 41.

³⁴ Leonardo J. Arrington and Jon Haupt, “Intolerable Zion: The Image of Mormonism in Nineteenth Century American Literature,” *Western Humanities Review* 22 (Summer 1968): 253.

³⁵ “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.

³⁶ Gordon, *The Mormon Question*, 193.

³⁷ Samuel Dike, “Some Aspects of the Divorce Question,” *Princeton Review*, January-June 1884.

³⁸ Gordon, *The Mormon Question*, 129.

³⁹ 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.

⁴⁰ Gordon, *The Mormon Question*, 130.

191 divorce, legitimacy, and inheritance connected with it, is too important and general an
192 interest to be left to the control of conflicting state laws.⁴¹

193
194 “An amendment covering the three subjects of Divorce, Marriage, and Polygamy” would
195 lower the divorce rates and, as a consequence, dissuade the voluntary migration to Utah.⁴² Also,
196 Utah was making frequent petitions for statehood, so an amendment would ensure that Utah
197 would continue to be governed by federal anti-polygamy laws, should it be admitted.
198 Consequently, two Congressmen from New York, John H. Ray (in 1884) and Lewis Beach (in
199 1886), proposed marriage amendments granting Congress the authority to pass marriage and
200 divorce laws.⁴³

201 The “Mormon tradition of resistance” is another reason that Congressmen desired an anti-
202 polygamy constitutional amendment.⁴⁴ While Mormons *literally* resisted all anti-polygamy
203 legislation by refusing to be monogamous, they also challenged the constitutionality of anti-
204 polygamy legislation through a plethora of lawsuits. As indicted polygamist and Mormon
205 historian Orson Whitney wrote, “The Federal courts, and not the mountain fastness, became the
206 battleground of the great contest, which was fought out with laws, arguments and judicial rulings
207 in lieu of swords and bayonets.”⁴⁵ Although the federal courts rarely ruled in favor of the
208 Mormons, their last recourse was to rely on the Free Exercise Clause of the First Amendment. A
209 new constitutional amendment, wrote the *New York Evangelist*, would provide the “machinery
210 necessary” to “[enforce the] disfranchisement” of polygamy.⁴⁶ An anti-polygamy constitutional
211 amendment would “destroy” the Mormons’ only constitutional defense for polygamy.⁴⁷

212 In 1882, Congressman John Thomas from Illinois proposed an anti-polygamy
213 amendment to preemptively protect the 1882 Edmunds Act, which Congressmen anticipated
214 would face much Mormon resistance.⁴⁸ The Edmunds Act corrected two fundamental points of
215 law that the Mormons had exploited in polygamy trials: the constitution of juries (suspected
216 polygamists could not be jurors in any polygamy trials) and proof (if witnesses “forgot” whether
217 or not the defendant was polygamous, prosecutors could change the charge to “unlawful
218 cohabitation”).⁴⁹ The Edmunds Act also declared polygamy a felony in federal territories and
219 made it illegal for polygamists to vote or hold office. Thomas’ amendment would have made
220 polygamy a felony nationwide and authorized Congress to pass any anti-polygamy legislation
221 (like the Edmunds Act) to enforce this amendment. However, it did not receive enough support
222 and died in the House.

223 Approximately eighteen anti-polygamy amendments were proposed in Congress between
224 1879 and 1889, but none of these amendments ever passed Congress by the necessary two-thirds
225 vote.⁵⁰ Caving to public pressures, the Mormon Church officially renounced polygamy in 1890
226 and launched a new media campaign seeking to “convince the visitors [and the American public]

⁴¹ Dike, “Some Aspects of the Divorce Question,” 169.

⁴² Dike, “Some Aspects of the Divorce Question,” 169.

⁴³ Ames, *The Proposed Amendments to the Constitution*, 411-415.

⁴⁴ Gordon, *The Mormon Question*, 186.

⁴⁵ Gordon, *The Mormon Question*, 155.

⁴⁶ “The Mormon Agitation,” *New York Evangelist*, March 2, 1882.

⁴⁷ “The Mormon Agitation,” *New York Evangelist*, March 2, 1882.

