

The issue of women's voting rights and practice in early America

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From the end of the 18th century, the specific experience of granting voting rights to unmarried women who owned property in New Jersey, together with how they exercised this right during the short time they enjoyed it, has become more visible in historiography. The narratives usually feature three main periods: the first New Jersey Constitution in 1776, the legislation and statutes in the 1790s, and the backlash against New Jersey female voters in 1807.

This article first seeks to introduce the key aspects of the history of women's voting rights in the British colonies of North America, the United States, and some northern and western European countries at the end of the 18th century. It then provides the major elements in the history of New Jersey's female voters around the turn of the 19th century. The final part highlights how suffragists in the 19th century referred to New Jersey's historical precedent to denounce the lack of suffrage for all female U.S. citizens.

Part 1 – Women's privileges and rights in the 18th century

Voting rights were granted—temporarily—to unmarried and property-owning women in New Jersey during the Enlightenment and the American Revolution.¹ The theory of natural rights and the idea of a social contract, which had been gaining popularity since the 17th century, were fully debated and put into practice in certain cases. Broadly speaking, one key tenet of the Enlightenment was that the equality of men in the state of nature requires them to establish a social contract for all. In this contract, they consent

1. See the writings of British political theorist John Locke in 1689 and 1690. They are entitled *Essay Concerning Human Understanding* and *Two Treatises of Government*.

to limit some of their liberties; in exchange, the government ensures the protection of their property.² Major 18th-century writings and figures, for example, James Otis's *The Rights of British-Americans Asserted and Proved* (1764)³, Judge George Tucker of Virginia⁴, and Thomas Paine's *Common Sense* (1776), had considerable influence on the formation of revolutionary political thought. Some even mentioned voting rights for female proprietors.⁵

The divide between a rhetoric based on inalienable individual rights that adopted a universal perspective and the reality stressing that civil and political rights did not generally concern women is important to note. Most married women were indeed subject to "coverture", the British legal principle that the colonists brought to the New World and which continued to exist after the American Revolution.⁶ According to this principle, married women were entirely dependent on their husbands at the economic, social, political, and legal levels. This was often justified as an advantage for women, who would then be protected by their husbands. According to this reasoning, women needed to be protected because they were not fit for economic or political autonomy. They were thus deprived of any economic or political power.

Most women did not enjoy the privilege of voting. According to thought at the time, those who did not possess property were dependent on others; thus, they did not have the independent political judgement necessary to vote. However, some exceptions can be noted: private contracts could be established by couples, and specific elements of equity allowed women to sue their husbands.⁷ In this era of feverish political experimentation, claims to protect the living conditions of married women also arose. A good

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2. The link between taxation and representation in some parts of early modern European history is also worth mentioning.
 3. In his 1764 pamphlet, he wrote that "taxation without representation is a tyranny." He claimed that the British authorities had no right to tax colonists, be they men or women, if they did not benefit from actual political representation in the House of Commons, 420.
 4. Linda Kerber, *Towards an Intellectual History of Women. Essays* (Chapel Hill, NC: UNC Press Book, 1997) 37.
 5. In the 17th century, some rare authors wrote on the idea that the human mind was not to be distinguished between men, on the one hand, and that of women, on the other. This is the case of François Poulain de la Barre, *De l'égalité des deux sexes*, 1673.
 6. The English Common Law was codified by Sir William Blackstone in his *Commentaries on the Laws of England* (1765).
 7. Richard B. Morris, *Studies in the History of Early American Law* (New York, 1930), in Linda Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (Chapel Hill, NC: University of North Carolina Press, 1980) 139.

example of this is Abigail Adams (the wife of John Adams, who represented Massachusetts in the Continental Congress and later became the second President of the United States). In 1776, she wrote her husband a letter advocating for the founding documents being written to protect married American women who were socially, economically, and legally dependent on their husbands. Additionally, Adams was aware of New Jersey women's voting rights at a time when the Constitution of Massachusetts did not include those rights.⁸

In spite of the legal, cultural, and social limitations encountered by women, we have several instances of their political participation at the time of the American Revolution: some participated in the boycott of imported British products, others collected money for the Continental Army, and a few fought in the war.⁹ These are some examples of how women participated in politics and expressed their citizenship and patriotism, but this text will concentrate on the specific issue of women's voting rights in early America.

