

United States v. Anthony

Federal Trials and Great Debates
in United States History

Case Summary:

- Women's rights campaigner Susan B. Anthony was tried in federal court for illegally voting in the 1872 election.
- Anthony argued that the Fourteenth Amendment granted women the "privileges" of citizenship, including the right to vote.
- Justice Ward Hunt rejected this argument and directed the jury to find Anthony guilty.
- Although Anthony lost the case, she succeeded in drawing attention to the suffragists' cause.

History of the Case:

The U.S. Constitution does not set the qualifications for voting in federal elections. Instead, it relies on rules established by the states. When the Constitution was ratified in the late 1780s, most states had very restrictive voting qualifications. In many states, only white, property-owning men could vote. Over the course of the nineteenth century, most states broadened the franchise, though some laws that had been silent on issues of race or gender were revised to limit voting rights to white men.

In the aftermath of the Civil War (1861-1865), the nation underwent a re-examination of the scope of citizenship and the rights that came with it. Ratified in 1868, the Fourteenth Amendment stated that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside." The Amendment forbade states from denying citizens the privileges and immunities of citizenship and commanded that the states must extend equal legal protection to all persons within their jurisdiction. Some advocates of women's suffrage were optimistic that this language invalidated state laws restricting the franchise to men. However, a second section of the Amendment, which reduced the Congressional representation for states that denied the franchise to any male citizens over the age of twenty-one, seemed to imply that states could still deny the vote to women. The Fifteenth Amendment, ratified in 1870, forbade the government from denying the "right of citizens of the United States to vote" on racial grounds. Though this amendment did not explicitly mention women, some interpreted it to imply that voting was indeed one of the rights and privileges enjoyed by citizens, including women.

At the time these constitutional changes took place, Susan B. Anthony was perhaps the nation's best-known women's rights advocate. She intended to raise awareness of women's suffrage claims by attempting to register to vote in her native New York in 1872. Anthony likely anticipated that she would be denied registration and could then mount a protest, but local voting officials permitted her to register. She later cast a ballot at the polls on Election Day. Her vote was challenged by a partisan poll-watcher, but electoral officials allowed her to vote.

Anthony was subsequently arrested under the Enforcement Act of 1870, a federal law that prohibited any individual from "knowingly" voting or attempting to vote "without having a lawful right to vote[.]" The offense carried a maximum sentence of up to three years in prison and a \$500 fine. Three election officials and fourteen other women who voted were also charged, though Anthony's case drew the most public attention.

Anthony was tried in the U.S. Circuit Court for the Northern District of New York. The circuit courts, disbanded since 1912, then served as the primary trial courts in the federal system and were typically presided over by one district court judge and a Supreme Court Justice "riding circuit." In Anthony's case, however, Justice Ward Hunt presided over the trial alone. Because federal statutes

permitted appeals from criminal convictions only where the two judges of the circuit court disagreed with each other, this made it unlikely that Anthony could appeal should she lose.

Through her attorney, Henry Rogers Selden, Anthony attempted to defend the case on two main grounds. First, she argued that she had a legal right to vote because the Fourteenth Amendment made it clear that women were citizens and that the government could not deny citizens their rights and privileges, nor deny them the equal protection of the law. Voting, Selden argued, was one of the essential rights of all citizens. In the alternative, Selden argued that Anthony could not be convicted of “knowingly” casting an illegal ballot, since she had reasonably believed she was entitled to vote based on her interpretation of the new constitutional provisions. Though the Supreme Court would eventually interpret the language of the Fourteenth Amendment quite narrowly, it had yet to rule on any Fourteenth Amendment case at the time she voted, and the resolution of these issues was still unclear.

Justice Hunt was unpersuaded by either of these arguments. Anthony was well aware that New York law forbade women from voting and that she was a woman and yet she “knowingly” cast a vote at a federal election. Ignorance of other laws was irrelevant. Moreover, Hunt argued that Congress had made it plain that the purpose of the Fourteenth Amendment was to give freed slaves and African-American men equal legal rights with their white counterparts, not to grant voting rights to women. Voting, Hunt reasoned, was not a privilege of citizenship. Women were undoubtedly citizens, he noted, but so were children and the insane. No one could seriously argue the Fourteenth Amendment required states to give those groups equal voting rights.

Controversially, Hunt went further. He reasoned that there were no significant issues of fact remaining for the jury to decide. As a result, he directed the jury to find Anthony guilty, rather than allowing the jurors to reach their own conclusions. Before passing sentence, Hunt asked Anthony if she had anything to say. Anthony then gave a famous speech, over Hunt’s repeated protestations, criticizing the manner in which he had conducted the trial, arguing the law was “made by men, interpreted by men, administered by men, in favor of men, and against women[.]” In directing the guilty verdict, she claimed Hunt had failed to provide “even ... a trial not of my peers” (i.e: a jury of men). Criticizing the denial of her right to vote, Anthony claimed she and other women had been “degraded from the status of a citizen to that of a subject[.]”

Hunt sentenced Anthony to a fine (which she refused to pay) but did not order her imprisoned. Although Anthony was unable to appeal the verdict, Hunt’s conduct during the trial proved controversial. A later Supreme Court decision made it clear that federal judges could not order juries to convict defendants, though they could direct *not* guilty verdicts where there were no significant factual questions at stake. In 1875, however, the Court determined that states could deny women the right to vote under the Fourteenth Amendment employing similar reasoning to Hunt’s decision in the Anthony trial. Though some western territories had already begun granting women voting rights and several states followed suit in the late nineteenth and early twentieth centuries, women across the nation did not gain full equality at the ballot box until the 19th Amendment was ratified in 1920.

Legal Issues:

- Did Anthony have the legal right to vote?
- Did the criminal statute require Anthony to know she did not have the right to vote?
- Could Justice Hunt direct the jury to find Anthony guilty?

Questions for Discussion:

- Justice Hunt’s direction that the jury find Anthony guilty was more controversial than the actual outcome of the case at the time. Why might this be? Should judges be allowed to direct a jury to find a criminal defendant *not* guilty?
- Was the United States a democracy before women gained the right to vote?
- Many groups seeking to increase their power in society have focused on gaining voting rights. Why? What makes voting so important? Are there any drawbacks to emphasizing voting rights over other issues?