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InnoVoting: How Democracy Is Being Reshaped By Women's Innovative Voting Activism & Candidacy

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InnoVoting: How Democracy Is Being Reshaped By Women's Innovative Voting Activism & Candidacy

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INNOVATING: HOW DEMOCRACY IS BEING RESHAPED BY WOMEN'S INNOVATIVE VOTING ACTIVISM & CANDIDACY¹

Professor Andrea Schneider, Director, Institute for Women's Leadership, Marquette University, Marquette University Law School

Hi, my name is Andrea Kupfer Schneider, Professor of Law and Director of the Institute for Women's Leadership at Marquette University. In honor of the one hundredth anniversary of the Nineteenth Amendment, and in recognition of how important women are in this current election, we are delighted to bring you our virtual conference on Women's Suffrage and Innovation. Thank you for joining us.

Professor Kali Murray, Marquette University Law School

Hi. Welcome to *InnoVoting: Action, Engagement, and Change*.² I am so excited to welcome you today to what will be a wonderful panel discussion with Dr. Mary Kelley, Dr. Christina Wolbrecht, and Dr. Kara Swanson. My name is Kali Murray, and I am a Professor at Law at Marquette University Law School. My co-host is Dr. Amber Wichowsky, and I will turn it over to Amber to look at our first theme, which is action.

Professor Amber Wichowsky, Director, Marquette Civics Dialogues Program and Marquette Democracy Lab, Marquette University

Thanks Kali, and welcome. Kali and I have structured our conversation today around three themes: action, engagement, and change. We are going to start off with action, thinking about these last several years and the ways in which women are participating in democratic life. Do we see change? Do we see continuity what might be the impacts of their democratic engagement?

My first question here is for Dr. Wolbrecht. You know, Christina, in recent years we have seen near-record or record numbers of women running for office in the United States, and I wonder if you could tell us a little bit about this shift.

1. [Editor's note: The *Marquette Intellectual Property and Innovation Law Review* is proud to present the panel discussions from the October 2020 virtual conference held by the Institute for Women's Leadership at Marquette University on Women's Suffrage and Innovation. This transcript has been edited for clarity.]

2. Institute for Women's Leadership, *InnoVoting: How Democracy is Being Reshaped by Women's Innovative Voting Activism & Candidacy*, SUFFRAGE & INNOVATION 2020 CONFERENCE, <https://suffrageandinnovation2020.com/>.

In particular, what impact might seeing these highly visible women running for office have on younger women?

Professor Christina Wolbrecht, Director, Rooney Center for the Study of American Democracy, Notre Dame Washington Program, University of Notre Dame

Thanks Amber, and I just want to say thank you to Marquette. You are absolutely right. We have seen a really substantial growth in women running for office, particularly since 2018.³ I guess I would say a couple of things. There was in 2018, and now again in 2020, a really sharp increase.⁴ In 2018, as had been the case in most of the growth in women running for political office, it was really mostly Democratic women who were running.⁵ We were not seeing those same increases on the Republican side.

It is a little different in 2020, where we are seeing many more Republican women running.⁶ I think you see a couple of things. I think you see a changing context for women candidates where they are not only accepted, but really welcomed for what they can bring to the political world. I think you see the outcome of careful efforts to help women who are interested in running to get the resources, the skills, the experience, and the confidence that they need to go forward. That matters a great deal. The parties are doing a lot to recruit women, I think, and that has been important as well. In my own research with Dave Campbell, we have shown that when women run for office, they do in fact inspire adolescents and young girls to be more interested in politics.⁷

To discuss it more after 2016, they were more likely to engage in protest, they had women in their own communities as role models there, this is what you do with your frustration. I am particularly excited, or interested, to see what happens in 2020.⁸ We know that Democratic women candidates had a big impact on interest in politics among Democratic girls in 2018.⁹ Now that we see more Republican women running, I'm really looking forward to seeing the impact that that has on girls as well.

3. See Kelly Ditmar, *What You Need to Know About the Record Numbers of Women Candidates in 2020*, Rutgers Eagleton Inst. of Pol. (Aug. 10, 2020), <https://cawp.rutgers.edu/election-analysis/record-numbers-women-candidates-2020>.

4. *Id.*

5. *Id.*

6. *Id.*

7. Dave Campbell and Christina Wolbrecht, *How women candidates are making girls feel better about politics*, The Washington Post (Nov. 22, 2019, 5:00 am), <https://www.washingtonpost.com/politics/2019/11/22/how-women-candidates-are-making-girls-feel-better-about-politics/>.

8. *Id.*

9. *Id.*

Professor Amber Wichowsky

Wonderful. Professor Kelley, your Keynote Address¹⁰ brought to life so many women in the Early Republic, and I wonder, listening to Christina talk about 2020, as a historian, are there historical moments that are comparable? It is probably the wrong way to say this, but we might think back on women entering the political fray. Of course, the political fray in those times was quite different than the political frays today, but I am wondering what impact these women have on other women in their times.

Ruth Bordin Collegiate Professor Mary Kelley, University of Michigan

I think two moments are critical, one in the nineteenth century, and one much more recently. First, I am thinking about the 1830s and 40s, and I am thinking about abolitionism, and the entry of women into abolitionism which became their entry into suffrage. I also think particularly of individuals, such as Sarah Mapps Douglass, an African American woman living and teaching in Philadelphia, who was extremely active and who spoke in various venues, including various literary societies,¹¹ who herself formed a literary society of African American women in Philadelphia. She spoke eloquently about the need for women's rights across the board, for black women as well as for white women. She was an extraordinary person, and she worked into the 1870s.

