

# LAW DAY

## Your Vote, Your Voice, Our Democracy: The 19th Amendment at 100

### Battle for the 19th Amendment

Passed by U.S. Congress June 4, 1919, and ratified on Aug. 18, 1920, the 19th amendment granted women the right to vote, 72 years after the struggle for women's suffrage began.



Elizabeth Cady Stanton (1815-1902) and Susan B. Anthony (1820-1906)—New York pioneers in the women's suffrage movement. Photo: Smithsonian National Portrait

#### 1837 EARLY WOMAN SUFFRAGE EFFORTS

First National Female Anti-Slavery Society Convention meets in New York City. Eighty-one delegates from 12 states attend.

#### 1844 FIRST UNION OF WOMEN WORKERS

Lowell Female Labor Reform in Massachusetts demands a 10-hour work day, a decrease from the usual 12-hour day. In 1853, the Lowell Female Labor Reform won a small battle when the Massachusetts corporations reduced the workday to 11 hours.

#### 1848 FIRST WOMEN'S RIGHTS CONVENTION

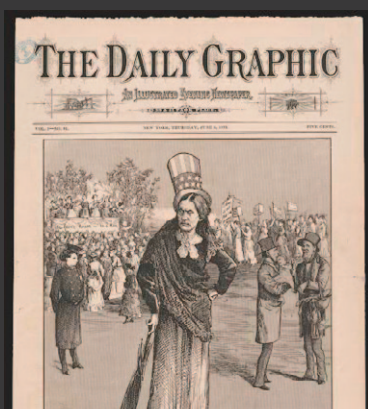
Seneca Falls in New York is the location for the first Women's Rights Convention. Elizabeth Cady Stanton writes "The Declaration of Sentiments," creating the agenda of women's activism for decades to come.

#### 1869 SPLIT IN WOMEN'S RIGHTS MOVEMENT

The Women's Rights Movement splits into two factions over a fundamental disagreement: the New York-based National Woman Suffrage Association (NWSA), created by Susan B. Anthony and Elizabeth Cady Stanton, opposed the 15th Amendment unless it also gave women the right to vote. The Boston-based American Woman Suffrage Association (AWSA), created by Lucy Stone, Henry Blackwell and Julia Ward Howe, believed that all men should get the right to vote first and then women.

#### 1872 TRIAL OF SUSAN B. ANTHONY

Susan B. Anthony is arrested and brought to trial in Rochester, NY, for attempting to vote for Ulysses S. Grant in the presidential election. Anthony's penalty was to pay a \$100 fine—which she never paid and never served jail time.



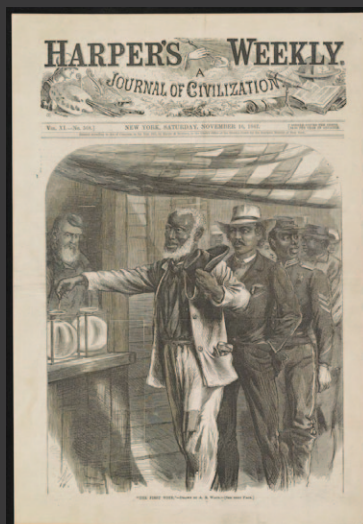
"The woman who dared" on the cover of The Daily Graphic, 1873. Illustration by Thomas Wust

#### 1866 FIRST AMERICAN EQUAL RIGHTS ASSOCIATION

Elizabeth Cady Stanton and Susan B. Anthony form the American Equal Rights Association (AERA), where people of all races and both genders join to support universal suffrage.

#### 1870 RATIFICATION OF FIFTEENTH AMENDMENT

On Feb. 3 Fifteenth Amendment is ratified, granting voting rights to all men without regard to race and color, including former slaves.



Harper's magazine from 1867 depicting African Americans voting for the first time. Engraving by Alfred R. Waud.

#### 1878 INTRODUCTION OF THE WOMAN SUFFRAGE AMENDMENT

A Woman Suffrage Amendment is proposed in the U.S. Congress. When the 19th Amendment passes forty-one years later, it is worded exactly the same as this 1878 Amendment.

The timeline continues on page 11.

## Women Have Made Many Strides, But Dangerous Voting Trends Remain



**Janet DiFiore**  
Chief Judge  
State of New York

On this Law Day 2020, we celebrate the 100th anniversary of the 19th Amendment granting women across America the right to vote. The long and difficult campaign for women's suffrage had its start in 1848, in Seneca Falls, N.Y., where hundreds of women and men attended the first Women's Rights Convention to discuss the "social, civil, and religious condition and rights of women." For the remainder of the 19th century, New York was the central battleground in the fight for women's suffrage and home to the movement's great early leaders, including Elizabeth Cady Stanton, Susan B. Anthony and Kate Stoneman—New York's first woman lawyer.

In 1872, Ms. Anthony gained national notoriety when she refused to pay bail following her arrest for unlawfully casting a vote and later refused to pay the fine imposed on her by the judge who tried her case. Ms. Anthony was supported by countless women who year after year delivered speeches, participated in demonstrations and petitioned their elected representatives in the halls of state capitols across the country. Over 70 years these suffragettes built a massive and relentless movement that prepared public opinion for the passage of the 19th Amendment to the federal Constitution, ratified in New York 100 years ago on June 10, 1920.

Over the ensuing decades, women have honored these pioneering efforts by consistently turning out to vote in higher numbers than men. Their participation at the polls and in civic affairs has helped change attitudes and promote a more inclusive society, awakening public awareness to injustices and disparate treatment in the home and in the workplace, including issues of divorce, domestic violence, child support, workplace discrimination and sexual harassment.

