



A DIVERSITY NEWSLETTER PUBLISHED BY NEW JERSEY STATE BAR FOUNDATION

Women's Suffrage, 100 Years and Counting *by Jodi L. Miller*

On August 18, 1920, the 19th Amendment, which granted **suffrage** to women, was ratified by the states. It was a **stunning achievement**, representing the **single largest influx of voters to the electorate** in American history.

The Women's Suffrage Movement had a long and difficult journey beginning in 1848 with the first women's rights convention held in Seneca Falls, NY, led by well-known suffragists Elizabeth Cady Stanton and Lucretia Mott. Like all movements, it met with resistance, and it took many people from all walks of life and different backgrounds to achieve its ultimate goal.

"All women made this happen—working women, immigrant women, African American women," says Dr. Betty Livingston Adams, a historian and former university professor. "Elite white women could not have done this alone."

At that first women's rights convention, the Declaration of Sentiments was introduced. It was based on the Declaration of Independence and included 12 resolutions related to women's rights, the most controversial being the call for women's

suffrage. Ultimately, 68 women and 32 men, including Frederick Douglass, an **abolitionist** and ardent supporter of women's suffrage, would sign the declaration. The notion that women would seek any type of equality to men, especially the vote, was met with ridicule.



Why the resistance?

"From the beginning the country has been a **patriarchal** society," notes Dr. Livingston Adams. "In an all male electorate with wealthy men in power, why would they want to expand the **franchise**?"

Men definitely made their displeasure about women's desire for the vote known. Dr. Deirdre Foreman, a Sociology professor at Ramapo College of New Jersey, points out that both

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A Victory For Some, Not For All *by Jodi L. Miller*

For some women the passage of the 19th Amendment wasn't the end of the journey, but the beginning of a new struggle. While the 19th Amendment stated that a citizen's right to vote "shall not be denied or abridged by the United States or by any State on account of sex," voting laws were determined by the states.

In the 1920 presidential election, nearly eight million women voted, but many more were left

behind, despite the passage of the 19th Amendment. Lucienne Beard, executive director of the Alice Paul

Institute, a women's rights organization, named after the well-known suffragist, argues that no one was

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left behind, maintaining that suffragists worked for an amendment to allow ALL women the right to vote. It was individual states that suppressed the vote, she says.

Native American women, for example, would not gain citizenship until the Indian Citizenship Act of 1924 and even then some western states, including Arizona, New Mexico and Utah, barred them from voting. The Chinese Exclusion Act limited immigration from China and severely restricted the rights of Chinese Americans, including denying them citizenship. Chinese American women would not gain the right

to vote until the passage of the Immigration and Nationality Act of 1952.

African American women living in the South would wait even longer. They were **disenfranchised** just as their male counterparts had been after the 15th Amendment, which granted Black men the right to vote, was passed. Southern states instituted poll taxes, impossible-to-pass literacy tests and other barriers to keep African Americans from even registering to vote, let alone actually casting a ballot. It wouldn't be until 1965 and the passage of the Voting Rights Act (VRA) that Black women and men in the South would be granted their



constitutional right to vote. Black women activists, like Fannie Lou Hamer, Rosa Parks and Dorothy Height, would continue the fight, working along side Dr. Martin Luther King Jr., to make that happen.

The VRA prohibited discrimination in voting nationwide on the basis of race or being a member of a language minority group. The Act also eliminated literacy tests as a means to disenfranchise voters. A special provision of the VRA was Section 5, which required certain jurisdictions with a history of discrimination to obtain **preclearance** from the U.S. Attorney General before implementing any changes to voting laws. Jurisdictions covered by Section 5 included nine states in their entirety (Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia), as well as parts of six other states (California, Florida, New York, North Carolina, Michigan and South Dakota). The provision was meant to expire after five years; however, Section 5 was renewed five times by Congress. Unfortunately, with its 2013 decision in *Shelby v. Holder*, the U.S. Supreme Court struck down Section 4 of the VRA, which has essentially left Section 5 of the Act unenforceable. Section 4 contained the formula for determining what jurisdictions were covered under Section 5.

Double discrimination

Black women, then and now, not only have to deal with sexism but racism as well. In 1892, Anna Julia Cooper, a prominent African American scholar, wrote *A Voice from the South by a Black Woman from the South*. In it, Cooper wrote about what it meant to be both Black and a woman or what she called, “the woman question and the race problem.” Cooper wrote, “The colored woman of today occupies...a unique position in this country...She is confronted by both a women question and a race problem, and is yet an unknown or an unacknowledged factor in both.”

In her book, *Black Women's Christian Activism*, Dr. Betty Livingston Adams, a historian and former university professor, points out that Black women were rejected for church leadership positions because of their gender and from women's groups because of their race.

Black women also had to fight against the prejudices of Black men, who Dr. Livingston Adams says, like white men, “bought into the separate sphere ideology,” believing that women didn't need the vote.

Dr. Livingston Adams writes in her book that obtaining the vote meant something different for Black women. “For women who had to fight for respect from white women and black and white men, the ballot represented personal protection and social justice.”

Keeping power

Just as gender and race are bound together for Black women, they are connected in terms of voting rights as well. Dr. Deirdre Foreman, an adjunct Sociology professor at Ramapo College of New Jersey and associate director of its Equal Opportunity Fund, says that the 19th Amendment was always tied to white supremacy and keeping power.