I think also about Sarah and Angelina Grimké, white Southerners who came from a slave-holding family, who left the South and came north, settled in Philadelphia, and joined the Quaker meeting there.¹² Sarah Mapps Douglass was also a member of that Quaker meeting. I think of the ways in which they also became the first lecturers to actually go to platforms and to begin speaking, and the kind of controversy that they caused. They were told by the organized congregational ministers of New England that they should cease and desist immediately. They did not. I think about individuals like that, and Etta Haynie Maddox,¹³ who came from a wealthy Baltimore family and who also circulated her albums and got her support for issues around women's rights. In that particular way, all of these women in different venues and in different ways

10. See Mary C. Kelley, Keynote Address: Achieving Suffrage, Suffrage and Innovation 2020—an IWL Conference (Sept. 14, 2020), <https://www.youtube.com/watch?v=RGcll7-ZC3E>.

11. See Marie Lindhorst, *Politics in a Box: Sarah Mapps Douglass and the Female Literary Association, 1831-1833*, 65 PENN. HIST. 263 (1998).

12. See Drucilla Cornell, *Freedom's Conscience*, 24 N.Y.U. REV. L. & SOC. CHANGE 149, 150 (1998) ("The Grimke sisters . . . grew up on a Southern slave-owning plantation. . . . [T]hey became early and eloquent members of the abolitionist movement.") (citing DAVID RICHARDS, *WOMEN, GAYS, AND THE CONSTITUTION* 531 (1998)).

13. See Maryland Commission for Women, *Etta H. Maddox*, MARYLAND WOMEN'S HALL OF FAME, <https://msa.maryland.gov/msa/educ/exhibits/womenshall/html/maddox.html> (last visited Jan. 14, 2022).

entered public life at that time, and they were important models for those who came after them.

The second moment that I think about is one that is much more recent and comes in the 1960s and 1970s. I think about Shirley Chisholm's election to Congress.¹⁴ Then I think about her presidential run in 1972. I think of all of the kinds of politics that went on and that engaged women in those particular years. Also, when they turned to politics as a way to change matters throughout their lives, they had as models women such as Bella Abzug¹⁵ and Patricia "Pat" Schroeder.¹⁶ Bella Abzug, a classic New Yorker—and that is a self-description on her part—was strong.¹⁷ She was talkative.¹⁸ She was, in the eyes of many, very abrasive.¹⁹ She did not care.²⁰ She was there to make her point.²¹ She was exceptionally powerful in Congress, and she got things done.²² And then I also think about Pat Schroeder, who was married and had children.²³ She was the first woman in Congress to do so and she was ridiculed and told to go home, told she didn't belong there.²⁴ I was reading about her again today, she talks about one time that she felt, maybe they're right. She was from Colorado and she was flying back to Denver, on a plane with some of her children, and suddenly their pet rabbit escaped its cage and went zooming down the aisle in front of her, and her children went chasing after it. She thought, no, maybe this is a little much, maybe this is more than I can manage. But she got the rabbit

14. See Kerri Lawrence, *First African American Congresswoman Featured at National Archives*, NATIONAL ARCHIVES NEWS (Feb. 8, 2019), <https://www.archives.gov/news/articles/first-african-american-congresswoman-featured> (noting that Shirley Chisholm was the first black woman elected to Congress, taking office in 1969).

15. See Laura Mansnerus, *Bella Abzug, 77, Congresswoman and a Founding Feminist, Is Dead*, N.Y. TIMES (Apr. 1, 1998) <https://www.nytimes.com/1998/04/01/nyregion/bella-abzug-77-congresswoman-and-a-founding-feminist-is-dead.html> (highlighting some of Abzug's life achievements as a feminist and activist).

16. See Susan Ferraro, *The Prime of Pat Schroeder*, N.Y. TIMES (July 1, 1990), <https://www.nytimes.com/1990/07/01/magazine/the-prime-of-pat-schroeder.html> (describing Schroeder as a driven politician who has sought to change broken systems based on family issues like child care and education).

17. Mansnerus, *supra* note 13 (labeling Bella Abzug as a founding feminist, advocating for women's rights for decades and known for her forceful personality).

18. *See Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. *See Ferraro, supra* note 14.

24. *See Patricia Scott Schroeder, Biography*, History, Art & Archives, United States House of Representatives (last visited Jul. 19, 2021), [https://history.house.gov/People/Listing/S/SCHROEDER,-Patricia-Scott-\(S000142\)/](https://history.house.gov/People/Listing/S/SCHROEDER,-Patricia-Scott-(S000142)/).

back, and she kept right on going.²⁵ I think about women like that and the kinds of models that they provided for us in both the past as well as in the clearer present. So, yes, there are other moments, and they make a very real difference.

Professor Kali Murray

Thank you so much, Professor Kelley. Professor Swanson, the last four years have seen the emergence of new claims of social identity, including movements around sexual orientation such as transgender citizenship. Do you see movements engaged with sexual orientation, using the same persuasive claims as to inclusive innovation as made by suffragettes around citizenship?

Professor Kara Swanson, Northeastern University School of Law

Thank you, Kali, for that interesting question but also just inviting me to participate in this conference. It is really a pleasure to be even virtually at Marquette and to be participating on this panel. It is really a highlight at the end of my week.

In answer to your question, almost all movements for inclusion in which people are seeking full legal citizenship rest on a really basic strategy: We are here, and this is how we want you to see us. This is how we want you to understand us. That quest for visibility—we are here and in the course of living our lives, we are contributing to the policy and polity and society in many ways. There is a very old slogan that's still being used, we're here, we're queer, for example, see us, and see who we are.

It has actually been exciting and interesting to see how in recent years movements for inclusion have also relied, like the nineteenth-century suffragettes, on evidence of innovative contributions as a particularly salient way of showing who we are and what our contributions are. I'm thinking of hashtags, for example, #TransInStem, #QueerSTEM, #LGBTinSTEM, #LookLikeAScientist, #LookLikeAnEngineer, that accompany photos showing a diversity of representation in innovation-intensive activities. These say, "see us; see who we are; and also see what we're doing."²⁶ In this way, we're not just making the invisible visible. We are tapping into this powerful way of showing participation in this long tradition of American ingenuity and inventiveness that undergirds these claims for inclusion, to be one of us, to be full Americans that are contributing in material ways to an innovative future, and also deserve to have full legal status in the moment.