Today, more women than ever are seeking elective office. The current 116th Congress set a record with 131 women seated in the House and Senate—nearly a quarter of those serving. But while the pioneers of women's suffrage would certainly be pleased with the progress of women in American society, they would no doubt be alarmed at the overall state of political participation and civic knowledge.

Voter turnout in the United States is significantly lower than in most established democracies. Ironically, in 2016, the first presidential election with a woman nominee of a major political party, voter participation dropped to 55%, a 20 year low. Relatedly—and equally concerning—are woefully low levels of civic knowledge and public trust in government institutions. A 2016 survey by the Annenberg Public Policy Center found that only 26% of Americans can name all three branches of government. When so few people understand the basic foundations of our democratic system of government, it is not surprising that a 2017 Pew

Research Center study found that public trust in government was a dismal 18%.

As members of the legal profession, we are especially attuned to how dangerous such trends are to the future of our justice system and the rule of law. As I stated during last year's Law Day remarks at the Court of Appeals:

#### When Ignorance Isn't Bliss

According to the recent surveys on the public's understanding of the Constitution of the United States:

- In 2019, 2 in 5 Americans (39%) were able to name all three branches of government—the highest level in five years.
- In 2019, more than half of Americans (55%) correctly said that people who are in the U.S. illegally do have some rights under the Constitution.
- In 2017, more than a third of those surveyed (37%) couldn't name any of the rights guaranteed by the First Amendment.

Source: The Annenberg Public Policy Center of the University Of Pennsylvania

The founders of our great nation recognized from the outset that we cannot have a viable democracy without an informed electorate. A public lacking basic literacy about the roles and functions of the three branches of government, or constitutional imperatives like the separation of powers and judicial independence, is at great risk of falling prey to propaganda and the kinds of outrageous attacks on judges that we have witnessed recently.

I followed these remarks by announcing that the court system would join with the New York State Bar Association in hosting a Convocation to harness the power of the legal profession to deliver civic education in New York's classrooms. While the coronavirus emergency has forced us to postpone the Convocation, the bench and bar are determined to take a leadership role in strengthening civic knowledge and engagement among our young people. As soon as it is safe and practicable to do so, we will implement a statewide outreach program in which lawyers and judges will collaborate with local educators around the state to engage students and improve their understanding of the courts, the legal system and the rule of law.

The timing of these efforts is made more urgent by the ongoing coronavirus pandemic and the fact that the next election will be critical to our nation's future. Americans will have the opportunity » Page 12

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# Time To Finally Enshrine Women's Rights In the Constitution



**Rolando T. Acosta**  
Presiding Justice  
Appellate Division,  
First Department

*"It was we, the people; not we, the white male citizens; nor yet we, the male citizens; but we, the whole people, who formed the Union. And we formed it, not to give the blessings of liberty, but to secure them; not to the half of ourselves and the half of our posterity, but to the whole people—women as well as men."*

—Susan B. Anthony (1873)

Today, 100 years after the 19th Amendment established the right of women to vote, our state and federal constitutions still contain no provisions expressly guaranteeing over half of American

citizens the same rights as men. In this centennial year of the 19th Amendment, it is appropriate to look back at some of the historical milestones in the struggle for women's suffrage and more generally, for women's rights, looking forward to a day, hopefully, in the not too distant future, when equality for women under the law is, at long last, enshrined in our foundational documents.

New York has long prided itself as the birthplace of the women's rights movement. In 1848, Jane Hunt, Lucretia Mott, Martha Wright, Mary Ann McClintock and Elizabeth Cady Stanton organized the historic Seneca Falls Conven-

tion in order to promote the battle for equality. *Women's Suffrage in New York State*, NYAssembly.gov. The Declaration of Sentiments and Resolutions read at the convention became the manifesto for the movement. Modeled after the Declaration of Independence, the Declaration of Sentiments declared that "[t]he history of mankind is a history of repeated injuries and usurpations on the part of man toward woman, having in direct object the establishment of an absolute tyranny over her" and insisted that women "have immediate admission to all the rights and privileges which belong to them as citizens of these United States," including the right to vote. National Park Service, *Declaration of Sentiments*.

Despite these efforts, the right of women to vote in New York and other states was not recognized for decades to come. In 1873, Susan B. Anthony was famously tried and convicted in upstate New York for illegally voting in the prior year's presidential election (she

voted for incumbent Ulysses S. Grant). American Heritage, *Susan B. Anthony Cast her Ballot for Ulysses S. Grant* (December 1985). She and her counsel, former Court of Appeals Judge Henry R. Selden, had argued unsuccessfully that the 14th Amendment, which safeguards "the privileges" and "immunities" of United States citizens and guarantees them "equal protection of the laws," protected her right to vote (supra). Judge Selden urged the court that "no injustice can be greater than to deny to any class of citizens not guilty of crime, a share in the political power of a state, that is, all share in the choice of rulers, and in the making and administration of the laws." Presiding Judge Ward Hunt was unpersuaded and directed the jury to issue a guilty verdict against Anthony. Francis Murray, Henry Rogers Selden.

In 1917, New York state amended its Constitution to grant women the right to vote (NY CLS Const. Art. II, §1). It was one of the first states to do so. Three » Page 12

# The Right To Vote Is Central to Full Participation in Our Society



**Presiding Justice**  
Appellate Division,  
Second Department

In commemorating the centennial of the ratification of the 19th Amendment to the United States Constitution, we pay homage to the constitutional enshrinement of female suffrage as the most prominent milestone in the ongoing struggle for the equality of women in this country. While attainment of the most basic right to participate in the democratic process of selecting our national, state, and local leaders was both overdue and historic, it is waypoint—a significant one—on our continuous and yet incomplete journey to complete gender equality. At this vantage point, 100 years removed from the event, we regard it as inconceivable that more than one-half of our adult population should ever have been denied the right to vote.

