

NOTES

WOMEN’S SUFFRAGE IN NEW JERSEY 1776–1807: A POLITICAL WEAPON

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ABSTRACT

Women had the right to vote in New Jersey from 1776 – 1807. Traditionally, historians have treated women’s suffrage in New Jersey as an insignificant historical anomaly. More recent works, however, show that women’s voting played an important role in the increasingly contested elections of the era and was a critical part of New Jersey’s efforts to define the “body politic.” This paper examines the ways in which the Federalist and Republican parties weaponized women’s suffrage between 1797 and 1807. It argues that both parties tied women to allegations of voter fraud and depicted them as political pawns to delegitimize the opposing party’s electoral victories. Over time, these attacks diminished support for female suffrage and contributed to women’s disenfranchisement in 1807. It argues further that the treatment of women voters in the late 18th and early 19th century and their disenfranchisement is analogous to the treatment of marginalized voters today and modern efforts to implement strict voter restrictions.

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INTRODUCTION

Over a century before the ratification of the Nineteenth Amendment, women exercised the right to vote in the state of New Jersey from 1776-1807. Although known to historians, early women's suffrage is absent from the widely accepted narrative of the American Revolution and the founding of the nation. This is largely because historians have treated women's suffrage in New Jersey as an insignificant historic anomaly. Recent studies, however, show that women's voting played an important role in the politics of the era and was a critical part of New Jersey's efforts to define the "body politic."

An examination of these works, the available legislative records, and contemporary newspapers reveal that women's suffrage was used as a political weapon by both the Federalist and Democratic-Republican parties.¹ By presenting women as pliable and associating female voters with voter fraud, the parties sought to delegitimize the opposing party. Over time, these attacks helped undermine popular support for women's suffrage and allowed New Jersey politicians to rationalize women's disenfranchisement. Understanding the way that women's suffrage was politicized and restricted in the late 18th and early 19th century helps us to recognize the relationship between modern accusations of political corruption and voter fraud aimed at marginalized voters and support for new voter restrictions.

The first section of this paper will provide a historical overview of women's suffrage in New Jersey. It will demonstrate that women's suffrage, although radical and unique to New Jersey, was an intentional choice by New Jersey politicians and was consistent with the contemporary debate over women's role in the public sphere during and after the American Revolution. Section two will consider the ways in which women's suffrage was weaponized by both the Republican and Federalist parties. It will show that as elections became more closely contested in the late 1790s and early 1800s, women's suffrage became a political tool for the parties to discredit one another. The third section will detail the end of women's suffrage in New Jersey. It compares the passage of the 1807 election reform bill eliminating women's right to vote to earlier attempts to repeal women's suffrage and concludes that the politicization of women's suffrage between 1797 and 1807 helped undermine public support for women's suffrage, contributing to its ultimate demise. The paper will conclude with a discussion of the implications of the politicization of women's suffrage for present day politics and modern voter suppression efforts.

1. The Democratic-Republicans will be referred to as Republicans.

I. HISTORICAL BACKGROUND: WOMEN'S SUFFRAGE IN NEW JERSEY FROM 1776–1797

A. "ALL INHABITANTS" - 1776 NEW JERSEY CONSTITUTION

New Jersey women, along with immigrants and free Black people, were intentionally enfranchised by the 1776 New Jersey Constitution. This decision was part of a broad effort to expand the franchise in order to build support for the Revolution. New Jersey's embrace of women's suffrage was radical but consistent with new understandings of the appropriate role of women in the public sphere during and after the war.

The 1776 New Jersey Constitution provided that:

All *Inhabitants* of this Colony of full Age, who are worth Fifty Pounds proclamation Money clear Estate in the same, & have resided within the County in which they claim a Vote for twelve Months immediately preceding the Election, shall be entitled to vote for Representatives in Council & Assembly;²

Provided that voters met the financial and residential qualifications, the gender and race neutral word "inhabitants" allowed unmarried women, free Black people, immigrants and white men to vote.³ The gender neutral language was not itself remarkable. Eight early state constitutions did not expressly limit the franchise to men.⁴ In fact, Delaware's Constitution employed the same language "inhabitants" to describe its voter qualifications.⁵ New Jersey, however, was the only state that understood the word to enfranchise women.

Traditionally, historians viewed the use of the word "inhabitants" in New Jersey's 1776 Constitution as a product of the document's hasty drafting.⁶ It was drafted in secret in just two days and was approved six days later.⁷ However, more recent analysis of the drafting history of the Constitution's voter qualification clause reveals that New Jersey's voting requirements were hotly debated in the years leading up to 1776. Revolutionary-era provincial congresses were flooded with petitions demanding the expansion of suffrage to all taxpayers, and members of the provincial congresses considered a number of different

2. N.J. CONST. of 1776, art. IV.

3. The property requirement, "Fifty Pounds proclamation Money clear Estate," limited the franchise to unmarried women because the common law doctrine of "coverture" prohibited married women from owning property.

4. ROSEMARIE ZAGARRI, REVOLUTIONARY BACKLASH: WOMEN AND POLITICS IN THE EARLY AMERICAN REPUBLIC 31 (2007).

5. DEL. CONST. of 1776, art. XXVII.

6. See Edward R. Turner, *Women's Suffrage in New Jersey: 1790-1807*, 1 SMITH COLL. STUD. IN HISTORY 165, 166 (1916); J.R. Pole, *The Suffrage in New Jersey 1790-1807*, PROCEEDINGS OF THE N.J. HISTORICAL SOC'Y 39, 52 (1953); See also RICHARD P. McCORMICK, THE HISTORY OF VOTING IN NEW JERSEY: A STUDY OF THE DEVELOPMENT OF ELECTION MACHINERY 1664-1911 69-70 (1953).

7. Turner, *supra* note 6, at 166.

formulations of the state's voting requirements.⁸ It is unlikely, then, that the use of "all inhabitants" was an accident.

Professor Irwin Gertzog suggests that the constitutional convention used "all inhabitants" to attract public support for the Revolution. The broad phrase signaled to men who had been prohibited from voting under the colonial government's more stringent voting requirements that the new government would be open to a more expansive franchise.⁹ Gertzog also argues, however, that New Jersey legislators did not understand "all inhabitants" to include women and would not have felt it necessary to explicitly limit the franchise to men. Since women had not voted before the Revolution, he reasons, there was no expectation that women would vote after independence.¹⁰

The argument that women's suffrage was so foreign that the drafters of the Constitution would not have considered it ignores the status of unmarried, propertied women in colonial society. The rights of these "femmes soles" approached those of men. They could sign contracts, petition the legislature, bring their own cases in court, and own businesses.¹¹ Since these women already participated in public life, it was not inconceivable that they should vote.