⁴⁸ *Cong. Globe*, 47 Cong., 1 sess., 1882: 300.

⁴⁹ Gordon, *The Mormon Question*, 151.

⁵⁰ See, for each anti-polygamy amendment that was proposed from 1875-1888, Ames, *The Proposed Amendments to the Constitution*, 396-421.

227 that [Mormonism] was a mainstream religion sharing basic tenets of many Christian faiths.”⁵¹
228 One particular railroad promotional, for example, explained how tourists could visit Utah to see
229 the remnants of the time “now happily passed away, when polygamy was quite the thing in
230 Utah.”⁵² While anti-polygamy attitudes were still very present moving into the twentieth century,
231 the Church of Latter-Day Saints’ denouncement of polygamy and subsequent media campaign
232 placated many Americans, subduing the urgency for a constitutional amendment.
233

234 2. Temperance Amendments

235

236 Twenty-first century Americans generally view the adoption of the Prohibition
237 Amendment—the Eighteenth—as a “reactionary experiment gone wrong.”⁵³ Many would
238 characterize it as an oppressive, misguided effort to control private behavior.⁵⁴ This, however,
239 could not be further from the way prohibitionists viewed the Eighteenth Amendment.
240 Prohibitionists viewed the Eighteenth Amendment as a perfect solution to uplift society by
241 stomping out the proliferation of social ills. However, like the anti-polygamy movement, the idea
242 of a constitutional amendment took many years to solidify. Prohibitionists did not seriously
243 consider a constitutional amendment until their alliance with the women’s suffrage movement in
244 the 1870s. Women, who first seriously supported a prohibition amendment, panicked over the
245 rapid increase of alcohol consumption in the United States. America’s rapid industrialization and
246 urbanization after the Civil War exacerbated alcohol consumption and home life was suffering—
247 men were coming home drunk, drinking away their money, and mistreating their families.⁵⁵ A
248 prohibition amendment was appealing because it would protect society from the evils of alcohol
249 and defend probation laws from the pressing constitutional challenges in the legal system.

250 Prior to the Civil War, temperance activists did not actively seek change through a legal
251 or political route. One of the first large-scale anti-alcohol organizations, the Washingtonian
252 Movement, preferred to use “abstinence-pledges,” where they targeted frequent visitors of local
253 taverns and distilleries.⁵⁶ As Abraham Lincoln explained, temperance activists like the
254 Washingtonian Movement utilized “kind, unassuming persuasion . . . to convince and persuade
255 [their] old friends and companions [to stop drinking].”⁵⁷ However, after the Civil War, much like
256 the anti-polygamy movement, temperance activists began seeking legislative reform, albeit
257 focusing primarily at the state level.

258 The catalyst to Congressmen considering a constitutional amendment was the dramatic
259 increase in alcohol consumption among men. In 1850, Americans consumed roughly 36 million
260 gallons of intoxicating liquor; by 1890, the annual alcohol consumption had skyrocketed to 855
261 million gallons.⁵⁸ Developments in industrialization were the principal cause. A new brewing
262 technique called pasteurization kept alcohol fresh as it traveled cross-continent, which

⁵¹ Meservy, “City of Saints,” 376.

⁵² Meservy, “City of Saints,” 376.

⁵³ Richard H Chused, “The Temperance Movement's Impact on Adoption of Women's Suffrage,” *Akron Law Review* 53, no.2 (2019): 363.

⁵⁴ Chused, “The Temperance Movement's Impact,” 363.

⁵⁵ 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.

⁵⁶ Daniel Okrent, *Last Call: The Rise and Fall of Prohibition* (New York: Scribner, 2011), 9.

⁵⁷ Okrent, *Last Call*, 9.

⁵⁸ Okrent, *Last Call*, 26.

263 dramatically increased the availability of alcohol.⁵⁹ Similarly, as the railroads extended their
264 lines, more individuals (particularly European immigrants) migrated to the cities. Urban cities
265 were often viewed as localities of moral degeneracy with their large European immigrant
266 populations and resistance to prohibition laws. The lack of prohibition laws in urban cities
267 undermined the efficacy of neighboring prohibition laws as men could use the advances in
268 transportation to evade dry laws and travel to wet jurisdictions.