In 1919, when Congress was debating whether to vote for the 19th Amendment, race and the 15th Amendment were on their minds. During debates in the Senate, South Carolina Senator Ellison



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Smith said, “The Southern man who votes for the Susan B. Anthony Amendment votes to ratify the 15th Amendment.” He called the 19th Amendment “a crime against white civilization” and said that extending voting rights “to the other half of the Negro race would unleash new evils.”

Dr. Livingston Adams says that white suffragists were often willing to betray minorities in order to obtain the vote for themselves.

For example, in a letter to a Southern congressman, Carrie Chapman Catt, president of the National American Woman Suffrage Association (NAWSA) wrote, “The present condition in the South makes **sovereigns** of some negro men, while all white women are their subjects. These are sad but solemn truths. If you want white supremacy, why not have it constitutionally, honorably? The Federal Amendment offers the way.”

Women united?

Beard says that after the 19th Amendment passed, many suffragists felt the fight was over, although some would continue to be active in the civil rights movement. Alice Paul, however, focused on getting women involved as political candidates and devoted her time to passing the ERA Amendment, choosing not to get involved in the civil rights movement. Confronted with the **disenfranchisement** of Black women in the South, Paul said that was a “race issue” not a “woman’s issue.”

Historian Rosalyn Terborg-Penn wrote, “Within a few years, white supremacy was victorious

“If you have the right to vote, you are part of the jury system, you’re able to run for office and make decisions about your neighborhood.”

throughout the South. Unlike Black men, who had been disenfranchised within 20 years after the ratification of the 15th Amendment, Black women had lost the vote in less than a decade.”

Dr. Livingston Adams says the women’s suffrage movement “should have meant the sharing of political power,” but it fell apart after the 19th Amendment was passed “because it was never united in the first place.” She notes that the NAACP approached Paul for help with its anti-lynching campaign, expressing the desire to work together with women’s groups. Paul declined.

“The anti-lynching movement could have been the unifying movement for women,” Dr. Livingston Adams says.

Why is the right to vote so important, that women collectively fought for 72 years, and then, in the case of African American women, for 45 more?

“Voting rights is a gateway to political power,” Dr. Foreman says. “If you have the right to vote, you are part of the jury system, you’re able to run for office and make decisions about your neighborhood.”

Dr. Foreman notes that it is important to vote, not just in national elections, but also in local ones. “Local legislators, mayor, governor—those elections affect your day-to-day life,” she says. “Until our elected officials are more diverse and representative of the country, things won’t change.”

In other words, without a vote, you have no voice. •



1. What do you think about voting laws being determined by individual states? What are the advantages and disadvantages of this system?
2. Our country has a long history of excluding people from voting. What are some examples of this? How does the exclusion of certain groups impact our country today?
3. As the article notes, being both Black and a woman in our country has historically been difficult. Having more than one factor that hinders your rights is known as “intersectionality.” What other forms of intersectionality do you see in our culture? What can be done to stop the intersectionality of American citizens?
4. How do you think the pushback regarding the 19th Amendment has contributed to the perception of women in the United States today? For example, there are fewer women in government leadership roles. What other examples can you think of?



Almost a Century Later the Battle to Ratify the ERA Continues

by Maria Wood

The Equal Rights Amendment (ERA), originally written in 1922, has yet to be ratified. Despite widespread public support for an amendment to the U.S. Constitution that spells out equal treatment for women, the ERA remains stuck in a tangle of procedural and constitutional questions in Congress.

The proposed amendment states: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."

While the ERA was proposed in 1923, soon after women gained the right to vote, the legislation languished for decades until the women's rights movement of the 1960s and 70s reinvigorated the fight. In 1972, it finally passed in both houses of Congress. In the amendment's preamble, Congress imposed a seven-year deadline for **ratification** by three-fourths (38) of the states.

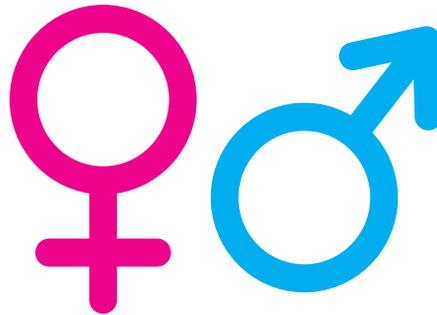
Under Article V of the U.S. Constitution, an amendment becomes part of the Constitution when three-fourths of state legislatures support it. Article V does not specify any timeline for ratification.

By 1979—the original deadline—only 35 states had ratified the amendment. Congress then extended the time limit for another three years. However, by 1982, the ERA hadn't received any more state ratifications, stalling at 35.

In recent years interest in the ERA has undergone a revival. In 2017, Nevada's Legislature endorsed it, followed by Illinois in 2018, and Virginia in January 2020. With Virginia's endorsement, the ERA achieved the 38 votes needed for ratification; however, it has yet to be officially added to the U.S. Constitution as legislators wrangle over whether the amendment can be passed so far past the deadline.

Where the ERA stands now

In February 2020, the House of Representatives passed a resolution to remove the deadline for passage of the ERA. A similar **bipartisan** bill has been introduced in the Senate. At press time,



the Senate had yet to vote on the bill. Senate Leader Mitch McConnell has stated he is "personally not a supporter" of the amendment, so chances of it coming to a vote are likely slim without a change in Senate leadership.

