Supplementary Material

Chapter 6: The Civil War and Reconstruction—Equality/Gender/The New Departure

The Trial of Susan B. Anthony (1873)[1]

Susan B. Anthony (1820–1906) was the leading champion of granting women the right to vote and other liberties. She was a prominent activist for feminist causes, a founder of the National Women's Suffrage Association, and an editor of A History of Women's Suffrage. *Anthony cast a ballot in the 1872 national election. Her purpose was to gain publicity and a judicial decision declaring that the post–Civil War Amendments granted women the right to vote. Her ballot was received and counted by the local election registrar. Shortly thereafter, Anthony was arrested and charged with violating federal voting laws. Anthony offered two defenses at trial. Her main defense was that New York unconstitutionally deprived women of the right to vote. Her secondary defense was that she did not "knowingly vote[] without having a lawful right to vote" because she had a good faith belief that she had a constitutional right to vote. Judge Ward Hunt rejected both claims. He ruled that the post–Civil War amendments did not grant women the right to vote and that Anthony violated the law because she knowingly voted. Hunt also informed the jury they should find Anthony guilty because no factual disputes existed between the prosecution and the defendant.*

The excerpts belong are taken from a pamphlet published shortly after the trial was completed. Compare the arguments Anthony made for women's suffrage at a protest meeting with the arguments made by her male counsel at trial. To what extent were they different? How were they similar? Are the differences best explained by differences in the rhetoric appropriate for a protest meeting and the differences in the rhetoric appropriate for a trial, the differences between the voices of men and women, or simply the differences between different personalities? The Trial of Susan B. Anthony *raised questions about the right to a jury. Should Judge Hunt have allowed the jury to decide Anthony's guilt? Did he have good reason to fear jury nullification?*

Susan B. Anthony, "Is it a Crime for a Citizen of the United States to Vote?"[2]

. . .

Friends and Fellow-citizens: I stand before you to-night, under indictment for the alleged crime of having voted at the last Presidential election, without having a lawful right to vote. It shall be my work this evening to prove to you that in thus voting, I not only committed no crime, but, instead, simply exercised my *citizen's right,* guaranteed to me and all United States citizens by the National Constitution, beyond the power of any State to deny.

Our democratic-republican government is based on the idea of the natural right of every individual member thereof to a voice and a vote in making and executing the laws. . . . We throw to the winds the old dogma that governments can give rights. Before governments were organized, no one denies that each individual possessed the right to protect his own life, liberty and property. And when 100 or 1,000,000 people enter into a free government, they do not barter away their natural rights; they

[1] *Account Of The Proceedings on the Trial of Susan B. Anthony* (Rochester, NY: Daily Democrat and Chronicle Book Print, 1874).

[2] This address was included in the pamphlet, but was not given at trial. Rather, this was the talk Anthony gave before her trial in an effort to increase support for her cause.

simply pledge themselves to protect each other in the enjoyment of them, through prescribed judicial and legislative tribunals. . . .

Nor can you find a word in any of the grand documents left us by the fathers that assumes for government the power to create or to confer rights. . . .

> "All men are created equal, and endowed by their Creator with certain unalienable rights. Among these are life, liberty and the pursuit of happiness. That to secure these, governments are instituted among men, deriving their just powers from the consent of the governed."

Here is no shadow of government authority over rights, nor exclusion of any class from their full and equal enjoyment. Here is pronounced the right of all men, and "consequently," as the Quaker preacher said, " of all women," to a voice in the government. And here, in this very first paragraph of the declaration, is the assertion of the natural right of all to the ballot; for, how can "the consent of the governed" be given, if the right to vote be denied. . . .

. . .

. . . One-half of the people of this nation to-day are utterly powerless to blot from the statute books an unjust law, or to write there a new and a just one. The women, dissatisfied as they are with this form of government, that enforces taxation without representation,—that compels them to obey laws to which they have never given their consent,—that imprisons and hangs them without a trial by a jury of their peers, that robs them, in marriage, of the custody of their own persons, wages and children,—are this half of the people left wholly at the mercy of the other half, in direct violation of the spirit and letter of the declarations of the framers of this government, every one of which was based on the immutable principle of equal rights to all. By those declarations, kings, priests, popes, aristocrats, were all alike dethroned, and placed on a common level, politically, with the lowliest born subject or serf. By them, too, men, as such, were deprived of their divine right to rule, and placed on a political level with women. By the practice of those declarations all class and caste distinction will be abolished; and slave, serf, plebeian, wife, woman, all alike, bound from their subject position to the proud platform of equality.