269 The women's suffrage movement's integration into the temperance movement was an
270 integral component behind the prohibition amendment push. Prior attempts at a temperance
271 amendment had not been successful. Abolitionists such as Wendell Phillips, a self-proclaimed
272 "temperance man of nearly 40 years' standing," had been eager to introduce a federal prohibition
273 amendment as early as 1872.⁶⁰ Phillips proclaimed that "the defeat of slavery proved that
274 government action was an appropriate weapon in the battle against moral wrongs," yet his
275 arguments failed to incite a moral urgency among the current temperance activists.⁶¹ However,
276 when Francis Willard made temperance a "woman's issue" in 1874, she dramatically increased
277 the prohibition support base.⁶² Women emphasized the moral urgency for a constitutional
278 prohibition amendment because they "felt like they were losing control over domestic alcohol
279 consumption" and were watching "crowd[s] of unwashed, unkempt, hard-looking drinking
280 men . . . filling every corner and extending out into [every] street."⁶³

281 The paranoia that alcohol was corrupting the family unit began gaining national media
282 coverage. One of the most persuasive post-Civil War media campaigns was when temperance
283 activists framed men as "slaves" to the alcohol "tyrant." As one popular temperance hymn
284 entitled the "Strike for Freedom" asserted, "[men were] slave[s] of the cup...slave[s] on
285 American soil, blot[ting] out the star on the flag of the free . . . with your neck 'neath the feet of
286 the tyrant . . ."⁶⁴ This deeply resonated with middle-class women who not only were losing
287 power in their cherished domestic sphere, but were watching their rightful power transfer to the
288 hands of a "tyrant" that aimed to enslave their men.

289 Temperance's association with slavery in public opinion provided a framework for
290 constitutional action, illustrated by the suffering caused by oppressive institutions. The
291 temperance-slavery rhetoric highlighted the "involuntary victims [of slavery], the wife, the
292 children, the neighbors," who were the true yet overlooked victims of man's drunkenness.⁶⁵ This
293 appealed to the suffering that middle-class women felt over their declining influence in the
294 private sphere. If the oppressive institution of slavery was brought to "a final end" by a
295 constitutional amendment, prohibitionists argued, the oppressive alcohol industry must "be
296 treated in the same radical way."⁶⁶ Many women quickly assented to this argument.

297 "Following so soon upon the woman's crusade," Congressman Henry W. Blair from New
298 Hampshire offered the first temperance amendment to the federal Constitution in December

⁵⁹ Okrent, *Last Call*, 26.

⁶⁰ Wendell Phillips, "The Labor Question" (speech delivered at the International Grand Lodge of the Knights of Saint Crispin, Milwaukee, WI, April 1872).

⁶¹ Okrent, *Last Call*, 19.

⁶² Okrent, *Last Call*, 17.

⁶³ Chused, "The Temperance Movement's Impact," 363.

⁶⁴ "Temperance," *The Weekly Union Times*, April 19, 1889.

⁶⁵ "The Analogy of Slavery and the Intemperance Before the Law," *The New Englander*, May 1880.

⁶⁶ "The Analogy of Slavery and the Intemperance Before the Law," *The New Englander*, May 1880.

299 1876.⁶⁷ His amendment only banned distilled spirits and left the manufacture and sale of other
300 types of intoxicating liquor (i.e., beer, wine, and hard cider) unaffected. While on a practical
301 level, Blair likely reasoned that his tamed amendment was more likely to pass than a sweeping,
302 all-encompassing amendment prohibiting alcohol, it is significant that he chose to ban distilled
303 liquors rather than hard ciders or wine. Since bottled and canned alcoholic beverages did not
304 grow in popularity until after 1935, distilled liquors were the easiest to store at home.⁶⁸ In this
305 way, Blair’s attempt to outlaw distilled liquors demonstrated the temperance movement’s
306 commitment to preserving the sanctity of the home first. However, Frances Willard argued that
307 the true purpose of Blair’s amendment was to incite a moral urgency “like the spark to tinder . . .
308 in all parts of the nation.” And as Willard and Blair hoped, the first temperance amendment to
309 the federal Constitution enflamed the public, inciting hundreds of people to sign pro-temperance
310 petitions.⁶⁹

