

The Nineteenth Amendment and Women's Suffrage Part 3: The Reconstruction Era

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This Legal Sidebar is the third in a six-part series that discusses the Nineteenth Amendment to the Constitution, which recognized women's voting rights. Shortly before Election Day 2022, a group of people [gathered in Rochester, New York](#), to honor the late social reformer and women's rights activist, Susan B. Anthony. About 150 years earlier, Anthony [cast a ballot](#) in the 1872 presidential election. She was arrested and charged with illegally voting as a woman in violation of federal law. She unsuccessfully claimed that the [Fourteenth Amendment](#) gave her the right to vote as a privilege of citizenship. A federal district court [imposed a fine](#) of \$100 on Anthony, but she never paid it. As the nation marks the 150th anniversary of Anthony's vote—and the 2020 centennial of the Nineteenth Amendment's ratification—Congress may be interested in the history and impact of the women's suffrage movement and the Nineteenth Amendment. Additional information on this topic will be published in the [Constitution Annotated: Analysis and Interpretation of the U.S. Constitution](#).

Shortly after the Civil War, Congress proposed three amendments to the Constitution, known as the Reconstruction Amendments, which aimed to safeguard African Americans' civil rights. These are the [Thirteenth Amendment](#), ratified in 1865, which abolished slavery; the [Fourteenth Amendment](#), ratified in 1868, defining the concept of national citizenship and guaranteeing due process and equal protection of the laws to all persons; and the [Fifteenth Amendment](#), ratified in 1870, prohibiting the federal and state governments from restricting a U.S. citizen's eligibility to vote on the basis of "race, color, or previous condition of servitude." The states' ratification of amendments that aimed to protect African Americans' civil rights [brought new attention](#) to issues of women's rights and suffrage.

Debates over the Reconstruction Amendments led to disagreements within the women's suffrage movement. In particular, during congressional debates over the Fifteenth Amendment, the movement's leaders [divided](#) over whether to support an amendment that granted African American men the right to vote but did not address women's suffrage. Believing that the Constitution should not grant voting rights to African American men unless it also recognized women's suffrage, Elizabeth Cady Stanton and Susan B. Anthony [split](#) from the American Equal Rights Association they founded in 1866 and formed the National Woman Suffrage Association (NWSA) in 1869. NWSA focused its efforts on obtaining federal legislation or a constitutional amendment recognizing women's suffrage. Later in 1869, women's rights activists who supported the Fifteenth Amendment's adoption, including Lucy Stone, founded the

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American Woman Suffrage Association (AWSA). AWSA generally adopted a state-by-state approach to seeking voting rights.

Although NWSA and AWSA would merge in 1890, some women's rights leaders [increasingly excluded](#) African Americans from participation in suffrage events in an effort to gain southern White voters' support. In 1896, African American women formed a national organization, the National Association of Colored Women (NACW), with Mary Church Terrell as its first president. NACW advocated for women's voting rights and other issues important to African American women.

During the Reconstruction Era, the women's suffrage movement pursued its objectives at both the federal and state levels of government. At the federal level, proponents argued before federal courts and Congress that the Fourteenth Amendment granted women the right to vote. In particular, proponents of women's suffrage theorized that the Fourteenth Amendment's [Privileges or Immunities Clause](#) prohibited states from denying women's suffrage. This Clause provides that "[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

In the Supreme Court case [*Minor v. Happersett*](#), a women's suffrage activist, Virginia Minor, sued a registrar in Missouri who denied Minor's application to vote in the 1872 general election. Minor maintained that, as a citizen of the United States and Missouri, she was entitled to the "privilege" of voting. She argued that the Missouri Constitution and registry law denying her that privilege violated the Fourteenth Amendment.

The Supreme Court agreed that Minor was a natural-born citizen of the United States. However, the Court determined that the right to vote was not one of the "necessary privileges" of citizenship. The Court noted that, at the time of the Constitution's adoption, none of the states allowed all citizens to vote—an arrangement the Framers implicitly accepted. The Court also observed that [Section 2](#) of the Fourteenth Amendment penalized states that denied the right to vote to "male inhabitants" who were citizens at least 21 years of age by reducing their congressional representation. This language, in the Court's view, indicated that suffrage was not an "absolute right of all citizens" under the Constitution. Drawing inferences from the Fourteenth Amendment's text and history, the Court concluded that states could deny voting rights to women.

In addition to pursuing recognition of women's suffrage in federal court, proponents petitioned Congress for legislation requiring the states to recognize women's voting rights. For example, in a [petition](#) to Congress, Victoria Woodhull maintained that the Fourteenth and Fifteenth Amendments implicitly recognized such rights. Congressional committees rejected Woodhull's petition and many [similar petitions](#) during the 1870s. In 1878, Senator Aaron Sargent of California introduced a resolution proposing a [suffrage amendment](#) to the Constitution that contained the same prohibition on abridging women's voting rights as the later-ratified Nineteenth Amendment. However, this resolution lacked the political support needed for passage at the time.

Despite setbacks at the federal level, proponents of women's suffrage achieved some progress at the state level during the Reconstruction Era. A few western state governments accorded women full or partial voting rights. For example, in 1869, the Territory of Wyoming (and later the State of Wyoming) [granted](#) its female citizens full voting rights. Similarly, the Territory of Utah [enacted a law](#) granting women the right to vote in 1870. Although Congress legislatively deprived Utah women of this right in 1887, the State of Utah's constitution again recognized women's suffrage in 1896. Michigan granted women [limited suffrage](#), allowing them to vote in school board elections after the Civil War.

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Author Information

Brandon J. Murrill
Legislative Attorney

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