. . .

It was we, the people, not we, the white male citizens, nor yet we, the male citizens; but we, the whole people, who formed this Union. And we formed it, not to give the blessings of liberty, but to secure them; not to the half of ourselves and the half of our posterity, but to the whole people—women as well as men. And it is downright mockery to talk to women of their enjoyment of the blessings of liberty while they are denied the use of the only means of securing them provided by this democratic-republican government—the ballot.

. . .

. . . [W]hen, in 1871, I asked [Senator Charles Sumner] to declare the power of the United States Constitution to protect women in their right to vote—as he had done for black men—he handed me a copy of all his speeches during that reconstruction period, and said:

> Miss Anthony, put 'sex' where I have 'race' or 'color,' and you have here the best and strongest argument I can make for woman. There is not a doubt but women have the constitutional right to vote, and I will never vote for a sixteenth amendment to guarantee it to them. I voted for both the fourteenth and fifteenth under protest; would never have done it but for the pressing emergency of that hour; would have insisted that the power of the original Constitution to protect all citizens in the equal enjoyment of their rights should have been vindicated through the courts. But the newly made freedmen had neither the intelligence, wealth nor time to wait that slow process. Women possess all these in an eminent degree, and I insist that they shall appeal to the courts, and through them establish the powers of our American *magna charta,* to protect every citizen of the Republic. But, friends, when in accordance with Senator Sumner's counsel, I went to the ballot-box, last November, and exercised my citizen's right to vote, the courts did not

> wait for me to appeal to them—they appealed to me, and indicted me on the charge of having voted illegally.

Senator Sumner, putting sex where he did color, said:

> Qualifications cannot be in their nature permanent or insurmountable. Sex cannot be a qualification any more than size, race, color, or previous condition of servitude. A permanent or insurmountable qualification is equivalent to a deprivation of the suffrage. In other words, it is the tyranny of taxation without representation, against which our revolutionary mothers, as well as fathers, rebelled.

For any State to make sex a qualification that must ever result in the disfranchisement of one entire half of the people, is to pass a bill of attainder, or an *ex post facto* law, and is therefore a violation of the supreme law of the land. By it, the blessings of liberty are forever withheld from women and their female posterity. To them, this government has no just powers derived from the consent of the governed. To them this government is not a democracy. It is not a republic. It is an odious aristocracy; a hateful oligarchy of sex. The most hateful aristocracy ever established on the face of the globe. An oligarchy of wealth, where the rich govern the poor; an oligarchy of learning, where the educated govern the ignorant; or even an oligarchy of race, where the Saxon rules the African, might be endured; but this oligarchy of sex, which makes father, brothers, husband, sons, the oligarchs over the mother and sisters, the wife and daughters of every household; which ordains all men sovereigns, all women subjects, carries dissension, discord and rebellion into every home of the nation. . . .

. . .

The only question left to be settled, now, is: Are women persons? And I hardly believe any of our opponents will have the hardihood to say they are not. Being persons, then, women are citizens, and no state has a right to make any new law, or to enforce any old law, that shall abridge their privileges or immunities. Hence, every discrimination against women in the constitutions and laws of the several states, is today null and void, precisely as is every one against negroes.

Is the right to vote one of the privileges or immunities of citizens? I think the disfranchised ex-rebels, and the ex-state prisoners will all agree with me, that it is not only one of them, but the one without which all the others are nothing. Seek first the kingdom of the ballot, and all things else shall be given thee, is the political injunction.

. . .

If the fourteenth amendment does not secure to all citizens the right to vote, for what purpose was that grand old charter of the fathers lumbered with its unwieldy proportions? The republican party, and Judges Howard and Bingham, who drafted the document, pretended it was to do something for black men; and if that something was not to secure them in their right to vote and hold office, what could it have been? For, by the thirteenth amendment, black men had become people, and hence were entitled to all the privileges and immunities of the government, precisely as were the women of the country, and foreign men not naturalized.