311 Blair’s amendment also reveals the ongoing conflict over the immorality of liquor.
312 Blair’s amendment included an important provision: “Once a state gave its assent to the
313 amendment, it could not later withdraw its ratification.”⁷⁰ This would ensure that a change in
314 public opinion would not affect the amendment’s ratification. Prohibitionists, such as Frances
315 Willard, also argued that a prohibition amendment “best accords with correct principles of law
316 making . . . It can not be repealed by the legislature, since every member of [Congress] raises his
317 hand in solemn oath that he will defend the Constitution.”⁷¹ A shift in public approval was a
318 genuine concern for Congressman Blair, considering the recent repeal of a law in Maine banning
319 alcoholic drinks.⁷² This provision paints an interesting picture about popular opinion—many
320 Americans were still divided over the issue of prohibition. As one Cincinnati police officer said
321 in 1882, temperance laws were a “dead letter” because “public sentiment does not sustain it.”⁷³

322 Furthermore, on a broader level, a prohibition amendment was appealing because it
323 would ensure that temperance legislation would withstand any constitutional challenges. Frances
324 Willard echoed this sentiment, explaining that an amendment would hold “the law already on the
325 statute book as with clinched nail.”⁷⁴ A significant number of states did not have temperance
326 laws, and the laws in place were not uniform. In America’s mobile society, it was easy for men
327 to avoid dry laws by traveling to wet jurisdictions. A federal prohibition law would counteract
328 this phenomenon. However, prohibitionists worried that federal prohibition laws would be
329 overturned in court because the regulation of inter-state commerce, although listed in Congress’
330 enumerated powers, was still widely regarded as an *interstate* issue. An amendment would

⁶⁷ *Cong. Globe*, 44th Cong., 2 sess., 1876: 300; Frances Willard, “Romance Versus Reality,” *The Chautauquan*, November 1884.

⁶⁸ “Bottled beer’s market share rose slowly over this period, reaching perhaps 10 percent by 1895. Canned beer was a post-Prohibition phenomenon, not appearing until 1935.” Martin Stack, “Local and Regional Breweries in America’s Brewing Industry, 1865 to 1920,” *The Business History Review* 74, no. 3 (2000): 441.

⁶⁹ Willard, “Romance Versus Reality,” 1884.

⁷⁰ Thomas E. Heard, “Proposed Constitutional Amendments as a Research Tool: The Example of Prohibition,” *Law Library Journal* 84, no. 3 (Summer 1992): 503.

⁷¹ Willard, “Romance Versus Reality,” 1884.

⁷² 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.

⁷³ Lawrence Friedman, *Crime and Punishment in American History* (New York: BasicBooks, 1993), 140.

⁷⁴ Willard, “Romance Versus Reality,” 1884.

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

333 In 1881, Senator Preston B. Plumb from Kansas proposed an amendment that prohibited
334 the “Manufacture and Sale of Intoxicating Liquors.”⁷⁵ Kansans in particular were extremely
335 passionate about the temperance movement. Kansas was the first state to go dry in 1880, after
336 adding a prohibition amendment to their state constitution. This amendment withstood all
337 constitutional challenges, namely the case of *Mugler v. Kansas* (1887), where the Supreme Court
338 ruled that the state prohibition amendment had been fairly adapted to the goal of protecting the
339 community from the evils of alcohol.⁷⁶ While Kansans “glow[ed] [over their] great temperance
340 victory,” prohibitionists were concerned about Kansas’ rapid industrialization and urbanization.
341 As one popular temperance newspaper explained, “The South-west and the southward railroads
342 are multiplying rapidly [in Kansas] . . . In twelve of the central counties of Kansas there was a
343 population in 1870 of only 49 souls, in 1878 there were 27,000, and [in 1880] there were
344 77,000.”⁷⁷ Temperance activists in Kansas worried that their state amendment like many other
345 dry laws, would be ineffective as consumers could easily travel to neighboring counties and
346 states that did not have dry laws using the railroads. A constitutional amendment mandating
347 national prohibition seemed like the perfect solution.