Additionally, the debate around the appropriate role of women in the public sphere changed dramatically in the years leading up to and during the American Revolution. In the early 18th century, elite women in Britain and the colonies had begun to challenge women's subordinate status in society.¹² Works like *Female Grievances Debated* and poems demanding "More Freedom [to] Womankind" were published in the colonies.¹³ During the Revolution, the unprecedented role women played in supporting the war effort transformed women's relationship to the state.¹⁴ Women, who had organized chapters of the Daughters of Liberty, boycotted British goods and sewn uniforms to supply the Continental army began to view themselves as political actors.¹⁵ After the war, women's sense of political empowerment was reinforced by men who "celebrated women's contributions to the revolutionary cause."¹⁶

8. See Judith Apter Klinghoffer & Lois Elkis, "The Petticoat Electors": Women's Suffrage in New Jersey, 1776-1807, 12 JOURNAL OF THE EARLY REPUBLIC 159, 164-67 (1992); see also Irwin N. Gertzog, *Female Suffrage in New Jersey, 1790-1807*, 10 WOMEN POL. 47, 48-52 (1990).

9. Gertzog, *supra* note 8, at 48.

10. *Id.* at 49.

11. Sophie Drinker, *Votes for Women in 18th - Century New Jersey*, PROCEEDINGS OF THE NEW JERSEY HISTORICAL SOCIETY 31, 32 (1962). See e.g., *Petition of Rachel Wells*, PAPERS OF THE CONTINENTAL CONGRESS (May 18, 1788) (Rachel Wells, a New Jersey widow, petitioned the Continental Congress for the repayment of a loan she made to the New Jersey Legislature during the Revolutionary war).

12. Zagari, *supra* note 3, at 21.

13. *Id.*

14. *Id.* at 22.

15. *Id.* at 25.

16. *Id.*

Finally, as Professor Jan Ellen Lewis notes, giving women the vote was a logical extension of Revolutionary doctrine.¹⁷ After starting a war with the British over “taxation without representation,” it was hypocritical for revolutionary governments to deny taxpaying women the right to vote. This was noted by Hannah Lee Corbin in a 1778 letter to her brother Richard Henry Lee asking him to explain why she, a propertied widow, was not allowed to vote.¹⁸ The evolution of women’s role in public life suggests that New Jersey lawmakers would have understood that the gender neutral language of the constitution implied women’s suffrage.

The different iterations of voting qualifications considered by New Jersey legislators also suggests that “all inhabitants” was intended to include women. The legislature considered and rejected a voter qualification clause that explicitly limited the franchise to men. In 1775, the second provincial congress considered a proposal specifying that, “every person of full age, who . . . resided one whole year in any County. . . and is worth . . . at least fifty pounds. . . shall be permitted to vote. . . in the County wherein *he* resides.”¹⁹ The proposal was tabled in order to ascertain the “sense of the Colony in general.”²⁰ The final clause adopted by the drafters of the 1776 Constitution eliminated New Jersey’s landowning requirement and removed any language limiting the franchise to men.²¹ Given the public debate over the extent of suffrage and the removal of gender-specific language, it is unlikely that the third Provincial Congress did not understand their use of the words “all inhabitants” to enfranchise women.

B. “*HE OR SHE*”- 1790 NEW JERSEY ELECTION REFORM BILL

In 1790, the New Jersey legislature affirmed women’s suffrage with the passage of an election reform bill specifying that “no Person shall be entitled to vote in any other Township or Precinct than that in which he or *she* doth actually reside at the time of the Election.”²² The bill was adopted in response to demands for election reform following the 1789 congressional election, which was characterized by widespread fraud.²³ The Junto, predecessors of the Federalists, were said to have held polling locations open until they had received returns from counties thought to support their opponents, and there were reports of fraudulent ballots and voters being pressured at the polls.²⁴ The 1790 reform bill required

17. Jan Ellen Lewis, *Rethinking Women’s Suffrage in New Jersey, 1776-1807*, 63 RUTGERS U. L. REV. 1017, 1022 (2011).

18. *Id.* Zagarrì, *supra* note 3, at 29.

19. Klinghoffer & Elkins, *supra* note 8, at 165.

20. *Id.* at 165.

21. N.J. CONST. of 1776, art. IV.

22. An Act to Regulate the Election of Members of the Legislative-Council and General Assembly, Sheriffs and Coroners, in the Counties of Bergen, Monmouth, Burlington, Gloucester, Salem, Hunterdon and Sussex, ch. CCCXXII §11, 1790 N.J. Laws 669, 673.

23. CARL E. PRINCE, *NEW JERSEY’S JEFFERSONIAN REPUBLICANS: THE GENESIS OF AN EARLY PARTY MACHINE, 1789 – 1817* 8 (1967).

24. *Id.*

counties to adopt the secret ballot and banned deferred and prolonged elections.²⁵ The bill, however, was also designed to consolidate Junto control of the state legislature and congressional delegation.²⁶ The reforms, which only applied to New Jersey's conservative lower seven counties, also required each township to have a polling location.²⁷ The effect was to increase the accessibility of polling places in the towns and counties most supportive of the Junto ticket.²⁸

The passage of the 1790 act should not be seen as the moment in which suffrage was expanded to New Jersey women since there is evidence of women voting in New Jersey prior to 1790.²⁹ Also, politicians seeking to disenfranchise women in the late 1790s cited "defects" in the "phraseology" of the 1776 Constitution as the source of women's suffrage in New Jersey.³⁰ Additionally, the 1790 act does not appear to have been controversial. The act passed with large majorities in both houses and contemporary newspapers did not note the act's explicit recognition of female voters.³¹ More likely, the word "she" was included in the 1790 election reform bill by the Junto majority to make it absolutely clear that women, seen as reliably conservative voters, could vote in the most pro-Junto parts of the state.³²

C. NEW JERSEY WOMEN VOTING BETWEEN 1790–1797

Although women's suffrage was explicitly recognized in 1790, there is little evidence that women voted between 1790 and 1797.³³ There are no known poll books that contain women's names from that era, and a search of Readex's database of early American newspapers for the terms "females," "wives," or "women and vote," "suffrage," or "poll" revealed no articles in the prominent newspapers of the time that addressed women's suffrage in New Jersey.³⁴ The lack of clear evidence of women voting between 1790 and 1797 does not necessarily indicate

25. An Act to Direct the Time and Mode of Electing Representatives to the Congress of the United States, For This State, ch. CCCXXXVII, 1790 N.J. Laws 699.