Some women, such as Elizabeth Steele in North Carolina, considered themselves "great politicians." This was also the case of Eliza Wilkinson, who, reflecting on the arrival of British troops in South Carolina in 1780, wrote, "none were greater politicians than the several knots of ladies who met together. All trifling discourse of fashions, and such low chat was thrown by, and we commenced as perfect statesmen."¹⁰ In 1782, she wrote:

The men say we have no business with them [politics], it is not in our sphere! [...] I won't have it thought that because we are the weaker sex as to bodily strength, my dear, we are capable of nothing more than minding the dairy, visiting the poultry-house, and all such domestic concerns [...]. They won't even allow us the liberty of thought and that is all I want [...]. Surely we may have sense enough to give our opinions to commend or discommend such actions as we may approve or disapprove;

8. Rosemarie Zagari, *Revolutionary Backlash: Women and Politics in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 2007) 33.

9. Deborah S. Gannett participated in the War of Independence dressed as a soldier of the Continental Army.

10. Mary B. Norton, *Liberty's Daughters: The Revolutionary Experience of American Women, 1750-1800* (New York: HarperCollins, 1980) 171-172.

without being reminded of our spinning and household affairs as the only matters we are capable of thinking or speaking of with justness and propriety.¹¹

The end of the war did not slow women's interest in politics, as noted in their letters and in newspaper articles of the 1780s and 1790s. Among examples illustrating this is Margaret Manigault, who in 1792 wrote to her husband, "I am turned a great Politician [...] I read the papers, and talk learnedly about them all."¹² In 1799, Abigail Adams wrote to her husband, "if a woman does not hold their reigns [sic] of Government, I see no reason for her not judging how they are conducted."¹³ Elizabeth Steele of North Carolina used the phrase "great politician[s]" when engaging in her—and other women's—informal political participation.¹⁴ Another example concerns an exchange between Anne Bingham and Thomas Jefferson. Bingham criticized Jefferson's view on the subject in 1787. Referring to the French, Jefferson posited that the role of women did not concern politics in the public space. Bingham wrote:

The Women of France interfere in the politics of the Country, and often give a decided Turn to the Fate of Empires [...] they have obtained that rank of Consideration in society, which the Sex are intitled to, and which they in vain contend for in other countries [...] [female Americans] are therefore bound in Gratitude to admire and revere them, for asserting our Privileges [...].¹⁵

Nevertheless, women did not become a specific social group fighting for their political rights; this would begin in the 19th century.

There were not many in Europe who publicly supported women's political privileges and rights. The most famous in France were Marquis de Condorcet, who wrote *L'Essai sur l'admission des femmes au droit de*

11. *Idem*, Mary B. Norton, 188-189, 353 n63.

12. Margaret Manigault to Gabriel Manigault, November 30-December 2, 1792, Manigault Papers, South Carolina Library. *Ibid.*, Mary B. Norton, 189, 353 n64.

13. Abigail Adams to Elizabeth Peabody, July 19, 1799, Shaw Papers, box 1, *Ibid.*, Mary B. Norton, 190, 353 n65.

14. *Ibid.*, Mary B. Norton 171

15. Julian Boyd (Ed.), *The Papers of Thomas Jefferson*. Vol. XIII (New Jersey: Princeton University Press, 1956) 151, 393; *Ibid.*, Mary B. Norton, 190-191, 354 n67.

cit  (1790), and Olympe de Gouges, who authored the *D claration des droits de la femme et de la citoyenne* (1791). In Britain, the central pamphlet regarding women's rights was Mary Wollstonecraft's *A Vindication of the Rights of Woman*, published in 1792 in *Ladies' Magazine* (Philadelphia) and *Boston Massachusetts Magazine*. The author insisted on the need for women to become economically independent. As the subject of women's rights was known in the United States, Wollstonecraft's essay led to many debates and reinforced the view of those in America who advocated for women's rights as well.¹⁶ In France, voices were raised to acknowledge women's political participation in the French Revolution and, in some rare cases, to support property-owning women's voting rights.