348 Senator Plumb’s amendment was met with much enthusiasm, and he continued to
349 propose it during each of his congressional sessions. Unlike Blair’s amendment, Plumb’s
350 proposed amendment banned *all* alcoholic beverages. Newspapers like the *Boston Evening*
351 *Transcript* applauded Plumb’s effort, explaining that a temperance amendment was the “most
352 thorough practical and permanent form of legislative effort” because it “enlists all the moral and
353 education forces to help develop a public opinion that use of intoxicants is an injury to the
354 individual, and the drink traffic a crime against the community in which it exists.”⁷⁸ The *Boston*
355 *Evening Transcript*’s column demonstrates the ongoing conflict about whether or not the
356 American public considered intoxicating liquor a *moral turpitude*. Generally speaking, the term
357 *moral turpitude* refers to an “act of baseness, vileness, or depravity in the private and social
358 duties which man owes to society.”⁷⁹ The *turpitude* of an act is not because a law dictates it is
359 wrong, but rather because the public views it as inherently evil.⁸⁰ Since the *Boston Evening*
360 *Transcript* desired an amendment to “develop a public opinion,” the newspaper implied that the
361 public’s opinion over the morality of temperance had not yet crystallized. At a time when many
362 Americans were still divided over the morality of alcohol, temperance activists desired the legal
363 and public standing that only a constitutional amendment could provide to sway public opinion
364 in their favor.⁸¹

365 However, Congress would not ratify a prohibition constitutional amendment until forty-
366 three years after the first temperance amendment was proposed. Recognizing that a constitutional
367 amendment would not pass until a significant number of pro-temperance legislators were in

⁷⁵ Ames, *The Proposed Amendments to the Constitution*, 272-273.

⁷⁶ *Mugler v. Kansas*, 123 U.S. 623 (1887).

⁷⁷ John F. Hurst, “Our Kansas Field,” *The Christian Advocate*, April 28, 1881.

⁷⁸ “Untitled Article,” *The Boston Evening Transcript*, February 18, 1884.

⁷⁹ “Validity of Chain Store License Tax,” *Iowa Law Review* 17, no.1 (1931): 77.

⁸⁰ “Validity of Chain Store License Tax,” *Iowa Law Review* 17, no.1 (1931): 77.

⁸¹ 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.”

368 Congress, prohibition groups such as the Women Christian Temperance Union and the Anti-
369 Saloon League focused on winning state and local elections from the 1890s to the eventual
370 ratification of the Eighteenth Amendment. This strategy was crucial to the passage of the
371 Eighteenth Amendment since Congress had not passed a reapportionment bill, allowing dry
372 counties to be vastly overrepresented in Congress.⁸² On January 16, 1919, Congress ratified the
373 Eighteenth Amendment, which prohibited the manufacture, sale, or transportation of intoxicating
374 liquors. Not knowing that the Twenty-First Amendment would repeal the prohibition amendment
375 shortly over a decade later, prohibitionists celebrated their success around the country. Looking
376 back, contemporary Americans can appreciate the irony of Congressman Richard Hobson's
377 victory slogan: "Once ratified, always ratified."⁸³
378

3. Women's Suffrage Amendments

381 Between 1878-1888, Congress considered twelve women's suffrage amendments.⁸⁴
382 Suffragists capitalized on the respective fears of anti-polygamists and prohibitionists. As
383 industrialization heightened fears of moral vices, activists posited women's suffrage as a means
384 for solving all social ills. If given access to the ballot, the virtuous half of society would simply
385 vote out the lecherous activities of polygamy and overconsumption of liquor.

386 From 1820 to the Civil War, suffragists and abolitionists worked together for a common
387 goal: extending the right to vote to disenfranchised classes. Since the states dictated
388 qualifications for voting at this time, suffragists focused on petitioning state governments for the
389 right to the ballot. When the North was "galvanized by the spirit of universal rights" after the
390 Civil War, suffragists sought to use the newly accessible amending process alongside their
391 abolitionist allies to achieve universal suffrage.⁸⁵ They persuaded a handful of Republican and
392 Democratic Congressmen to advocate for women's inclusion in the three Reconstruction
393 Amendments and even proposed a fourth amendment that recognized universal suffrage.⁸⁶
394 However, the suffragists faced a devastating loss. While the Fourteenth Amendment did not
395 explicitly guarantee enfranchisement to anyone, it introduced the word "male" into the
396 Constitution for the first time.⁸⁷ In addition, the Fifteenth Amendment extended the right to vote
397 to all men regardless of race, but denied black and white women suffrage. The implication was
398 clear: women were not included in any of Reconstruction's franchise-protective amendments.

