



Teacher Reference Document 118



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 13: Women's voting rights under the Australian Constitution – Year 9 -
C & C Strand: Citizenship, Identity & Diversity

Topic 9.3: Women's voting rights under the Australian Constitution

Votes for Women

Terminology

The right to vote in elections is known as the 'franchise'. To be 'enfranchised', is to be given the right to vote, and to be 'disenfranchised' means to lose your right to vote. The right to vote is also called 'suffrage'. So 'female suffrage' means the right of women to vote. People who campaigned for the expansion of the right to vote were known as 'suffragists'. A 'suffragist' could be male or female and could be campaigning for any type of extension of the right to vote (eg to people of particular races, or to lower the voting age, or to allow women to vote).

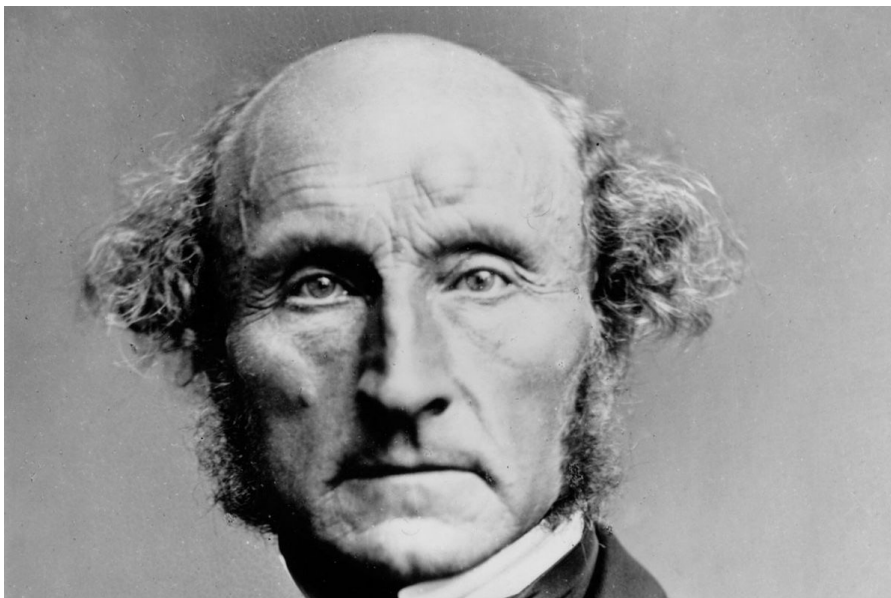
The term 'suffragette' was originally coined to belittle the militant campaigners for female suffrage in the United Kingdom. It was intended to make them seem small or ridiculous. But they took it on as a badge of pride and started calling themselves suffragettes.

The difference between a suffragist and a suffragette was that the suffragists campaigned peacefully through existing political methods, while the suffragettes in the United Kingdom campaigned under the slogan of 'Deeds Not Words' and broke the law (and many windows) as a way of publicising their cause.

Women and the franchise

For a very long time, voting was restricted to rich, property-owning men. In the United Kingdom, the law originally did not expressly exclude women from voting. But due to laws that gave husbands ownership and control of all property of their wives, it was rare for a woman to meet the property qualifications placed on voting, and even rarer for her to attempt to vote. There were some records, however, of widows who owned property voting in elections in 1640, even though it was regarded as inappropriate, even scandalous, conduct.

John Stuart Mill: in 1867 this famous economist and philosopher tried to put the word 'persons' into the British franchise law but failed
Source: Wiki Commons





1867 - Lily Maxwell rented a shop and house of enough value for her name to appear on the electoral roll. So she voted.

Source: Wiki Commons

In 1834, however, when the franchise was expanded for men, the words 'male persons' were inserted in the law, excluding all women from voting.

Are women 'persons'?

In 1867, the British Parliament widened the franchise to include more men in the *Representation of the People Act 1867*. Instead of 'male persons', this new law used the word 'man'. The famous British political philosopher, John Stuart Mill, tried to amend it to say 'persons' instead. This would have restored the rights of female property owners to vote on the same basis as men. He failed.