25. Interview by U.S. House of Representatives Office of the Historian with Hon. Patricia Scott Schroeder in Washington D.C. (June 3, 2015), at 29-30, <https://history.house.gov/Oral-History/Women/Women-Transcripts/schroeder-transcript/>.

26. See also Jennifer Leman, *What's It Like to Be Queer in Stem?*, *Scientific American* (Apr. 20, 2018), <https://blogs.scientificamerican.com/voices/whats-it-like-to-be-queer-in-stem/>.

Professor Kali Murray

Thanks Kara. We actually have a little bit of time and all of you are making such really neat interlocking points. Do you want to respond? Does anyone want to respond to another statement?

Professor Christina Wolbrecht

I love how all of these perspectives from history, law, and political science are all about the cyclical nature of reform. How we learn from each other, and how we are inspired by earlier folks we know. Suffrage came out of the abolition movement. We know the second wave came out of the anti-war and the free speech and the civil rights movements. We know that struggles for LGBTQ rights build off of and learn from those, and vice versa. You see a lot of learning in more recent movements, like the Black Lives' Movement, that share, as Professor Swanson said, these basic sorts of claims. We are citizens. We are fully part of this community, this American community. We want to be seen, and that struggle, who belongs in the American community, has been absolutely central to our politics from the founding until today. Who is the "we" of the United States? And we are absolutely having that discussion in 2020 once again.

Professor Kara Swanson

I just wanted to say that when I was listening to Dr. Wolbrecht's presentation and Dr. Kelley's presentation, this theme of visibility was so apparent. This notion that if young girls see women running for Congress, if young girls see women protesting in the streets, that they are more likely to be interested in politics. They are more likely to participate. The incredible impact of having the Grimké sisters be seen on a stage,²⁷ that's all about visibility: where they are and whose eyes are on them, from what direction. So that's just a really interesting interlocking theme of all of our research in this area.

Professor Mary Kelley

I wanted to also comment on what Kara had to say, that I use it as a basic text in women's and gender history that I teach women's rights in America. Which is signaled in this reliance upon legal documents, and initially, students said, well, why are we reading all of these legal documents every week? Practically they read one legal document another, but when they come away from that course and their evaluations, they see the way in which legal documents, legal precedents, legal cases, are the bedrock and the groundwork on which we establish equality in this country. I think it is one of the most important lessons that they learn in the entire course. So, I just want to say how

27. See Cornell, *supra* note 10, at 154.

important legal history is as a way in which you can approach women's and gender history in this country.

Professor Kali Murray

One of the really cool things that our audience might not know is Professor Swanson is both a patent law professor and a history professor, which is why she speaks at this intersection so eloquently. For me, for all of us here, the idea of visibility speaks so powerfully to the moments we were talking about in our previous panel.

The importance of positive vision as sparking women's participation was particularly striking this week because of a striking image, the way in which Kamala Harris and Amy Coney Barrett during this campaign have offered very different version of American femininity. Kamala Harris clearly stands as a result of the feminist movement; but Amy Coney Barrett stands as a result of the equally important counter-reaction to feminism.

So, the next set of questions that we have are questions related to democratic engagement and what we can learn about democratic engagement from the relationship of suffrage to innovation. Again, I want to link us back actually to our earlier panel today. Professor Lisa Therault spoke powerfully about the idea that suffrage was not necessarily at the center of the challenges associated with women's identity. Women were critiquing and engaging in many more and many different types of conversations about being democratic citizens, and suffrage was only one of those conversations.

I thought it spoke powerfully to that moment, Professor Kelley, from your presentation, when we see women challenging the presumption that they do not belong in public conversation. How did women break through to engage in those public conversations, and what rhetorical strategies did they use, and what impact did they have on prevailing norms and stereotypes about women in public life?

Professor Mary Kelley

There are two different strategies, and they follow each other historically. You are talking to a historian, obviously. One of them was in the earlier years. One of the strategies was to speak about the advantage of the standpoint of difference, that women had a particular and different role to play in American life, beginning with the [American] Revolution going forward. It begins with the notion that in a republic, women have a particular role to play, in influencing members of their family, their sons, their daughters, and their husbands as well, and in doing so, they will shape the republic from the perspective of their central role within the family.²⁸ That role got extended to the idea of influence

28. See Michelle Nickerson, *Stefanik's Rise and Cheney's Fall Mark a New Role for GOP Women*, WASH. POST (May 13, 2021),

in public life more generally as women stepped beyond their households into public life. That's what their role was, to shape that public life again as the holders of the essential morality.

This, by the way, was a white woman's project. It was not an African American woman's project. It was to say that we are different from, and therefore have this moral responsibility to teach, those who are active, are more active, or have a vote in public life. How should [men] hold themselves? How should [men] perform within public life?

That shifted later into another strategy, equality, which did not say that we are different, it stated we, women, are the same [as men], our minds are basically the same. We all have same public responsibilities, and the same rights. In other words, it shifted to equality in the later years.

Equality, however, is not what kept driving all of these movements from the progressive reform years of the late nineteenth century forward. But before that, it was difference that was the driving force in terms of women achieving a higher visibility and a higher level of participation in public life. So, they are basically two phases by which women argue for the reasons that they should be engaged in and have equal participation in public life, including suffrage.

Professor Kali Murray

This is a quick follow-up question because we actually have a little bit of time. How did the Republican theorists address the contradiction of the experience of Native American women or the experience of African Americans? How did they even think about that set of experiences in relationship to their claims of difference?

Professor Mary Kelley

No, they did not. This was a clearly an exclusively white project, and the women who were engaging in it were like many men. They did not necessarily hold egalitarian attitudes toward either Native Americans or toward African Americans. It was much more mixed in terms of African Americans, but yes, in terms of Native Americans, they were not part of this project, they were part of getting removed.²⁹ That was the project, and then in terms of African Americans, it was removal from slavery. But then what role they would play was unclear.