399 The Reconstruction Amendments caused the women's suffrage movement to split into
400 two factions. On one side, the American Woman Suffrage Association supported the
401 Reconstruction Amendments and agreed to work within the Republican Party to achieve
402 universal suffrage. On the other side, the National Suffrage Association, led by Elizabeth Cady
403 Stanton and Susan B. Anthony, opposed the Reconstruction Amendments, arguing that the

⁸² Okrent, *Last Call*, 327. A reapportionment bill was finally enacted in June 1929, in which Congress found that twenty-three seats in the House were misallocated.

⁸³ Okrent, *Last Call*, 105.

⁸⁴ Ames, *The Proposed Amendments to the Constitution*, 238.

⁸⁵ Adam Winkler, "A Revolution too Soon: Woman Suffragists and the Living Constitution," *New York Law Review* 76, no.5 (November 2001): 1474.

⁸⁶ 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.

⁸⁷ "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," 1474.

404 amendments were a “humiliation... that [left women as] the only human beings outside of state
405 prisons and lunatic asylums adjudged incompetent” to vote.⁸⁸ Nevertheless, it was clear to both
406 sides that a universal suffrage constitutional amendment was necessary to reverse the gender
407 discrimination reaped by the Reconstruction Amendments.

408 Members of Congress remained unmoved by the arguments for a women’s suffrage
409 amendment in the subsequent years following the Reconstruction Amendments. They were not
410 persuaded by Virginia Minor and Elizabeth Cady Stanton’s claim that suffrage was already
411 included in the Privileges and Immunities Clause of the Fourteenth Amendment.⁸⁹ Similarly,
412 Victoria Woodhull’s Fifteenth Amendment argument that “women were members of racial
413 groups” and thus could not be disenfranchised did not fare much better.⁹⁰ However, what really
414 impeded the suffrage movement was their media campaign that “marriage is a condition of
415 slavery.”⁹¹ Americans idealized the *cult of domesticity* from which women garnered their high
416 virtue and morality. During the nineteenth century, women were expected to preserve the family
417 unit, and traditional family functions, such as reproduction and child upbringing, were very
418 important.⁹² Therefore, an argument attacking marriage terrified Congress. This argument was so
419 detrimental that even radical suffragists in Congress, like Senator Charles Sumner from
420 Massachusetts, revealed that while he believed that “women have the constitutional right to
421 vote,” he would “never vote for a [suffrage] amendment.”⁹³ By mid-1871, obtaining a
422 constitutional amendment had become even less likely because Congressmen used the
423 “suffragists’ own constitutional claim . . . to avoid fighting another contentious battle for
424 expansion of the franchise.”⁹⁴

425 In the mid-1870s, the suffragists knew that they needed to change their public stigma to
426 ever get an amendment. They began transitioning from an inalienable rights argument to an
427 “argument from expediency” that emphasized how if the moral half were enfranchised, they
428 would vote out social vices like polygamy and alcohol.⁹⁵ Frances Willard, for example,
429 published *The Home Protection Manual* (1879) that merged the need for women’s suffrage and
430 temperance with the preservation of the family unit. In this pamphlet, she explained that:

431
432 Before this century shall end the rays of love which shine out from woman’s heart shall
433 no longer be, as now, divergent so far as the liquor traffic is concerned; but through that
434 magic lens, that powerful sunglass which we term the ballot, they shall all convert their
435 power, and burn and blaze on the saloon, till it shrivels up and in lurid vapor, curls away
436 like mist under the hot gaze of sun-shine.⁹⁶
437

⁸⁸ Foner, *The Second Founding*, 113.

⁸⁹ Winkler, “A Revolution Too Soon,” 1487.