The female suffrage movement is widely regarded as having originated at a convention held in Seneca Falls, N.Y. in the summer of 1848. Despite strong leadership and a compelling message, the women's rights movement would wait another 72 years before securing the right of women to vote in our nation's elections. Along the way, women began to break down the barriers that had been erected against them. In 1885, Kate Stoneman became the first woman to pass the New York Bar Examination but was initially denied admission because of her gender. However, the Legislature passed, and Gov. David B. Hill signed, a law allowing women to practice law, and Ms. Stoneman was admitted. At the turn of the century, Helen Z.M. Rodgers of Buffalo became the first woman to argue a case before our Court of Appeals. She participated in many appeals and served as the Chair of the Committee on Suffrage and Qualifications for Office of the 1938 New York Constitutional Convention.

Those who advocated for women's suffrage were confronted with widespread and deeply entrenched beliefs underlying the proposition that women were unsuited for involvement in political matters. Having become more involved in the economy because of joining the workforce in larger numbers during World War I, women were at last able to overcome these pervasive beliefs and achieve the required majorities in Congress and the state legislatures for a constitutional amendment. We can only imagine the sense of accomplishment that Kate Stoneman had when she served as a poll watcher in the Albany city elections in 1918 and saw women voting.

The adoption of the 19th Amendment established the status of women as participants in our country's democratic processes. Now that women were permitted to be involved in choosing their leaders, women began to assert their right to be leaders. No doubt because women had the right to vote, elected officials began to appoint women to important positions

and political leaders began to nominate women for elective office. In 1935, Justine W. Polier became the first female judge on the Domestic Relations Court, the precursor to today's Family Court. In 1939, Judge Polier was joined on the Domestic Relations Court bench by Jane Matilda Bolin, who was the first black woman to graduate from Yale Law School, the first to join the Association of the Bar of the City of New York, the first to join the New York City Law Department, and the first to serve as a judge in the United States. In 1959, Birdie Amsterdam became the first woman to be elected to the New York State Supreme Court.

Standing on the shoulders of these pioneers have been dynamic leaders of the courts in our own time. New York's judiciary has benefited greatly from the wise direction of our first female Chief Judge, Judith Kaye, and that of our current Chief Judge, Janet DiFiore, who is skillfully leading our courts through an unprecedented public health crisis and who has been a fierce advocate for judicial excellence. Similarly engaged in judicial leadership are the Chief Judges of both the Southern and Eastern Districts of New York, Colleen McMahon and Roslynn Mauskopf.

The first woman to serve on my own court was Geraldine Eiber, appointed in 1984. Justice Eiber was joined shortly thereafter by Sondra Miller, who was one of the first women to graduate from Harvard Law School and who has played such a vital role in the development of New York's family law. Our court was privileged to have as our Presiding Justice the amazing A. Gail Prudenti, who later became Chief Administrative Judge and Dean of Hofstra Law School. Our court presently has a near majority of women—10 of 21 Justices are women—and it is not unusual for a panel to have a female majority and, at times, even to be exclusively female. We are incredibly fortunate to have both Ruth Balkin and Cheryl Chambers as members of our constitutional court, with Justice Chambers being the first female of color to have attained that position. They, together with Justice Sheri Roman, regularly participate as justices presiding over our court sessions.

While progress has made, there is much more to do. While women now represent approximately 50% of the student body in our nation's law schools, the National Association of Women Judges and the National Women's Law Center have reported that, at both the state and federal levels, less than 35% of American judges are women. In the private sector, the landscape for women's equality remains particularly challenging. Glass ceilings remain in place, and equal pay for equal work—a proposition that seems beyond any possible question—remains surprisingly elusive. » Page 12



Gov. David Hill signed the bill and an order was entered into the General Term admitting Katherine Stoneman to practice. The Supreme Court decision dated May 22, 1886, reads, "in the matter of the application of Kate Stoneman for admission as attorney and counsel. Application denied. Opinion by Landon, J. The Code being thereafter amended the application was renewed and granted." Stoneman was 45 years old. Source: <https://history.nycourts.gov>.

**In re Application of Stoneman, 40 Hun 638 (App. Div. 1886)**



**NEW YORK'S FIRST FEMALE LAWYER**  
ALBANY, May 20.—The Legislature having amended the code so as to remove the restriction on women practicing in the courts, the General Term of the Supreme Court today admitted Miss Kate Stoneman, of this city, to the bar. She is the first female lawyer in New York State.

PHOTOS COURTESY OF ALBANY LAW SCHOOL

**Katherine 'Kate' Stoneman** (1841-1925), top photo, was an early 20th-century suffragist and the first woman admitted to the Bar Association in the State of New York. 12 years after her admission to the bar, which was announced in **The New York Times**, above, Stoneman went on to study law formally at the **Albany Normal School** (now University of Albany, SUNY), at left.

# The Women's Vote: A Long Journey



**Elizabeth A. Garry**  
Presiding Justice  
Appellate Division,  
Third Department

On Aug. 18, 1920, the 19th Amendment to the United States Constitution was ratified. After many decades of advocacy and struggle, women nationwide were finally granted the right to vote. As we celebrate this milestone, 100 years later, I am particularly aware of the importance of women's suffrage—and voting generally—as I am currently campaigning for reelection to my role as a Justice of the Supreme Court. It has, once again, been a fascinating and challenging process. Before the current crisis began, I enjoyed meeting my many neighbors as I sought to convince them to entrust me with their vote.