The issue of women's voting rights

Most women (and men) who were in favor of women's political privileges and rights and, in some cases promoted them in the public space, were usually from a privileged social background.

The British colonies of North America drew from the political and legal culture of the mother country. In Britain and its colonies, the action of designating a representative was considered a privilege reserved for a few landowners. In this context, there was no legal barrier to prevent widows and single women with property from voting, but tradition and the division of societal roles deterred some women from exercising their privilege. Voting was still a privilege rather than an extended right dedicated to white, property-owning (and thus economically independent) adult men. Women, ethno-racial minorities, and non-property-owning people did not vote traditionally.

In some cases, colonial American women's political entitlements changed as early as the 17th century. For instance, the Virginia Laws of 1699 withdrew these political privileges for property-owning unmarried women. Individual

16. *Ibid.*, Linda Kerber (1980) 223-224. For Eliza Southgate, who believed in intellectual equality between men and women: "Wollstonecraft said many things of which I cannot but approve.... Prejudice set aside, I confess I admire many of her sentiments", *Ibid.*, Mary B. Norton (1996) 251. An article in a republican newspaper dealt with the question of women's rights and the contribution of Mary Wollstonecraft: "the Rights of Man have been warmly insisted on by Tom Paine and other democrats, but we outstrip them in the science of government, and not only preach the 'Rights of Women,' but boldly push it into practice—Madame Wollstonecraft has certainly the merit of broaching this subject." *Centinel of Freedom* (New Jersey), Oct. 18, 1797.

cases uncovered in archives are particularly instructive. For example, in Maryland, Margaret Brent attempted to use her voting privileges as the legal executrix for the deceased Leonard Calvert in 1648. The latter had represented his brother, Lord Baltimore. She thus claimed that she had two votes to cast: one vote as Calvert's executrix and the other on behalf of Lord Baltimore. She obtained neither.¹⁷ At the beginning of the 18th century, Virginia and the Carolinas excluded free African Americans from the vote; Georgia followed suit in 1761. In contrast, North Carolina legislators chose to grant them voting rights by 1737.

Voting qualifications were the States' prerogative in colonial America and later in the U.S. The States determined the criteria for qualification of potential voters; these differed from one State to another. Massachusetts considered excluding some groups, like African Americans and Native Americans, from paying taxes in the new Massachusetts Constitution of March 2, 1780, but this ultimately did not occur.¹⁸ Before 1780, women with property had been allowed to vote legally. This was the case of Lydia Chapin Taft in 1756, who cast a ballot in the hall of a Massachusetts town meeting in place of her deceased husband. However, this was no longer possible for women in Massachusetts' new constitution. The States reserving the vote for men only were Georgia, Massachusetts, New York, Pennsylvania, and South Carolina. In these States, the words "males" and "sons" were chosen in their respective Constitution.

Hannah Lee Corbin, sister of Virginia representative Richard Henry Lee, advocated for women's voting rights in a letter to her brother in March 1778, making the argument that taxation demands political representation.¹⁹ Also in Virginia, Mary Willing Byrd lost her property during the war but still paid taxes in the 1780s. She hoped that State legislators would treat property-owning men and unmarried women equally.²⁰ New Jersey widow Rachel Wells and Elizabeth Steele from North Carolina were also confronted with property loss during the war.²¹

17. Eleanor Flexner, *Century of Struggle, the Woman's Rights Movement in the United States* (Cambridge, MA: Harvard UP, 1973) 14.