⁹⁰ Winkler, “A Revolution Too Soon,” 1487.

⁹¹ Winkler, “A Revolution Too Soon,” 1489.

⁹² Linda Nicholson, “The Personal Is Political: An Analysis in Retrospect,” *Social Theory and Practice* 7, no. 1 (April 1981): 88.

⁹³ Winkler, “A Revolution Too Soon,” 1480.

⁹⁴ Winkler, “A Revolution Too Soon,” 1491.

⁹⁵ Aileen Kraditor, *Up From the Pedestal; Selected Writings in the History of American Feminism* (Chicago: Quadrangle Books, 1968), 13.

⁹⁶ 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.

438 Willard's message that "the instinct of 'a mother's love, a wife's devotion, a sister's
439 faithfulness, a daughter's loyalty' would motivate women to the polls" was very convincing to
440 temperance supporters.⁹⁷ As Jack London, a man who had one opposed suffrage, explained, "the
441 moment women get the vote" they will do the righteous thing and "close the saloons."⁹⁸ Men
442 who had initially opposed women's suffrage now had a compelling reason to vote in favor of it.
443 Consequently, Senator Blair from New Hampshire (previously, Congressman Blair, who had
444 proposed the first temperance amendment) presented two suffrage amendments.⁹⁹

445 During this same time, members of the New England Woman Suffrage Association
446 popularized a suffrage strategy that suggested "a gradual process to enfranchise women" in the
447 territories, "to be followed by a Constitutional amendment at some unspecified time in the
448 future."¹⁰⁰ Capitalizing on the growing hysteria over polygamy, Republican Indiana
449 Congressman George W. Julian reasoned that with the right to vote in Utah, women could shake
450 their "chattel" bonds of slavery and abolish polygamy.¹⁰¹ Newspapers like the *New York Times*
451 popularized this idea, explaining that: "Female suffrage might perhaps be tried with novel effect
452 in the territory of Utah—the State of Deseret. There, the 'better half' of humanity is in such a
453 strong numerical majority that even if all the other half should vote the other way, they would
454 carry the election. Perhaps it would result in casting out polygamy and Mormonism in general.
455 Here would be a capital field for women suffrage to make a start, and we presume nobody would
456 object to the experiment."¹⁰² Congress was not persuaded by this argument, although it did
457 resonate with the Utah Legislative Assembly, who saw suffrage as an opportunity to "convince
458 the country how utterly without foundation the popular assertions were concerning the women of
459 the Territory."¹⁰³

460 Instead of garnering support for a suffrage amendment in Congress, the Utah Legislative
461 Assembly's enfranchise of women in 1870 had an adverse effect: it led to a proposed anti-
462 suffrage amendment.¹⁰⁴ Rather than throwing off their "chattel" bonds, Mormon women used
463 suffrage as a way to defend polygamy. As one Mormon wife explained, "The Church of Jesus
464 Christ of Latter-Day Saints proclaims the greatest freedom and broadest charity for woman. She
465 is regarded as man's equal."¹⁰⁵ Women's suffrage had only increased the political power of the
466 Church of Latter-Day Saints. Anti-polygamists condemned the woman's vote, and by extension
467 "woman suffrage everywhere because by the mid-1880s almost everyone was agreed that it had
468 failed to emancipate" polygamous women.¹⁰⁶ "Woman suffrage," proclaimed one anti-
469 polygamist, only meant "woman suffering."¹⁰⁷ As a result, in February 1882, Illinois Senator
470 John A. Logan proposed an amendment to repeal women's suffrage in Utah, as a means of

⁹⁷ Willard, *Home Protection Manual*, 9.

⁹⁸ Willard, *Home Protection Manual*, 63.

⁹⁹ Ames, *The Proposed Amendments to the Constitution*, 238.

¹⁰⁰ 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.

¹⁰¹ MacKay, "Women in Politics," 366.

¹⁰² MacKay, "Women in Politics," 366.

¹⁰³ MacKay, "Women in Politics," 366.

¹⁰⁴ MacKay, "Women in Politics," 374.