. . .

Thus, you see, those newly freed men were in possession of every possible right, privilege and immunity of the government, except that of suffrage, and hence, needed no constitutional amendment for any other purpose. . . .

. . .

But, however much the doctors of the law may disagree, as to whether people and citizens, in the original constitution, were one and the same, or whether the privileges and immunities in the fourteenth amendment include the right of suffrage, the question of the citizen's right to vote is settled forever by the fifteenth amendment. "The citizen's right to vote shall not be denied by the United States, nor any state thereof; on account of race, color, or previous condition of servitude." How can the state deny or abridge the right of the citizen, if the citizen does not possess it. There is no escape from the conclusion, that to vote is the citizen's right, and the specifications of race, color, or previous condition of servitude can, in

no way, impair the force of the emphatic assertion, that the citizen's right to vote shall not be denied or abridged.

. . .

There is, and can be, but one safe principle of government—equal rights to all. And any and every discrimination against any class, whether on account of color, race, nativity, sex, property, culture, can but embitter and disaffect that class, and thereby endanger the safety of the whole people.

. . . I will prove to you that the class of citizens for which I now plead, and to which I belong, may be, and are, by all the principles of our government, and many of the laws of the states, included under the term "previous condition of servitude."

First.—The married women and their legal status. What is servitude? "The condition of a slave." What is a slave? "A person who is robbed of the proceeds of his labor; a person who is subject to the will of another."

. . .

By the law of every state in this Union to-day, North as well as South, the married woman has no right to the custody and control of her person. The wife belongs to her husband; and if she refuses obedience to his will, he may use moderate correction, and if she doesn't like his moderate correction, and attempts to leave his "bed and board," the husband may use moderate coercion to bring her back. The little word "moderate," you see, is the saving clause for the wife, and would doubtless be overstepped should her offended husband administer his correction with the "cat-o'-nine-tails," or accomplish his coercion with blood-hounds.

. . .

In many of the states there has been special legislation, giving to married women the right to property inherited, or received by bequest, or earned by the pursuit of any avocation outside of the home; also, giving her the right to sue and be sued in matters pertaining to such separate property; but not a single state of this Union has ever secured the wife in the enjoyment of her right to the joint ownership of the joint earning to the marriage copartnership. And since, in the nature of things, the vast majority of married women never earn a dollar, by work outside of their families, nor inherit a dollar from their fathers, it follows that from the day of their marriage to the day of the death of their husbands, not one of them ever has a dollar, except it shall please her husband to *let* her have it.

. . . I doubt if there is, to-day, a State in this Union where a married woman can sue or be sued for slander of character, and until quite recently there was not one in which she could sue or be sued for injury of person. . . .

There is an old saying that "a rose by any other name would smell as sweet," and I submit if the deprivation by law of the ownership of one's own person, wages, property, children, the denial of the right as an individual, to sue and be sued, and to testify in the courts, is not a condition of servitude most bitter and absolute, though under the sacred name of marriage?

. . . Women are taxed without representation, governed without their consent, tried, convicted and punished without a jury of their peers. And is all this tyranny any less humiliating and degrading to women under our democratic-republican government to-day than it was to men under their aristocratic, monarchical government one hundred years ago? There is not an utterance of old John Adams, John Hancock or Patrick Henry, but finds a living response in the soul of every intelligent, patriotic woman of the nation. Bring to me a common-sense woman property holder, and I will show you one whose soul is fired with all the indignation of 1776 every time the taxgatherer presents himself at her door. . . .

What was the three-penny tax on tea, or the paltry tax on paper and sugar to which our revolutionary fathers were subjected, when compared with the taxation of the women of this Republic?

. . .

Is there a man who will not agree with me, that to talk of freedom without the ballot, is mockery—is slavery—to the women of this Republic, precisely as New England's orator Wendell Phillips, at the close of the late war, declared it to be to the newly emancipated black men?

. . .