26. See PRINCE, *supra* note 23, at 8.

27. An Act to Direct the Time and Mode of Electing Representatives to the Congress of the United States, For This State, ch. CCCXXXVII, 1790 N.J. Laws 699.

28. See PRINCE, *supra* note 23, at 9.

29. See Klinghoffer & Elkins, *supra* note 8, at 165; Lewis, *supra* note 17, at 1023. *But see* Gertzog, *supra* note 8, at 49–53. The names of Iona Curtis and Selvenia Lilvey appear in a 1787 poll list from Burlington County. Henry C. Shinn, *An Early New Jersey Poll List*, 44 PA. MAG. OF HIST. AND BIOGRAPHY 77 (Jan. 1920).

30. WILLIAM GRIFFITH, EUMENES: BEING A COLLECTION OF PAPERS, WRITTEN FOR THE PURPOSE OF EXHIBITING SOME OF THE MORE PROMINENT ERRORS AND OMISSIONS OF THE CONSTITUTION OF NEW JERSEY 34 (1799).

31. 1790 N.J. Laws 699.

32. See PRINCE, *supra* note 23, at 9. *See also* Klinghoffer & Elkins, *supra* note 8, at 173; Unfortunately, the legislative minutes on the passage of the 1790 act are lost. *But see* Gertzog, *supra* note 8, at 52 (explaining various theories of female voter turnout levels in post-1790 elections).

33. Lewis, *supra* note 17, at 1024; *See also* Turner, *supra* note 6, at 169. A search of New Jersey newspapers from 1790 – 1797 did not find a reference to women actually voting.

34. New Jersey Archives has a record of two poll lists that contain the names of women. The New Jersey Historical Society also has several poll lists. There were no citations to women's names found in

that women were not voting. Voting practices across the state varied wildly and many counties and townships continued to elect officials by voice vote through 1797.³⁵ Further, voter turnout was generally low, and state and congressional elections were less contested and generated fewer newspaper articles.³⁶ The primary New Jersey Republican newspaper, the *Centinel of Freedom*, was not even founded until 1796.³⁷

Although women's suffrage was not explicitly covered by New Jersey newspapers between 1790 and 1797, various papers discuss the appropriate role of women in society. Articles reveal a willingness to consider women outside of their traditional roles, but also a reticence about the extent to which women should participate in public life. Both Federalist and Republican papers published columns advocating for the education of women.³⁸ The Federalist *Burlington Advertiser* reprinted an article from an Italian newspaper celebrating the accomplishments of an "extraordinary" female surgeon who added to the "science of her sex, and to her country."³⁹ Similarly, the Republican *Centinel of Freedom* published a column celebrating the Greeks of the "Heroic Ages" for recognizing the "natural equality between the sexes."⁴⁰ On the other hand, one paper lamented the fall of the "Age of Chivalry" in Europe and that "every person, male and female . . . is now a politician." (emphasis added)⁴¹

Significantly, several articles contemplated women as political actors and suggested that women's political participation could be used as a political tool. In 1791, the *Burlington Advertiser* republished a letter recounting a conversation between several young ladies. The women discuss their frustration with men who oppose the "militia act." They suggest that women will be forced to "learn militia duty, and turn out with both musquet and bayonet." They conclude that this will be a "happy change of affairs" and plan to "set up a FEMALE EMPIRE that shall laugh at all the male governments in the world." They resolved to petition Congress to declare that, "we will never marry a man who cannot, in case of need, protect us and our children."⁴² The resulting petition entitled "The humble Address of ten thousand Federal Maids" was published several months later, and concludes with a demand for "the right of election to all public offices; and especially an *absolute command over non-paying and non-fighting husbands*."⁴³ The

additional poll list kept by the New Jersey Historical Society, but they are not available online and the society will not send photocopies of their records.

35. See PRINCE, *supra* note 23, at 9.

36. See PRINCE, *supra* note 23, at 11.

37. PRINCE, *supra* note 23, at 15, 79.

38. *Communication*, CENTINEL OF FREEDOM (Newark), July 12, 1797, at 3. NEW JERSEY JOURNAL (Elizabethtown), Feb. 15, 1791.

39. *Singular Account of a Female Surgeon*, BURLINGTON ADVERTISER, Nov. 22, 1791, at 2.

40. Gillies, *Treatment of the Female Sex by the Greeks during the "Heroic Ages"*, CENTINEL OF FREEDOM (Newark), June 28, 1797, at 4.

41. *Grand Epochs of Europe*, NEW JERSEY JOURNAL (Elizabethtown), Dec. 2, 1795, at 2.

42. NEW JERSEY JOURNAL (Elizabethtown), Feb. 2, 1791, at 1.

43. NEW JERSEY JOURNAL (Elizabethtown), Aug. 7, 1791.

article, seemingly written in jest, uses the fact of women's political participation to ridicule the opponents of the militia act and implies that failure to support militia service would force women to contemplate something as outlandish as a woman-led government. The article foreshadows the way in which women's political involvement would be weaponized in the next decade.