<https://www.washingtonpost.com/outlook/2021/05/13/stefaniks-rise-cheneys-fall-mark-new-role-gop-women/> (noting that Republican women in politics have developed a "pro-family" agenda in response to the feminist movement going back to the 1960s).

29. Mimi Yang, *An intimate dialog between race and gender at Women's Suffrage Centennial*, 7 Human. Soc. Sci. Comm. 65 (2020).

I also want to say one more thing. We always talk about abolition.³⁰ What we forget about abolitionism is that an equally important movement in terms of its popularity, was the colonization project, which argued that the way to solve the issue of slavery in this country was to free African Americans on the promise of colonizing, that is, on the promise that they would leave this country and settle in Africa instead. That was a very powerful movement, which tells us a lot about racial perspectives on the part of white people during this period. It wasn't the success story, fortunately, but it was a very important story that we tend to neglect, and it tells us a lot about perspectives of white people during this period.

Professor Kali Murray

Well, thank you. I have a second question for Professor Swanson from your presentation. We see a very specific technique, the use of evidence of innovation to claim that women were prepared to be full citizens. In 1809, Mary Kies was the first woman to receive a US patent,³¹ not long after the American Revolution, a very important moment in terms of the expansion of citizenship.

We say this technique of using evidence of innovation to validate claims of citizenship was a very successful technique for passage of the Nineteenth Amendment, but was this claim carried forth in successive feminist movements such as the Equal Rights Amendment?

Professor Kara Swanson

Thank you, Kali, and I want to start my answer by maybe pushing back on some of the assumptions of that question. I do argue that women used patents as evidence of their inventive ability, as a powerful rhetorical strategy to claim full legal citizenship as part of the suffrage movement of the nineteenth century. But that campaign was successful in that they succeeded in moving the dial. And the dial's starting point was: women don't have the capacity or capability or the ability to invent anything, they can only imitate. They cannot originate things. A woman inventor did become a recognized status, with recognition that there are women who are inventing, and invention might be something that you could aspire to a way of earning money. Invention was mentioned as a possibility in women's self-help manuals, so, it was successful in that way.

But I'm not claiming that achievement, convincing people that women could invent, was sufficient, of course, to give them the vote in the Nineteenth Amendment. The women thought it was necessary, that it was a very important

30. *Id.*

31. Erin Blakemore, *Meet Mary Kies, America's First Woman to Become a Patent Holder*, *Smithsonian Magazine* (May 5, 2016), <https://www.smithsonianmag.com/smart-news/meet-mary-kies-americas-first-woman-become-patent-holder-180959008/?no-ist>.

step to overcome this idea that they were not original thinkers, but it certainly was not sufficient.

I want to also reposition the second part of your question. We all know, of course, the Equal Rights Amendment movement was not, has not yet been, successful. I'm going to put it that way. But of course, there were also a lot of legal successes during that period of feminist activism. The inclusion of sex in the Civil Rights Act, all kinds of judicial victories, both in reproductive and employment areas, and I do see women of the second half of the twentieth century again making these claims of female inventiveness. So this idea, for example, that a woman is the inventor of the cotton gin, not Eli Whitney, that the gin should be credited to Catherine Greene, shows up again in feminist newspapers and magazine articles in the 1970s.³² What I also find very interesting is today the focus of the women's movement, and this goes back to Dr. Wolbrecht's first point about the value of modeling behavior for children, has really been on teaching girls that they can be innovators to show them that girls can invent in order to change the pipeline in STEM, and I think that comes from an awareness of the jobs and the money that are associated with STEM, as well as the social and political capital that comes along with achievements.

Professor Kali Murray

However, you note in your presentation that the gender gap in patents endures, and limits our growth and innovation. How might we think about the connection between this gender gap and gender gaps in politics?

Professor Kara Swanson

Well, I think that is a very interesting question, and for those of you who don't have my presentation at the tips of your fingers, women get ten to twelve percent of patents issued today as we sit here.³³ You know, I say this is not a "gap" in patents. This is a chasm in patents between the sexes, really, and it's absolutely astonishing to me given my experiences in my lifetime as somebody trained in science and patent law.

So, what I think about, that goes back to something you said a few minutes ago, Kali, which is of course, the suffrage movement didn't start as a suffrage movement. It started as a movement for equality. Equality in every single realm, politics, society, employment, religion, and we have seen, of course, that the Nineteenth Amendment was eventually passed or modified after a heck of a lot of effort. But that was only a small victory, and what the patent statistics

32. Catherine Greene, Brooklyn Museum, https://www.brooklynmuseum.org/eascfa/dinner_party/heritage_floor/catherine_greene.

33. USPTO Releases Updated Study on Participation of Women in the U.S. Innovation Economy, United States Patent and Trademark Office (July 21, 2020), <https://www.uspto.gov/about-us/news-updates/uspto-releases-updated-study-participation-women-us-innovation-economy-0>.

tell me is that we are still in that fight. The fight is absolutely not over, and so the patents become a proxy of the failure to achieve full equality even though we've achieved equality in certain areas.

Professor Kali Murray

I'm going to turn it over now to Amber.

Professor Amber Wichowsky

This is great. I'm hoping that some of our attendees have been able to watch our first live event from today at noon. But if not, we are recording these in order to be able to make so many connections, not only for our panelists here. But thinking back to the first session that we had at noon, where we were really reflecting on the fact that we cannot see voting as the end-all be-all, that is the sort of story we are celebrating here with the centennial of the ratification of the Nineteenth Amendment. But when we are talking about broader gender equality, social equality, economic political, it is a much bigger story, and it gets narrowed if we just focus on obtaining the right to vote.