18. Marc Kruman, *Between Authority and Liberty: State Constitution Making in Revolutionary America* (Chapel Hill: University of North Carolina Press, 1997) 106.

19. *Ibid.*, Rosemarie Zagarri, 668.

20. *Ibid.*, Mary B. Norton (1996), 226

21. *Idem*, Mary B. Norton (1996), 171

There are some examples of ordinary American citizens, not necessarily those from a privileged background, who expressed views in favor of women's political rights. Priscilla Mason, at her graduation from the Philadelphia Young Ladies Academy in 1793, delivered a speech in which she insisted that women could work in all types of professions: "[...] the Church, the Bar, and the Senate are shut against us [...]. Who shut them? *Man*; despotic man, first made us incapable of the duty, and then forbid us the exercise." She went so far as to suggest the creation of "a senate of women":

[It] would fire the female breast with the most generous ambition, prompting [it] to illustrious actions. It would furnish the most noble [sic] theatre for the display, the exercise and improvement of every faculty. It would call forth all that is human—all that is *divine* in the soul of a woman; and having proved them equally capable with the other sex, would lead to their equal participation of honor and office.²²

The issue of women's political rights is also found in fictional works. Charles Brockden Brown's *Alcuin: a Dialogue* (1798) introduces Mrs. Carter, who criticizes the difference between promised liberties by the new American union and the reality on certain subjects such as the lack of women's access to political decisions. This is what Mrs. Carter says to her companion Alcuin:

I shall ever consider it, as a gross abuse ... that we are hindered from sharing with you in the power of chusing our rulers, and of making those laws to which we equally with yourselves are subject. [...] Even the government of our country, which is said to be the freest in the world, passes over women as if they were not [free]. We [women] are excluded from all political rights without least ceremony. Lawmakers thought as little of comprehending us in their code of liberty, as if we were pigs, or sheep. That females are exceptions to their general maxims, perhaps never occurred to them. If it did, the idea was quietly discarded, without leaving behind the slightest consciousness of inconsistency or injustice. [...] [This reality] annihilates the political existence of at least one half of the community. This constitution [...] is unjust and absurd.²³

22. Rosemarie Zagari, "American Women's Rights before Seneca Falls" in Sarah Knott and Barbara Taylor (Eds.), *Women, Gender and Enlightenment*, New York: Palgrave/Macmillan, 2005, 674.

23. *Idem*, 675

Beyond North America, let us again mention Mary Wollstonecraft. She does not discuss formal political rights for women in her essay, but briefly mentions the issue of voting rights for women: “I may excite laughter, by dropping a hint, which I mean to pursue, at some future time, for I really think that women ought to have representatives, instead of being arbitrarily governed without having any direct share allowing them in the deliberations of government [...]”²⁴

Part 2 – Women’s voting rights in New Jersey

Why were unmarried and property-owning women granted voting rights in New Jersey? Historical narratives provide potential explanations, among which the political competition between Federalists and Republicans is usually at the center.

As mentioned, before the changes in the State’s voting system, voting qualifications and election modes had been inherited from Britain, both in theory and practice. Property ownership for voting qualification was fundamental; those who could elect their representatives were mostly rich white males. Voting rights for New Jersey’s unmarried women with property were temporary and can be examined through two main tenets: the importance of State institutions on the issue of voting and the specific historical, social, and political context of New Jersey.

Article IV of the 1776 New Jersey State Constitution states the following:

That all *inhabitants* of this Colony, of full age, who are worth fifty pounds proclamation money, clear estate in the same, and have resided within the county in which they claim a vote for twelve months immediately preceding the election, shall be entitled to vote for Representatives in Council and Assembly; and also for all other public officers, that shall be elected by the people of the county at large. (Emphasis added).

24. Mary Wollstonecraft. *A Vindication of the Rights of Woman, with Strictures and Political and Moral Subjects* (3rd ed. London: 1796) 335.