With passage in the Senate in doubt, the ERA was dealt another significant setback in January 2020 when the Department of Justice's Office of Legal Counsel declared ratification could not take place because the deadline had passed. Complicating the question further is the fact that five states—Idaho, Kentucky, Nebraska, Tennessee and South Dakota—had **rescinded** their previous approval of the ERA in the late 1970s.

In July 2020, attorneys general from Nevada, Illinois and Virginia filed a lawsuit in the U.S. District Court of the District of Columbia asking the court to override the DOJ opinion and recognize their ratification votes. The lawsuit stresses that Article V of the U.S. Constitution places no time limit for ratification and points to the ratification of the 27th Amendment to the U.S. Constitution. That amendment, which mandates that pay raises for Congress members can only be instituted after an election, was first proposed in 1789 and eventually ratified in 1992.

ERA supporters also contend that since Congress has the power to set a deadline, it has the power to remove it.

"That is what we saw in January when the House of Representatives did in fact pass a resolution to officially remove the time limit for the ERA," says Krista Joy Niles, Outreach and Civic Engagement Director at the Alice Paul Institute, a nonprofit organization dedicated to advancing women's rights.

The organization is named after suffragist Alice Paul, who grew up in Moorestown, New Jersey. In 1922, Paul drafted the language of the original ERA amendment.

Pathways to ratification

ERA advocates currently see two strategies for ratification—either have Congress recognize the three recent ratifying states even after the lapsed deadline, or start the process over again.

Jenny-Brooke Condon, a professor at Seton Hall Law School's Center for Social Justice, says it's unclear whether Congress can extend the time limit after the original deadline has lapsed.

"I think Congress would have the power to set an entirely new deadline, which is another proposal being advanced by members of Congress, and start the process for ratification again," Professor Condon says. "Obviously that would mean starting over when you had 35 states at the time of the original deadline."

In addition, there's the matter of the five states that have rescinded their approval for the ERA. Can Congress recognize their rescissions or count their prior votes in support of the amendment?

Professor Condon points to the 14th and 15th Amendments. Both became part of the U.S. Constitution even after some states tried to rescind their previous approval. In both those cases, Professor Condon notes that Congress ignored the states' request to rescind and moved forward with

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the ratification process.

"What's complicated about this issue is that you have two barriers," Professor Condon says. "You have states that have rescinded and you have three states that ratified the amendment after the original deadline had lapsed. So there are many uncertain legal questions about the ratification process."

You may think the U.S. Supreme Court would decide these legal questions. However, Professor Condon says that under what is known as the political question doctrine, the Court likely will pass on questions it feels are better left for Congress to decide.

That's essentially what the Supreme Court said in 1939, when presented with the Kansas case of *Coleman v. Miller*. The Kansas Legislature had rejected a constitutional amendment against child labor, but later approved it. Opponents of the amendment sued to have the passage overturned. The Supreme Court ultimately ruled Congress has the authority over the ratification process and timeline. Like the ERA, the child labor law amendment has yet to become part of the U.S. Constitution.

So, Professor Condon contends that Congress will likely have the final word on the ERA's passage.

"I could imagine Congress seeing that there is a good opportunity to restart the ratification process," she says.

U.S. Supreme Court Justice Ruth Bader Ginsberg, a strong ERA supporter, who recently passed away, publicly acknowledged that starting fresh may be the best pathway to ratification.

"I would like to start over," she told the audience at a law conference in February 2020. "There is too much controversy about latecomers [like] Virginia long after the deadline passed. Plus, a number of states have withdrawn their ratification. So if you count a latecomer on the plus side, how can you disregard states that said, 'We have changed our minds?'"

Despite the legal questions surrounding the ERA's passage, Professor Condon stresses there is strong public support for the amendment. A Pew Research poll released in July 2020 found that nearly

80 percent of Americans support the ERA.

"It would be unfortunate for these procedural complications to stand in the way of the desire on the part of the majority of Americans to have such an amendment," she says.

Why the ERA is still needed

In theory, gender-based discrimination should be covered under the 14th Amendment, which protects against sex discrimination. Yet ERA advocates say a constitutional amendment would provide much stronger protections for women, noting that among 193 countries, 85 percent have provisions in their constitutions addressing gender equality and 115 countries specifically prohibit gender discrimination. The U.S. is the only major Western democracy not to have a constitutional guarantee of gender equality, according to the United Nations.

"It matters because your Constitution purports to be the source of equality and yet does not expressly elevate gender or sex as worthy of protection," Professor Condon says. "And that trickles down and shapes women's status within the political, public and private spheres."

Even though Congress and states can pass anti-discrimination laws, those same laws can be **repealed** or weakened by the courts, Niles says.

"Until the ERA is passed and the U.S. Constitution states all citizens regardless of sex are offered equal protections under the law, then it remains to the courts to decide how those protections offered under the 14th amendment are applied to case law," Niles says.

Niles also stresses that the ERA would benefit both men and women.

"It would apply to all citizens," she says. "It offers men equal protection so they're also getting equal pay, equal paternity leave, or equal time off to care for an aging or ill parent."

A constitutional amendment would also compel courts to consider sex discrimination cases with the same heightened scrutiny as racial discrimination lawsuits and override some state laws.