I am also mindful that my own campaign is occurring in the region immediately adjoining what is often considered the birthplace of the women's suffrage movement. Some of the key leaders would frequently gather in Madison County, where I served as a trial judge; in 1848, the famed Seneca Falls Convention took place within 100 miles of my current home chambers in Chenango County, N.Y. The convention planners, including such notable leaders as Lucretia Mott, Elizabeth Cady Stanton, and Matilda Joselyn Gage were inspired by women of the Haudenosaunee (also known as the Iroquois) Confederacy. These native women participated in all aspects of society

and decision-making. They demonstrated—contrary to what was often claimed—that "natural law" did not require the degradation and disenfranchisement of women. See *Oneida Indian Nation, Inspiring Women's Rights: Haudenosaunee Life Stimulates Historical Movement*.

Participants at the Convention took up a number of issues related to the role of women in social, religious and civil matters. They issued a Declaration of Sentiments containing 11 resolutions. The resolution relating to women's right to vote was added last, and it was regarded as among the most radical and controversial. This resolution was the subject of considerable conversation and debate, even within the convention. See *The Birth of the Women's Rights Movement in Seneca County*. Although some participants considered the pursuit of the electoral franchise so extreme as to undermine other elements of their platform, Stanton stood firm in her conviction that the right to vote was wholly necessary, a condition precedent to

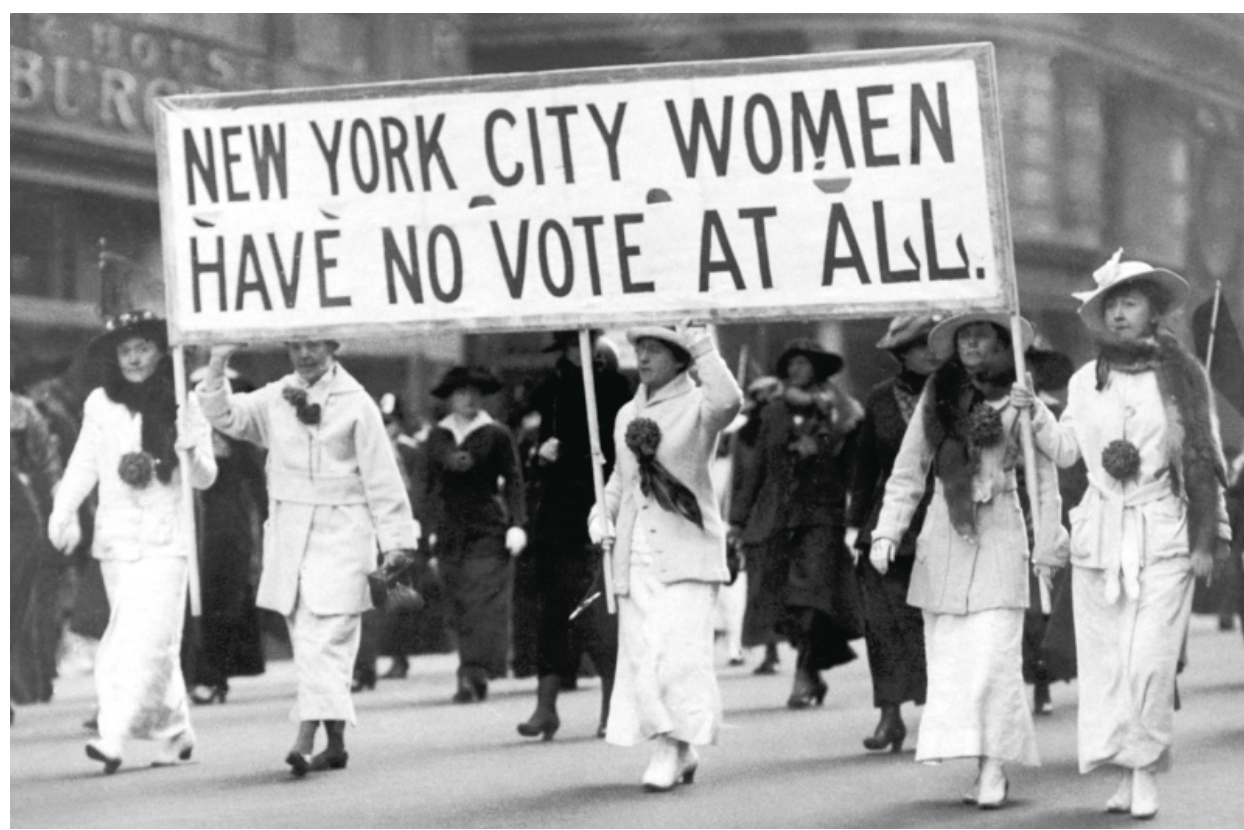
the reformation of other aspects of women's treatment in public and private life. Advocates for this bold position recognized that the ability to vote would empower women in a unique and fundamental way, by bringing their voices to bear upon legislation and other government action.

Some women also fought in the courts for their right to cast a ballot. In 1872, Susan B. Anthony and 14 other women registered to vote, threatening the registrars with litigation if they were turned away. Anthony argued that Section 1 of the recently passed Fourteenth Amendment—which declared all persons born or naturalized in the United States to be citizens whose privileges and immunities were not to be abridged—guaranteed women, as citizens, the right to vote. The 15 women voted in the Nov. 5, 1872 election, and were promptly arrested, together with the officials who had registered them. Anthony's trial was scheduled to begin in Monroe County, where she lived. However, before the trial, she spoke pub- » Page 12



In the years leading up to the passage of the 19th Amendment, **Carnegie Hall**, above, hosted over two dozen events relating to women's suffrage. In 1918, the National Woman's Party held a meeting at the hall. At right are **suffragists marching** in New York City in 1915. At far right, **Women's Suffrage Party flyer**.