D. WHY NEW JERSEY?

It is not clear why New Jersey was the only state to enfranchise women. The voter qualification provisions of New Jersey's 1776 Constitution were otherwise unremarkable. Although New Jersey had expanded suffrage in 1776 by substituting the land ownership requirement for "property in value of fifty pounds proclamation money,"⁴⁴ Pennsylvania, North Carolina and Georgia, for example, adopted much broader "taxpayer suffrage" in their early state constitutions.⁴⁵ Similarly, free Black men, and immigrants could vote in several Northern states. Nor was New Jersey a particularly progressive state by other conventional measures. New Jersey was one of the last northern states to pass a gradual abolition bill, and the last enslaved people in New Jersey were not freed until 1860.⁴⁶ Finally, there is no evidence that New Jersey women actively sought or petitioned for the right to vote.⁴⁷

Traditionally, historians have attributed women's suffrage to the influence of the state's large Quaker population.⁴⁸ The Religious Society of Friends was notable for the unusually large and equitable role women played in the church.⁴⁹ These historians argue that Joseph Cooper, a prominent Quaker legislator from Gloucester County and member of the committee drafting the 1790 election reform bill, inserted the phrase "he or she" into the bill.⁵⁰ This narrative is flawed in two ways. First, it rests on the assumption that New Jersey women were enfranchised by the 1790 act and not the 1776 Constitution. Second, it mistakenly identifies Joseph Cooper as a member of the committee that wrote the 1790 act.⁵¹ While Cooper was in the legislature at the time the bill was passed, there is no evidence that he was a driving force behind its adoption.⁵² However, it is possible that Quaker members of the constitutional convention may have advocated for

44. See WILLI PAUL ADAMS, *THE FIRST AMERICAN CONSTITUTIONS* 205 (1980).

45. *Id.* at 295, 300, 304.

46. ARTHUR ZILVERSMIT, *THE FIRST EMANCIPATION: THE ABOLITION OF SLAVERY IN THE NORTH* 221 (1967).

47. ZAGARRI, *supra* note 4, at 31.

48. William A. Whitehead, *A Brief Statement of the Facts Connected with the Origin, Practice and Prohibition of Female Suffrage in New Jersey*, 8 PROC. N.J. HIST. SOC'Y 101, 102 (1858); Turner, *supra* note 6, at 168.

49. Turner, *supra* note 6, at 168; Drinker, *supra* note 11, at 44.

50. *Id.*

51. Gertzog, *supra* note 9, at 50.

52. *Id.*

the use of the gender-neutral “all inhabitants” language in 1776.⁵³ Certainly, New Jersey Quakers were responsible for efforts to pass an abolition bill through the New Jersey legislature in the 1780s.⁵⁴

Professors Klinghoffer and Elkis argue that New Jersey’s revolutionary government enfranchised women to gain their support for the Revolution. New Jersey was deeply divided between loyalists and revolutionaries, and both groups vied for the support of individuals. One way to curry favor with women was to include them, along with other previously disenfranchised groups, as members of the body politic.⁵⁵ Additionally, Klinghoffer and Elkis, citing calls from the revolutionary government for women to raise money for wounded soldiers and proclamations ordering officers to apprehend an individual “on his or *her* Way,” argue that New Jersey’s government had to treat women as political entities to win the war.⁵⁶ “The political needs of the Patriots,” they write, “led them to define women as virtuous individuals, capable of independent political judgement, who should be encouraged to become full members of the body politic.”⁵⁷ However, there is nothing to suggest that these pressures were unique to New Jersey, or that they should lead to women’s enfranchisement in New Jersey alone.

II. THE WEAPONIZATION OF WOMEN’S SUFFRAGE: 1797–1807

A. THE RISE OF THE REPUBLICANS AND CONTESTED ELECTIONS

Between 1797 and 1807, the development of political parties and significant election reform led to contentious elections and increased voter turnout. During this time, women’s suffrage became a weapon to delegitimize both political parties. Politicians depicted female voters as pliable and ill-equipped to participate in politics in order to cast their political opponents as unscrupulous and undemocratic. Both parties branded women as perpetrators of voter fraud.

In the years following the Revolutionary war, the Federalists and their predecessors enjoyed widespread support in New Jersey from both wealthy landowners and conservative middle-class farmers.⁵⁸ Both groups favored the ratification of the Federal Constitution in 1787.⁵⁹ In the mid-1790s, however, Republican opposition in New Jersey’s northern counties began to gain traction. By 1797, the Republicans had gained enough power in the state legislature to force the Federalists to extend the 1790 election reforms to the remaining six counties.⁶⁰

53. Klinghoffer and Elkis suggest that the tradition attributing women’s suffrage to Joseph Cooper’s influence in 1790 may have stemmed from mistaking Joseph Cooper for John Cooper, a Quaker who was a member of the legislature in 1776. Klinghoffer & Elkis, *supra* note 8, at 168.

54. ZILVERSMIT, *supra* note 46, at 152.

55. Klinghoffer & Elkis, *supra* note 8, at 168.

56. *Id.* at 169–71.

57. *Id.* at 171.

58. PRINCE, *supra* note 23, at 10.

59. *Id.*

60. Klinghoffer & Elkis, *supra* note 8, at 175.

Like the 1790 act, the 1797 reform bill referred to voters as “he or *she*,” re-confirming the status of women voters in New Jersey.⁶¹ By 1800, there was little doubt that women were entitled to vote. A member of the legislature reported that the General Assembly had considered an election reform bill specifying that women could not be turned away from the polls. The bill was unanimously rejected as redundant. “Our Constitution,” the legislator wrote, “gives this right to maids or widows black or white.”⁶²

The rise in contested elections and the development of political parties led to a dramatic increase in voter turn-out. Voter participation in New Jersey’s Congressional elections rose from 8,580 voters in 1791 to 18,967 voters in 1798.⁶³ Contested elections received more press coverage and attracted more public attention. The increasingly organized political parties developed effective get-out-the-vote programs, and both parties attempted to mobilize female voters.⁶⁴ In 1800, Alexander Hamilton and the Federalists were said to have “so ingratiated themselves in the esteem of the Federal ladies of Elizabeth-town, and in the lower part of the state, as to induce them . . . to resolve on turning out to support the Federal ticket.”⁶⁵

Despite efforts by both parties to turn-out female voters, it is unclear how many women actually voted.⁶⁶ William Griffith, a Federalist opponent of women’s suffrage, estimated that there were as many as 10,000 eligible female voters in 1798.⁶⁷ William Whitehead, a 19th century opponent of women’s suffrage, wrote that “females voted very generally” after 1800.⁶⁸ There is reason to be skeptical of both accounts. To begin with, the 1776 New Jersey Constitution and