The one issue of the last two Presidential elections was, whether the fourteenth and fifteenth amendments should be considered the irrevocable will of the people; and the decision was, they shall

be—and that it is not only the right, but the duty of the National Government to protect all United States citizens in the full enjoyment and free exercise of all their privileges and immunities against any attempt of any State to deny or abridge.

. . .

The national Republican platform said:

> Complete liberty and exact equality in the enjoyment of all civil, political and public rights, should be established and maintained throughout the Union by efficient and appropriate State and federal legislation.

If that means anything, it is that Congress should pass a law to require the States to protect women in their equal political rights, and that the States should enact laws making it the duty of inspectors of elections to receive women's votes on precisely the same conditions they do those of men.

. . .

We no longer petition Legislature or Congress to give us the right to vote. We appeal to the women everywhere to exercise their too long neglected "citizen's right to vote." We appeal to the inspectors of election everywhere to receive the votes of all United States citizens as it is their duty to do. We appeal to United States commissioners and marshals to arrest the inspectors who reject the names and votes of United States citizens, as it is their duty to do, and leave those alone who, like our eighth ward inspectors, perform their duties faithfully and well.

We ask the juries to fail to return verdicts of "guilty" against honest, law-abiding, tax-paying United States citizens for offering their votes at our elections. Or against intelligent, worthy young men, inspectors of elections, for receiving and counting such citizens' votes.

We ask the judges to render true and unprejudiced opinions of the law, and wherever there is room for a doubt to give its benefit on the side of liberty and equal rights to women, remembering that "the true rule of interpretation under our national constitution, especially since its amendments, is that anything for human rights is constitutional, everything against human rights unconstitutional."

And it is on this line that we propose to fight our battle for the ballot—all peaceably, but nevertheless persistently through to complete triumph, when all United States citizens shall be recognized as equals before the law.

Argument of MR. SELDEN for the defendant.

. . .

The only alleged ground of illegality of the defendant's vote is that she is a woman. If the same act had been done by her brother under the same circumstances, the act would have been not only innocent, but honorable and laudable; but having been done by a woman it is said to be a crime. The crime therefore consists not in the act done, but in the simple fact that the person doing it was a woman and not a man, I believe this is the first instance in which a woman has been arraigned in a criminal court, merely on account of her sex.

. . .

Women have the same interest that men have in the establishment and maintenance of good government; they are to the same extent as men bound to obey the laws; they suffer to the same extent by bad laws, and profit to the same extent by good laws; and upon principles of equal justice, as it would seem, should be allowed equally with men, to express their preference in the choice of law-makers and rulers. But however that may be, no greater *absurdity,* to use no harsher term, could be presented, than that of rewarding men and punishing women, for the same act, *without giving to women any voice in the question which should be rewarded, and which punished.*

. . . Courts are not required to so interpret laws or constitutions as to produce either absurdity or injustice, so long as they are open to a more reasonable interpretation. . . .

. . .

My first position is that the defendant had the same right to vote as any other citizen who voted at that election.

. . .

Miss Anthony, and those united with her in demanding the right of suffrage, claim, and with a strong appearance of justice, that upon the principles upon which our government is founded, and which lie at the basis of all just government, every citizen has a right to take part, upon equal terms with *every* other citizen, in the formation and administration of government. . . .

In the most celebrated document which has been put forth on this side of the Atlantic, our ancestors declared that "governments derive their just powers from the consent of the governed."

. . .

The mastery which this doctrine, whether right or wrong, has acquired over the public mind, has produced as its natural fruit, the extension of the right of suffrage to all the adult male population in nearly all the states of the Union; a result which was well epitomized by President Lincoln, in the expression, "government by the people for the people."

. . . It remains to be determined whether the reasons which have produced the extension of the franchise to all adult men do not equally demand its extension to all adult women. If it be necessary for men that each should have a share in the administration of government for his security, and to exclude partiality, . . . it would seem to be equally, if not more, necessary for women, on account of their inferior physical power": and if, as is persistently alleged by those who sneer at their claims, they are also inferior in mental power, that fact only gives additional weight to the argument in their behalf, as one of the primary objects of government, as acknowledged on all hands, is the protection of the weak against the power of the strong.