So, Christina, you know I was really struck in your first presentation when you were talking about the ways in which women had to innovate new forms of political action because they were shut out of formal partisan politics. So, they were petitioning, lobbying, and protesting right in front of the White House., And you also make this point so clearly, that the "woman voter" is a myth. Women are diverse in their identities, their interests, and their experiences. And so today, women are not shut out of formal politics in that same way, but we remain underrepresented in the halls of power in Congress, in State Legislatures, and in Mayor's offices. Kara is telling us about the chasm for the gender gap here in patents, and I'm thinking today about the recession.³⁴ We are hearing the phrase "she-session" in terms of the disproportionate impact on women, and so, our moment has all of these kinds of contradictions and challenges. We have women who are really exerting a real intersectional identity, it's black women, it's white conservative women.

I'm wondering, do we see innovations in political activism today, in rhetorical strength strategies, things that are challenging some of our gender stereotypes, maybe opening up new pathways for democratic engagement in the struggle for broader equality? How can we make sense of this theme of innovation in today's political environment?

34. Hilary Wething, *Job Growth in the Great Recession Has Not Been Equal Between Men and Women*, Economic Policy Institute (Aug. 26, 2014, 1:03 pm), <https://www.epi.org/blog/job-growth-great-recession-equal-men-women/#:~:text=by%20Hilary%20Wething-,Job%20Growth%20in%20the%20Great%20Recession%20Has,Equal%20Between%20Men%20and%20Women&text=Men%20lost%20far%20more%20jobs,million%20jobs%2C%20or%203.5%20percent>.

Professor Christina Wolbrecht

I just want to agree that I think this conversation touches on so many important things. I want to thank Dr. Swanson, since I'm going to finish this up and sit down to dinner with my two teen daughters, and we're going to talk about only ten percent of the patents belonging to women. I had no idea. That is so fascinating, and I think it really connects with the political world in a couple of ways that I want to highlight. I want to talk about three things Amber that you raised in your comments, and I'm going to try and do them quickly.

The first is to think about innovation in the suffrage movement. In the nineteenth century, politics was party politics through and through, and it was our last period of really strong partisan identification with the kind of identity politics which we frankly also always see. But the lining up of identities—religious, racial, etc.—with party identities happened in the second half of the nineteenth century. This was a problem for women, because the way in which you made political change is that you organized groups of voters through political parties, and you negotiated for policy outcomes through this party structure. But of course, women couldn't do that. They could not show up and hand out shots of whiskey or dollar bills or whatever. And so, they had to come up with different ways of making political change.

What they did is they tried to affect public opinion through rallies and speeches. They drew attention to their issues through innovative protest activities. Women were, in fact, the very first people to ever protest in front of the White House—it was done by Alice Paul and others. They went directly to legislators and instead of working to get them elected, made arguments on their merits or as one historian has shown said, look, we are aligned with all these other people you do care about, you care about the farmers, and the Grange and you care about this third party movement that is threatening you, so you should listen to us. The irony, of course, is that other interests looked around and said, that seems to work better, that's easier than a really big party machine structure where we can count all the votes and sort of things. By the time women actually got the ballot, as some theorists have pointed out, it was in some sense worse worth less than it had been in the nineteenth century because the interests all figured out, oh, we're going to do public opinion stuff. We are going to do direct lobbying. The organizing of votes, consequently, will not be as important.

Second, I am really interested in how we see more women candidates and we see more men candidates reinventing campaigning and campaign strategies. My students in my Women in Politics classes do candidate reports where they look at the gender composition of the cabinet, and I start every class with what I call a moment of gender, where we look at ads by male and female candidates and how they're using gender. What I have learned from my students is that

male candidates are filling their Instagrams with pictures of themselves with their family and their dog and other personal aspects, and thus, they are giving us a different vision of what male leadership looks like. Then, we have women candidates like Zephyr Teachout who is doing an ad where she's getting an ultrasound, and two women in 2018 did ads while they were breastfeeding.³⁵ They are all challenging ideas about what leadership looks like. You know, AOC is making soup while she talks about public policy, and these are all innovations that everybody is having to think about, and they complicate our ideas of gender and leadership.³⁶

Then finally, in terms of innovation, people who study American political development, like the great Julia Azari here at Marquette, will tell you that things follow on different tracks. So you can totally transform politics by saying women are full citizens, and they can vote as they did in the nineteenth century—of course, Jim Crow made that a problem for lots of women of color—but that does not say we're no longer going to have a patriarchal family structure. That does not say we are now going to have women with the same levels of education, and the patriarchal family structures is a big part of that. If men are still the leaders in their families, then they are still representing the family in the public sphere, and that has consequences for women's political engagement. It also means if the family can only afford one poll tax, they are only going to pay for the husband to vote as well, so it is absolutely the case that we can advance and fall back in different areas, but that those advances and fallbacks are going to affect other places as well.

Professor Kali Murray

This serves as a really nice entrance into our last set of questions. How has the changing landscape around voting created new social disruption? Here, I am going to start off with a question directed to Kara. A key debate in the current election is the tension between old voting rights—which is that you show up at a specific place, at a specific time, and that makes you a real voter—as opposed to new voting rights: the citizen chooses when and where to vote in the months right up to the election. For many states, we have just had the opening of early voting. Will these shifting technologies of voting shape new rhetorical forms of citizenship?

35. See Danielle Kurtzleben, *Female Candidates Breastfeed Children in Campaign Ads*, NPR (Mar. 23, 2018, 5:00 am), <https://www.npr.org/2018/03/23/596108391/female-candidates-breastfeed-children-in-campaign-ads>.

36. See Antonia Noori Farzan, "*The 2018 Version of Fireside Chats*": *People Can't Get Enough of Watching Alexandria Ocasio-Cortez Make Soup on Instagram*, WASH. POST (Nov. 20, 2018, 4:58 am), <https://www.washingtonpost.com/nation/2018/11/20/version-fireside-chats-people-cant-get-enough-watching-alexandria-ocasio-cortez-make-soup-instagram/>.