61. An Act to Regulate the Election of Members of the Legislative-Council and General Assembly, Sheriffs and Coroners, in this State, ch. DCXXXIV, 1796 N.J. Laws 171. Notably, the New Jersey Legislature passed an act in 1798 that limited the right to vote in town meetings to white male taxpayers. The bill, which incorporated the inhabitants of each New Jersey township, was one of a group of bills that William Paterson referred to the legislature in 1797 to codify New Jersey common law. The collection would eventually be published as *Laws of New Jersey* in 1800. The 1798 bill passed with overwhelming majorities in the Legislative Council and General Assembly. Unfortunately, the records of the committee that considered the bill and any amendments made by the legislature are lost. The newspaper coverage of the act in both Federalist and Republican newspaper does not reflect any controversy over the bill. It is unclear whether or not the bill represented a change in policy or rather a codification of existing practice. Paterson’s mandate for writing the *Laws of New Jersey* was simply to “digest and revise the laws so that outmoded colonial statutes could be updated and British laws” retained in 1776 could be set aside. However, there is some evidence that women participated in town meetings prior to the Revolution. JOURNAL OF THE LEGISLATIVE PROCEEDINGS OF THE LEGISLATIVE COUNCIL OF NEW JERSEY 46 (1798). John E. O’Connor, *William Patterson, THE GOVERNORS OF NEW JERSEY* 106–09 (Paul A. Stellhorn & Michael J. Birkner, Donald Linkey, Peter Micklaus eds., 2014). Drinker, *supra* note 11, at 42. See *Wednesday, February 14*, CENTINEL OF FREEDOM (Newark), Feb. 27, 1798, at 1; *Wednesday, February 14*, NEW JERSEY JOURNAL (Elizabethtown), Feb. 27, 1798.

62. CENTINEL OF FREEDOM (Newark), Nov. 11, 1800.

63. Pole, *supra* note 6, at 44–45.

64. Klinghoffer & Elkins, *supra* note 8, at 176–82.

65. Lewis, *supra* note 17, at 1026.

66. The New Jersey State Archives has only identified two poll lists with women’s names included.

67. GRIFFITH, *supra* note 30, at 34.

68. Whitehead, *supra* note 48, at 103.

the doctrine of coverture limited the franchise to single, propertied women over twenty-one.⁶⁹ Additionally, Griffith's estimate was included in a treatise in which he characterized women voters as a threat to democracy. It served his interests to suggest that women voted in larger numbers than they actually did.⁷⁰ Similarly, Whitehead was writing in opposition to the mid-19th century push for women's suffrage.⁷¹ Professor Carl Prince argues that women's suffrage "was important in New Jersey in every way except numerically." He notes that the total number of votes cast did not change perceptively after women's suffrage was eliminated in 1807.

B. WOMEN'S VOTES AS EASILY MANIPULATED

Regardless of the number of women who actually voted, women's suffrage became an important political tool for both parties after 1797. Some of the earliest mentions of women voting appear in the New Jersey press following Republican John Condit's narrow victory over Federalist William Crane in Elizabethtown in 1797.⁷² The Federalists, realizing how close the election was, were said to have turned out seventy-five women in a last-ditch effort to save their candidate.⁷³ The Republican *Centinel* mocked the women voters with a poem:

Oh! what parade those widows made!
 some marching cheek by jole, sir;
 In stage, or chair, some beat the air,
 And press'd on to the *Pole*, sir:
 While men of rank, who played this prank,
 beat up the widow's *quarters*;
 Their hands they laid on every maid,
 and scarce spar'd wives, or daughters!⁷⁴

Instead of valid voters, women were portrayed as victims of Federalist politicking. Women's voting was lewd, and polls were no place for women. The implication was that women were not independent political actors.

Another Republican commentator noted that "the husbands and sweethearts of these heroine[s] begin to suspect that some motive other than a love of the federal cause excited the enterprise."⁷⁵ His comment suggested to his readers that it was unfathomable that women would be motivated to vote out of a genuine interest in

69. N.J. CONST. of 1776, art. IV.

70. GRIFFITH, *supra* note 30, at 34.

71. See Whitehead, *supra* note 37. See also Lucy Stone, *Woman Suffrage in New Jersey*, Address to the New Jersey Legislature (Mar. 6, 1867) available at <https://www.loc.gov/resource/rbnawsa.n2760/?sp=2>.

72. Turner, *supra* note 6, at 170-171.

73. *Id.* at 170. Whitehead, *supra* note 48, at 103.

74. CENTINEL OF FREEDOM (Newark), Oct. 15, 1797.

75. CENTINEL OF FREEDOM (Newark), Oct. 18, 1797.

political affairs. Since women were not capable of independent political action or thought, the Federalists' reliance on women's votes was indecent and shameful.

Federalist William Griffith expressed this sentiment clearly in his 1798 treatise calling for a constitutional convention to eliminate women's suffrage:

It is perfectly disgusting, to witness the manner in which women are polled at our elections. Nothing can be a greater mockery of this invaluable and sacred right, than to suffer it to be exercised by persons, who do not even pretend to any judgement on the subject.⁷⁶

Griffith denigrates women. He depicts them as weak-minded and subject to undue influence. In sharp contrast to the status of women in public life during the Revolution, women's political participation was portrayed as offensive and inappropriate.

This theme was echoed throughout the following decade by both parties. In 1804, the Federalists accused the Republicans of Amwell of "dragg[ing] their women voters out by wagon loads through the rain and cold . . ." They contrasted the Republican's behavior to the Federalist candidates, "who, having principally *got into office*, were content to walk about . . . *hoping* the people would come out to show their *respect* to the *candidates*."⁷⁷ Again, women were seen not as independent political actors but as political pawns. The use of the word "drag" emphasized the dishonorable nature of the Republicans' actions. The *New York Republican Watch Tower*, which reprinted the article, recognized that women were being used to delegitimize a Republican electoral victory, noting in the introduction, "We conclude from its malicious crimination and deep lament that the republican party has been unusually successful in New Jersey."⁷⁸

Some commentators went further, arguing that women voting was not just indecent but also undemocratic. In response to a Federalist article accusing New Jersey Republicans of undermining the Federal Constitution, a Republican commentator listed "bringing out the women to vote" along with authoring the Alien and Sedition Laws and maintaining a standing army among the Federalists' anti-democratic actions. He writes:

Were not the republicans in Essex County drove to the necessity at the last Congress election, of bringing out the women, & c. to vote, on account of their opponents (the federalists) having practiced it for many elections previous, and in some cases had well nigh defeated the Republicans? And is it not the most effectual method of checking corruption by making their plans operate against its authors.⁷⁹

76. GRIFFITH, *supra* note 30, at 33.

77. *New-Jersey Election*, NEW YORK REPUBLICAN WATCH TOWER, Oct. 20, 1804.