. . . The principal argument against such extension . . . is based upon the position that women are represented in the government by men, and that their rights and interests are better protected through that indirect representation than they would be by giving them a direct voice in the government.

. . .

The state of the law . . . shows what kind of security had been provided for them by their assumed representatives. Prior to 1848 all the personal property of every woman on marriage became the absolute property of the husband—the use of all her real estate became his during coverture, and on the birth of a living child, it became his during his life. He could squander it in dissipation or bestow it upon harlots, and the wife could not touch or interfere with it. Prior to 1860, the husband could by will take the custody of his infant children away from the surviving mother, and give it to whom he pleased— and he could in like manner dispose of the control of the children's property, after his death, during their minority, without the mother's consent.

In most of these respects the state of the law has undergone great changes within the last 25 years. . . .

If a married woman is slandered she can prosecute in her own name the slanderer, and recover to her own use damages for the injury.

The mother now has an equal claim with the father to the custody of their minor children, and in case of controversy on the subject, courts may award the custody to either in their discretion.

The husband cannot now by will effectually appoint a guardian for his infant children without the consent of the mother, if living.

These are certainly great ameliorations of the law; but how have they been produced? Mainly as the result of the exertions of a few heroic women, one of the foremost of whom is her who stands arraigned as a criminal before this Court to-day. For a thousand years the absurdities and cruelties to which I have alluded have been embedded in the common law, and in the statute books, and men have not touched them, and would not until the end of time, had they not been goaded to it by the persistent efforts of the noble women to whom I have alluded.

Much has been done, but much more remains to be done by women. If they had possessed the elective franchise, the reforms which have cost them a quarter of a century of labor would have been accomplished in a year. They are still subject to taxation upon their property, without any voice as to the

levying or destination of the tax; and are still subject to laws *made by men,* which subject them to fine and imprisonment for the same acts which men do with honor and reward—and when brought to trial no woman is allowed a place on the bench or in the jury box, or a voice in her behalf at the bar. They are bound to suffer the penalty of such laws, made and administered solely by men, and to be silent under the infliction. Give them the ballot, and, although I do not suppose that any great revolution will be produced, or that all political evils will be removed, (I am not a believer in political panaceas,) but if I mistake not, valuable reforms will be introduced which are not now thought of. Schools, almshouses, hospitals, drinking saloons, and those worse dens which are destroying the morals and the constitutions of so many of the young of both sexes, will feel their influence to an extent now little dreamed of. At all events women will not be taxed without an opportunity to be heard, and will not be subject to fine and imprisonment by laws made exclusively by men for doing what it is lawful and honorable for men to do.

. . .

. . . The innate character of women is the result of God's laws, not of man's, nor can the laws of man affect that character beyond a very slight degree. Whatever rights may be given to them, and whatever duties may be charged upon them by human laws, their general character will remain unchanged. Their modesty, their delicacy, and intuitive sense of propriety, will never desert them, into whatever new positions their added rights or duties may carry them.

So far as women, without change of character as women, are qualified to discharge the duties of citizenship, they will discharge them if called upon to do so, and beyond that they will not go. Nature has put barriers in the way of any excessive devotion of women to public affairs, and it is not necessary that nature's work in that respect should be supplemented by additional barriers invented by men. . . . I would say, remove all legal barriers that stand in the way of their finding employment, official or unofficial, and leave them as men are left, to depend for success upon their character and their abilities. As long as men are allowed to act as milliners, with what propriety can they exclude women from the post of school commissioners when chosen to such positions by their neighbors? To deny them such rights, is to leave them in a condition of political servitude as absolute as that of the African slaves before their emancipation. . . .

. . .

It has never, since the adoption of the fourteenth amendment, been questioned, and cannot be questioned, that women as well as men are included in the terms of its first section, nor that the same "privileges and immunities of citizens" are equally secured to both.