On June 16, 1919, New York voted to ratify the 19th Amendment. By August 1920, 36 states ratified the amendment and it became part of the U.S. Constitution across the country.



## Twelve Reasons Why Women Should Vote

1. BECAUSE those who obey the laws should help to choose those who make the laws.
2. BECAUSE laws affect women as much as men.
3. BECAUSE laws which affect WOMEN are now passed without consulting them.
4. BECAUSE laws affecting CHILDREN should include the woman's point of view as well as the man's.
5. BECAUSE laws affecting the HOME are voted on in every session of the Legislature.
6. BECAUSE women have experience which would be helpful to legislation.
7. BECAUSE to deprive women of the vote is to lower their position in common estimation.
8. BECAUSE having the vote would increase the sense of responsibility among women toward questions of public importance.
9. BECAUSE public spirited mothers make public spirited sons.
10. BECAUSE hundreds of thousands of intelligent, thoughtful, hard-working women want the vote.
11. BECAUSE the objections against their having the vote are based on prejudice, not on reason.
12. BECAUSE to sum up all reasons in one—IT IS FOR THE COMMON GOOD OF ALL.

**VOTE FOR WOMAN SUFFRAGE**  
GIVE THIS TO A FRIEND AND ASK HIM TO VOTE FOR IT

WOMAN SUFFRAGE PARTY  
Headquarters: 48 East 34th Street, New York.

H. W. R. Publishing Co., Inc.

# Voting and Jury Service: Our Duty and Privilege



**Gerald J. Whalen**  
 Presiding Justice  
 Appellate Division,  
 Fourth Department

I was recently called for jury duty and had the honor to be chosen and take my place in the box as juror number eight. Although I had worked as a trial attorney arguing before juries, presided as a judge over numerous jury trials, and have considered selection and numerous other jury issues as an appellate justice, I had never before actually been called to serve on a jury myself. The experience reminded me that a foundational pillar of our judicial system is citizen participation. It is through individual service that the “community judgment [may be] represented by the jury in criminal trials.” *Taylor v. Louisiana*, 419 U.S. 522, 535 (1975). Indeed, the Supreme Court has acknowledged that, “with the exception of voting, for most citizens the honor and privilege of jury duty is their most significant opportunity to participate in the democratic process.” *Powers v. Ohio*, 499 U.S. 401, 407 (1991).

This of course brings us to the topic we are celebrating today. Voting, like jury service, is also a fundamental necessity of our society as well as an avenue for individual voices to be heard. Thus, these two acts, voting and jury service, are our duty and privilege as citizens. Women were denied that duty and privilege, and our society was denied their necessary voice, for far too long. The passage of the 19th Amendment in 1920 resulted in the largest grant of voting rights since our nation’s founding. This year we commemorate that grant, in which fully half of eligible voters, who had long fought for equality, were finally granted the civil rights that placed them closer to equal footing with their male counterparts. As women gained the right to vote, they were able to contribute more fully as citizens

of the United States, taking steps toward establishing their place in the reciprocal relationship between the people and the government that is at the heart of our constitutional order. However, the 19th Amendment, standing on its own, did not immediately guarantee full participation for women, inasmuch as true citizenship speaks not only of rights and status but also the duties and obligations between the citizens and the government. The Supreme Court did not fully acknowledge the necessity that women should also be jurors until 55 years after women were granted the right to vote, when it struck down a Louisiana law that automatically exempted women from jury service. *Taylor v. Louisiana*, 419 U.S. at 531.

The recent unprecedented events have many of us considering our obligations to each other more than ever before. As we battle the spread of novel coronavirus, I am reminded of how important it is that we exercise our duties and responsibilities as citizens and community members to protect each other and to protect the rule of law. At the time I am writing this, we have all been advised to stay in our homes unless our work is essential, to keep physically distant from those outside our immediate household, and to work together to “flatten the curve” and reduce the spread of a pandemic. The steps we are all taking to deal with COVID-19 are dramatic. It is through our individual efforts—doing our duty to follow the advice of public health officials and thereby slow, and eventually stop, the spread of this virus—that we will find the fastest path to recovery and normalcy. But we cannot find that path if only some of the people fol- » Page 12

## COVID-19 Must Not Be Allowed To Interfere With Our Right To Vote



**Henry M. Greenberg**  
 President  
 New York State  
 Bar Association

The purpose of Law Day is to celebrate the rule of law and rededicate ourselves to upholding it. The importance of that exercise has never been greater than at this moment, as the global pandemic upending our lives has placed unprecedented strain on the courts and other institutions upon which our freedom and prosperity depend.

It is fitting that this year’s Law Day’s theme is *Your Vote, Your Voice, Our Democracy: The 19th Amendment at 100*. That transformative constitutional amendment, ratified in 1920, guaranteed all women the right to vote. It was then, and remains today, the largest simultaneous enfranchisement in our nation’s history.

The journey to this watershed moment began right here in New York at the Seneca Falls Convention of 1848. In fact, New York women secured the franchise three years before it became a federal constitutional right.

New Yorkers understand that the right to vote forms the very basis of our democracy. It is our most precious right because it is preservative of all other rights. Without the right to vote, even the most fundamental rights would be illusory. When constituents elect their representatives, they affirm principles of self-governance and freedom.