78. *Id.*

79. CENTINEL OF FREEDOM (Newark), Nov. 11, 1802.

The clear implication of the article was that women voting, though legal, constituted political corruption and was antithetical to democracy.

C. WOMEN VOTERS AND ELECTION FRAUD

Another common tactic to delegitimize the opposing party was to accuse them of having used women and other marginalized voters to commit voter fraud. Despite there being no evidence that voter fraud was higher among women and Black people, married women and enslaved people were often singled out by party newspapers as the perpetrators of fraud.⁸⁰ Such allegations had the effect of associating women and Black voters with political corruption. In one example, written following the highly contentious 1802 elections for state legislature, a Massachusetts commentator repeated a New Jersey paper's allegation that the Federalists had won a seat through fraud. He writes, "There the votes of Women, Married Women, Paupers, Apprentices, Negroes, and 'a Negro Women Slave of a Negro Man' were considered good and valid voters in the cause of Federalism."⁸¹ It is significant that women and free Black people who were legally permitted to vote, are listed next to groups expressly denied the franchise. It suggests that women and free Black voters were equally suspect.

Allegations of voter fraud would have been particularly salient attack in the political climate of early nineteenth century New Jersey. Election and voter fraud were rampant in early New Jersey elections.⁸² The legislative proceedings of the era were filled with petitions complaining of voter fraud in local elections, and elections were frequently overturned after allegations of corruption.⁸³

D. PERCEPTIONS OF WOMEN'S SUFFRAGE OUTSIDE OF NEW JERSEY

National press coverage of women's suffrage in New Jersey was mixed. In some instances, women voting was met with ambivalence. Following the 1800 congressional election a blurb entitled "Female Electors" appeared in a number of national newspapers. The article notes without comment, "Single Females in the State of New Jersey, possessed of a certain property, and having paid taxes, are entitled to vote at elections. We understand that at the late election there were

80. I attempted to determine if the forty-five women who appeared on the available poll lists were actually qualified to vote. I had very little luck finding birth, death, marriage or property records for the women using the New Jersey Archives genealogical research tool. I was, however, able to locate a Sarah Eoff, who appears to be the Sarah Eoff listed the Bedminster County poll list in 1799, on Ancestry.com. This Sarah, at least, was qualified to vote. Her husband, Jacob Eoff, died in 1795 and she was the recipient of his large estate. *New Jersey Will and Probate Records, 1739-1991*. ANCESTRY.COM (last visited on May 10, 2019).

81. P. Allen, Pittsfield, THE SUN (Pittsfield, MA), Dec. 27, 1802.

82. MCCORMICK, *supra* note 6, at 166–67.

83. See *e.g.*, VOTES AND PROCEEDINGS OF THE NEW JERSEY GENERAL ASSEMBLY 408 (1804); JOURNAL OF THE PROCEEDINGS OF THE LEGISLATIVE COUNCIL OF THE STATE OF NEW JERSEY 156-57 (1802).

many exercised their privilege.”⁸⁴ To these editors, women’s suffrage in New Jersey was little more than an oddity.

At other times, however, the national treatment of women’s suffrage in New Jersey mirrored its use as a political weapon in the state. In Massachusetts, for example, a Federalist newspaper used the perceived malleability of female voters to show that Republicans did not respect the intelligence of Massachusetts voters. The paper accused Republicans who attacked Governor Strong of treating voters as if they were as “fickle” as the “female electors of New Jersey” or the “petit maitres of France.”⁸⁵

In another instance, a national newspaper tied New Jersey’s female voters to allegations of voter fraud in order to discredit Republican electoral victories. In December 1800, the *Washington Federalist*, noting that New Jersey women had the right to vote, remarked positively that “the ladies of New Jersey are very handsome, and federal.”⁸⁶ The following month, however, after it became clear that the Federalists had lost all five of New Jersey’s Congressional seats in the 1800 elections, the paper singled out women in attributing the Republicans’ victory to voter fraud. They wrote, “this wonder, however, will cease when we state. . . that in Morris and Essex, not only girls of the age of eighteen, but even married women were actually admitted to vote.”⁸⁷ The paper’s reversal in its attitude toward female voters is representative of the press’ fair-weather support for female voters.

III. 1807 AND THE END OF WOMEN’S SUFFRAGE IN NEW JERSEY

Women’s suffrage in New Jersey came to an abrupt end in 1807. The impetus was an intra-party fight between moderate and liberal Republicans in Essex County. In February 1807, a referendum was held to determine whether the new Essex County courthouse would be built in Newark or Elizabethtown. The corruption of the election was said to be unprecedented. Newark won the referendum with a majority of 7,666 to 6,181 for Elizabethtown. Voter participation was an astonishing 279 percent of the county’s legally “eligible” voters.⁸⁸ The newspapers were filled with demands for the legislature to take action. In response, New Jersey’s Legislative Council overturned the election results and proposed a sweeping electoral reform bill.⁸⁹

The bill’s key reform was to disenfranchise women, Black people and immigrants. In order “to address the doubts . . . raised and great diversities in practice obtained throughout the state in regard to the admission of aliens, females, and persons of color, or negroes to vote in elections, and also in regard to ascertaining

84. See e.g., *Female Electors*, THE COURIER (Norwich) Nov. 12, 1800; THE CAROLINA GAZETTE (Charleston), Nov. 6, 1800.

85. NEW ENGLAND PALLADIUM (Boston), Feb. 19, 1805.

86. WASHINGTON FEDERALIST (Georgetown), Dec. 2, 1800.

87. WASHINGTON FEDERALIST (Georgetown), Jan. 14, 1801.

88. PRINCE, *supra* note 23, at 134.

89. Pole, *supra* note 6, at 57.

the qualifications of voters in respect to *estate*,” the legislature reinterpreted the 1776 Constitution to exclude all voters but “*free, white, taxpaying male citizens*.”⁹⁰ The bill’s sponsor, Republican Lewis Condict, sidestepped any potential questions about the constitutionality of the new bill by stating that the drafters of the 1776 Constitution could not possibly have intended “all inhabitants” to include female, Black or immigrant voters. The act passed with little debate and bipartisan support.⁹¹ There was little public comment on the disenfranchisement. None of the newspaper coverage of the act focused on women’s suffrage or expressed any opposition to the reforms. There is also no evidence that those disenfranchised by the bill petitioned the legislature in opposition or challenged their disenfranchisement in court.⁹²

The broad support for the bill in the legislature and lack of public reaction to its passage is surprising in light of the failure of earlier attempts to repeal women’s suffrage. Just five years before, Republican Representative William Pennington proposed a bill entitled “An act Relating to Female Suffrage” that excluded “all persons from voting excepting free white males.”⁹³ Although Pennington was a prominent Republican and his party controlled half of the legislature, the bill received little debate and was dismissed without a vote.⁹⁴ Republicans did not introduce similar legislation when they gained control of the legislature the following year.