Professor Kara Swanson

Thank you, Kali. That is a really provocative question, this shifting landscape of voting as a technology. Also, the technologies of voting rights which is, and I can just set that one to the side, so interesting on so many levels. The whole debate that we are having about how and when and where to vote—my early voting starts tomorrow. I know this pandemic is refocusing our attention on the limits of our constitutional guaranteed vote, the limits that allow the wide disparities in the ease of voting between States and among communities in a single state like in Wisconsin in the primary election. Of course, we are also in this conversation about how and when and where to vote, as we are being reminded of voting as this core duty as well as a right of citizenship.

The fact is that, of course, people fought hard for this right over and over and over again in U.S. history, so, there are definitely shifts, but I have to confess that my crystal ball is a little bit murky about whether and how these new technologies of voting might shape rhetorical forms of citizenship. This is how I thought about that, as I looked into my murky crystal ball. Old-style voting was very visible and communal, and I have very vivid memories of going with my mom to the polls as a kid as she voted in Racine, Wisconsin. In recent years, I have had the luxury of getting to walk to my polling place in my neighborhood. I see my neighbors. I see my neighbors' homes. I see familiar faces in line, and it was an act of belonging. There is often a lot of joy in my neighborhood on voting day.

I voted early in the primary, and that did not feel as communal and visible, and of course, voting by mail is much more individual. On the other hand, new voting makes it easier for more people to vote, and by increasing the opportunity for more people to vote and take part in the substantive act, it opens the doors to rethinking, as you said, the rhetorics of citizenship around voting. The loss of a public ritual is a small price to pay for that right, if we can open the door more widely.

What I would like to see—I do not know if we will see it, though—is new rhetorical forms of citizenship that claim voting very much as a foundational, basic, widespread right and privilege. Something that maybe we all do the same way, just as we always renew our driver's licenses, but also to think about how we can shape and claim and tell stories about its community-building role, even if we are not doing it all at the same time and all in the same place. I'm sure Dr. Wolbrecht has some thoughts about this.

But of course, we see that shift to social media, where you post the picture of the "I voted" sticker, or you post the picture of you putting the ballot in the drop box, that is our new public space. But again, that public space is not the

same as my block, and my neighbors who I am voting for my local officials together. It is a larger space, so that is an interesting tension there, I think.

Professor Christina Wolbrecht

Can I actually take her up on a quick two fingers on that? I agree, and absolutely I think this is so important, and I want to make one historical point. Voting in the nineteenth century was this very different sort of process. It mostly took place in saloons and bars and public spaces, and it was an incredibly masculine activity.³⁷ Veterans would march around like soldiers. There would be a drum group. There would be all this masculine space. People would be really drunk. That would be part of it as well, and so one of the reasons that people in the nineteenth century found the idea of women's suffrage so outrageous is that no good and honorable woman would go down to a voting place like that. It was a very male, militaristic space. So one of the lessons, I think, is that how one votes says a lot about who is welcome to vote, and I think that's really important.

I also want to agree with Kara. We actually know from at least our early studies of early voting that it did not actually have a huge impact on turnout, because it turns out that voting is a social act. The word ritual is exactly right, we affirm that we are citizens and that we have a voice in who our leaders are, and until this year, I always go on election day. I go in public. I think the poll workers would rather do that, and I am from Oregon where you can vote by mail forever.³⁸

I am intrigued, as Kara said, about the way in which social media is changing that right. If everyone goes to vote, it means that your neighbor reminds you to go vote. It means that at the breakfast table, your partner says, oh remember we've got to stop and vote today, and that is not going to happen. When we vote over a long period of time—except I will acknowledge that my social circles are a little unusual and focused on elections right now—people do post that I early voted, I did these things. I'm reminded every day that early voting is happening in Indiana. I meant to go this morning. I learned on social media that Mayor Pete went this morning here, in South Bend, and I didn't get to go with him.³⁹ But I am curious, this question about innovation and technology, and the other piece is as more barriers are put up to voting now, voting is an act of resistance, not just that I'm going to show up because that's

37. See also Jon Grinspan, *The Saloon, America's Forgotten Democratic Institution*, N.Y. TIMES (Nov. 26, 2016), <https://www.nytimes.com/2016/11/26/opinion/sunday/the-saloon-americas-forgotten-democratic-institution.html>.

38. *A Brief History of Vote By Mail in Oregon*, Multnomah County, <https://multco.us/elections/brief-history-vote-mail-oregon>.

39. Pete Buttigieg (@pete.buttigieg), Instagram (Oct. 16, 2020), <https://www.instagram.com/p/CGaNUNKngcO/>.

what good dutiful people do. We know duty is a big part of why people vote, but just the showing up is a political statement that I think may affect our voting as well.

Professor Mary Kelley

In the last few minutes, we've talked a lot about social media, and I think that in reference to an earlier question, what are the political strategies, what are the methods of persuasion for social media now that it has become one of the critical areas in which we now make opinion, in which we now try to persuade people? It is absolutely crucial that people have access to social media, and that they use it, as you pointed out, all throughout these particular stages, that's become major forum.

Professor Kali Murray

I'm going to turn it over to Amber.

Professor Amber Wichowsky

Christina, I'm also going to ask you to look in your crystal ball here, I think we're really pivoting to the 2020 election. This week we've been watching the nomination hearings for Judge Amy Coney Barrett, for her nomination to the Supreme Court. White women, as you mentioned in your presentation, have tended to support the Republican party⁴⁰ in recent cycles, and there is some evidence that in 2016 that [President] Trump drew the support of many white women without college degrees in particular.⁴¹

Yet the 2020 race is shaping up for a possibly historic gender gap, and Biden's lead among women in public opinion polls is about twice as large as Clinton's was in 2016.⁴² President Trump is certainly trying to use Barrett's nomination to give his campaign a boost among women. I am wondering what your take on her nomination is? Will it have any impact on the gender gap come election day? Are these polls wrong, are they overstating the size of the gender gap, are we paying too much attention to it?

