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Suffragist Susan B. Anthony's stand on voting sets stage for today

As I recently cast my vote in the latest round of elections, I was reminded that at one time such an action could be the grounds for an arrest and prosecution. In November 1872, Susan B. Anthony was arrested, indicted and convicted for doing just what I did — being a woman and casting a ballot.

Anthony believed that the condition of women in society could only be improved when they obtained the power to vote. At that time, a woman's right to vote was a volatile topic of debate which pivoted upon the then-recently adopted 14th Amendment, which provides that "all persons born and naturalized in the United States ... are citizens of the United States," and as citizens are entitled to the "privileges" of that citizenship, including the right to vote.

Although some interpreted this post-Civil War Amendment to broaden the franchise only to black men, Anthony consulted with numerous attorneys and thereafter took the position that it also gave women the constitutional right to vote in federal elections.

She was also aware that this question would never be resolved by the courts unless a woman actually voted, or had attempted to vote, and was turned away. Anthony decided that she would be that woman.

When Anthony went to her polling place in Rochester, N.Y., to cast her ballot in the federal congressional election, the ballot inspectors at first disagreed over whether a woman had a right to vote. After discussion, they ultimately allowed her to do so. However, a poll watcher thereafter filed a complaint charging Anthony with casting an illegal vote; a warrant for her arrest was issued.

The case of the *United States v.*

Susan B. Anthony had thus begun. Anthony's indictment alleged that she "knowingly, wrongfully and unlawfully vot[ed]" in the election, which was "against the peace of the United States of America and their dignity."

Anthony pleaded not guilty to the charges, raising the defense at trial that because she reasonably believed she had the right to vote, she could not be guilty of the crime of "knowingly" casting an illegal ballot. Although Anthony requested to testify on her own behalf regarding her state of mind at the time of her vote, the prosecutor successfully objected, arguing that because she was a woman, "she is not competent as a witness on her own behalf."

At the close of evidence, the trial judge held that:

"[t]he 14th Amendment gives no right to a woman to vote, and the voting by Miss Anthony was in violation of the law. ... Miss Anthony knew that she was a woman ... [and] [a]ssuming that [she] believed she had a right to vote, that fact constitutes no defense if in

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truth she had not the right. She voluntarily gave a vote which was illegal, and thus is subject to the penalty of the law."

Although a jury had been seated, the judge also determined that there was "no question for the jury and that the jury should be directed to find a verdict of guilty."

Anthony later described her trial as "the greatest judicial outrage history has ever recorded ... and a mere farce." Her counsel requested that the court grant Anthony a new trial and allow the jury to

LAW FROM A DIFFERENT PERSPECTIVE

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determine whether she was guilty of a crime.

Her counsel noted that "[t]he court has listened for many hours to an argument in order to decide whether the defendant has a right to vote. The arguments show the same question has engaged the best minds of the country as an open question. Can it be possible that the defendant is to be convicted for acting upon such advice as she could obtain while the question is an open and undecided one?" The court, however, would not be swayed and denied the motion.

The court then inquired whether Anthony had anything to say before her sentence was pronounced. She certainly did:

"Yes, your honor, I have many things to say; for in your ordered verdict of guilty, you have trampled underfoot every vital principle of our government. My natural rights, my civil rights, my political rights, my judicial rights

are all ignored. Robbed of the fundamental privilege of citizenship, I am degraded from the status of a citizen to that of a subject; and not only myself individually, but all of my sex, are, by your honor's verdict, doomed to political subjection under this, so-called, form of government."

Although the court stated that it would not "allow the prisoner to go on," Anthony disregarded this order and responded, "[m]ay it please the court to remember that since the day of my arrest last November, this is the first time that either myself or any person of my disfranchised class has been allowed a word of defense before judge or jury."

In reply, the court insisted that Anthony had been "tried according to the established forms of law," to which Anthony retorted, "[y]es, your honor, but by forms of law all made by men, interpreted by men, administered by men, in favor of men and against women; and hence, your honor's ordered verdict of guilty; against a United States citizen for the exercise of 'that citizen's right to vote,' simply because that citizen was a woman and not a man."

The court ultimately sentenced Anthony to pay a fine of \$100 and the costs of the prosecution. Anthony responded: "May it please your honor, I shall never pay a dollar of your unjust penalty," and she did not. Not surprisingly, the government made no serious effort to collect the fine.

Anthony's courage in standing up for her beliefs and subjecting herself to an arrest, trial and conviction moved the women's suffrage movement forward.

However, it would still take nearly half a century more — until 1920 — until women were finally given the right to vote with the passage of the 19th Amendment. Unfortunately, Anthony never saw the result of her courageous act.