The right to vote is held dear in New York, but that is unfortunately not the case in a growing number of states that are experiencing a voter suppression crisis. The assault on

access to the ballot box has manifested itself in a variety of ways, including voter identification laws, reducing voting opportunities, and gerrymandering. The cumulative impact of these measures is the disenfranchisement of eligible voters, especially the poor and racial minorities.

The greatest, current threat to voting rights is not manmade, however; it is the pandemic. If we are still cloistered in our homes this November, it raises questions about whether we can safely and securely conduct elections for a wide range of positions—from local school board members to the President of the United States. It remains fundamentally unclear whether our voting laws and election systems can meet the challenge presented by this unprecedented public health crisis.

As we struggle to determine the right way forward, we can take lessons from the past. In 1864, the nation was deep in the throes of the Civil War, yet incumbent President Abraham Lincoln was determined to go forward with the scheduled election that would decide his fate in the White House.

“The election was a necessity,” Lincoln later said, though he had feared defeat as the young nation engaged in the bloodiest conflict in its history. He explained: “We cannot have free government without elections; and if the rebellion could force us to forego, or postpone a national election, it might fairly claim to have already conquered and ruined us.”

That moment in history—at a time when America was so deeply divided—arguably provided as compelling case as » Page 12

HENRY M. GREENBERG is a shareholder of Greenberg Traurig.

# Battle for the 19th Amendment

The timeline continues from page 9.



Harriet Tubman (1822-1913), of Auburn, N.Y.

## 1890 MERGER OF TWO SUFFRAGE MOVEMENTS

NWSA and AWSA are reunited as the National American Woman Suffrage Association (NAWSA) under the leadership of Elizabeth Cady Stanton. The American Federation of Labor declares support for a woman suffrage amendment. A year earlier, Jane Addams and Ellen Gates Starr establish Hull House, the first of many settlement houses that encourage all college-educated women to have careers in social work.

## 1896 FIRST ASSOCIATION OF COLORED WOMEN

Mary Church Terrell, Ida B. Wells-Barnett and former slave Harriet Tubman form the National Association of Colored Women (NACW)

## 1903 FIRST NATIONAL ASSOCIATION DEDICATED TO ORGANIZING WOMEN WORKERS

Mary Dreier, Rheta Childe Dorr, Leonora O’Reilly, and others form the Women’s Trade Union League (WTUL) of New York, few months after WTUL is formed—an organization of middle- and working-class women dedicated to unionizing women and giving women the right to vote.



Members of the WTUL of New York pose in 1910 with a banner calling for the 8 hour day. Photo: The Kheel Center for Labor

## 1912 FIRST NATIONAL POLITICAL PARTY TO ADOPT A WOMEN’S SUFFRAGE PROGRAM

Theodore Roosevelt’s Progressive (Bull Moose/Republican) Party becomes the first national political party to adopt a women’s suffrage plank.

## 1913 RADICAL ORGANIZATION OF SUFFRAGISTS

Alice Paul and Lucy Burns organize the Congressional Union for Woman Suffrage (CU or CUWS)—later known as the National Woman’s Party. These members used hunger strikes and picket the White House, among other forms of civil disobedience, to publicize the suffrage cause.



Jeannette Rankin speaking from the balcony of the NAWSA in 1917. Photo: Library of Congress

## 1916 FIRST WOMAN TO HOLD FEDERAL OFFICE

Jeannette Rankin of Montana becomes the first American woman elected to the U.S. House of Representatives. While in Congress, she introduced legislation that eventually became the 19th Constitutional Amendment.

## 1917 WOMEN WIN THE RIGHT TO VOTE IN NEW YORK

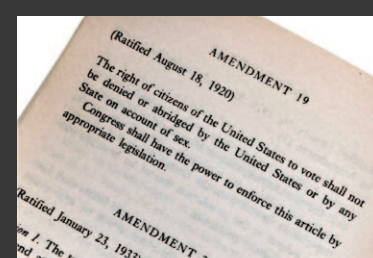
On Nov. 6th New York State grants women the right to vote, one of the first to do so. By the time the women’s suffrage amendment is passed, 15 states across the country have full suffrage, and more have partial suffrage.



Suffragists casting votes in New York City after the passage of the 19th Amendment. Photo: Library of Congress

## 1920 RATIFICATION OF THE 19TH AMENDMENT

The 19th Amendment is ratified on Aug. 18. After the victory is accomplished, the NAWSA ceases to exist but its organization becomes the nucleus of the League of Women Voters (LWV)—a national civic organization that is formed to help women take a larger role in public affairs after they won the right to vote.



Source: Assemblyman N. Nick Perry, District 58, N.Y., and other sources

Timeline compiled and designed by Monika Kozak

A unanimous Supreme Court held in *Reed v. Reed* that the preferences established in favor of males were “the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment.” The remaining hero in the story of *Reed v. Reed* is then-attorney, now Supreme Court Justice Ruth Bader Ginsburg, at right. *Reed* opened the floodgates for subsequent Supreme Court decisions that struck down acts of gender discrimination. Below, **Women’s Liberation March** from Farrugut Square to Lafayette Park, Washington, D.C., in 1970.



DAVID HANSHREH



LIBRARY OF CONGRESS



ANDREW HARRER/BLOOMBERG



JULIO CORTEZ/AP

The current 116th Congress set a record with **131 women seated in the House and Senate**—nearly a quarter of those serving. Both at the 2019 and 2020 state of the union addresses, above, female members of the congress wore suffragette white—the color of choice referring to a century-old history of women working to gain ground in American politics. This year’s elections are being dramatically challenged by the coronavirus outbreak. At left, election workers wearing face masks count ballots outside a **voting center** in Maryland.