"If you have a federal constitutional commitment to gender-based equality," Professor Condon explains, "you eliminate this patchwork of laws based upon where a woman lives so that women may have greater rights in some states over others." •



1. How do you feel about the Equal Rights Amendment? Do you think it should be preserved in the U.S. Constitution? Why or why not?
2. Do you think ERA advocates should have to start the ratification process over? Explain your answer.
3. The article mentions that the United States is the only major Western democracy that does not have a constitutional guarantee of gender equality. What, if anything, do you think that says about how our country values women?

School Dress Codes Present Double Standard *by Michael Barbella*

School dress codes have existed for decades. Today, according to statistics, across the nation 46 percent of primary schools, 70 percent of middle schools and 55 percent of high schools follow strict dress codes.

Critics think dress code policies generally target girls. In one Massachusetts high school, for example, six of the nine dress code regulations specifically address female students, according to an article in *NEA Today*. An informal survey conducted by *NEA Today* found that teachers generally support dress codes, claiming they prepare students for how to present themselves in the real world. However, one teacher pointed out that the language used in these policies is key.

"I think dress codes should exist, as a way to note that school is a professional learning space and deserves respect," Marci Farran Kutzer told *NEA Today*. "As long as the language of the policies focus on professionalism and high expectations for learning, and stays away from asking for modesty, all is good. When kids are told to be 'modest,' we are sexualizing their wardrobes, and why are we doing that to children?"

Kutzer, a fourth-grade teacher in Nevada, told the educational publication in a follow-up story that the message female students receive is: "A boy's education can be compromised by your gender. Please do what you can to neutralize it."

In 2015, Maggie Sunseri, a Kentucky high school student produced a short documentary for a film class called *Shame: A Documentary on School Dress Code*. In the film, Sunseri interviewed many of her female classmates who talked about the toll that contending with their school's dress code takes on them. With rules against wearing tops that show their collarbones, requirements that their shoulders are to be covered and that shorts have to come to the knee, buying clothes is a challenge. The students in the film expressed frustration when they see the boys in their school given warnings, but the girls are told to report to the main office where parents are called to bring alternate clothing.

One student in the film said the inequality affects their self-esteem and makes them feel judged and shamed, and it sends the message to boys

that "it's all the girls' fault." Many of the girls in the film pointed out that by taking a girl out of class for minor infractions, coupled with the inconsistency of the policy, the message is that the importance of a female student's education is less than a male's.

This double standard plays out across the country and moved four middle school students from Maplewood-South Orange, NJ to create the hashtag campaign, #IAMoreThanADistracted in 2014. According to *NEA Today*, the campaign challenges schools "to focus their attention on reducing objectification of the female body."

One tweet using the hashtag reads: "When you interrupt a girl's school day to force her to change clothes, or send her home because her shorts are



too short or her bra straps are visible, you are telling her that making sure boys have a 'distraction free' learning environment is more important than her education."

The students in Sunseri's documentary also point out that the message is insulting to boys, implying that they can't control themselves and lack discipline. The good news for students attending Sunseri's Kentucky high school is that because of her film, the school's administration agreed to update its 11-year-old dress code policy and allow for student input, making the policy more equitable.

Girls just want to wear pants

Equal treatment is all a trio of North Carolina mothers wanted for their daughters. They went to court to get it, suing their children's public charter school over its dress code policy. The lawsuit, filed

by the American Civil Liberties Union (ACLU) of North Carolina on behalf of the mothers and students, claimed the school's requirement that female students wear skirts discriminates against girls. Filed in North Carolina federal court, the lawsuit contended the clothing mandate violated the 14th Amendment's Equal Protection clause (designed to protect against racial and sexual discrimination) as well as Title IX of the Education Amendments of 1972.

According to the lawsuit, the skirt requirement was, among other things, distracting girls from learning since they had to "pay constant attention to the positioning of their legs during class" and sometimes would "avoid certain activities altogether, such as climbing or playing sports during recess, for fear of exposing their undergarments and being reprimanded by teachers or teased by boys." In addition, the suit stated that the skirt requirement "sends a message that their comfort and freedom to engage in physical activity are less important than those of their male classmates."

Created with parental input in 1999, the school's uniform policy required girls wear only "skirts, skorts, or jumpers" and male students don shorts or pants." The mothers noted they were not opposed to Charter Day School's right to dictate classroom attire; their only grievance is with the dress code's skirt provision and wanted their daughters to be allowed to wear pants. The ACLU argued the skirt rule is based on unlawful gender stereotypes and has harmful implications on girls' academic development.

School administrators, however, denied the ACLU's learning impediment allegation, noting the skirt requirement does not prevent female students from attending school, participating in class/activities, or learning. Through its attorney, the school claimed the logic behind Charter's uniform policy is to foster a sense of pride and team spirit,

School Dress Codes CONTINUED FROM PAGE SIX

and cultivate a learning environment that supports “respectful, dignified student relationships.”

The school’s attorney also noted that the dress code was not a violation of Title IX.

“...but the skirt requirement causes the girls to suffer a burden the boys do not, simply because they are female.”

Federal court ruling

While a federal judge agreed with the school’s attorney on the Title IX point, noting that the law does not specifically address school uniform policies or appearance codes, the judge did rule the dress code violated the 14th Amendment.

In rendering his March 2019 decision, U.S. District Court Judge Malcolm J. Howard observed that females have been allowed to wear trousers or pants “in all but the most formal or conservative of settings” since the 1970s.

