

Constitution Class Handout
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Lesson 20

Prohibition, Women's Voting Rights, Election Rules

Prohibition

Amendment 18 was ratified January 16, 1919, bringing the prohibition of alcohol to America. The amendment was repealed by Amendment 21, December 5, 1933.

Christian churches worked to bring about **prohibition** as far back as the early 1800s, largely through the campaigning by women and young adults who had been adversely affected by husbands and fathers who were heavy alcohol consumers. Alcohol was considered to be one of the most prevalent social problems in America. The concerns over the dangers of alcohol brought about the **Temperance Movement**. The American Temperance Society was founded in 1826, with the specific goal of outlawing alcohol in the United States.

Local organizations that encouraged abstinence from alcohol existed as early as 1808. It was not until 1826 that a nationwide temperance society was created. As the American Temperance Society gained steam, national and international temperance societies sprang up. Organizations like the Washington Temperance Society did not consider temperance to be a religious issue, while other groups felt compelled by God to proclaim temperance. Considering the involvement in the movement by a diverse menu of denominations, no one religion was able to claim to have been the originator of temperance ideals.

The most effective weapon of temperance was to advocate total abstinence from alcohol through personal pledges. The societies gave out pledge cards or medals with various types of pledges written on them. Not all of the pledges, however, demanded total abstinence, as indicated by the following pledge:

"We agree to abstain from all intoxicating liquors except for medicinal purposes and religious ordinances."

Concerned that being too strict may discourage many from joining their society, some organizations gave people the option to choose the extent of their pledge. One common practice was to have those who joined a society to sign a book indicating their commitment. If the person was willing to commit to total abstinence, they would place a capital "T" by their name. The "T" stood for Total or "Total Abstinence". Hence came the term "Tee Totaler" as one who has committed himself to total abstinence.

Through the use of pressure-politics the goal of nationwide prohibition was achieved during World War I with the ratification of the Eighteenth Amendment in January of 1919.

Congress, in response to the new amendment, passed the **Volstead Act** on October 28, 1919, to enforce the law. Most large cities refused to enforce the legislation. As the federal government went after bootleggers, it became quickly apparent that the understaffed agencies were fighting a losing battle. Meanwhile, though there was a slight decline in alcohol consumption around the nation, **organized crime** increased in the larger cities. Alcohol became a high demand cash crop that the criminal element could not resist.

As Prohibition became increasingly unpopular, and the element of organized crime had reached its height, the perceived need for tax revenue during the **Great Depression** also encouraged a repeal movement. The hope for tax revenue from the legal sale of alcohol, and the need to weaken organized crime, led to the 21st Amendment, which repealed the amendment that had brought Prohibition to America. The repeal returned the legalities of alcohol to the States. Though Prohibition was over nationwide, some counties remained **dry counties**, forbidding the sale of alcoholic beverages.

In our current society there are calls for the legalization of Marijuana, and other drugs. Existing federal drug laws enforce a prohibition of drugs. There is a movement in some parts of government pushing for the legalization of certain drugs, like marijuana. If at the federal level a number of politicians decided that the legalization of drugs is good for the nation, we could very well see such legislation pass through Congress. By studying the U.S. Constitution, and taking a lesson from the 18th Amendment, it is apparent that the federal government does not have the authority to ban, or legalize, drugs in America without receiving such an authority through the Amendment Process (as we saw with the 18th Amendment in regards to Alcohol). The regulation of drugs is a State issue, as per the Tenth Amendment. This means that all federal drug laws are unconstitutional, and laws in California legalizing marijuana for medicinal purposes, and in the States of Washington and Colorado for recreational use, are completely constitutional.

Terms:

Dry Counties - Counties in the United States whose government forbids the sale of alcoholic beverages within the county.

Great Depression - A severe worldwide economic depression in the decade preceding World War II.

Organized Crime - Transnational, national, or local groupings of highly centralized enterprises run by criminals for the purpose of engaging in illegal activity, most commonly for monetary profit.

Prohibition - Period in United States history during which the manufacture and sale of alcohol was prohibited. Drinking alcohol itself was never illegal, and there were always exceptions for medicinal and religious uses.

Temperance Movement - A social movement urging the reduced use of alcoholic beverages during the 19th and early 20th centuries.

Volstead Act - Officially The National Prohibition Act; the law that was the enabling legislation for the Eighteenth Amendment which established prohibition in the United States.

Questions for Discussion:

1. Why were women a major factor in the temperance movement?
2. What were some of the factors that contributed to the growing popularity of The Temperance Movement?
3. What challenges did The Temperance Movement encounter, and how did they adjust (i.e. through the style of pledges, exceptions to abstinence, etc.)
4. What was the reaction of many local governments to the Volstead Act?
5. What happened to the presence of organized crime when Prohibition was enacted? Why?
6. What were the reasons for repealing Prohibition?
7. What did Prohibition say about individualism and personal responsibility from the point of view of the federal government?
8. In what form does Prohibition continue to exist in the United States even today?
9. What lesson regarding the legalization of other drugs does the 18th Amendment teach us?