That same year, a shop owner in Manchester, Lily Maxwell, discovered that her name was on the electoral roll because she paid sufficient rent on a property to qualify. Like Fanny Finch had done in Victoria over a decade earlier, Lily exercised her right to vote. She did so publicly, to the cheers of supporters. The man she voted for, Jacob Bright, was a supporter of votes for women. He won the election and mentioned Lily in his acceptance speech, saying 'This woman is a hard-working, honest person who pays her rates as you do. If any woman should possess the vote, it is precisely one such as she'.

This led thousands of other female property owners to claim their right to vote. They pointed to the fact that in those days 'man' was a general term that included women (eg 'mankind' and one's 'fellow man'). There was also a law that said that all words in laws that use the masculine gender apply also to females unless they expressly state otherwise.

For example, many criminal laws said that if a 'man' committed an offence, he was subject to a penalty – but those laws also applied to women. Hence, they argued, if a 'man' had the right to vote, that meant that women did too. Despite the logic of this argument, most of the women were removed from the electoral rolls, although about 80 women still voted at the 1868 election.

This time, however, the matter went to a court. One of the barristers arguing in favour of voting rights for women was Richard Pankhurst, whose wife and daughters would later become famous suffragettes. They argued that it was a fundamental principle that there should be 'no taxation without representation'. If women paid taxes, they should also have a right to vote for representatives in Parliament. They also presented evidence to the Court that women did sometimes take part in elections in the past. The court, however, in the case of *Chorlton v Lings*, decided that the general rule of interpretation did not apply. 'Man' did not include women for voting purposes, as women, like children, suffered from a legal incapacity to vote.

Jacob Bright (who Lily had helped elect to Parliament) was successful in getting Parliament to grant women the right to vote in local government elections from 1869. But even then a court decided in 1872 that the status of a married woman was 'so entirely merged with that of her husband that she became incapable of exercising almost all public functions', including the right to vote in local elections.



Catherine Helen Spence: South Australian advocate of female suffrage. She helped secure the passage of the Constitutional Amendment (Adult Suffrage) Bill 1894 (SA), giving South Australian women the vote from 1895. She stood for election to the 1897 Constitutional Convention.

Source: History Trust of South Australia

Unsurprisingly, Jacob's attempts to give women the right to vote for Members of the British Parliament also failed. Women did not get the right to vote in the United Kingdom until 1918 (for those at least 30 years old who met certain qualifications) and 1928 for the rest.

There were also laws in the United Kingdom that gave graduates of British universities the right to vote for specific university seats. Did this mean women graduates could vote before other women were entitled to do so? This time the law simply referred to 'persons' who were graduates. But a court decided in 1909 that women were not 'persons' within the meaning of the Act and that if women were to be given the vote, it had to be done expressly by Parliament by way of plain language.

It was not until 1930 that, in a famous case, the United Kingdom's Privy Council (which was the highest court for British colonies) overruled the Supreme Court of Canada and decided in relation to Canada that a 'person', as referred to in the Canadian Constitution, included a woman. This meant that women could be appointed to the Canadian Senate. The Privy Council said: 'The word "person"... may include members of both sexes, and to those who ask why the word should include females, the obvious answer is why should it not.'

Women and the right to vote in Australia

In Australia, the expansion of the franchise occurred ahead of the United Kingdom for both men and women, although the same types of arguments were used as to whether or not women were 'persons' and were excluded by the law.

In colonial times, bills were introduced in the colonial legislatures to give women the right to vote, but even if they were passed by the lower House, they tended to be blocked by the more conservative upper Houses. For example, Sir Henry Parkes initiated bills to expand the franchise to women in both 1890 and 1891, but they failed.

The colony with the most progressive franchise was South Australia. It had been established to house free settlers from the United Kingdom, and was far more liberal in its voting rights than many other places. Women were given the right to vote in municipal elections in South Australia in 1861. They then achieved the right to vote and stand in parliamentary elections in a bill that was passed in 1894 and became law in 1895 (after Queen Victoria gave it royal assent – even though she did not approve of women voting).



Dorothy Tangney 1943, a member of the Australian Labor Party (WA), elected to the Senate
Source: Australian News and Information Bureau, National Library of Australia

South Australian women voted at a referendum and an election in 1896. Aboriginal women (and men) also had the right to vote in South Australia, and are recorded to have done so in the 1890s.