“Yes, the boys at this school must conform to a uniform policy as well,” Judge Howard wrote in the court’s opinion. “But **plaintiffs** in this case have shown that the girls are subject to a specific

clothing requirement that renders them unable to play as freely during recess, requires them to sit in an uncomfortable manner in the classroom... distracts them from learning, and subjects them to cold temperatures on their legs...Defendants have offered no evidence of any comparable burden on boys.”

Judge Howard also said Charter’s board failed to provide evidence that boys treat girls differently on days (or times) they are not wearing skirts.

“A public school can draw distinctions based on sex but those distinctions must be justified by important reasons and be closely connected to achieving those important goals,” says Sarah E. Ricks, a professor at Rutgers Law School—Camden and a former board member of the Women’s Law Project. “The trial court didn’t outright reject the school’s reasons. Instead, the court found that, even if the school’s goals of instilling discipline and promoting mutual respect were legitimate, the school showed ‘no connection’ between those goals ‘and the requirement that girls wear skirts.”

Judge Howard also wrote, “It is not the holding of this court that dress, grooming and uniform policies cannot have differences for boys and girls, but the skirt requirement causes the girls to suffer a burden the boys do not, simply because they are female.”

As for the plaintiffs in the case, Bonnie Peltier, one of the mothers, said in a statement after the

decision was handed down: “All I wanted was for my daughter and every other girl at school to have the option to wear pants so she could play outside, sit comfortably and stay warm in the winter. We’re happy the court agrees, but it’s disappointing that it took a court order to force the school to accept the simple fact that, in 2019, girls should have the choice to wear pants.”

Charter Day School amended its skirts requirement for girls in April 2019; however, at press time, the school is appealing the court’s decision. •



1. What do you think about school dress codes? Are they necessary to maintain order and respect for the learning space?
2. Should students be allowed to wear whatever they want to school with no restrictions? Explain your answer.
3. Why do you think school dress codes target girls more than boys?

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Women's Suffrage CONTINUED FROM PAGE ONE

political parties at the time were against women's suffrage. Dr. Foreman believes that voting and politics represent power and men did not want to share.

A 1913 *New York Times* editorial stated: "The *New York Times* does not believe that the achievement of woman suffrage will increase the happiness or the prosperity of women in America." A later, 1915 editorial in the newspaper stated: "Without the counsel and guidance of men, no woman ever ruled a state wisely and well."

Why was there such resistance in allowing half of the nation's citizens to vote? Lucienne Beard, executive director of the Alice Paul Institute, a women's rights organization named after a well-known suffragist, says the popular culture version, put

forward by men at the time, was that women weren't competent and had smaller brains, they would be corrupted by politics, or because polling places were typically held in places too rough for women, like saloons and men's clubs.

Beard notes, however, that there was another reason for resistance and that is because women were leading the **Temperance** Movement, a social movement against alcohol consumption, which led to Prohibition and the 18th Amendment. The

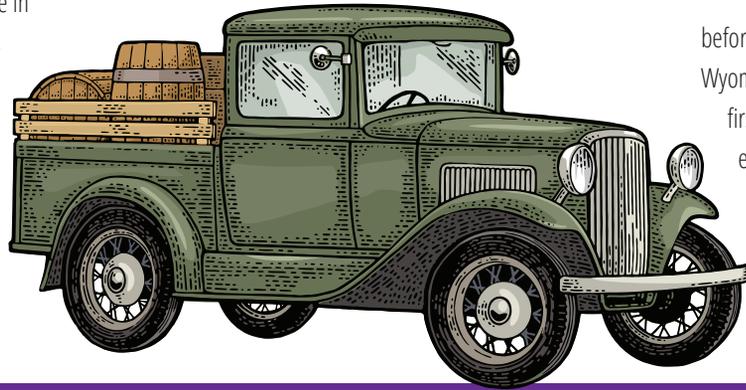
Woman's Christian Temperance Union (WCTU) was a loud voice in the fight for women's suffrage, which prompted liquor companies and the United States Brewers' Association to fund the anti-suffrage movement.

Dr. Livingston Adams says the Temperance Movement was an interracial and interclass movement where women "began to think politically, believing they had a place in the political sphere."

In the states

Some states granted women the right to vote before the 19th Amendment's passage. In 1869, Wyoming, which was then just a territory, was the first to introduce full women's suffrage as a way to entice women to the frontier states. That's why Wyoming is nicknamed the Equality State and its motto is Equal Rights. By the time the 19th Amendment went to the states for

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Suffragist or Suffragette?

A suffragist is someone that advocates for the right to vote. A British journalist coined the label "suffragette" to mock suffragists in England. Adding the suffix "ette" to a word creates a noun that refers to something smaller. So, the word suffragette was intended to belittle suffragists. The ploy backfired as English suffragists adopted the term as a badge of honor. The term was used in the United States as well, but American women preferred the label suffragist.

When people think of noted suffragists from the Women's Suffrage Movement, usually Susan B. Anthony, Elizabeth Cady Stanton or Alice Paul come to mind. The reality is that there were many women from all walks of life who worked tirelessly to gain women's suffrage. Below are a few suffragists you might not know, but are definitely worth knowing.