## Acosta

« Continued from page 10

years later, ratification of the 19th Amendment added the following provision to the U.S. Constitution: “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.” This passage contains the only reference to women (albeit indirectly by using the word “sex”) in the U.S. Constitution.

With the voting barrier finally broken in 1920, one might have expected that acknowledgement of equal rights for women would not be far behind. Any such expectation was sadly misplaced. Just as the passage of the 14th and 15th amendments did not mark the end of racial discrimination, the passage of the 19th Amendment did not herald a new era of equality among the sexes.

Although first proposed to Congress in 1923, the Equal Rights Amendment (ERA) was not sent to the states for ratification until 1972. Its key provision set forth a simple, but fundamental, proposition: “Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.” A seven-year deadline for ratifica-

tion (not constitutionally required) was imposed. The deadline, once extended, expired in 1982 with only 35 of the requisite 38 states having voted for ratification (supra). This past January the ERA reached the 38-state ratification threshold when Virginia voted to ratify the amendment. The Department of Justice, however, has taken the position that the post-deadline votes of Virginia and two other states (Nevada in March 2017 and Illinois in May 2018) do not count. Memorandum for the General Counsel National Archives and Records Administration, *Ratification of the Equal Rights Amendment* (Jan. 6, 2020). To further complicate the issue, five states (Kentucky, Nebraska, Idaho, Tennessee and South Dakota) have purported to rescind their earlier ratification votes. Supreme Court Justice Ruth Bader Ginsburg has opined that efforts to add the ERA to the Constitution should start anew, given the uncertainties created by the post-deadline ratifications and rescissions. Marcia Coyle, *RBG’s Remarks on Equal Rights Amendment Are Used Against Advocates in Court*, NYLJ, Feb. 24, 2020 at 2, col 1.

Some have questioned the need for the ERA in light of Supreme Court precedents that did, eventually, apply 14th Amendment protections to women. In the early

1970s, then-attorney Ruth Bader Ginsburg led the legal team who convinced the Supreme Court that women were entitled to equal protection under the law. *Reed v. Reed*, 404 U.S. 71 (1971). Yet, 14th Amendment precedents are not a substitute for an ERA. They have applied a lower level of scrutiny to sex-based discrimination than is applied to discrimination based on race. See *Twentieth Annual Review of Gender and The Law: Annual Review Article: Single-Sex Education*, 20 Geo. J. Gender & L. 509 (2019). Further, the viability of even Supreme Court precedents protective of women’s rights are dependent on the evolving composition of the Court. Notably, no lesser authority on originalist interpretation than Justice Scalia argued that the Constitution does not prohibit discrimination on the basis of sex and that outlawing discrimination must be done through the legislative branch. Max Fisher, *Scalia Says Constitution Doesn’t Protect Women From Gender Discrimination*, The Atlantic (Jan. 4 2001).

To be sure, there are state and federal statutes prohibiting sex discrimination, but they can be repealed or narrowly construed. Some rights are too fundamental to a just society to be left to the vagaries of shifting courts and legislatures, and certainly the rights of

women to equality under the law are among these rights.

While the ERA has yet to be incorporated into the U.S. Constitution, 25 states have adopted their own amendments. New York was one of the first states to ratify the proposed federal ERA in 1972, but has yet to pass a state ERA. Given the uncertain future of the ERA as an amendment to the U.S. Constitution, women’s rights need to be protected under the New York Constitution.

Governor Cuomo recently announced a broad proposal to pass “the first-in-the-nation inclusive Equal Rights Amendment to establish sex, ethnicity, national origin, age, disability, sexual orientation and gender identity as protected classes.” *Governor Cuomo Unveils 20th Proposal of 2020 State of the State: Passing the First-in-the-Nation Inclusive Equal Rights Amendment* (Jan. 3, 2020). Amending the Constitution requires that the amendment be passed by two consecutive legislatures and then approved by the electorate. That means you voters.

So, allow me to end with a simple but fervent word of advice to men and women of this great state (but especially women) on the 100th birthday of the 19th Amendment: You have the right to vote. Use it. The future is in your hands.

## DiFiore

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to elect competent national and local leaders who will be charged with guiding our nation’s recovery and implementing safe, smart and effective policies to restart our stalled economy and prevent future outbreaks of this devastating virus. We must make good choices, of course, but more importantly we must make sure that our elections are free from foreign interference, that every person will be able to exercise his or her right to vote and that our election systems will be in a position to count every vote cast.

In the coming weeks and months, members of our legal profession will be called upon to play a very urgent role—ensuring that Americans are not disenfranchised during the ongoing public health emergency which potentially could disrupt our election schedule. While states have flexibility to move back their primary election dates (New York has already done so to June 23, 2020), the 20th Amendment to the United States Constitution provides very little flexibility to do so for the national election.

Now is the time for our lawmakers and boards of elections to develop reliable plans to carry out our elections on time in the event that the coronavirus pan-

dem has not run its course by the scheduled primary and general election dates. If current social distancing policies are still in effect in November, it may be dangerous to have voters standing on lines at polling stations or interacting with poll workers at close quarters. We must prepare contingency plans now and identify any amendments in the laws, rules and voting procedures that will be necessary to ensure reliable alternative voting methods in the event that in-person voting is not practicable.

This year of celebration of the 100th anniversary of the 19th Amendment is likely to be remembered as the year of the coronavirus pandemic, which has caused unprecedented societal and economic disruption. Our ability to recover from this shock and quickly and safely return to the normalcy we all crave will require wise leadership and sound, fact-based policy action on the part of our elected leaders. It will also require smooth and effective elections in November. As members of the Bar who swore an oath to uphold the Constitution, we have an obligation to lead the way in preserving the cherished right to vote in the midst of the ongoing public health emergency. By committing ourselves to this vital goal, we will help our nation get back to normal and honor the suffragettes who fought so long and hard to secure the precious right to vote.