Resources:

Joseph Andrews, *A Guide for Learning and Teaching The Declaration of Independence and The U.S. Constitution - Learning from the Original Texts Using Classical Learning Methods of the Founders*; San Marcos: The Center for Teaching the Constitution (2010)

Kobler, John, *Ardent Spirits The Rise and Fall of Prohibition*, New York: G.P. Putnam's Sons (1973)

The Temperance Movement, US History.com;
<http://www.u-s-history.com/pages/h1054.html>

Steven Mintz, *Moralists & Modernizers: America's Pre-Civil War Reformers*; Baltimore: Johns Hopkins University Press (1995)

Women's Voting Rights

The 19th Amendment established uniform voting rights for women nationwide. It was ratified on August 18, 1920.

Women, despite popular opinion, did vote in elections prior to the ratification of the 19th Amendment. In 1869, women in the newly created territory of Wyoming became the first women in the United States to win the right to vote. Colorado gave voting rights to women in 1892, and both Utah and Idaho gave women the right to vote in 1896.

The Constitution gives the States the right to determine their own rules for elections. The women's suffrage movement worked to bring about an amendment that would give women voting rights

nationwide. The amendment was first proposed in 1878, and it took forty-one years before it was submitted to the States for ratification. It took about a year to receive enough votes for ratification.

Susan B. Anthony, already known for her crusade for the abolition of slavery, and the prohibition of alcohol, added **women's suffrage** to her plate. By 1878 she was able to induce a Senator from California to introduce a resolution in Congress calling for an amendment to the Constitution which would give women throughout the United States the right to vote.

The drive for an amendment that would grant uniform voting rights for women was nothing new. Aaron Burr, the Vice President during Thomas Jefferson's presidency, was a fervent believer in women's rights, and took personal charge of his daughter's course of study, insisting she learn Greek, Latin, and French, along with literature, philosophy and sciences. His proposals for the uniform voting rights for women, however, never gained traction.

John Adams, the second President of the United States, also supported expanding women's freedoms. As a great admirer of his wife, Abigail, he often went to her for advice. In 1776, as the Founders put into full gear their drive for American independence, Abigail offered in a letter, "I long to hear that you have declared an independency. And, by the way, in the new code of laws which I suppose it will be necessary for you to make, I desire you would remember the ladies and be more generous and favorable to them than your ancestors. Do not put such unlimited power into the hands of the husbands. Remember, all men would be tyrants if they could. If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation."

A challenge to the 19th Amendment (*Leser v. Garnett*, 1922) claimed that the amendment was unconstitutionally adopted, and that the rules for elections were implicitly delegated to the individual States because of the need to preserve State Sovereignty. However, the very fact that the change in voting rules was through amendment made the argument against the 19th Amendment a moot point.

Once the 19th Amendment was ratified, with this new power, women were able to attempt to elect those who shared their beliefs, hoping that other measures that would push forward the fight for women's rights would also emerge.

After the 19th Amendment passed, the percentage of women in the workforce increased to about 25%. Though some discrimination continued, and women rarely held decision-making positions, it was definitely a step in the right direction for the purpose of encouraging the rights of women.

During World War II, women were needed in all areas since many of the men went overseas to fight. The percentage of women in the workforce increased to 36%. The boom for women was short-lived, however. When the war ended, and the soldiers returned home, two-million women were fired within fifteen months after the end of the war to make room for the men.

Despite such setbacks, by the 1980s, the percentage of women in the workforce exceeded 50%. However, the percentage of women voting has not equaled the original push shortly after the ratification of the 19th Amendment.

Advocates for family values, though supportive of equal opportunity, often view these advancements as promotion for the break-up of the family unit. With mothers participating in the workforce, advent of women's rights has also given rise to the emergence of latch-key kids.

The greatest right for women is choice, which includes the choice not to pursue the numerous opportunities available for the purpose of following a more traditional role, should they desire to make such a choice. Women in today's society have the choice to pursue a career, be a stay-at-home mom and wife, or attempt to juggle both. For the purpose of protecting the family unit, and the traditional nature of the American society, wife and mother remains the more popular choice.

Terms:

Women's Suffrage - The right of women to vote and to run for office. The expression is also used for the economic and political reform movement aimed at extending these rights to women without any restrictions or qualifications such as property ownership, payment of tax, or marital status.

Questions for Discussion:

1. Were women allowed to vote in national elections before the ratification of the Nineteenth Amendment?
2. How did the abolition movement and temperance movement lead some to also support women's suffrage?
3. On what grounds was the Nineteenth Amendment Challenged?
4. How has the drive for the rights of women changed to an opposite extreme?
5. How has the Women's Rights Movement affected the concept of the traditional family unit?