Frances Ellen Watkins Harper (1825–1911), an African American woman who was born free in Baltimore, famously gave a speech at the 1866 National Woman's Rights Convention where she said: "You white women speak here of rights. I speak of wrongs." She was an author—the first African American woman to publish a novel—and an activist, fighting for women's rights and civil rights her entire life. Along with Ida B. Wells-Barnett, she was a founding member of the NAACP and in the 1890s she led the American Association of

Educators of Colored Youth.

"We are all bound up together in one great bundle of humanity, and society cannot trample on the weakest and feeblest of its members without receiving the curse in its own soul."

— Frances Ellen Watkins Harper

Mabel Ping-Hua Lee (1896–1966) moved to New York City from China in 1904. In 1912, at the age of 16, she led a group of Chinese and Chinese American suffragist marchers in a parade down Fifth Avenue. She fought for the passage of the 19th Amendment knowing that even if it passed she would not be allowed to vote since the 1882 Chinese Exclusion Act forbid it. When the Act was repealed, she was able to enjoy the right she had fought for. In the meantime, she became the first Chinese woman to receive a PhD from Columbia University and founded the Chinese Christian Center.

"No nation can ever make real and lasting progress in civilization unless its women are following close to its men if not actually abreast with them."

— Mabel Ping-Hua Lee

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ratification, women had full voting rights in 15 states.

In the Garden State, women actually had the right to vote when the country was first founded. The original New Jersey Constitution (1776) stated: "all inhabitants on this Colony, of full age, who are worth fifty pounds...shall be entitled to vote." Because the requirement didn't mention gender or race, women and freed slaves were allowed to vote (as long as they met the property requirement). Eventually, after a dispute over a courthouse and allegations of voter fraud, which were blamed on women and Black men, the New Jersey Legislature adopted new voting laws in 1807, **disenfranchising** all but white males.

In 1915, a **referendum** was placed on the ballot that would have granted New Jersey women suffrage. The measure failed, with New

Jersey voters rejecting the referendum by more than 46,000 votes. The 19th Amendment was sent to the states for ratification in June 1919. New Jersey voted for its ratification on February 9, 1920.

Passage of 15th Amendment

Members of the Women's Suffrage Movement were devoted abolitionists, speaking out against slavery and demanding passage of the 13th Amendment to abolish it. However, when Congress proposed the 15th Amendment, giving Black men the right to vote without also including women, some in the Women's Suffrage Movement vehemently opposed it. According to Dr. Livingston Adams, that's when the cracks of racism, which "had always been there," started to show.

Cady Stanton, in the newspaper she and Susan B. Anthony had founded, argued that if universal



suffrage was not possible then educated women should have preference over Black men. She wrote, "If women find it hard to bear the oppressive laws of a few Saxon Fathers, of the best orders of manhood, what may she not be called to endure when all the lower orders, native and foreigners, Dutch, Irish, Chinese and African, legislate for her and her daughters?"

Although Cady Stanton, Anthony and Frederick

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Elizabeth Piper Ensley (1847–1919) co-founded the Colorado Non-Partisan Equal Suffrage Association, making sure it was interracial so that Black women were part of the movement. She was instrumental in Colorado becoming the second state to grant women the right to vote. As a reporter for *The Woman's Era*, she wrote about what it was like to see Colorado women vote for the first time: "The clear atmosphere brought the mountains into bold relief. A glance at their strong outline, striking fearlessly against the cloudless sky, would fill any soul with inspiration. What wonder, then, that the women of Colorado stepped forth on the morning of the 6th of November, with enthusiasm unbounded, to exercise for the first time the crowning act of citizenship."

"Woman's work in politics must be like that of the chambered nautilus, the spiral animal, which after completing one house or shell proceeds to make another and so is constantly advancing."

— Elizabeth Piper Ensley

Josephine St. Pierre Ruffin (1842–1924) was born in Boston and started the first newspaper for and by Black women, called *The Woman's Era*, in 1890. As a journalist, she wrote for *The Courant*, a weekly newspaper in Boston, covering the African American community. She helped to found Boston's chapter of the NAACP and wrote about women's suffrage in its magazine.

"We are justified in believing that the success of this movement for equality of the sexes means more progress toward equality of the races."

— Josephine St. Pierre Ruffin

Mary McLeod Bethune (1875–1955) was known as the First Lady of Black America for her lifetime of activism. She founded a school for African American women in Daytona, FL and when the Ku Klux Klan tried to intimidate her and her students from voting in the 1920 election she stood up to them, singing a hymn while they retreated. She would become an advisor to President Franklin Roosevelt and founded many organizations for the advancement of African Americans.

"Faith is the first factor in a life devoted to service. Without it, nothing is possible. With it, nothing is impossible."

— Mary McLeod Bethune

Hard to Be A Woman and More Expensive Too *by Phyllis Raybin Emert*

While women have made great strides over the past 100 years, they haven't achieved full equality in society. A woman still only earns about 80 cents for every dollar a man earns.

According to a report published by the office of New York Congresswoman Carolyn B. Maloney, that disparity is even greater for women of color—63 cents for African American women and 54 cents for Hispanic women. The report revealed that “over the course of a woman’s life, the gender pay gap can cost more than half a million dollars in lost income, savings and retirement benefits.”

The gender pay gap is not the only way women have it tougher. They also contend with what is known as the pink tax, an extra cost on many products and services that women, and only women, pay. The differences are often small for individual items, like razors, but when added together, it can amount to well over \$1,000 a year. When you combine the pink tax with the gender pay gap, there is no doubt that it is much more expensive to be a woman.