What, then, are the "privileges and immunities of citizens of the United States'' which are secured against such abridgement, by this section? I claim that these terms not only include the right of voting for public officers, but that they include that right as pre-eminently the most important of all the privileges and immunities to which the section refers. Among these privileges and immunities may doubtless be classed the right to life and liberty, to the acquisition and enjoyment of property, and to the free pursuit of one's own welfare, so far as such pursuit does not interfere with the rights and welfare of others; but what security has any one for the enjoyment of these rights when denied any voice in the making of the laws, or in the choice of those who make, and those who administer them. The possession of this voice, in the making and administration of the laws—this *political* right—is what gives security and value to the other rights, which are merely personal, not political. A person deprived of political rights is essentially a slave, because he holds his personal rights subject to the will of those who possess the political power. . . . If there is any privilege of the citizen which is paramount to all others, it is the right of suffrage; and in a constitutional provision, designed to secure the most valuable rights of the citizen, the declaration that the privileges and immunities of the citizen shall not be abridged, must, as I conceive, be held to secure that right before all others. . . .

. . .

It has been said, with how much or how little truth I do not know, that the subject of securing to women the elective franchise was not considered in the preparation, or in the adoption of these amendments. It is wholly immaterial whether that was so or not. It is never possible to arrive at the intention of the people in adopting constitutions, except by referring to the language used. . . .

. . .

It is said that women do not desire to vote. Certainly many women do not, but that furnishes no reason for denying the right to those who do desire to vote. Many men decline to vote. Is that a reason for denying the right to those who would vote.

. . .

Another objection is, that the right to hold office must attend the right to vote, and that women are not qualified to discharge the duties of responsible offices.

I beg leave to answer this objection by asking one or more questions. How many of the male bipeds who do our voting are qualified to hold high offices! How many of the large class to whom the right of voting is supposed to have been secured by the fifteenth amendment, are qualified to hold office.

Whenever the qualifications of persons to discharge the duties of responsible offices is made the test of their right to vote, and we are to have a competitive examination on that subject, open to all claimants, my client will be content to enter the lists, and take her chances among the candidates for such honors.

Another objection is that women cannot serve as soldiers. To this I answer that capacity for military service has never been made a test of the right to vote. . . .

Another objection is that engaging in political controversies is not consistent with the feminine character. Upon that subject, women themselves are the best judges, and if political duties should be found inconsistent with female delicacy, we may rest assured that women will either effect a change in the character of political contests, or decline to engage in them. This subject may be safely left to their sense of delicacy and propriety.

. . .

I humbly submit to your honor, therefore, that on the constitutional grounds to which I have referred, Miss Anthony had a lawful right to vote; that her vote was properly received and counted; that the first section of the fourteenth amendment secured to her that right, and did not need the aid of any further legislation.

. . .

THE COURT addressed the jury as follows:

. . .

The right of voting, or the privilege of voting, is a right or privilege arising under the Constitution of the State, and not of the United States. . . . If the State of New York should provide that no person should vote until he had reached the age of 31 years, or after he had reached the age of 50, or that no person having gray hair, or who had not the use of all his limbs, should be entitled to vote, I do not see how it could be held to be a violation of any right derived or held under the Constitution of the United States. We might say that such regulations were unjust, tyrannical, unfit for the regulation of an intelligent State; but if rights of a citizen are thereby violated, they are of that fundamental class derived from his position as a citizen of the State, and not those limited rights belonging to him as a citizen of the United States. . . .

This right, however, exists by virtue of the 15th Amendment. If the 15th Amendment had contained the word "sex," the argument of the defendant would have been potent. She would have said, an attempt by a State to deny the right to vote because one is of a particular sex, is expressly prohibited by that Amendment. The amendment, however, does not contain that word. It is limited to race, color, or previous condition of servitude. The Legislature of the State of New York has seen fit to say, that the franchise of voting shall be limited to the male sex. In saying this, there is, in my judgment, no violation of the letter or of the spirit of the 14th or of the 15th Amendment. This view is assumed in the second section of the 14th Amendment, which enacts that if the right to vote for Federal officers is denied by any state to any of the male inhabitants of such State, except for crime, the basis of representation of such State shall be reduced in proportion specified. Not only does this section assume that the right of male inhabitants to vote was the especial object of its protection, but it assumes and admits the right of a State,

notwithstanding the existence of that clause under which the defendant claims to the contrary, to deny to classes or portions of the male inhabitants the right to vote which is allowed to other male inhabitants. The regulation of the suffrage is thereby conceded to the States as a State's right. . . .