The Federalists also made a failed attempt to repeal women’s suffrage. In 1799, the party held a referendum for a new constitutional convention that would address “defects” in the state’s 1776 Constitution. Federalist leadership made it clear that women’s suffrage was one of those defects.⁹⁵ The measure was overwhelmingly defeated. Notably, the Bedminster Township voting register of 1799 reveals that two women, Sarah Eoff and Margaret McDonald, voted against the referendum.⁹⁶

90. A supplement to the Act Entitled “An Act to Regulate the Election of Members of the Legislative-Council and General Assembly, Sheriffs and Coroners in this State,” ch. II, 1807 N.J. Laws 14.

91. Klinghoffer & Elkis, *supra* note 8, at 189.

92. *Id.* Unmarried women could and did petition the legislature and file court cases. *See e.g.*, Coon v. Moffit 3 N.J.L. 583 (1809); Robinsons v. Scull 3 N.J.L. 317 (1811).

93. JOURNAL OF THE PROCEEDINGS OF THE LEGISLATIVE COUNCIL OF THE STATE OF NEW JERSEY 198 (1802).

94. PRINCE, *supra* note 23, at 83. William Pennington (1757-1826) was a prominent Republican. He was one of the early organizers of the Republican party in Newark and is the brother of *Centinel of Freedom* founder Aaron Pennington. He served in the New Jersey General Assembly from 1801-1802. From 1805-1813, he was a member of the New Jersey Supreme Court. He was elected Governor of New Jersey in 1812 but resigned to accept an appointment to the Federal District Court for New Jersey. Unfortunately, Pennington’s only surviving papers are his war time diaries. They detail his service as a second lieutenant in the Revolutionary army from May 1780 to March 1781. PRINCE, *supra* note 22, at 15. *Guide to the William S. Pennington (1757-1826), Revolutionary War Soldier Papers 1780-1781*, NEW JERSEY HISTORICAL SOCIETY, <https://jerseyhistory.org/guide-to-the-william-s-pennington-1757-1826-revolutionary-war-soldierpapers1780-1781img-234/> (last visited May 9, 2019).

95. GRIFFITH, *supra* note 30, at 33.

96. Klinghoffer & Elkis, *supra* note 8, at n. 50.

Several historians argue that the bill was a political bargain struck between moderate Republicans, liberal Republicans and the Federalists.⁹⁷ In 1804, New Jersey passed a gradual emancipation bill. Anticipating an influx of newly freed Black voters, who traditionally supported the Federalists because of their anti-slavery views, Republicans moved to disenfranchise Black Americans. Women too were viewed as reliable Federalist voters. Federalists believed that the votes lost to their party by the exclusion of women and Black voters would be outnumbered by the votes Republicans would lose to the disenfranchisement of immigrants and the poor.⁹⁸ Their explanation, while persuasive, does not explain the lack of public opposition or even interest in the disenfranchisement.

The preamble to the 1807 act explains that the legislation was “highly necessary to the safety, quiet, good order and dignity of the state.”⁹⁹ As Professor Lewis writes, this was the “language not of rights or obligations but of propriety.” Politicians justified the disenfranchisement of women with the same language they had employed in using women’s suffrage to attack each other. After a decade of seeing women’s suffrage portrayed as unseemly, New Jerseyans were less apt to defend women’s right to vote. An 1808 article in the *Trenton Federalist* reflecting on the change in voting qualifications reveals how women’s suffrage had come to be viewed:

The Legislature of New Jersey at their last sitting having restricted all that has made our elections disagreeable, contentious and corrupt; all Females and Negroes being now deprived of a vote, who, not being eligible to nor much acquainted with the affairs of government, need not any longer be made use of to answer a party purpose . . .¹⁰⁰

Similarly, the news coverage of the controversial Elizabethtown election focused on the role women played in the fraud. One commentator noted in verse, “And young boys and girls of a dozen years old – And wives they admitted to give in their votes . . .”¹⁰¹ An account written several decades after the election expresses the degree to which women’s reputations as voters was tarnished by the Elizabethtown referendum:

Men usually honest seemed lost to all sense of honor, so completely were they carried away by the head of the strife. Women vied with the men, and in some instances surpassed them, in illegal voting. Only a

97. *Id.* at 188. Gertzog, *supra* note 8, at 56.

98. Klinghoffer & Elkis, *supra* note 8, at 188. The lax enforcement of the property requirement in the years leading up to 1807 allowed the poor to vote in many counties. As a result, rather than an expansion of suffrage, taxpayer suffrage was seen as a way to exclude poor voters who did not appear on the tax rolls. *Id.* C.f. GRIFFITH, *supra* note 30, at 43-45.

99. 1807 N.J. Laws 14.

100. *An Address to the People Called Quakers*, TRENTON FEDERALIST, Sep. 19, 1808.

101. Pole, *supra* note 6, at 56.

few years ago there was living in Newark two ladies, who, at the time of the election in their “teens, voted six times each. Married women, too, indignant, perhaps, at being placed on the same political level as children and idiots in defiance of the law, voted six times each. Governor Pennington is said to have escorted to the poles a “strapping negress.” Men and boys disguised themselves in women’s attire, and crowded about the polls to assist in winning the day for Newark.¹⁰²

After years of being tied to illegal voting, women’s political engagement, celebrated and encouraged in the years following the Revolution, was now seen as a source of political corruption. Women voting had become synonymous with voter fraud.