In 2015, the New York City Department of Consumer Affairs released a report that compared the prices of 794 products produced by 91 brands throughout the city. The report revealed that women and girls pay an average of seven percent more for products than men and boys. The costs for females averaged eight percent more for clothing, seven percent more for toys and 13 percent more for personal care items. Sometimes the difference in products was merely the pink coloring aimed to attract females. In September 2020, New York’s proposal to ban the pink tax was instituted. The measure requires service providers to produce a price list for standard services upon request and makes it clear that gender-based price discrimination is prohibited under New York state law.

Women also have to deal with what is known as the tampon tax, an offshoot of the pink tax. The tampon tax is a term used to describe the tax on menstrual hygiene products. The term doesn’t suggest that there is an extra tax on these products, but points out that they are thought of as luxury items so they are not tax-exempt. Critics of taxing menstrual products, like tampons, liners and pads, argue that they should be categorized as medical supplies, which are tax-exempt.

Currently, in 34 states menstrual products are subject to sales tax. New Jersey is one of 11 states where these products are not taxed (five states have no sales tax at all). Proponents of keeping menstrual products subject to a sales tax contend that creating more products with tax exemptions cuts into a state’s revenue.

“Every time another exemption is passed, it means the tax rate that applies to everything else will have to increase in order to generate that same amount of revenue,” Katherine E. Loughhead, a policy analyst at the Tax Foundation, told *The New York Times*.

On the basis of sex

Mikayla R. Berliner, a Board member of Seton Hall Law School’s Women’s Law Forum, is a third-year law school student and author of the article, “Tackling the Pink Tax: A Call to Congress to End Gender-Based Price Discrimination,” which will be published in the fall 2020 edition of *The Women’s Rights Law Reporter*.

“Charging higher prices on the basis of sex is completely legal,” Berliner explains. “Sex discrimination is only illegal in employment, housing and education. In the marketplace, private sellers are largely free to charge higher prices.”

While gender-based pricing may not be illegal, Berliner contends that it is unfair and largely goes unnoticed.

“Women who are unaware of the pink tax do not realize they are paying more for razors, shaving cream, children’s toys, etc. just because they are pink,” she says.

When women go to a drug store or supermarket, they tend to go straight to the women’s section to buy whatever products they need, Berliner says, without seeing how the prices compare to similar men’s products and have no idea they are paying more for essentially the same item.

“Something women can do about the pink tax is learn more about it and understand when it applies to a product,” Berliner says. “With this knowledge, they can actively choose to support brands that work to eliminate the pink tax, like Billie Razors or the European Wax Center, which started the ‘Axe the Pink Tax’ campaign.”

To spread awareness, consumers can also take photos and post on social media using #PinkTax when they see gender-based price differences in action, Berliner says. The negative exposure, she says, will hopefully make companies think twice before they raise the price of women’s products.

Some women’s groups have also suggested buying men’s products or boycotting manufacturers as a form of pink tax protest. But Berliner thinks that consumers who want to express their femininity by purchasing pink products, wearing floral deodorants, or otherwise using traditional women’s products should not have to choose between expressing themselves and paying less.

“People choose to express their gender identities in a variety of ways. Consumers do not fit neatly into traditionally masculine products or traditionally feminine products,” Berliner says. “Consumer preferences vary greatly and the choices available in the stores should reflect this variety without unfairly charging some people more than others.”

Here are some questions to consider, she says. Are women’s colors and



Too Expensive CONTINUED FROM PAGE TEN

scents more difficult to manufacture than men's scents? If an advertising campaign is marketed to women, is it automatically more costly? Berliner says the answer is no on both counts.

"Companies have found a way to exploit the market to make a profit without anyone noticing," she says. "Two razors that may be identical except for their color might be packaged in such a way that the consumer cannot figure out that they are identical. Plus, men's and women's products are placed in different aisles in the store...Buyers just

grab whatever they think they are supposed to use based on their gender and they move along with their day. This practice has been going on for generations and it causes women to pay thousands more than men over the course of their lifetimes."

It is not only products that can carry a pink tax. Services such as dry cleaning and haircutting can also be affected. Berliner says that those services should be priced based on the amount of time and effort they take, not based on the customer's perceived gender. She notes that California is the only state that has made it illegal for service prices to be based on gender.

Pink Tax Repeal Act

The best way to eliminate the pink tax is to spread awareness and support federal legislation that makes it illegal, according to Berliner.

California Congresswoman Jackie Speier has tried to level the playing field. Over the last few years, she has introduced a bill in the U.S. House of Representatives called the Pink Tax Repeal Act.



The purpose of the Act is to: "Prohibit the pricing of consumer products and services that are substantially similar if such products or services are priced differently based on the gender of the individuals for whose use the products are intended or marketed or for whom the services are performed or offered."

Substantially similar products or services means that the materials, the intended use and the design are generally the same, as is the time it takes to provide the service.

The Pink Tax Repeal Act failed to advance in 2016 and 2018, but it is again before the House as H.R. 2048. The bill was first referred to the Committee on Energy and Commerce and then to the Subcommittee on Consumer Protection and Commerce, where, at press time, it still sits. •



1. How do you feel about the pink tax? Is it fair that women and girls are charged more than men and boys for the same items?
2. How many products can you think of that men and women both use that could be subject to a pink tax?
3. Do you think that because a product is pink, it is just for women? Should the color of a product dictate what gender a product is geared toward?