¹⁰⁵ Christine Talbot, *A Foreign Kingdom: Mormons and Polygamy in American Political Culture, 1852-1890* (Champaign: University of Illinois Press, 2013), 50.

¹⁰⁶ Gordon, *The Mormon Question*, 168.

¹⁰⁷ Gordon, *The Mormon Question*, 168.

471 “purification” for the Utah elections.¹⁰⁸ While Logan’s amendment did not receive enough
472 support to be sent to the House (only twenty Senators voted in favor), it inspired Senator George
473 F. Edmunds of Vermont to include an anti-suffrage provision in the anti-polygamy 1887
474 Edmunds-Tucker Act.¹⁰⁹ Therefore, in the 1880s, the only women’s suffrage measure both
475 Houses of Congress voted on was in favor of disenfranchising women.¹¹⁰

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

482 There were many factors that contributed to the ratification of the Nineteenth
483 Amendment in 1920. In 1917, the United States officially entered into World War I, which was
484 accompanied by a patriotic duty for everyone to contribute to the war effort. As men fought
485 overseas, many women left the *home* to protect the *home-front*. Women filled many of the open
486 agricultural and manufacturing jobs and volunteered in war-time campaigns to boost morale.¹¹¹
487 Similarly, the successive ratifications of the Sixteenth, Seventeenth, and Eighteenth amendments
488 between 1913 and 1919 made the arduous amending process appear less formidable.
489 However, it is significant that nearly all of the Congressmen who argued in favor of the
490 Nineteenth Amendment used arguments based on virtue and morality rather than equality.¹¹² For
491 example, in one famous oratory during the final debates over the Nineteenth Amendment,
492 Congressman Edward C. Little of Nebraska passionately argued, “Ninety-nine per cent of all
493 diseases inherited by reason of evil lives of parents come down from the male side . . . If the
494 world were open and the best character of votes were the dominating factor, women would
495 control the ballot entirely.”¹¹³ Congressman Little’s moral argument was one of many presented
496 during the congressional debates over women’s suffrage. The work of suffragists in the late
497 nineteenth century established the basic contours of the moral argument for a suffrage
498 amendment. Suffragists in the 1880s capitalized on the moral urgency to suppress social vices,
499 precipitated by America’s rising industrialization, and framed a suffrage amendment as a cure for
500 immoral behavior. And roughly forty years later, men in Congress used the morality of women
501 to justify their support of suffrage.

502 503 Conclusion

504
505 The 1860 pro-slavery amendments opened the floodgates to “amendment fever.” Most
506 Americans’ view of the Constitution shifted over the ensuing decades. Instead of an unchanging
507 document, the Constitution transformed into a political instrument, capable of addressing social

¹⁰⁸ MacKay, “Women in Politics,” 374; Gordon, *The Mormon Question*, 169.

¹⁰⁹ Gordon, “The Liberty of Self-Degradation,” 816.

¹¹⁰ Gordon, “The Liberty of Self-Degradation,” 816.

¹¹¹ “Women in World War I,” The National WWI Museum and Memorial, accessed April 11, 2021, <https://www.theworldwar.org/learn/women>.

¹¹² Chused, “The Temperance Movement’s Impact,” 381.

¹¹³ *Cong. Rec.* 65th Cong., Special Session., 1919: 80–81.

508 and moral issues.¹¹⁴ Americans viewed constitutional amendments as a positive agent for change
509 and recognized the constitutional amending process as legitimate.¹¹⁵

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

521 The morality amendments reveal an important lesson about altering the Constitution.
522 Even though the amendment floodgates have been opened, attaining a two-thirds majority in
523 both houses of Congress and securing ratification from three-quarters of the states poses a
524 daunting task. Even when public opinion is resoundingly in one side's favor, as in the case of
525 anti-polygamy, achieving a constitutional amendment is nearly impossible. Alternatively, if
526 public opinion is still divided, as in the case of prohibition and the Eighteenth Amendment, the
527 amendment will not withstand time. Public approval and political circumstances must perfectly
528 align in order to create a lasting morality amendment.

¹¹⁴ Vorenberg, "Bringing the Constitution Back In," 137.

¹¹⁵ Vorenberg, "Bringing the Constitution Back In."

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