40. *The Parties on the Eve of the 2016 Election: Two Coalitions, Moving Further Apart*, Pew Research Center (Sept. 13, 2016), <https://www.pewresearch.org/politics/2016/09/13/2-party-affiliation-among-voters-1992-2016/>. 47 percent of White women surveyed in 2016 identified as supporting the Republican Party, up from 44 percent in 1992.

41. William A. Galston, *New polling: Eroding Support from White Working-Class Women Threatens Trump's Reelection*, Brookings Institution (June 3, 2020), <https://www.brookings.edu/blog/fixgov/2020/06/03/new-polling-eroding-support-from-white-working-class-women-threatens-trumps-reelection/>. While support appeared to erode in 2020, it was still at 50% as opposed to the 61% in 2016.

42. Support for Biden ended up being about what it was for Clinton. See Samantha Schmidt, *The Gender Gap Was Expected to Be Historic; Instead, Women Voted Much as They Always Have*, WASH. POST (Nov. 6, 2020, 5:01 pm), <https://www.washingtonpost.com/dc-md-va/2020/11/06/election-2020-gender-gap-women/>.

Professor Christina Wolbrecht

Yes, lots of South Bend people are in the national news this year, so let me start with this. In 2016, there were a lot of expectations in the press that there would be an enormous gender gap. We had the first woman candidate. On the other side, we had a candidate who said misogynistic things about women and was credibly accused of doing misogynistic things by women, and so obviously, we would have a huge gender gap. The truth is that the gender gap in 2016 was in no way historic. It was very much in keeping with what the gender gap had looked like. I'll say two things about that.

One, that's a reminder that women do not vote exclusively as women, and that the same racial identities, class identities, etc. that shape men's votes shape women's votes as well. And that is why the gender gap looked exactly the same. The percentage of women voting Republican in 2016 was not very different from 2012, when the most radical thing about women that Mitt Romney said was that there were binders full of them.⁴³ However that masked some important differences, the level of women overall stayed the same but if you actually look at white women, as you just suggested, white women with college degrees became much less likely to vote Republican, and white women without college degrees became much more likely to vote Republican, even more so than white men without college degrees. So newspapers, stop interviewing the men at diners and instead interview the waitresses. That is where the interesting stuff is happening.

What does that mean for 2020? Well, it means that Trump would like to win back some of those white women with college degrees, and he needs to keep those white women without college degrees. He has clearly in his rhetoric given up on doing anything with black women. He just isn't even trying, and in fact, I think he is actively in some of his statements working to push them away. I do not think that the Barrett nomination is going to make a big difference in that. It is certainly not the case that any women voters get really excited when you just put more women on your team, and we know that about Vice Presidents. We know that about lots of things. However, we do know that what motivates most of the gender gap is economic concerns, concerns about the size of government, and what government does, and this last four years has really had a huge impact on women.

In general, as Amber just said, women without a college degree who are on the front lines have particularly suffered enormously in the economic downturn

43. See Maria Cardona, *Romney's Empty "Binders Full of Women"*, CNN (Oct. 18, 2012, 5:24 pm), <https://www.cnn.com/2012/10/17/opinion/cardona-binders-women/index.html>.

of this pandemic.⁴⁴ So, what I will be watching in all of the exit polls and whatever data I can get a hold of after the election, will how Donald Trump is doing with white women that are lower in socioeconomic status and what that looks like among college-educated women as well. Because I think that is really going to be key for him.

Professor Amber Wichowsky

My students, who may be watching this right now or watching the recording, will be very happy to hear your answer. In fact, I have a student who's digging into some of the Marquette Law School poll data to try to unpack the ways in which women express their preferences as we head into the November 3rd election.⁴⁵ I guess before we open it up, we've got some questions in the chat. I'm sure panelists might have questions for one another as well.

I wanted to close the formal session here with a question for Mary. I have just been reflecting on all of the contradictions about women in politics in our contemporary moment. We have got more women running for office, they're leading grassroots movements, but gender gaps in political representation remain. Many gender stereotypes endure. Women continue to express less political advocacy than men. And of course Professor Swanson has been telling us about other sorts of gender gaps or chasms that are really alarming. So we're seeing some change but some continuity as well. So I am going to close by bringing us full circle. You know, in your keynote for our conference, you discussed the importance of education for women's political empowerment, and I am wondering what you might say is the role you think education can or should play today to empower women as political actors?

Professor Mary Kelley

Yes, I would be glad to speak to that for a moment or two, but I wondered if I could also add on to what was said previously about Amy Coney Barrett and what effect she might have. I think the effect that she might have has a great deal to do with where you stand on choice. Because if you stand in favor of choice, Amy Coney Barrett does not, from her record at least—although she obviously would not say anything about that in the hearing itself—her record

44. U.S. Bureau of Labor Statistics, Current Employment Statistics Highlights (Mar. 5, 2021); see also Kathy Flanigan & Sharon Roznik, *How Wisconsin Women Are Navigating the "Shecession"—the COVID-19 Crush that Has Disproportionately Affected Women's Jobs and Lives*, MILWAUKEE J. SENTINEL (Nov. 5, 2020 9:00 am), <https://www.jsonline.com/in-depth/life/2020/11/05/shecession-pandemic-presses-down-wisconsin-women/3561715001/>.

45. See John Johnson, *Wisconsin Voters Remain Intensely Polarized Over Donald Trump*, Marquette University Law School Faculty Blog (May 12, 2020), <https://law.marquette.edu/facultyblog/2020/05/wisconsin-voters-remain-intensely-polarized-over-donald-trump/>.

is that she is not pro-choice, and that may affect how you are going to consider her nomination.⁴⁶ And Trump as well, on the other hand, if you are deeply engaged, if she is not being anti-choice, then that will also have an impact on how you look upon this whole process. She is a key figure, and I think we would be remiss if we do not continue to look at the issue of choice. Choice is a crucial one in our politics today, and one that affects how we vote, how we participate, how we see ourselves as members of a larger political community in terms of where we stand today.