Resources:

Aaron Burr Biography, Essortment; <http://www.essortment.com/aaron-burr-biography-20550.html>

Abigail Adams urges husband to "remember the ladies", History.com;
<http://www.history.com/this-day-in-history/abigail-adams-urges-husband-to-remember-the-ladies>

Andrew M. Allison, K. DeLynn Cook, M. Richard Maxfield, and W. Cleon Skousen, *The Real Thomas Jefferson*; New York: National Center for Constitutional Studies (2009)

David McCullough, *John Adams*; New York: Simon and Schuster (2001)

W. Cleon Skousen, *The Role of Women in Healing America*, *Latter Day Conservative and The Constitution* magazine, November 1985;
<http://www.latterdayconservative.com/articles/the-role-of-women-in-healing-america/>

Election Rules

Ratified in 1933, the 20th Amendment establishes the current rules regarding the beginning and end of the terms of elected federal offices.

The amendment moved the beginning of the Presidential, Vice Presidential and Congressional terms from March 4. Congress, under the new rules established by the 20th Amendment, convenes on the third day of January, reducing the amount of time a lame duck Congress would be in session. A **lame duck Congress**, no longer fearful of the effect their decisions may have on re-election, may be more apt to support otherwise unpopular legislation during a lame duck session.

The 20th Amendment moved the terms of the President and Vice President to begin on the 20th day of January.

Section 2 of the 20th Amendment begins, “*The Congress shall assemble at least once in every year.*” The phrase is consistent with the language used in Article I, Section 4, though one wonders if the delegates debating the 20th Amendment viewed meeting one day a year as overburdensome as did the Framers of the Constitution, or if they considered themselves to be professional politicians who must be constantly legislating, as does today’s legislators.

The 20th Amendment’s Section 3 addresses vacancies to the presidency before the new President has the opportunity to take office. The clause assigns the presidency to the Vice President in the case of the death of the President, if the President dies before he can take office. Assigning the presidency to the Vice President was in line with Article II, Section 1, Clause 6, and the 12th Amendment assigning to the Vice President the Office of the President should the President die after he took office. In the case it turns out the President does not qualify for the office, this article grants to Congress the authority to declare who shall act as President. “Failing to qualify for office” refers to an occasion that the Electoral College fails to resolve who will be the President or Vice President. A key point of this provision, and a critical protection against an outgoing faction attempting to retain some semblance of power, in the case that the candidates fail to qualify for office, is that the decision still devolves to Congress, but to the newly elected Congress, as opposed to the outgoing one. As established in Article II, Section 1, the decision for President would continue to rest upon the House of Representatives, and the choice of Vice President would continue to be the choice of the United States Senate.

Section 4 of the 20th Amendment addresses succession, giving Congress the authority to establish a **line of succession**, in the case of death of the President, or of the Vice President. The more astute student may recall that today’s constitutional protocols calls upon the President to appoint a new Vice President, should that seat be vacated, but that provision did not become law until the ratification of the 25th Amendment in 1967.

The final two sections of the 20th Amendment address when the amendment would take effect should it be ratified, and a time limit of the proposal should the States not ratify it in a timely fashion. Section 5 states that the first two sections of the amendment, the parts of the amendment that alters the date the terms of President, Vice President, and members of Congress shall begin, “shall take effect on the 15th day of October following the ratification of this article.” If ratification reached completion during an election year, that would put the new amendment into effect a couple weeks before the next election. The amendment was ratified January 23, 1933, not in time for Franklin Delano Roosevelt’s victory in the 1932 Election. FDR had to wait until March of 1933 to take office.

In Section 6 of the 20th Amendment, for the first time in American History, a limitation was placed upon a proposed amendment, requiring that the amendment be ratified within seven years from the date of its submission. The same stipulation would be added at the end of the 21st and 22nd amendments, as well as a number of proposals that failed to be ratified within the allotted time period (like the Equal Rights Amendment). The 27th Amendment, ratified in 1992, reveals that without a limitation, proposed

amendments remain in place and can stay on the active list indefinitely. The 27th Amendment was originally proposed as a part of the original Bill of Rights, submitted September 25, 1789.

Terms:

Lame Duck Congress - A lame duck session of Congress in the United States occurs whenever one Congress meets after its successor is elected, but before the successor's term begins.

Line of Succession - The order in which individuals are expected to succeed one another in some official position.

Questions for Discussion:

1. Why did the framers of the Twentieth Amendment see a need to move forward the dates of Presidential and Congressional Terms?
2. In what way can Lame Duck Sessions be dangerous?
3. Why do you think the Amendment changed the duty of electing the President, should the Electoral College fail to do so, to the newly elected Congress from the outgoing one?

Resources:

Joseph Andrews, *A Guide for Learning and Teaching The Declaration of Independence and The U.S. Constitution - Learning from the Original Texts Using Classical Learning Methods of the Founders*; San Marcos: The Center for Teaching the Constitution (2010)

United States Senate, Lame Duck Session Definition:
http://www.senate.gov/reference/glossary_term/lame_duck_session.htm