## Garry

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licly in every corner of her county about her arrest and women’s dissatisfaction with a government that treated them as one “half of people left wholly at the mercy of the other half.” It was determined that her advocacy had “prejudiced” all potential jurors and the trial was moved to Canandaigua. At the trial, the United States District Attorney simply presented proof that she had voted, and that she was a woman, and rested his case. Anthony’s attorney raised the injustice inherent in accusing a woman of a crime that she could not commit if she happened to be a man. The judge held that the right to vote arose from the State Constitution, and that the state’s provisions with respect to voting

eligibility could not possibly violate the Constitution of the United States. Over her attorney’s objection, the judge directed the jury to find Anthony guilty. She refused to pay the penalty imposed, and was released by the court. See *Great American Trials*, [Edward W. Knappman, Editor] [1994]. It was 45 years later, in 1917, that New York finally granted women the right to vote. Susan Anthony and her many friends and supporters never got to see their wishes met.

Today, the notion that the franchise is a fundamental right and one of the most important ways to participate in and transform our society seems so obvious that it may be surprising to read that so many Americans, including forward-thinking women at the forefront of the women’s rights movement, regarded women’s suffrage

as a bridge too far. It was more than 70 years after the Seneca Falls Convention that women nationwide finally won this precious right. And even after the ratification of the 19th Amendment, legal and practical impediments such as Jim Crow laws and citizenship restrictions have prevented many people of color and indigenous persons from voting. Although we have theoretically achieved universal suffrage, obstacles to voting have persisted. These include issues related to voter identification rules, the right of formerly incarcerated persons to vote, racial gerrymandering tactics that dilute the electoral impact of certain communities, and other such laws and policies put in place to limit the ability of individuals to participate in the electoral process and achieve meaningful representation. As I write this article, we find

ourselves in the midst of an unprecedented pandemic, the response to which has required extensive coordination and extraordinary leadership by our government officials at every level. We pause during these challenging and uncertain times to celebrate women’s suffrage as one of the pillars of our democratic way of life, and a critically important milestone on our continuing journey toward a more just and equal society. When we must look to the government to navigate dire circumstances, it serves as a dramatic reminder of why our foremothers fought so mightily to be represented, and for their right to participate fully in society. Our rights and freedoms, and our shared sense of community, will be a source of strength as we come together through this difficult time and when we reach the other side.

## Greenberg

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and will not take place until at least early June. Even as our efforts to flatten the coronavirus curve bear fruit, in-person voting continues to pose not only public health but also logistical challenges. One is whether a sufficient number of workers will be available to monitor polling sites. Another is that traditional polling sites are buildings that are now closed or restricted for use—such as schools, houses of worship and nursing homes.

Voters themselves have expressed concern about the health risks created by in-person voting. According to one survey, nearly 70 percent of registered voters said they are in favor of postponing primary elections due to COVID-19, and a majority expressed discomfort with the idea of heading to the polls in person. Polls show that these feelings are shared across the political spectrum. Rightly so. The virus does not discriminate based upon party affiliation. Voters must not

have to choose between risking their health or exercising a civic duty.

Wisconsin just provided a cautionary tale of what not to do. The nation watched in horror as the state conducted an in-person election at the height of the pandemic. Those who wished to cast a ballot were forced to wait on long lines, in some cases greeted by poll workers wearing hazmat suits.

Predictably, many poll workers did not report to their stations. In Milwaukee—the state’s largest city with a population of nearly 600,000—lack of available workers necessitated a reduction in the number of polling sites from 180 to just five.

In New York, after several of their colleagues tested positive for the coronavirus, state lawmakers changed their own rules to allow for remote voting on the recently passed budget. They similarly could formally change the rules to make it easier and safer for New Yorkers to cast their own ballots. The state has in recent

years enacted measures such as early voting intended to make the process more accessible. But there is still more to be done, including allowing for online and same-day voter registration.

Some election officials have suggested that switching to an all-mail voting system in time for the fall elections would be impossible, because to do so would take years—not mere months. There is no question that there are significant practical and technical hurdles. But if our state’s response to the coronavirus has proven anything, it is that we are strong, innovative and determined in the face of adversity.

As we struggle with fear and great unpredictability, one thing is clear: Giving up on democracy is not an option. If in-person voting remains untenable for the foreseeable future—perhaps all the way into the November general elections—we must find a way to ensure every American who is eligible to do so can cast a ballot safely and securely.

suddenly been called upon by these unusual circumstances with the opportunity to perform a civic duty every day, in all of our actions, simply by staying inside if we are not performing essential work and by heeding the advice and direction of medical professionals and government officials. While we now have the obligation and the opportunity to serve in a unique way, I am sure that we will be happy to return to the more customary exercise of our rights and responsibilities—but perhaps with a renewed appreciation for the necessity of every single one of us to participate in civic society in ways large and small.

## Whalen

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low the advice and exercise their duty as citizens. Instead, as with our democracy, it is vital now that we each exercise our rights and duties of citizenship to make a difference for ourselves and for each other.

The 19th Amendment passed in the immediate aftermath of two major historic events: the end of World War I and the 1918 Flu Pandemic. We find ourselves, 100 years later, again living through a time of great upheaval and uncertainty that, in the short term, has already led to societal changes. Although we have always had periodic opportunities to perform certain of our civil rights and civic duties, voting every year and attending jury duty perhaps every few years, we have

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