Upon this evidence I suppose there is no question for the jury and that the jury should be directed to find a verdict of guilty.

On the next day a motion for a new trial was made by JUDGE SELDEN, as follows:

The trial of this case commenced with a question of very great magnitude—whether by the constitution of the United States the right of suffrage was secured to female equally with male citizens. It is likely to close with a question of much greater magnitude—whether the right of trial by jury is absolutely secured by the federal constitution to persons charged with crime before the federal courts.

. . .

. . . [I]n these proceedings the defendant has been substantially denied her constitutional right of trial by jury. The jurors composing the panel have been merely silent spectators of the conviction of the defendant by the Court. They have had no more share in her trial and conviction than any other twelve members of the jury summoned to attend this Court, or any twelve spectators who have sat by during the trial. If such course is allowable in this case, it must be equally allowable in all criminal cases, whether the charge be for treason, murder or any minor grade of offence which can come under the jurisdiction of a United States court; and as I understand it, if correct, substantially abolishes the right of trial by jury.

. . .

. . . I insist that in every criminal case, where the party has pleaded not guilty, whether upon the trial the guilt of such party appears to the Judge to be clear or not, the response to the question, guilty or not guilty, must come from the jury, must be their voluntary act, and cannot be imposed upon them by the Court.

. . . It will doubtless be insisted that there was no disputed question of fact upon which the jury were required to pass. In regard to that, I insist that however clear and conclusive the proof of the facts might appear to be, the response to the question, guilty or not guilty, must under the Constitution come from the jury and could not be supplied by the judgment of the Court, unless, indeed, the jury should see fit to render a special verdict, which they always may, but can never be required, to do.

It was the province of the Court to instruct the jury as to the law, and to point out to them how clearly the law, on its view of the established facts, made out the offence; but it has no authority to instruct them positively on any question of fact, or to order them to find any particular verdict. That must be their spontaneous work.

The court after hearing the district attorney, denied the motion.

JUDGE HUNT—(Ordering the defendant to stand up), "Has the prisoner anything to say why sentence shall not be pronounced?"

Miss ANTHONY—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 alike 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.

JUDGE HUNT—The Court cannot listen to a rehearsal of arguments the prisoner's counsel has already consumed three hours in presenting.

Miss ANTHONY—May it please your honor, I am not arguing the question, but simply stating the reasons why sentence cannot, in justice, be pronounced against me. Your denial of my citizen's right to vote, is the denial of my right of consent as one of the governed, the denial of my right of representation as one of the taxed, the denial of my right to a trial by a jury of my peers as an offender against law, therefore, the denial of my sacred rights to life, liberty, property and—

JUDGE HUNT—The Court cannot allow the prisoner to go on.

Miss ANTHONY—But your honor will not deny me this one and only poor privilege of protest against this high-handed outrage upon my citizen's rights. May 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—

JUDGE HUNT—The prisoner must sit down—the Court cannot allow it.

Miss ANTHONY—All of my prosecutors, from the 8th ward corner grocery politician, who entered the complaint, to the United States Marshal, Commissioner, District Attorney, District Judge, your honor on the bench, not one is my peer, but each and all are my political sovereigns; and had your honor submitted my case to the jury, as was clearly your duty, even then I should have had just cause of protest, for not one of those men was my peer; but, native or foreign born, white or black, rich or poor, educated or ignorant, awake or asleep, sober or drunk, each and every man of them was my political superior; hence, in no sense, my peer. Even, under such circumstances, a commoner of England, tried before a jury of Lords, would have far less cause to complain than should I, a woman, tried before a jury of men. Even my counsel, the Hon. Henry R. Selden, who has argued my cause so ably, so earnestly, so unanswerably before your honor, is my political sovereign. Precisely as no disfranchised person is entitled to sit upon a jury, and no woman is entitled to the franchise, so, none but a regularly admitted lawyer is allowed to practice in the courts, and no woman can gain admission to the bar, hence, jury, judge, counsel, must all be of the superior class.