In 1897, Catherine Helen Spence ran for election to the Constitutional Convention that was to be held to decide on a new Constitution for a federated Australia. She did not win, but she still received solid support, coming 22nd in a field of 33 candidates.

South Australian women then organised and lobbied to influence the terms of the proposed Commonwealth Constitution. While their primary aim was to get a direct right for women to vote declared in the Constitution, they had a fall-back position of protecting the existing rights of women in South Australia and advocating a 'uniform franchise' for the Commonwealth. This would mean that the uniform franchise would have to allow all women to vote.

The South Australian delegates to the Constitutional Convention considered that they had been elected to represent South Australian women and protect their rights. If they betrayed the women, they could expect payback when women voted at the next colonial election, so they had a good incentive to act. Frederick Holder proposed that the new Constitution grant the right to vote to every man and woman of full age of 21 who had been registered as an elector for 6 months. This proposal was defeated by 23 votes to 12.

Holder then proposed a compromise – that no elector who now possessed the right to vote shall be deprived of it. George Turner pointed out that this would mean that the new federal Parliament, in setting a uniform franchise, would not be able to deprive any woman who could now vote, of that right.

George Reid added that this would 'compel female suffrage'. Edward Braddon complained that this would bind the hands of the federal Parliament in enacting a uniform franchise. Despite these complaints, the compromise was passed and became section 41 of the Constitution. The drafting left it unclear as to whether it would give ongoing protection to women and others who later obtained the right to vote in the States. This proved to be an issue for Aboriginal people and others excluded from the franchise in 1902.

There was also an issue about voting in a referendum to change the Constitution. Until the Commonwealth Parliament enacted its own franchise, State electoral laws would determine who could vote in federal elections and referendums. This would mean that States in which women could vote would have potentially twice the voting power in a referendum than they would have if only men could vote. Section 128 of the Constitution was therefore altered to say that until there was a uniform franchise throughout the Commonwealth, 'only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails'.

Western Australia gave women the vote in 1899 (with effect from 1900), and this added to the pressure on the Commonwealth Parliament to ensure that when it enacted its own uniform franchise in 1902, all women were included.



At the first federal election, held in 1901 upon State franchises, women got to vote if they were enrolled in Western Australia or South Australia. Because of section 41 of the Constitution, this right could not be taken away from them.

When the *Commonwealth Franchise Act 1902* (Cth) was passed setting the Commonwealth franchise, women were granted the right both to vote in federal elections and to stand for election to the Commonwealth Parliament.

At the State level, even those with conservative upper Houses eventually fell into line. It was difficult to maintain arguments that the right to vote would destroy families or make women coarse and vulgar, if the federal franchise had clearly done no such thing.

Women won the right to vote in State elections in 1902 in New South Wales, 1904 in Tasmania, 1907 in Queensland, with the last State being Victoria in 1908-9. But this was not the end of the struggle. In many cases further campaigning was needed to gain the right to be elected to Parliament and to get women into Parliament. Laws that prevented women from being lawyers and judges or sitting on juries also needed to change. Votes for women was the beginning, not the end.

Female representation in Parliament

Although Australian women were the first in the world to win the right to be elected to Parliament, it took a long time for them to succeed in elections.

Dame Enid Lyons won a seat in the House of Representatives for the United Australia Party (predecessor of the Liberal Party) in 1943
Source: Antoine Kershaw - National Library of Australia

In 1903, Vida Goldstein, Nellie Martel and Mary Ann Moore Bentley stood for election to the Senate. Selina Anderson stood for election to the House of Representatives. None of them were elected. This was partly because women were not endorsed as candidates for major political parties, which remained dominated by men. Suffragists, such as Vida Goldstein, were suspicious of these male-dominated institutions and therefore ran as Independents or representatives of minor parties. This made it extremely difficult for them to achieve election.

At the federal level, it was not until 1943 that Dorothy Tangney, as a member of the Australian Labor Party, was elected to the Senate and Dame Enid Lyons, as a member of the United Australia Party (which was a predecessor of the Liberal Party), won a seat in the House of Representatives.