Women's Suffrage CONTINUED FROM PAGE NINE

Douglass were friends, and he would remain a staunch advocate for women's suffrage, he did not agree with their view that Black men should wait for universal suffrage.

Arguing for Black men to get the ballot first, Douglass said, "When women, because they are women, are hunted down through the cities of New York and New Orleans; when they are dragged from their houses and hung upon lampposts; when their children are torn from their arms and their brains dashed out upon the pavement; when they are objects of insult and outrage at every turn; when they are in danger of having their homes burnt down over their heads; when their children are not allowed to enter schools; then they will have an urgency to obtain the ballot equal to our own."

The divide on supporting the 15th Amendment caused a rift within the

Women's Suffrage Movement, splitting it in two. The American Woman Suffrage Association (AWSA) was led by Lucy Stone and backed the 15th Amendment. The National American Woman Suffrage Association (NAWSA) founded by Susan B. Anthony opposed the 15th Amendment, and would only work on issues related to women from then on.

Things get radical

Alice Paul, a New Jersey native, led the more radical National Woman's Party (NWP). Members of NWP picketed outside the White House, the first time that had ever been done. Six days a week for more than two years, Paul's "Silent Sentinels," as they were called, would hold signs that addressed the President, saying, "How Long Must Women Wait for Liberty" and "What Will You Do for

Women's Suffrage CONTINUED FROM PAGE ELEVEN

Woman Suffrage." The women, including Paul, were often arrested and many would go on hunger strikes while in jail to garner media attention for the cause.

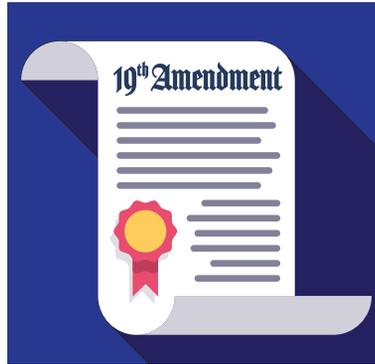
After one of her arrests, Paul reportedly told the judge, "As members of the disenfranchised class, we do not recognize the court established by a police officer from whose election women were excluded. We do not admit the authority of the court, and we shall take no part in the court's proceedings."

In 1913, Paul organized one of the most famous protest marches, purposely held in the nation's capital the day before Woodrow Wilson's inauguration. Thousands of women marched down Pennsylvania Avenue demanding their right to vote. More marches would follow this one, including one in New York City in 1915.

Racism reared its ugly head again during the Washington, DC march. Bowing to the concerns of Southerners, African American suffragists were told they had to march together in an all-black assembly at the end of the parade. Ida B. Wells-Barnett, a noted Black suffragist and respected journalist, who co-founded the NAACP, refused to do so and demanded to march with the Illinois contingent that she had traveled with. When her demand was rebuffed, Wells-Barnett took matters into her own hands and waited along the parade route joining the Illinois delegation as it passed.

Paul's more militant tactics, learned while studying abroad in London, didn't go over well with some women in the movement, including NAWSA, led by Carrie Chapman Catt, who eventually won the support of President Woodrow Wilson to the cause.

After the 19th Amendment was ratified, Alice Paul said, "Suffrage was not won by the Democratic or Republican party, in the last analysis, but by women themselves...It was won by the thousands of women who sacrificed health and careers, who suffered physical violence and every other indignity, even to



imprisonment, in the long, weary struggle to secure that freedom which should belong to every one of our citizens."

It was a 72-year journey for the 19th Amendment and not everyone benefited. While the amendment gave African American women the vote, if they lived in the South, state laws disenfranchised most.

Dr. Livingston Adams calls the 19th Amendment a "great demonstration of democracy," but says its achievement should be balanced with the realization that classism and racism still exist today because as a nation

we haven't come to terms with these issues. •



1. There have been many movements throughout U.S. history, for example, the civil rights movement, the women's movement, movements to expand voting rights, etc. Why do you think new movements meet so often with resistance?
2. Why do you think there was such a divide among women suffragists regarding the 15th Amendment, the right for Black men to vote? How might this divide have worked against the suffragists' overall goal?
3. The suffragists were the first to picket outside the White House. Which issues have you, or would you, picket for today?
4. What do you think of the 72-year struggle for women to gain the right to vote? Why do you think it took as long as it did?

Glossary

abolitionist — someone who opposes slavery. **bipartisan** — supported by two political parties. **disenfranchise** — to deprive of a privilege or a right (such as voting). **electorate** — all the people in a country who are entitled to vote.

franchise/suffrage — the right to vote. **patriarchal** — relating to a system of society or government controlled by men.

plaintiff — person or persons bringing a civil lawsuit against another person or entity. **preclearance** — the process of seeking approval for changes related to voting from the U.S. Department of Justice. **ratification** — the action of formally signing a contract or agreement to make it official.

referendum — the referral of a measure proposed or passed by a legislative body to the voters for approval or rejection. **repealed** — revoked. A law that has been repealed has been withdrawn or canceled and is no longer a law.

rescind — revoke, cancel or repeal. **sovereign** — an indisputable power or authority. **temperance** — not drinking alcohol.