Women’s involvement in the fraudulent Essex County election later influenced the debate around women’s suffrage in the nineteenth and twentieth century. Writing in response to demands for women’s suffrage, William Whitehead used women’s actions in the Essex County election to show that voting was “out of character” for women.¹⁰³ Lucy Stone, a prominent nineteenth century activist, recognized the way in which voter fraud was used to undermine popular support for women’s suffrage. In a speech to the New Jersey Legislature in 1867, she attributed women’s disenfranchisement to women having been “scapegoated” for the fraud perpetrated in Elizabethtown.¹⁰⁴ This “scapegoating” was effective. The right to vote was not restored to New Jersey women until the ratification of the Nineteenth Amendment in 1920.

An analysis of the available primary sources and secondary literature on women’s suffrage in New Jersey between 1776 and 1807 reveals that women’s enfranchisement and subsequent disenfranchisement can be explained by the interaction between changing social norms and the politics of the era. Although it remains a mystery why New Jersey alone enfranchised women during the Revolutionary era, the record suggests that the drafters of the 1776 Constitution gave women the right to vote intentionally and that their decision was consistent with evolving perceptions of women’s appropriate role in the political sphere. As political parties developed and elections became increasingly contested in the mid-1790s, women’s suffrage became politicized. The parties’ use of characterizations of women voting as improper, inherently corrupt, and linked to voter fraud to delegitimize one another helped to undermine public support for women’s suffrage. Because they had spent ten years using women’s suffrage as a political weapon, when the votes of women were no longer useful, New Jersey politicians found it easy to rationalize away their right to vote.

102. Lewis, *supra* note 17, at 1032.

103. Whitehead, *supra* note 48, at 105.

104. Stone, *supra* note 71, at 13.

IV. SUFFRAGE AS A POLITICAL WEAPON IN MODERN ELECTIONS

These dynamics are not unique to early 19th century New Jersey. After Reconstruction, Southern Democrats used the language of corruption and voter fraud to rationalize election “reforms” that disenfranchised Black Americans.¹⁰⁵ In Tennessee, for example, Democrats implemented the secret ballot as the “ultimate remedy to ‘prevent all forms of fraud at elections.’” The real impact of the legislation was to disenfranchise illiterate Black voters and guarantee a Democratic majority in the legislature.¹⁰⁶ In Arkansas, the Democratic legislature recognized the importance of stigmatizing Black Arkansans’ participation in public life before attacking their right to vote. The legislature considered a “separate-coach” bill designed to arouse public sentiment against Black residents before introducing a secret ballot bill similar to the measure approved by Tennessee lawmakers.¹⁰⁷

In the same way New Jersey politicians depicted women voters as easily manipulated to attack their political opponents who received female support, Southern politicians painted Black voters as pliable to delegitimize their opponent’s votes. In 1892, one South Carolina newspaper published a joke characterizing white opinion:

STRAWBER: Thomas Jefferson, I just heard that you sold your vote for two dollars at the last election. Aren’t you ashamed of yourself?

THOMAS JEFFERSON: Well, sah, dat’s all I could get.

Although more subtle today, politicians continue to use the votes of marginalized communities as political weapons. During the 2016 election, President Trump alleged that minority voters could steal the election from him. For example, a few weeks before the election he warned an entirely white crowd outside of Pittsburgh, Pennsylvania that “other communities” could hijack his victory. He reiterated his sentiments at another rally that evening saying, “I just hear such reports about Philadelphia, . . . I hear these horror shows, and we have to make sure that this election is not stolen from us and is not taken away from us. Everyone knows what I’m talking about.”¹⁰⁸ The President’s suggestion was that Democrats would use Black votes in Philadelphia to steal the election from him. His implication is that Black voters, like nineteenth century New Jersey women, are political pawns and not independent political actors. As a result, their votes, though legal, are improper. Minority voters were also the targets of allegations of

105. MICHAEL PERMAN, *STRUGGLE FOR MASTERY: DISFRANCHISEMENT IN THE SOUTH, 1888–1908* (2001).

106. *Id.* at 62.

107. *Id.* at 69.

108. Richard L. Hasen, *The 2016 U.S. Voting Wars: From Bad to Worse*, 26 WM. & MARY BILL RTS. J. 629, 637 (March 2018).

voter fraud in the 2016 election. President Trump famously minimized Secretary Clinton's victory in the popular vote by falsely alleging that 5.7 million noncitizens voted for Clinton.¹⁰⁹

The politicization of marginalized voters has led to increased public support for voter restrictions. A study conducted after the 2016 election found that resentment against immigrants is strongly associated with beliefs of voter fraud and support for voting restrictions in the United States. The authors attribute these findings to the rise in political rhetoric associating immigrants with illegal voting.¹¹⁰ Similarly, accusations of voter fraud have been used to rationalize new voter restrictions. In 2013, for example, North Carolina Governor Pat McCrory signed a sweeping election reform bill that required a government-issued photo identification to vote and shortened the period of early voting from 17 to 10 days. He characterized the reforms as a “common-sense” safeguard against voter fraud.¹¹¹ These types of voter restriction laws have significantly depressed turnout among Latinx, Black, and Asian Americans.¹¹²

V. CONCLUSION

Modern politicians rely on the same timeworn tactics, accusations of fraud and voter manipulation against marginalized voters, historically used by political parties to delegitimize their opponents' electoral successes. These attacks, like those made against early New Jersey women, have led to increased support for voter restrictions that disproportionately impact minority communities. The experience of New Jersey women serves as a warning for voting rights advocates and highlights the need for the depoliticization of the franchise.

109. Amy Sherman, *Following Trump voter fraud allegations, claim that 5.7 million noncitizens voted is wrong*, POLITIFACT (June 22, 2017), <https://www.politifact.com/florida/statements/2017/jun/22/ainsley-earhardt/following-trump-voter-fraud-allegations-claim-57-m/>.

110. Adriano Udani & David C. Kimball, *Immigrant Resentment and Voter Fraud Beliefs in the U.S. Electorate*, 46 AM. POL. RES. 402, 424 (2018).

111. Aaron Blake, *North Carolina governor signs extensive Voter ID law*, WASH. POST (Aug. 12, 2013), <https://www.washingtonpost.com/news/post-politics/wp/2013/08/12/north-carolina-governor-signs-extensive-voter-id-law/>.

112. Zoltan Hajnal et. al., *Voter Identification Laws and the Suppression of Minority Votes*, 79(2) J. OF POL. 363, 368 (2017); Matt A. Baretto et al., *The Disproportionate Impact of Voter-ID Requirements on the Electorate – New Evidence from Indiana*, 42 POL. SCI. & POL. 111 (Jan. 2009).