At the State level, Edith Cowan was the first female Member of Parliament, being elected to the Western Australian Legislative Assembly in 1921. South Australia, which has been the first to give women the right to vote and stand for Parliament in 1896, was the last State to elect a female Member to its Parliament. This did not occur until 1959.





Topic 9.3: Lesson/ Activities One

The story of women's voting
rights under the Australian
Constitution - Votes for Women



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Time/Lesson

- 1 hour/ 1 Lesson

Learning Goal

To understand the history of the fight for the right of women to vote and the underlying reasons for discrimination against women.

Rationale

Understanding the battles people fought to obtain the right to vote and recognising the reasons why the right to vote was so important to them will help build the appreciation of students of their future right to vote, which they might otherwise take for granted.

Success Criteria

Students understand that the right to vote was denied to women for a long time and that it had to be fought for. Students appreciate the impact of discrimination and the importance of the vote.

Teaching Reference Document

- TRD 118: Votes for Women

Resources

- Internet access to Commonwealth Hansard

Tuning In

- **REVIEW** lessons/activities Unit 4: Topic 5.2: Right to vote – women: Fanny Finch and the female franchise and Unit 5: Topic 6.1: Making the Constitution - Where were the women?
- **DISCUSS** the history of the right to vote - how the franchise was at first very narrow, confined to men who held property or had a high income, and how it gradually expanded. Why were people excluded from the franchise based on race, sex, age and other factors? What does this say about the society of the time? Who was valued and who was marginalised? Who wanted to protect and maintain their power?
- **WHAT** was the relationship between voting restrictions and levels of education? If the large bulk of people were not educated and could not read or write, how could they give an informed vote? Did the expansion of education and the imposition of compulsory levels of education run in tandem with demands to broaden the franchise?

Teacher Instruction

- **Research and analysis:** Use online Hansard (the record of debates in Parliament) and Trove to assemble arguments made for and against women voting in the student's own State or at the Commonwealth level. For example, the debate on women's suffrage in the Commonwealth Parliament in 1902 shows as follows. Some men considered that the vote for women was a 'craze' that would degrade women or impose upon them burdens that they do not wish to bear. There were suggestions that women were simple-minded and would vote as instructed by their priest, father or husband. Some said that women would vote according to instinct or emotion, rather than reason. They might even vote for good-looking men. If women could vote it would create discord in the home and increase divorce. It was against the law of nature. Others thought that those who pay taxes or own property (upon which they pay rates) are entitled to representation and that it was simply a matter of justice.
- Ask students to consider what these types of arguments tell us about the period in which women first got the right to vote. What was society like in those days? What constraints were there on the lives of women?

Group/Independent Learning

- **Debate:** Hold a classroom discussion or a debate about how we should regard today people who in the past held views very different from our own. We have seen images of statues being torn down and buildings being renamed, because they commemorated people from the past who owned slaves or expressed racist views despite also being leaders of the society of the time.
- How should we regard those who spoke out against women getting the right to vote, or who regarded women as foolish and incompetent? Should we treat them as people of their time who reflected the values and attitudes of their day, and respect their other achievements, or do they deserve to lose our respect for having held views that we regard as unacceptable or even abhorrent today?
- Is there a better way of reflecting on the past than simply tearing down statues and burying history? In All Souls College, Oxford, there is a magnificent library that was paid for by Christopher Codrington, who made his fortune through sugar plantations worked by slaves. Instead of removing his statue, the College uses a projector to project the names of his slaves onto it so that their memory lives, as does his. Is this a more meaningful response to past wrongs?
- Ask students to reflect upon the views held today or recent actions for which people in 100 years might criticise us for because attitudes and laws might change.

Wrapping It Up

Conclude by discussing the value of the vote. Why did women care enough about voting to fight for the right to do it? Many people in Australia see voting as a chore and try to get out of doing it. How would they feel if their right to vote was taken away? Why is it important that you can use your vote to get representation of your views in Parliament? What difference does it make to the laws that are passed?

Differentiation/Enrichment

Students research when women achieved the right to vote in different countries in the world, creating a timeline. What conclusions can you draw from the different dates and the systems of government in those countries?

Assessment Strategies

Assess understanding as shown in the written research and analysis report, the class debate and class discussion.