I think that women's participation is absolutely crucial. I think it will continue. I think that women more and more feel themselves at every possible level to be engaged citizens. For us, for me anyway, what is crucial is that, while we always look at the levels that are higher, we do not look so much at levels such as mayors and local office-holding and state office-holding, that's where I think women begin to participate. It's where they get their learning and their training to go on to other parts of political participation. I see more and more women doing that and seeing that as part of their lives. I also see women who marry and who have children seeing themselves as entering public life as well. I think it's crucial that the kind of model that someone like Pat Schroeder made in the 1980s, and she got a lot blowback for it, is now becoming more and more possible and visible for women. So, I'm not going to be a Pollyanna, I'm not going to say that the next years are going to be all glory for women. But I do see very real possibilities that we can pursue, and definitely hope we do pursue.

Professor Andrea Schneider

The first question in the Q&A is, how did women innovate in their activism?

Professor Mary Kelley

Well, I will simply say they had no choice but to be more creative and to craft new and different ways in which they could participate. Because the road traveled by white men was not one that was particularly open to them, it was a closed road. So, they needed to develop new strategies, new techniques, and new ways to reach other women to weigh new ways to demonstrate that they were fully capable and competent to participate fully as public citizens. That would be my immediate response, and then perhaps someone else would like to take on some of the new innovations that they actually did.

46. Stephanie Kirchgaessner, *Barrett Was Member of Anti-Abortion Group Promoted Clinic Criticized for Misleading Women*, *GUARDIAN* (Oct. 11, 2020 3:32 pm), <https://www.theguardian.com/us-news/2020/oct/11/amy-coney-barrett-member-right-to-life-organization>.

Professor Christina Wolbrecht

I would not want to say they were the most creative because lots of movements have had incredible innovations around the world. I am thinking some of the great innovations in the LGBTQ community's activism as well. I would just agree with Mary, there was no choice and particularly when it comes to politics, this idea that women are inherently not political and that their arena is just not in politics, it is an extremely old one that is deeply embedded into the American political system and in fact, western philosophy in general. So, for women just to act political is radical in ways—if they just showed up and did what men did, it looked outrageous.

So, the cartoons about women getting the right to vote always showed men having to hold crying babies and do the laundry. This was a challenge to the very structure of masculinity. I think that alone meant things that we would think are pretty normal now, like wearing pants, become really creative and radical acts. That's especially complicated for black women. I think that's why we've seen so much innovation recently of black women just countering in the same way that women in general have to counter these gender stereotypes. Black women have to counter intersectional stereotypes, and in doing so, I think it's important to say that black women have the highest rate of turnout in the United States and have really pioneered in important ways as well. That is the intersectional argument, that those who face the most dimensions of oppression understand oppression in a way that other groups do not, and therefore, they can pioneer activism around it.

Professor Andrea Schneider

Kali you had mentioned this earlier, that the era failed because it did not take into account class and race, and so what we have learned from this in order to ensure equality for all women?

Professor Kara Swanson

One thing that we hadn't learned, if you say that the movement failed because it failed to consider class and race, that was the same mistake that white suffrage leaders were making in the late nineteenth century and early twentieth century. They were not being inclusive. They were taking race into account, and the way that they were taking it into account was to pander to the white supremacist beliefs of the men in power, who were the people who were voting on the Nineteenth Amendment and ratifying the Nineteenth Amendment in state legislatures.⁴⁷ So we can say we think we have learned, but history also has some repetitive aspects as well.

47. Brent Staples, *When the Suffrage Movement Sold Out to White Supremacy*, N.Y. TIMES (Feb. 2, 2019), <https://www.nytimes.com/2019/02/02/opinion/sunday/women-voting-19th-amendment-white-supremacy.html>

Professor Christina Wolbrecht

I was personally encouraged by the Me-Too movement, which again, is imperfect in lots of ways, but the story is really that when a famous child actor talked about “me too” and was called out because that phrase came originally from a black woman activist, Tarana Burke, she stepped back and said that is right and that movement, and the Hollywood Time’s Up movement, stood up for women.⁴⁸ In doing film work, they included in their claims requests for diversity in the non-stars on their sets and equal pay and those sorts of things. They were nowhere close to where we need to be, in in terms of seeing race, class, and sexuality, and gender.

I think there’s increasing recognition, and it has been exciting to see that in this year of the Centennial, where there has been so much talk about the shortcomings of the suffrage movement, the ways in which it was explicitly racist, the ways in which the Nineteenth Amendment did not overcome Jim Crow and the barriers that black women faced to voting—again not perfectly, but I have been encouraged to see greater recognition of those dynamics.

Professor Amber Wichowsky

Christina, that was a great way to bring us full circle in so many ways for this conference. We’re actually at the end of our hour here and drawing to a close. I just want to thank Professors Kelley, Swanson, and Wolbrecht, who’ve been just so available for this conference. This was not the conference that we had originally planned.

We thought we would all be in Milwaukee, that we would be coming off of having the DNC in our city. We had grand plans, but we had to pivot because of COVID, and have the three of you recorded, you’ve now been available for multiple zoom sessions, and conversations, and we’re just so appreciative of the time that you’ve given.

It has just been a real highlight for me personally this year to work with this wonderful group to put this conference together. So, thank you again, and thank you to our attendees for joining us for our last session of our conference this year, thank you.

Professor Mary Kelley

I thank you, please, you have been absolutely wonderful. It has been, as I said at the beginning of my own presentation, a signal honor to have delivered this keynote. And just as much an honor to have participated in the rest of these activities that we have done together, you have truly made community, and in this pandemic, there’s nothing that’s more valuable than the example of making

48. Sandra E. Garcia, *The Woman Who Created #MeToo Long Before Hashtags*, *The New York Times* (Oct. 20, 2017), <https://www.nytimes.com/2017/10/20/us/me-too-movement-tarana-burke.html>.

community. And you have provided an exceptional example; I shall not forget this. So, I thank you.